

Development Review Committee
Staff Report
May 9, 2018



Case No:	18MOD1002
Project Name:	4938 Bardstown Rd
Location:	4938 Bardstown Rd
Owner(s):	RVR Capital
Applicant:	Alvey's Signs
Jurisdiction:	Louisville Metro
Council District:	7 – Angela Leet
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- **Modification of Binding Element**

CASE SUMMARY/BACKGROUND

The subject site was rezoned under docket 9-78-98 from R-4 to C-1. Binding element number 5 restricted the freestanding sign on site to a minimum of 30' from the front property line. The site has subsequently dedicated additional right-of-way along Brownsboro Rd, which makes the existing sign approximately 12' from the property line. A new sign is proposed to replace the existing sign on the site. The applicant has requested to eliminate this binding element, and install a sign that conforms to the current Land Development Code.

STAFF FINDING

The request is adequately justified and meets the standard of review.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this request.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR AMENDMENT TO BINDING ELEMENTS

- 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: No changes to the exterior of the structure or site are proposed in this request.

- 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 were established during the review and approval of the district development plan for the site.

- 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 pertinent to 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 will ensure 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.

- 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 as established in the review and approval of the revised district development plan in case. The amendment to binding element will not create conflict with zoning regulations (parking, landscaping, or setback).

- 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 proposed sign and location are in conformance with the Land Development Code and the Comprehensive Plan.

REQUIRED ACTIONS:

- **APPROVE or DENY the Modification of Binding Elements**

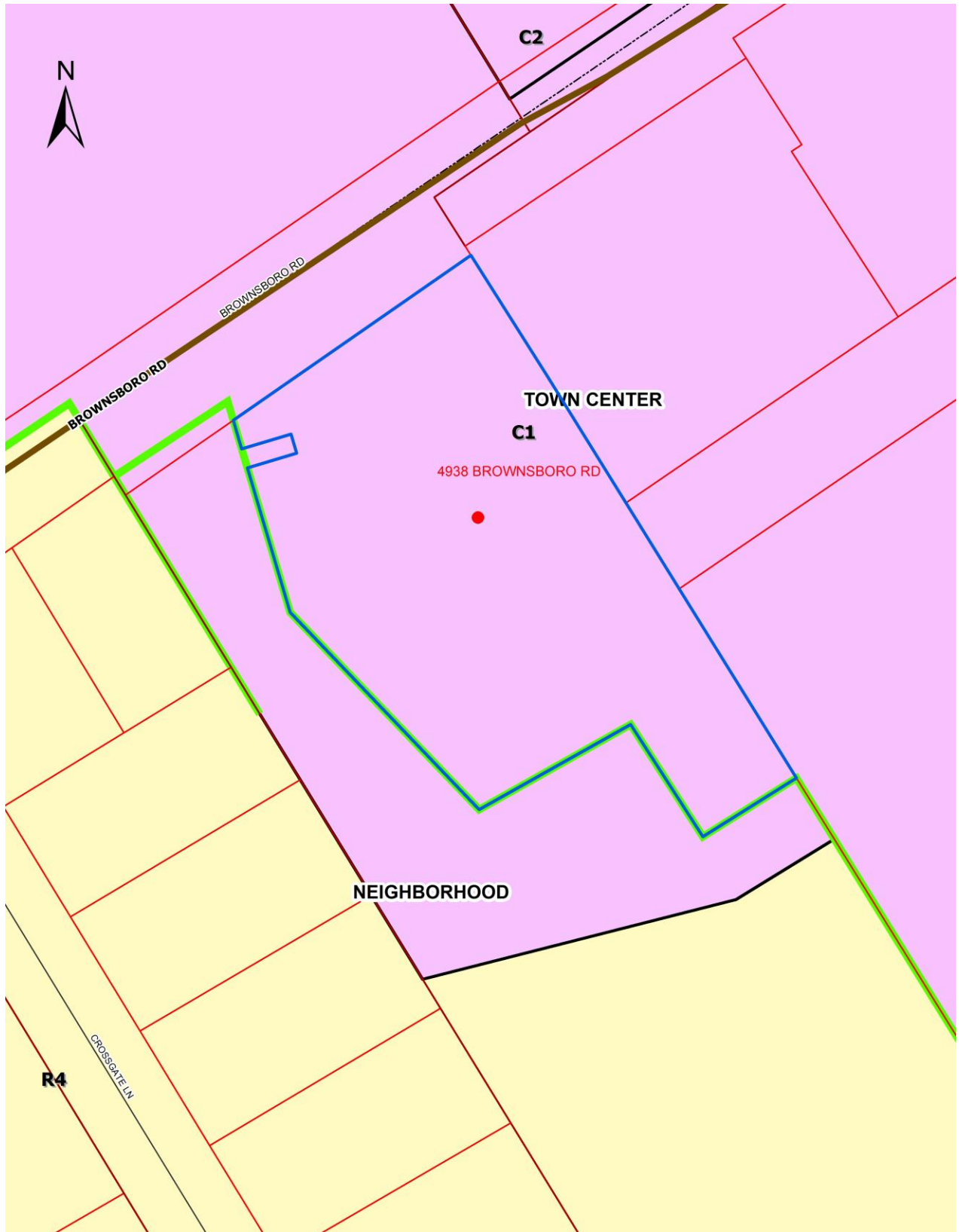
NOTIFICATION

Date	Purpose of Notice	Recipients
4-25-18	Hearing before DRC	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 9

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 following C-1 uses shall be the only uses permitted on site:

Accessory building or uses; those uses which are subordinate, customary and incidental to the primary use

Agricultural uses

Athletic facilities (except in City of Louisville)

Automobile parking areas, public and private

Bakeries, retail (all products produced to be sold on the premises only)

Banks, credit unions, savings and loans, and similar financial institutions

Barber shops and

Beauty shops

Bicycle sales and service

Boarding and lodging houses

Book stores

Business schools

Churches, parish halls, temples, convents and monasteries

Clubs, private, non-profit or proprietary

Colleges, schools, and institutions of learning, not for profit

Community buildings

Community residences

Confectionery or candy stores, retail (all products produced to be sold on the premises only)

Day care centers, day nurseries, nursery schools and kindergartens

Department stores

Dressmaking or millinery shops

Drug stores

Dry cleaning, dyeing, pressing and laundry; distributing stations or retail business where no cleaning, dyeing, pressing, or laundry is done for other

Distributing stations or cleaning establishments

Dry goods and notion stores

Dwelling, two family

Electric appliance stores

Family care home (mini-home)

Family day care home

Florist shops

Funeral homes

Furniture stores

Garage or yard sale

Grocery stores, including fruit, meat, fish, and vegetable

Hardware and paint stores

Health spas (except in City of Louisville)

Home occupations

Interior decorating shops

Jewelry stores

Laundries or laundrettes, self-service

Libraries, museums, historical buildings and grounds, arboretums, aquariums, and art galleries

Medical laboratories
 Music stores
 Multiple family dwellings
 Nurseries, retail
 Office, business, professional and governmental
 Parks, playgrounds, and community centers
 Pet shops
 Photographic shops
 Radio and television stores
 Restaurants, tea rooms and cafes but no:
 1) Restaurants with drive-through windows;
 2) Restaurants, tea rooms and cafes where dancing and
 Entertainment is permitted;
 3) Restaurant with outdoor seating
 Shoe repair shops
 Shoe stores
 Single family dwellings
 Stationery stores
 Tailor
 Tanning salons
 Temporary buildings, the uses of which are incidental to construction operations being conducted on
 the same or adjoining lot or tract, and which shall be removed upon completion or abandonment of
 such construction, or upon the expiration of a period of two years from the time of erection of such
 temporary buildings, whichever is sooner
 Tents, air structures and other temporary structures intended for occupancy by commercial activities
 including but not limited to sales, display and food services, provided that applicable building and fire
 safety codes are met, and provided further that such structures may not be installed for a period (or
 period totaling) more than ten (10) days during a calendar year.
 Toy and hobby stores
 Variety stores
 Wearing apparel shops

The following conditional uses may be permitted in this district, upon the granting of a Conditional Use Permit by the appropriate Board of Zoning Adjustment: Hospitals, institutions, nursing homes and homes for the infirm and aged.

