

Development Review Committee

Staff Report

June 3rd, 2015



Case No:	15DEVPLAN1061
Request:	Revised Detailed District Development Plan with Land Development Code Waivers
Project Name:	Thorntons
Location:	4500, 4506 & 4508 S. 3rd St.
Owner:	Thorntons, Inc.
Applicant:	Thorntons, Inc.
Representative:	Glenn Price
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Waiver #1: Waiver from Chapter 5.9.2.C.4 & 5.5.1.A.3.a of the Land Development Code to allow parking to be located in front of the principal structure between the building and the street
- Waiver #2: Waiver from Chapter 5.5.1.A.3.b of the Land Development Code to allow no vehicular access from the alley
- Waiver #3: Waiver from Chapter 5.5.1.A.5 of the Land Development Code to allow the gas canopy to be located between the principal structure and the public ROW
- Waiver #4: Waiver from Chapter 5.5.1.A.1.b of the Land Development Code to allow no customer entrance facing Southern Heights
- Waiver #5: Waiver from Chapter 5.6.1.C.1 of the Land Development Code to provide less than the required 50% clear windows and doors on the Southern Heights building façade
- Waiver #6: Waiver from Chapter 10.2.10 of the Land Development Code to waive a portion of the required 5' VUA LBA and associated plantings along South Third Street
- Amendment to Binding Elements
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1/R-5, Commercial with Off-Street Parking on Residential

Existing Form District: TN, Traditional Neighborhood

Existing Use: Gas Station

Proposed Use: Gas Station

Minimum Parking Spaces Required: 8

Maximum Parking Spaces Allowed: 44

Parking Spaces Proposed: 41

Plan Certain Docket #: 9673

The applicant is requesting to remove the existing 3,108 SF structure on the site and construct a 4,400 SF building in a similar location with the building pulled closer to the Southern Heights Avenue ROW. The gas station canopy will be removed on the site and constructed closer to the South Third Street ROW with a larger footprint. This location results in the need for the waiver to allow the gas canopy to be located between the building and the street. The building location also prevents access to the rear alley to the west of the subject site. The additional parking spaces proposed on the site led to the requested waiver to allow parking between the building and the street. Both waivers were previously granted under Dockets #9673 and 14CUP1029 but

are proposed to be expanded beyond those approvals with the current request. The building addition and renovation will meet all building design requirements with the exception of the clear windows and doors along Southern Heights Avenue and an entrance along this same façade. The building will not contain the required minimum 50% clear windows and doors. Spandrel glazing will be used along the façade. In addition, customer entrance will be located along this façade. The required tree canopy and interior landscaping will be provided on the site. The applicant has requested to eliminate portions of the landscape buffer and its associated plantings along South Third Street. The landscape buffer required currently has existing pavement within the required area. The existing signage is shown to remain on the site. The previously approved development plan had a neighborhood gateway sign that was agreed to by the owner as a result of discussions with the surrounding neighborhood. The proposed Beechmont Neighborhood signage is shown at the ROW intersection on the current proposal. The proposal has setback variances that will require approval by the Board of Zoning Adjustment.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Gas Station	C-1/R-5	TN
Proposed	Gas Station	C-1/R-5	TN
Surrounding Properties			
North	Commercial Residential	C-1	TN
South	Residential	R-5	TN
East	Vacant	R-5	TN
West	Residential	R-5	TN

PREVIOUS CASES ON SITE

9673: The Planning Commission approved a rezoning from R-5 to C-1 on a portion of the subject site with a Conditional Use Permit to allow off-street parking and maneuvering area on an R-5 lot with setback variances and waivers to eliminate alley access, allow parking and gas canopy between the building and the street and no customer entrance facing Southern Heights Avenue.

14CUP1029/14DEVPLAN1160: The Development Review Committee approved Land Development Code waivers for a proposed addition to the existing building on the site with an associated development plan. The Board of Zoning Adjustment approved setback variances for the building addition and a modified conditional use permit for the off street parking area on the R-5 portion of the site.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: There are no open space requirements with the current proposal.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening has been provided to screen adjacent properties and roadways.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the requested waivers and variance.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Parking, Alley and Canopy Location)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian and vehicular access is provided from the public rights-of-way to the parking areas and building entrance.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waivers are compatible with the pattern of development in the surrounding area within the form district and follow the existing layout of the site for the reconstruction of the building. Therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to maintain the existing layout on the site while accommodating the needed building area, canopy and parking.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by negatively affecting access and circulation on the site with the relocation of the building pattern.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Entrance & Windows)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The requested waiver will not adversely affect adjacent property owners since the animating features will be provided to create pedestrian level interest along both facades.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 1 and 2 calls for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use.

The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features. Animating features will be provided to create the intended pedestrian level interest and a large main entrance will serve the building; therefore, the waiver will not violate Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant to allow the layout of the existing structure to be followed while incorporating the proposed addition with animating features being provided along Southern Heights Avenue.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by not allowing the needed spacing for layout within the existing structure.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (VUA LBA)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since screening and buffering of the vehicular traffic along both roadways will be provided along the majority of the ROW.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The majority of the street frontages will contain screening and buffering. The reduction of the buffer areas and its associated plantings will not violate Cornerstone 2020 since the intent will be met with the proposal.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since pavement exists in a portion of the buffer where the overall ROW has been previously expanded.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the buffering would affect the vehicular maneuvering on the site near the ROW intersection.

