

# Development Review Committee Staff Report

August 1, 2018 (continued from July 18, 2018)



<b>Case No:</b>	17DEVPLAN1230
<b>Project Name:</b>	Retail Center
<b>Location:</b>	3901, 3905, and 3911 Taylorsville Rd. AND 2949 Breckenridge Ln.
<b>Owner(s)/Applicant:</b>	Triple M Investment Co. AND Peter E. Leonhardt
<b>Representative(s):</b>	Chris Brown – BTM Engineering Inc.
<b>Project Area/Size:</b>	12.66 net acres (551,645.29 sq. ft.)
<b>Zoning:</b>	C-1 (1.54 acres) and C-2 (11.12 acres)
<b>Form District:</b>	Regional Center Form District
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	26 – Brent T. Ackerson
<b>Case Manager:</b>	Ross Allen – Planner I

## REQUEST(S)

**Approval of a General Waiver** from LDC 5.7.1.B.3.a /10.2.4.A to not provide a 25 ft. or 35 ft. Landscape Buffer Area with required plantings along the 1,071 ft. northeastern property line and 586 ft. northwestern property line adjacent to R-5 zoned residential parcels on proposed Lot 1.

## CASE SUMMARY/BACKGROUND

The subject site is located in eastern Jefferson County/Louisville Metro at the corner of Taylorsville Road and Breckenridge Lane. The site is currently four parcels the largest parcel contained a now vacant structure that was previously a K-Mart Retail Store, a Rally's restaurant located on Breckenridge Lane, a Wash 4 Less Carwash located at the corner of Taylorsville Rd. and Breckenridge Lane, a KFC restaurant located on Taylorsville Road, and a Thornton's Gas Station also located on Taylorsville Rd. The KFC restaurant, the Rally's restaurant, and Wash 4 Less carwash will be demolished. The current proposal will also have four lots requiring a minor subdivision for the rearrangement of lot lines or the creation of new lot lines and three entrances/exits along Breckenridge Lane and two along Taylorsville Road. A 15 ft. Landscape Buffer Area will be provided along the frontage of Lot 4, Lot 3, and Lot 2 as fronting along Taylorsville Road and Breckenridge Lane.

Lot 1 as proposed will be an 8.96 acre parcel containing the existing 115,282 sq. ft. one story (25 ft. tall) structure with proposed office storage with a newly proposed 2,500 sq. ft. loading dock with three bays, proposed dumpsters in the northern most corner, a back-up generator, and 52 newly striped parking spaces all of the aforementioned are proposed along the northeastern and northwestern property line adjacent to the R-5 residentially zoned parcels. The total VUA for Lot 1 is approximately 209,263 sq. ft. with a 503 parking spaces (12 ADA parking spaces included) and will contain less than the required 7.5% and providing approximately 5% of the VUA for interior landscaping areas (ILA) as required by LDC. The applicant is asking to waive the requirements of Landscaping and Plantings requirements as established in LDC Chapter 10 along the property lines adjacent to the residential zoning/uses.

Lot 2 as proposed will be 1.28 acre parcel and remain as an existing 2,450 sq. ft. (excluding the gas canopy) one story (20 ft. tall) Thornton's Gas Station. The existing VUA is approximately 43,672 sq. ft. in size and having nine parking spaces (including one ADA parking space) to the front of the Thornton's retail structure and having eight gas pumps with one parking space each pump with a total of 17 parking spaces.

Lot 3 as proposed will be on a 1.47 acre parcel containing a proposed 9,656 sq. ft. one story (25 ft. tall) pharmacy facing Taylorsville Road. The Vehicular Use Area is approximately 31,026 sq. ft. in size containing 44 parking spaces (including two ADA parking spaces) and will provide more approximately 10% ILA which is more than required by LDC (7.5% is required by LDC). A 15 ft. VUA LBA is present along both the Taylorsville Rd. and Breckenridge Ln. frontage as well as along the southeastern side of the 30 ft. wide entrance/exit off of Taylorsville Rd.

Lot 4 as proposed will be on a .95 acre parcel containing a proposed 2,585 sq. ft. one story (25 ft. maximum height) restaurant facing Taylorsville Road. The proposed restaurant will have a VUA of approximately 25,165 sq. ft. containing 42 parking space (including 3 ADA parking spaces) along with 11% ILA which exceeds the 7.5% as required by LDC.

**Related Cases:**

**18MINORPLAT1116** – A large format minor subdivision plat to shift lot lines to create four lots from four existing lots on a 12.74 acres in the C-1/C-2 zoning district. Currently, open and unapproved as of July 19, 2018.

**15CERT1768** - zoning certification for 3901, 3905, and 3911 Taylorsville Rd. and 2949 Breckenridge Ln. verifying that the property is zoned C-1 and C-2 within a Regional Center Form District.

