

# Development Review Committee

## Staff Report

March 31, 2021



<b>Case No:</b>	21-DDP-0003/21-WAIVER-0004
<b>Project Name:</b>	Bojangles
<b>Location:</b>	2717 S Hurstbourne Pkwy
<b>Owner(s):</b>	GG&G Real estate
<b>Applicant:</b>	Bojangles Restaurant Inc
<b>Representative(s):</b>	BL Companies
<b>Jurisdiction:</b>	Jeffersontown
<b>Council District:</b>	11 – Kevin Kramer
<b>Case Manager:</b>	Jay Luckett, AICP, Planner I

### REQUEST(S)

- **Waivers**
  1. **Waiver** of Jeffersontown Land Development Code (LDC), section 10.2.9 to eliminate the Vehicle Use Area Landscape Buffer Area adjacent to the access easement.
- **Revised Detailed District Development Plan** with replacement of existing binding elements.

### CASE SUMMARY

The applicant is proposing to demolish an existing restaurant and construct a new drive-thru restaurant. The subject site is approximately 1.2 acres in the C-2 zoning district and Suburban Marketplace Corridor form district. The site is located in the City of Jeffersontown along S Hurstbourne Pkwy northeast of Stony Brook Dr. The site is located within an area of mixed commercial development.

### STAFF FINDING

The requests are adequately justified and meet the standards of review. The development will allow for the redevelopment of an existing commercial parcel within an established commercial activity area.

### 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 WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners as adequate screening and buffering will be provided around the subject site.

- (b) The waiver will not violate specific guidelines of The Comprehensive Plan; and

STAFF: The waiver will not violate specific guidelines of the Comprehensive Plan. Adequate screening and buffering will be provided around the subject site.

- (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 t the minimum necessary to afford relief to the applicant as all required screening and plantings will be provided on the subject site.

- (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 would deprive the applicant of the reasonable use of the land. The owner has agreed to provide all required plantings for the buffer. The plantings will be clustered near the buffer area with final locations to be shown on the landscape plan.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DETAILED DISTRICT DEVELOPMENT PLAN**

- 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 are no significant natural 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 have been provided around and within the proposed development. Transportation Planning 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 applicable to this 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. Adequate screening and buffering will be provided around the subject site

- 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 development plan generally conforms to the Comprehensive Plan and the Jeffersonville Land Development Code, except for the area of requested Waiver.

**REQUIRED ACTIONS**

- **RECOMMEND** the City of Jeffersontown **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** the City of Jeffersontown **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with replacement of existing Binding Elements

