

Land Development and Transportation Committee Staff Report March 25, 2021



Case No:	20-DDP-0024
Project Name:	Circle K
Location:	6305 E Manslick Road
Owner(s):	Stephen J. Tillman, Parkway Professionals LLC
Applicant:	Rick Schmitt Sr, Circle K
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- Waiver of Land Development Code section 5.6.1.C.1 to not provide clear glass windows facing Smyrna Pkwy.
- Revised Detailed District Development plan with revisions to binding elements.

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct 5,200 SF gas station and convenience store on a vacant parcel of approximately 3.44 acres. The site is located within the C-1 zoning district and the Neighborhood form district. The subject site is at the intersection of Smyrna Pkwy and E Manslick Rd to the north of I-265 in south central Louisville Metro. The site was rezoned under docket 8604 with an approved plan for a mixed commercial development. That plan has expired and was not constructed.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The proposed development is in keeping with development in the area and will provide adequate screening adjacent to residential properties.

TECHNICAL REVIEW

The Board of Zoning Adjustment will review variances to exceed maximum setbacks from both Smyrna Pkwy and E Manslick Rd at the 3-29-21 meeting.

INTERESTED PARTY COMMENTS

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The will not adversely affect adjacent property owners, as overall building design will be in keeping with similar development in the area.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the Comprehensive Plan, as the applicant has proposed other design measures including enhanced landscaping and frosted glass windows to meet the intent of the Comprehensive Plan with respect to commercial site design.

- c. The extent of 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. The applicant will provide enhanced landscaping around the site and frosted glass windows instead of clear windows.

- d. Either: 1. 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 2. 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: Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the internal layout of the store does not allow for clear windows on that side. The applicant has proposed enhanced landscaping and frosted glass windows to meet the intent of the regulations.

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 do not appear to be any environmental constraints or historic resources 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 Transportation Planning Staff has 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 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 has approved the preliminary development plan and 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.

- 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, except where variances and waiver are requested.

REQUIRED ACTIONS:

- **APPROVED** or **DENY** the **Waiver**
- **APPROVED** or **DENY** the **Revised Detailed District Development Plan with revisions to Binding Elements**