3. There shall be no medical offices or other uses requiring a parking ratio greater than one space per 400 square feet of floor area unless parking can meet the requirement of the proposed use.
4. The development on Lot 1 shall not exceed 28,000 square feet of gross floor area.
5. ~~The only permitted freestanding sign for Bittners shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 30 feet to front property line. The sign shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides.~~ **Signs shall be in accordance with Chapter 8 of the Land Development Code.**
6. The only permitted freestanding sign for Thomas Jefferson Unitarian Church shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 30 feet to front property line. The sign shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides.

7. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
8. There shall be no outdoor storage on the site
9. Outdoor lighting shall be high-pressure sodium and 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. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
10. 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.
11. Construction fencing shall be erected at the edge of the area of development in accordance with the tree preservation plan prior to any grading or construction to protect the existing tree stands and their root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities are permitted within the protected area.
12. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The construction 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 West Liberty).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan, dedicating 10 feet of additional right-of-way to Kentucky Highway 22. A copy of the recorded instrument shall be submitted to the Division of Planning and Development 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 Article 12 and the parkway policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- e. An access and crossover easement agreement in a form acceptable to the planning Commission legal counsel between the owners of Lots 1 & 2 shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
13. 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.
14. 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 issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
15. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
16. A legal instrument providing for the long-term (minimum 30 years) use of the off-site parking spaces, as shown on the approved general district development plan, shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
17. 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.
18. Attached signage shall be back-lit channel letters
19. No drive-through facilities shall be permitted on site.
20. Retail hours of operation shall be restricted to 8:00 am to 8:00 PM, Monday through Saturday, and noon to 6:00 PM on Sunday.
21. The design and materials of the office building shall be substantially similar to the building shown in the rendering introduced into public hearing record on February 4, 1999.
22. An 8 foot high solid brick wall shall be constructed beginning at the time that construction of the site commences and shall be completed prior to obtaining a certificate of occupancy. The wall shall extend from the required front yard setback at Kentucky Highway 22 to the southerly side yard of the property located at 1917 Crossgate Lane. Prior to construction of the wall, a variance shall be obtained from the Board of Zoning Adjustments.

23. All driveways and the area used for the parking of vehicles shall be surfaced with a hard durable material and be properly drained.
24. There shall be no access to any adjoining property located south of the Conditional Use Permit boundary line as shown on the approved general district development plan. Furthermore, there shall be no access to Grantham Place from the subject site.
25. The building on lot 1 shall not contain more than four individual retail tenants on the first floor.

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.
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Automobile parking areas, public and private

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Banks, credit unions, savings and loans, and similar financial institutions

Barber shops and

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Bicycle sales and service

Boarding and lodging houses

Book stores

Business schools

Churches, parish halls, temples, convents and monasteries

Clubs, private, non-profit or proprietary

Colleges, schools, and institutions of learning, not for profit

Community buildings

Community residences

Confectionery or candy stores, retail (all products produced to be sold on the premises only)

Day care centers, day nurseries, nursery schools and kindergartens

Department stores

Dressmaking or millinery shops

Drug stores

Dry cleaning, dyeing, pressing and laundry; distributing stations or retail business where no cleaning, dyeing, pressing, or laundry is done for other

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Dwelling, two family

Electric appliance stores

Family care home (mini-home)

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Florist shops

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 Furniture stores
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 Grocery stores, including fruit, meat, fish, and vegetable
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 Health spas (except in City of Louisville)
 Home occupations
 Interior decorating shops
 Jewelry stores
 Laundries or laundrettes, self-service
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 Medical laboratories
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