

# Development Review Committee

## Staff Report

May 19<sup>th</sup>, 2021



<b>Case No:</b>	21-DDP-0028
<b>Project Name:</b>	Poplar Marketplace
<b>Location:</b>	5074 Poplar Level Road
<b>Owner(s):</b>	Red Brick, LLC
<b>Applicant:</b>	John Miller, Miller Wihry MWG, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	2 – Barbara Shanklin
<b>Case Manager:</b>	Molly Clark, Planner I

### REQUEST(S)

- Waivers:
  1. Waiver from 5.5.2.B.1 & 5.5.2.C.1 to not provide 50% clear windows and doors for facades facing public streets as well as not provide 60% variety of detail for a façade facing a public street. (20-WAIVER-0041)
  2. Waiver from table 10.2.3 & 10.2.10 to allow vehicular maneuvering/pavement within the required 25 ft rear LBA and 10 ft VUA/LBA. (20-WAIVER-0042)
- Revised Detailed District Development plan with Amendment to Binding Elements

### CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 commercial in the neighborhood form district. The applicant is adding 2,034 SF addition to an existing, 4,652 SF building which used to house a car wash. The proposal will have a total of 6,685 SF building for a proposed convenience store with a drive-thru and new store fronts for future development/tenants. The applicant is requesting a building design waiver and a landscape waiver.

The applicant is asking for a waiver for two building facades that face Roederer Drive and Poplar Level Road to not meet the required 50% clear windows/doors and not provide 60% variety of detail for facades facing public streets. The applicant is repurposing an existing building but will be adding a window on an existing blank wall that faces Roederer Drive. The applicant is also requesting a landscape waiver to allow vehicular maneuvering/pavement to encroach in the required 25 ft rear LBA and 10 ft VUA/LBA. The applicant is proposing to keep the same parking lot as before and provide all the required plantings.

#### Related Cases:

- 9-65-01 rezoning for a car wash
- B-317-99 variance

### STAFF FINDING

The Revised Detailed District Development Plan and waiver requests are adequately justified and meet the standard of review.

## **TECHNICAL REVIEW**

Transportation Planning, KYTC and MSD have preliminarily approved the proposal.

## **INTERESTED PARTY COMMENTS**

Staff has not received any interested party comments.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.5.2.B.1 & C.1 to waive the 50% clear windows and doors affording into the business for facades facing public ROW and not having 60% variety in detail for facades facing public ROW:**

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

STAFF: The requested waiver will not adversely affect adjacent property owners, the applicant is meeting all the other requirements. They are providing all the landscaping plantings in the remaining landscape buffers that will provide visual interest and screening for the facades that do not meet the Land Development Code.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: Guideline 1, policy 4 of Plan 2040 mentions that new development should be compatible with scale and site design of nearby existing development. They are asking for the building design waiver regarding windows being less than 50% but will still be providing some clear windows and doors for the front façade that will have all the primary customer entrances. They are meeting the non-residential building design requirements for the primary façade. The primary façade is facing the most used road which is Poplar Level with pedestrian connections leading up to the front entrance of the store fronts. The applicant is also providing all the required plantings in the remaining landscape buffers that will provide visual interest and screening to the site.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since they are proposing to keep the existing building but with additions. The current car wash structure would not be able to serve the proposed commercial development/convenience store without alterations to the existing building.

- (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 applicant has incorporated other design measures that compensate for non-compliance with the requirements to be waived but providing all the required plantings in the remaining landscape buffers that will help screen and provide visual interest to the rear and side building façade that doesn't meet the Land Development Code.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.4. and 10.2.10 to allow pavement/vehicular maneuvering in the required 25 FT Rear LBA and 10 FT VUA/LBA**

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is providing a majority of the landscaping requirements. The redevelopment will still be properly screened from adjacent residential lots.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Plan 2040 calls for protection of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances, that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered and ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The applicant has indicated that all buffer and screening requirements will be met that is required by Chapter 10 of the Land Development Code.

- (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 the applicant is redeveloping an existing building without demolition and proposing to keep the existing pavement/parking lot. This will create minimal site disturbance which is encouraged by Plan 2040. The applicant will also be providing all the required plantings and screening within the remaining landscape buffers.

- (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 reasonable use of the land. The applicant is proposing to use the existing building and existing pavement for their redevelopment. In order to meet the current code, they would have to tear down a building or tear up existing pavement. The applicant is providing all the required plantings and screening in the remaining landscape buffers on the site.

## **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. 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 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- 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.