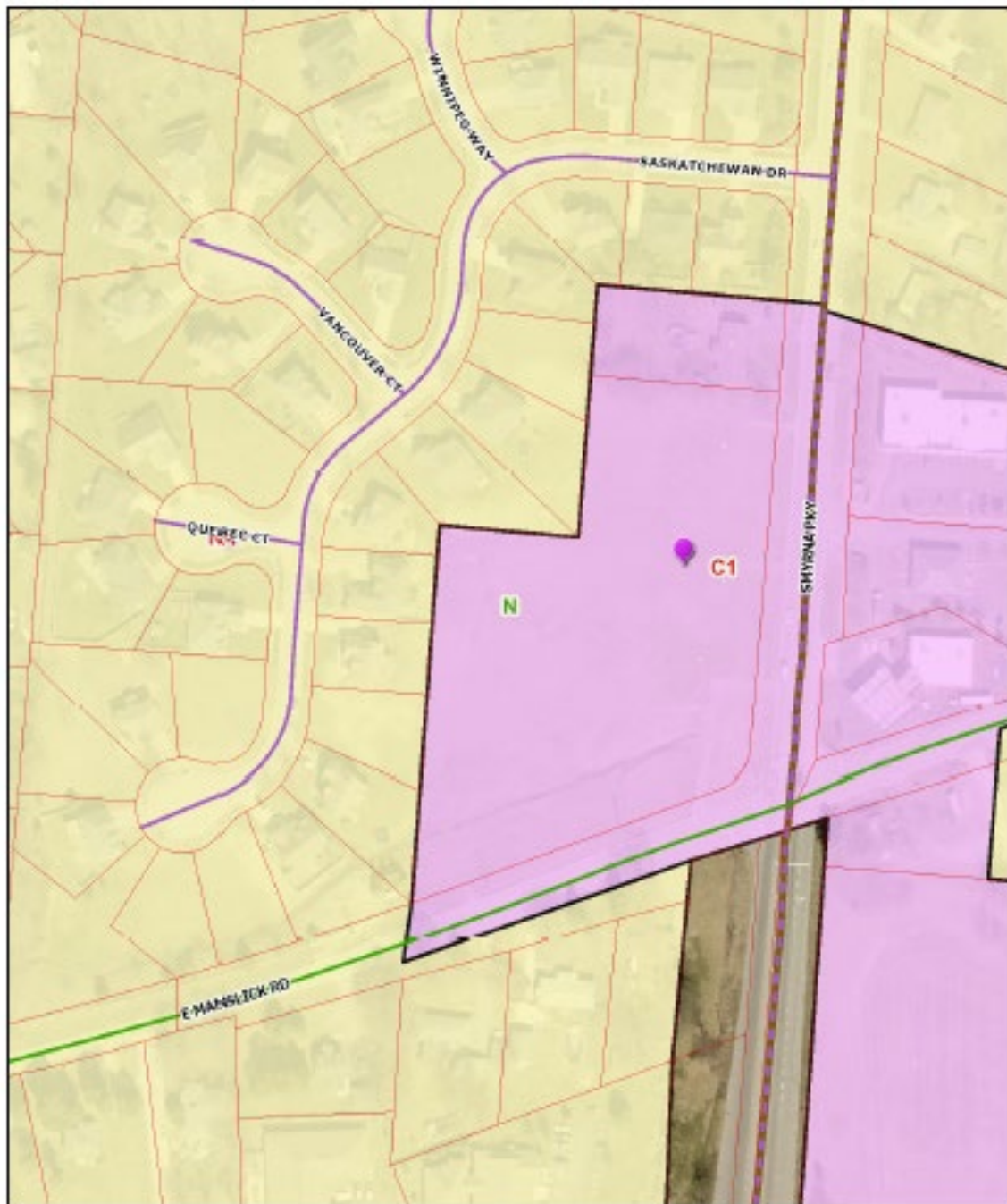
NOTIFICATION

Date	Purpose of Notice	Recipients
3-10-21	Hearing before LD&T	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 4

ATTACHMENTS

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

1. Zoning Map



20-DDP-0024

Tuesday, March 16, 2021 | 3:34:40 PM



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This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



20-DDP-0024

Tuesday, March 16, 2021 | 3:33:01 PM



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3. **Existing Binding Elements with proposed revisions**

1. The development shall be in accordance with the approved plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding elements) shall be submitted to the Planning Commission or the Planning Commission's Designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. ~~The total square footage for all four (4) buildings combined will be 27,340 square feet with the following square footage breakdown:~~
 - ~~a. 3,040 square feet for a bank~~
 - ~~b. 7,800 square feet of retail~~
 - ~~c. 16,500 square feet of office space.~~
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing 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.
6. Before any permit (including but not limited to building, parking lot. change of use, or site disturbance permit is requested:
 - a. The development plan must receive full construction approval from ~~Louisville Metro Department of Inspections, Permits and Licenses~~ **Construction Review**, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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 shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - ~~c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~
 - c. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.**
 - d. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.**
 - e. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.**

- f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.**
- g. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.**

- 7. A certificate of occupancy must be received from the appropriate code enforcement department 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.
- 8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
- ~~9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 15, 2007 Planning Commission meeting.~~
- ~~10. The facade elevations for the proposed bank shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.~~
- 11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
- 12. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
- 13. The development shall not permit the following land uses:
 - a. car washes
 - b. restaurants with drive-through windows
- 14. Service of the dumpster facility shall be permitted only in accordance with the Metro Louisville Code of Ordinances.
- 15. ~~The owner/applicant will work with adjacent property owners concerning the implementation of the landscaping plan.~~ **The applicant shall install an 8' solid wood screening fence and**

enhanced landscaping as proposed on the Landscape Exhibit presented to the Land Development and Transportation Committee on March 25, 2021. Final location and type of additional plantings will be shown on the approved landscape plan.

16. All landscaping shall be irrigated.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding elements) shall be submitted to the Planning Commission or the Planning Commission's Designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Signs shall be in accordance with Chapter 8.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing 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.
5. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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 shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - d. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - e. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
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- g. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
7. A certificate of occupancy must be received from the appropriate code enforcement department 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.
8. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
9. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
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12. Service of the dumpster facility shall be permitted only in accordance with the Metro Louisville Code of Ordinances.
13. The applicant shall install an 8' solid wood screening fence and enhanced landscaping as proposed on the Landscape Exhibit presented to the Land Development and Transportation Committee on March 25, 2021. Final location and type of additional plantings will be shown on the approved landscape plan.
14. All landscaping shall be irrigated.