TECHNICAL REVIEW

- Variances require approval by the Board of Zoning Adjustment. The public hearing is scheduled for June 15th, 2015.

STAFF CONCLUSIONS

The standards of review have been met for the requested waivers. They follow the pattern of the area and the previous building on the site. The Board of Zoning Adjustment will hear and make a decision regarding the setback building. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting LDC Waivers, Landscape Waivers and a Revised Detailed District Development Plan as established in the Land Development Code.

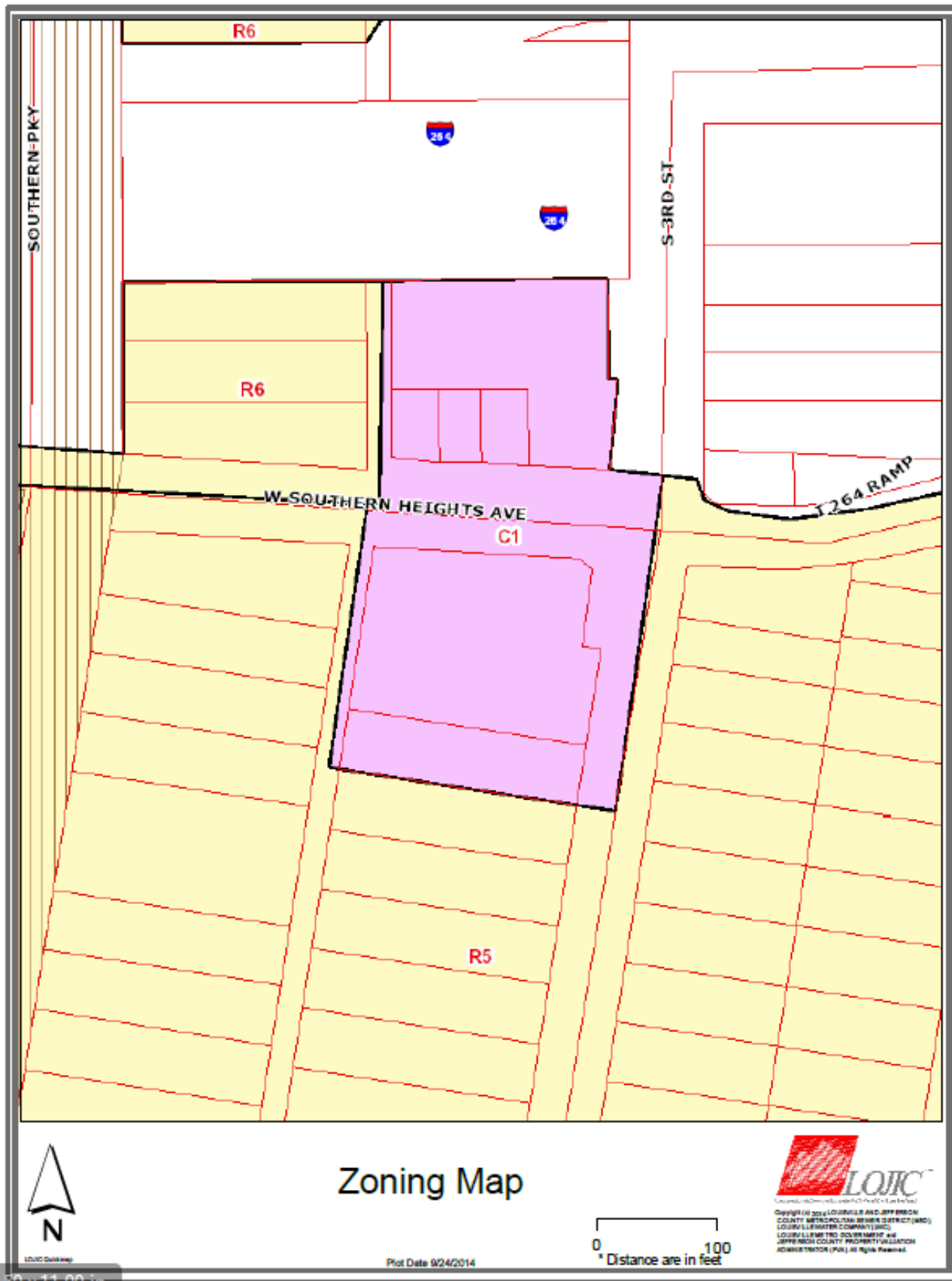
NOTIFICATION

Date	Purpose of Notice	Recipients
5/21/15	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 21 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
2. The development shall not exceed 4,129 square feet of gross floor area.
3. The only permitted freestanding signs shall be located as shown on the approved development plan.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff so that no light source is visible off-site.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor plat or deed of consolidation shall be submitted to Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 of the LDC prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. The appropriate variance and conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
8. A certificate of occupancy must be received from the appropriate code enforcement officer prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. The properly owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further-the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system (audible beyond the property line or permitted on the site).
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 1st, 2014 Development Review Committee meeting.

4. Proposed Binding Elements

2. The development shall not exceed ~~4,129~~ **4,400** square feet of gross floor area.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~October 1st, 2014~~ **June 3rd, 2015** Development Review Committee meeting.