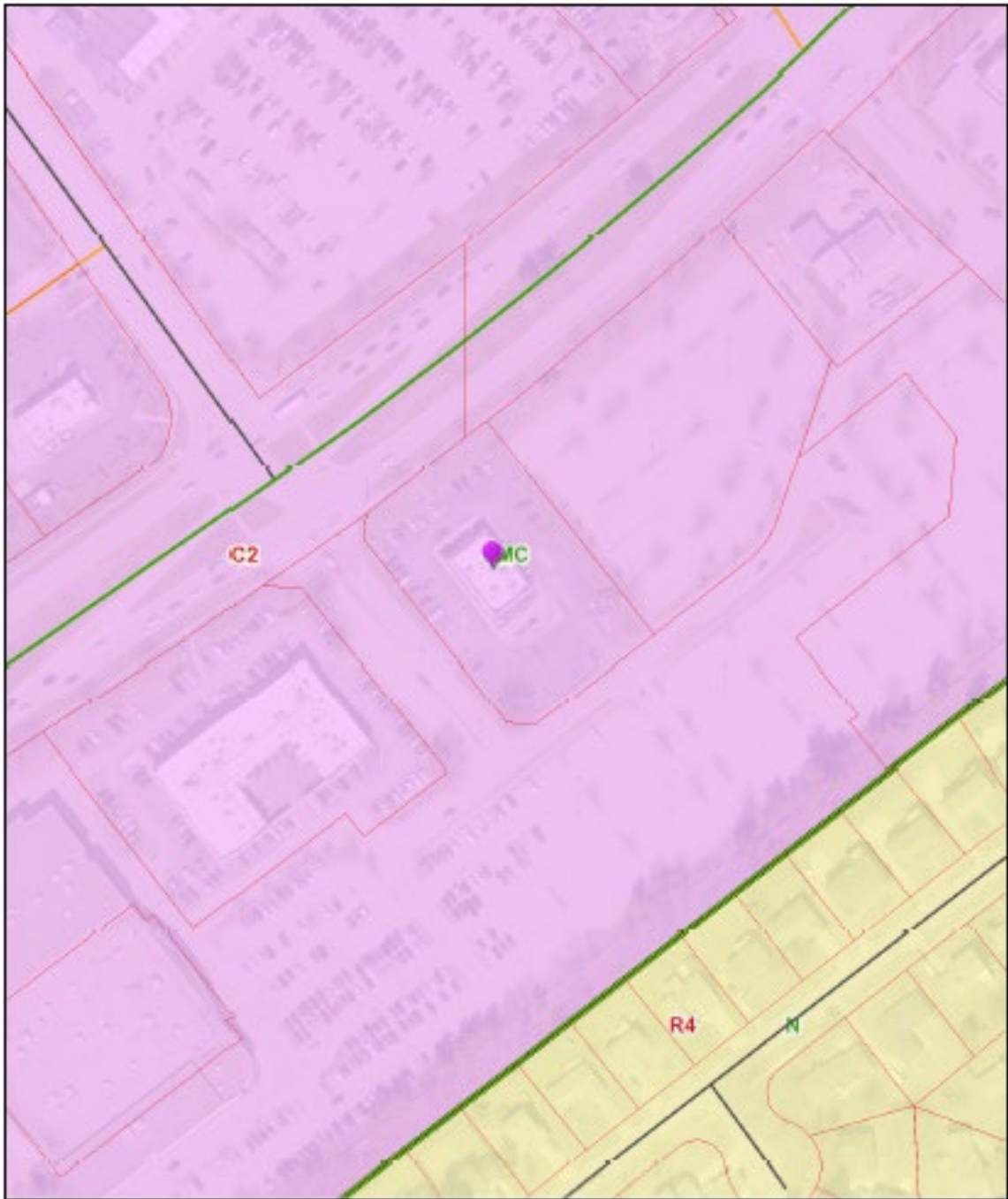
**NOTIFICATION**

Date	Purpose of Notice	Recipients
3-18-21	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Speakers at previous public hearings Registered Neighborhood Groups in Council District 11