### **REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver** from 5.5.2.B.1 & 5.5.2.C.1 to not provide 50% clear windows and doors for facades facing public streets as well as not provide 60% variety of detail for a façade **(20-WAIVER-0041)**
- **APPROVE** or **DENY** the **Waiver** from table 10.2.3 & 10.2.10 to allow vehicular maneuvering/pavement within the required 25 ft rear LBA and 10 ft VUA/LBA. **(20-WAIVER-0042)**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

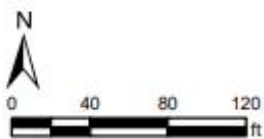
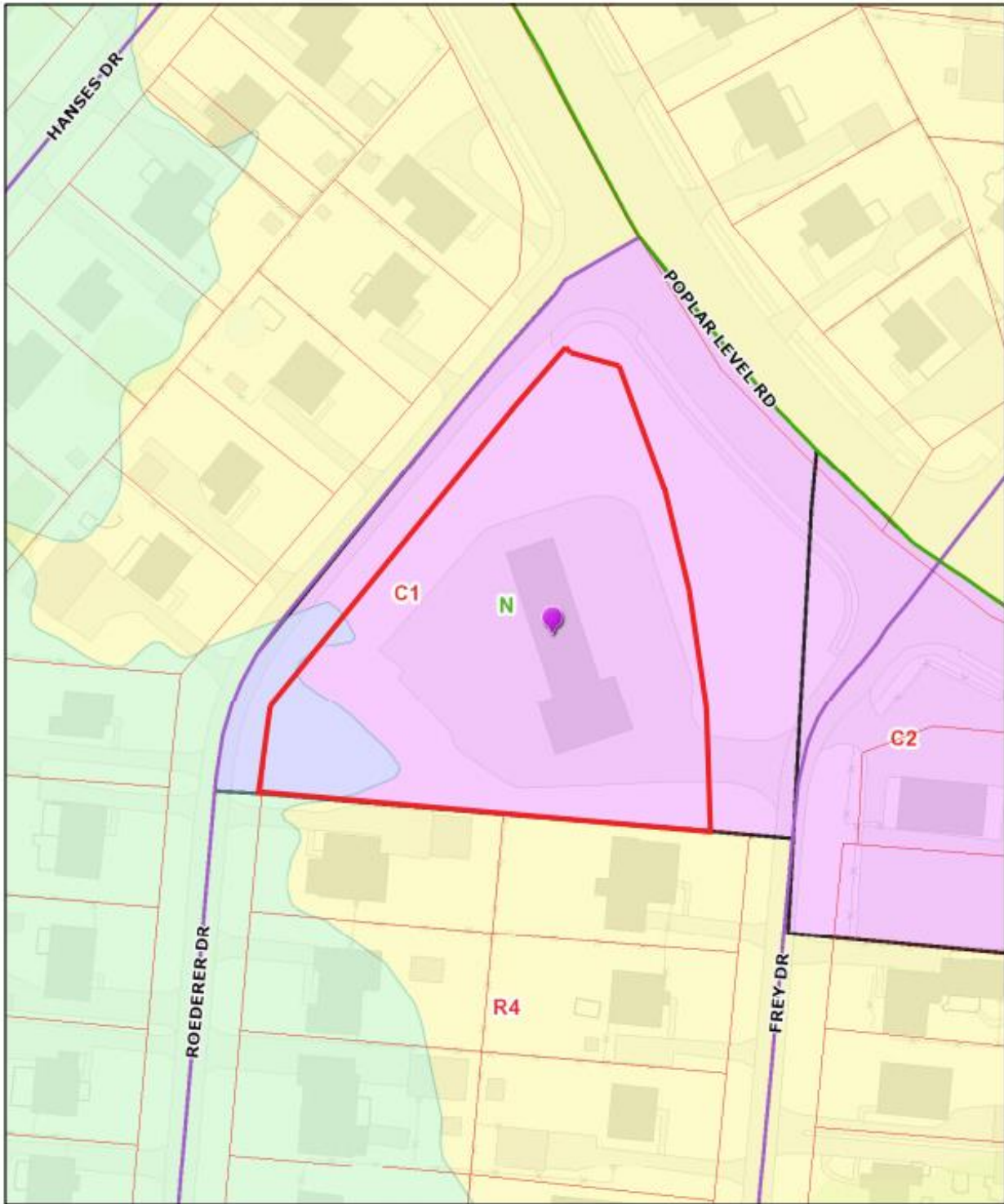
**NOTIFICATION**

Date	Purpose of Notice	Recipients
05-05-21	Hearing before 05-19-21	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 2.

**ATTACHMENTS**

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

1. Zoning Map



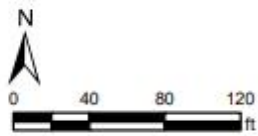
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2. Aerial Photograph



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### 3. Existing Binding Elements (From 09-65-01)

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/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
- ~~2. The development shall not exceed 3,679 square feet of gross floor area.~~
3. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
4. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible off-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 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 West Liberty).
  - 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 Chapter 10~~ prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- ~~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 department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action an approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
9. 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.
10. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~January 3, 2002~~ **May 19<sup>th</sup>, 2021** Planning Commission meeting.



#### 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/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
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5. 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 the Metropolitan Sewer District (700 West Liberty).
  - 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 shall be implemented prior to occupancy of the site and shall be maintained thereafter.
6. 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.
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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.
9. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 19<sup>th</sup>, 2021 Planning Commission meeting.