

-ADDENDUM-
Planning Commission
Staff Report
March 29, 2018



Case No:	16DEVPLAN1170
Project Name:	Nelson Commercial Property
Location:	9609 National Turnpike
Owner(s):	Dan Nelson
Applicant:	Dan Nelson
Representative(s):	Dan Nelson
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Joel P. Dock, Planner II

REQUEST(S)

- **Waiver** of Land Development Code, section 5.5.2.A.1 to omit building design standards
- **Waiver** of Land Development Code, sections 5.6.1.B.1& C.1 to omit building design standards
- **Waiver** of Land Development Code, section 5.8.1.B to not provide sidewalk
- **Waiver** of Land Development Code, section 5.9.2 to not provide pedestrian connection
- **Waiver** of Land Development Code, section 10.2.4 to not provide landscape plantings
- **Waiver** of Land Development Code, section 10.2.12 to not provide ILA
- **Revised Detailed District Development Plan**

CASE SUMMARY

A revised detailed district development plan for auto sales at 9609 National Turnpike has been produced to fulfill the request of the Planning Commission during the binding element enforcement case on October 20, 2016 to provide a detailed plan conforming to the current standards with any waivers or variances to be requests. The applicant will be required to also produce a landscape plan to be approved by Planning and Design Services staff pending the outcome of this hearing. No amendments to binding elements have been proposed.

Planning and Design Services staff met with the applicant, Dan Nelson, representative, Paul Curry, and plan preparer/surveyor, Bill Schroll on Tuesday, May 15, 2018. The meeting resulted in several changes to the previous set of binding elements to ensure that Mr. Nelson and the Planning Commission have a clear path moving forward. Mr. Nelson was made aware that any further non-compliance with the proposed binding element may lead to future citations. Implementation timelines were added for landscape installation and a follow-up inspection was noted to ensure compliance.

Associated Case

9-36-96: Change in zoning from R-4 to C-2

This site is currently the subject of an ongoing code enforcement case.

STAFF FINDING

The revised detailed district development plan and waivers appear to be adequately justified and meet the standard of review based on the justification provided by the applicant.

TECHNICAL REVIEW

The elements shown on the plan are for all intents and purposes existing conditions, with a few exceptions for proposed landscaping.

Staff will need to schedule a BOZA hearing for a solitary variance being requested, but would prefer to wait until a decision is rendered on the plan by the Planning Commission.

Right-of-way was recently acquired by the Kentucky Department of Transportation for the installation of drainage facilities. Any future right-of-way shall be dedicated within 60-days of request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

Staff generally concurs with the applicant’s justification statements. See Applicant Justifications.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DISTRICT DEVELOPMENT PLAN AND/OR AMENDMENT TO BINDING ELEMENTS

Staff generally concurs with the applicant’s justification statements. See Applicant Justifications.

REQUIRED ACTIONS

- **APPROVE or DENY the Waivers**
- **APPROVE or DENY the Revised Detailed District Development Plan**