**ATTACHMENTS**

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

1. Zoning & Form Map



**21-DDP-0003**

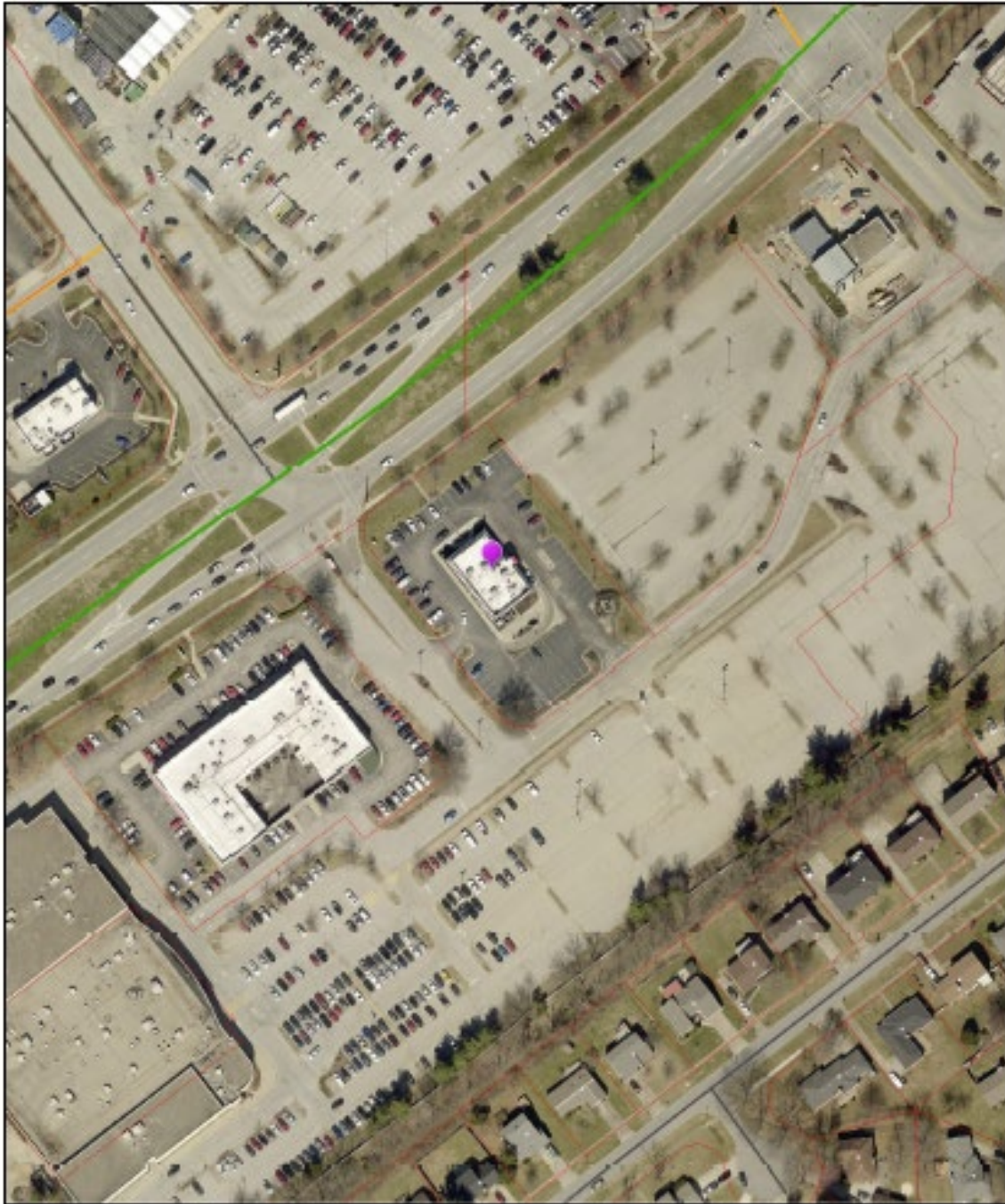
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This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



**21-DDP-0003**

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### **3. Existing Binding Elements to be replaced**

- ~~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 permitted land uses for the established zoning district.~~
- ~~2. The development shall not exceed 3,630 square feet of gross floor area.~~
- ~~3. There shall be no vehicular access to Hurstbourne Parkway.~~
- ~~4. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 84 square feet in area and 10 feet in height.~~
- ~~5. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.~~
- ~~6. Before a building or alteration permit and/or a certificate of occupancy is requested:
  - ~~a) The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~
  - ~~b) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.~~
  - ~~c) A minor plat shall be recorded to create the lot. A copy of the recorded instrument shall be submitted to the Planning Commission.~~~~
- ~~7. 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.~~
- ~~8. 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.~~

### **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. Any changes, additions or alterations of any binding element(s) shall be submitted to the Planning Commission and to the city of Jeffersontown for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The size and location of any proposed freestanding sign must be in compliance with the City of Jeffersontown Sign Ordinance.
3. Any area proposed to be used for outdoor sales, display or storage in accordance with Section 4.4.8 shall be accurately delineated on the development plan.

4. Outdoor lighting (for parking lot illumination and security) shall meet the requirements of Section 4.1.3 of the Land Development Code.
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 alteration permit) is requested:
  - a. The development plan must receive full construction approval from the City of Jeffersontown (10416 Watterson Trail) and the Metropolitan Sewer District (700 West Liberty).
  - b. 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. Prior to a Certificate of Occupancy being requested the property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
8. If a building permit is not issued within two years of the date of approval of the plan, 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 and the City of Jeffersontown.
9. 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 and City of Jeffersontown.
10. 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.
11. All off-street parking areas shall be permanently and continually maintained in good condition and free from potholes, weeds, dirt, trash and other debris.