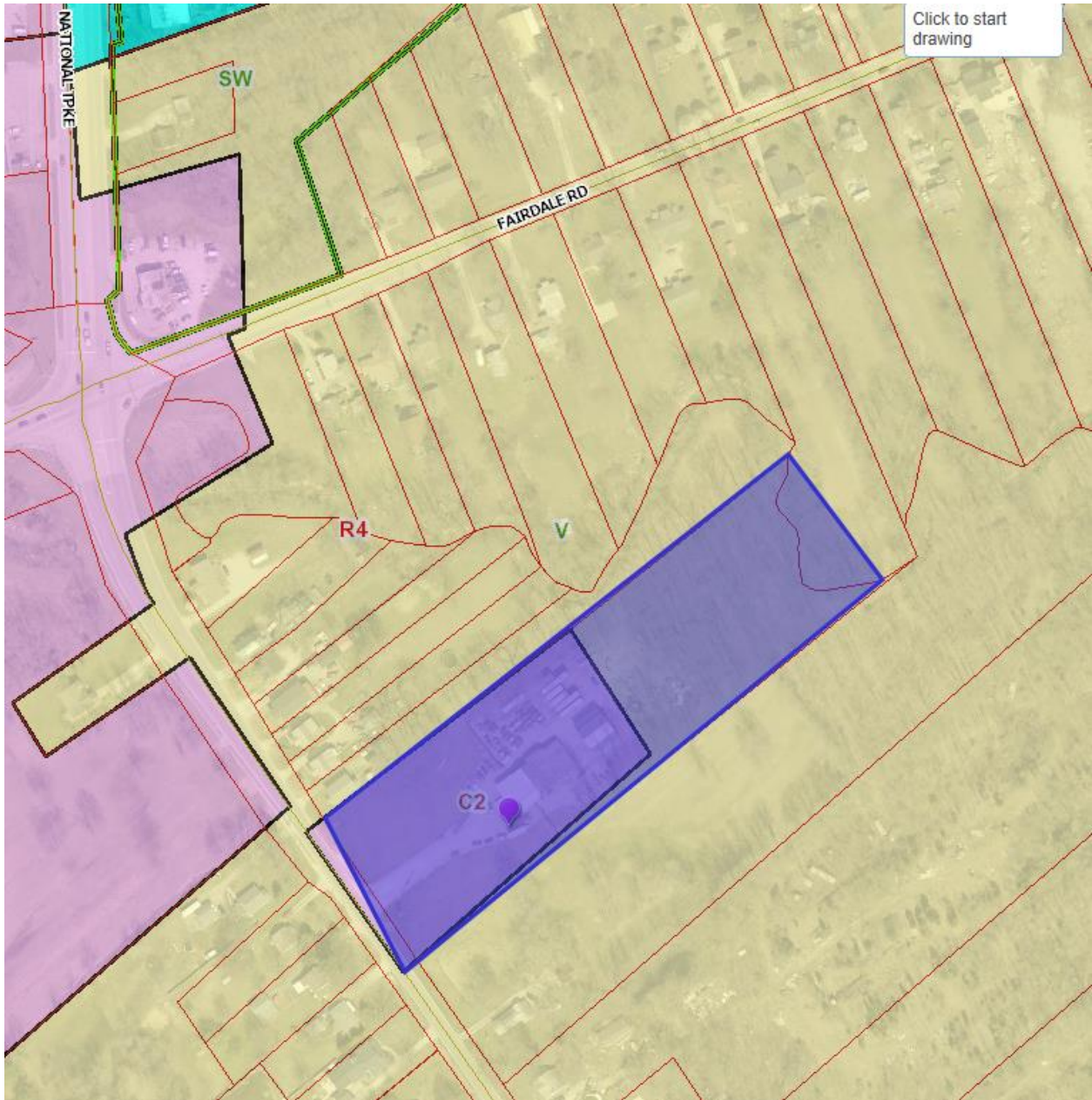
NOTIFICATION

Date	Purpose of Notice	Recipients
3/9/18	Hearing before PC	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 13

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.
2. The development shall not exceed 4,000 square feet of gross floor area.
3. Use of the property shall be limited to auto repair and retail sales of auto parts, or single family residential, unless otherwise approved by the Planning Commission.
4. No outdoor advertising signs (billboards), small freestanding (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.
7. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
8. 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 the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 W. Liberty Street).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

d. The property owner/developer shall submit to the Planning Commission written procedures for tire/oil disposal that comply with applicable state and federal regulations and have been approved by the appropriate Works Director. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.

9. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
10. A certificate of occupancy must be received from the appropriate code enforcement office 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 a issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
11. The property 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

4. Proposed 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.
2. The development shall not exceed 4,000 **7,470** square feet of gross floor area. **All existing covered areas as shown on the approved detailed district development shall be enclosed. Prior to the enclosure of these areas all necessary building permits shall be obtained.**
3. Use of the property shall be limited to **an automobile repair garage** and retail sales of auto parts, or single family residential, unless otherwise approved by the Planning Commission. **An automobile repair garage shall be defined as a commercial establishment conducting repair and maintenance of automobiles including tune-ups, oil changes, tire replacement and puncture repair, brake repair, brake drum turning, muffler repair and similar operations, body work, auto painting, major overhauling, tire re-treading, or the heavy grinding or milling of auto parts. Retail sale of fuel, motor oil or accessories is also permitted.**
4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site, **including the storage of heavy trucks.**
6. Outdoor lighting shall be directed down and away from surrounding residential properties.
7. ~~The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:~~
 - a. ~~Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).~~
 - b. ~~Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).~~
 - c. ~~Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
 - d. ~~Location of construction fencing for each tree/tree mass designated to be preserved.~~
8. ~~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 the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 W. Liberty Street).~~

~~b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~

~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.~~

~~d. The property owner/developer shall submit to the Planning Commission written procedures for tire/oil disposal that comply with applicable state and federal regulations and have been approved by the appropriate Works Director. Said procedures shall be submitted prior to requesting a building permit and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.~~

7. **Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:**
 - a. **The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.**
 - b. **Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways**
 - c. **The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan/plantings shall be installed no later than November 1, 2018, unless a request for an extension of this deadline is made in writing and approved by the Planning Commission or designee. A site inspection shall be conducted by Planning Staff on November 2, 2018, unless an extension has been granted.**
 - d. **A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.**
 - e. **Right-of-way shall be dedicated as needed within 60-days of any request by the Department of Public Works or Kentucky Department of Transportation. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services for incorporation into this case file.**
8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
9. A certificate of occupancy must be received from the appropriate code enforcement office 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 a issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
10. The property 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

11. **All waste material (including but not limited to oil, brake shoes, tires, fluids, metals) shall be disposed of in accordance with local, state and/or federal regulations.**
12. **All automobiles on-site shall be registered in the name of the property owner or guest(s) of the property owner. All other vehicles shall have a work-order for their repair. Documentation of said work-order shall be made available immediately upon request by any code enforcement officer or supervisor.**