**B-160-95** - (Oct. 16, 1995) An appeal of a refusal issued by the Dept. of Inspections, Permits, and Licenses to allow the removal and replacement of a non-conforming freestanding sign based upon alleged non-conforming rights. The Board of Zoning Adjustment determined that the proposed sign as submitted is in compliance with Article 8.3.E Non-conformance in terms of size and height and that any additional signage shall be in violation of the zoning district regulations and shall require prior approval by the BOZA and the refusal as issued by the Dept. of Inspections, Permits, and Licenses was proper. The refusal issued by the Dept. of IP&L was overruled and the appeal is upheld thus permitting the 45 ft. tall 304 sq. ft. sign.

**STAFF FINDING / RECOMMENDATION**

**General Waiver** from LDC 5.7.1.B.3.a/10.2.4.A to not provide a 25 ft. or 35 ft. Landscape Buffer Area with required plantings along the 1,071 ft. northeastern property line and 586 ft. northwestern property line adjacent to R-5 zoned residential parcels on proposed Lot 1.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b><i>Subject Property</i></b>			
<b>Existing</b>	Commercial – Vacant K-Mart, Rally’s Restaurant, Wash 4 Less Carwash, KFC, and Thornton’s Gas Station	C-1, C-2	Regional Center
<b>Proposed</b>	Commercial – Office/Storage, Restaurant, Pharmacy	C-1, C-2	Regional Center
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Single Family Residential	R-5	Neighborhood
<b>South</b>	Commercial – Republic Bank, PNC Bank, Valvoline Instant Oil Change	C-1	Regional Center
<b>East</b>	Single Family Residential, Multi-tenant Strip Mall	R-5, C-2	Neighborhood, Regional Center
<b>West</b>	Commercial – The Point Office Condominium Park, Public and Semi-Public - Vacant	OTF, R-5, R-2	Neighborhood, Regional Center

## **TECHNICAL REVIEW**

Transportation Planning and MSD have preliminarily stamped the development plan.

## **INTERESTED PARTY COMMENTS**

The following are comments from e-mails as received by staff:

An e-mail as dated 4/9/2018 at 10:37 AM states that the location of the dumpsters is a potential nuisance. The person was also interested to know if there are any public health ordinances governing the location of commercial dumpsters adjacent to private residential property.

## **APPLICABLE PLANS AND POLICIES**

Land Development Code (LDC August 2017a)  
Comprehensive Plan (Cornerstone 2020)

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from 5.7.1.B.3.a/LDC 10.2.4.A to not provide a 25 ft. or 35 ft. Landscape Buffer Area with required plantings along the 1,071 ft. northeastern property line and 586 ft. northwestern property line adjacent to R-5 zoned residential parcels on proposed lot 1.**

- (a) How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?

STAFF: The applicant states, "The waiver will not adversely affect adjacent property owners since the required screening per Chapter 10 of the Land Development Code will be provided while maintaining the existing building and vehicular maneuvering area on the site."

Staff has found that the applicant as required by LDC 5.7.1 (Transition Zone Standards) as referencing Chapter 10 Part 2 section 4 (C.4 per Table 10.2.2) would require the applicant to provide a 25 ft. and/or 35 LBA as adjacent to the residential dwellings as found along the northwestern and northeastern property lines with the required plantings of three Large Type A of Medium Type B trees with an eight ft. screen. The subject site has existing screening in place beginning approximately 82 ft. interior to the rear property line (perpendicular to Breckenridge Lane) and running in a northeastern/southwestern direction for approximately 260 ft. while the remainder of the rear property line is screened by fences of the residential property owner's rear yards along Berkshire Ave. The rear property line does have an estimated 22 ft. greenspace but the applicant/owner has indicated on the development plan that there is an existing 23 ft. utility easement and existing 16 ft. sewer easement running along the rear property line. The northeastern property line, running in a northwestern/southeastern direction and perpendicular to Taylorsville Rd., has a very narrow green space running the length of the property and contains an existing 16 ft. wide sanitary sewer easement with an overhead utility easement. The applicant intends to provide the screening (eight ft. as required by Chapter 10) along both the northwestern and northeastern property lines as adjacent to residential dwellings with existing pavement present prior to the proposal, existing conditions.

(b) Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?

STAFF: The applicant states, "Guideline 3, policies 21 and 22 calls for 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.

Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered.

Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The waiver will not violate the Comprehensive Plan since screening will be provided as required by the Land Development Code along the property boundaries with existing parking and the existing building which will be renovated and used with the current plan proposal."

Staff has found that the applicant as required by LDC 5.7.1 (Transition Zone Standards) as referencing Chapter 10 Part 2 section 4 (C.4 per Table 10.2.2) would require the applicant to provide a 25 ft. and/or 35 LBA as adjacent to the residential dwellings as found along the northwestern and northeastern property lines with the required plantings of three Large Type A or Medium Type B trees with an eight ft. screen. The subject site has existing screening in place beginning approximately 82 ft. interior to the rear property line (perpendicular to Breckenridge Lane) and running in a northeastern/southwestern direction for approximately 260 ft. while the remainder of the rear property line is screened by fences of the residential property owner's rear yards along Berkshire Ave. The rear property line does have an estimated 22 ft. greenspace but the applicant/owner has indicated on the development plan that there is an existing 23 ft. utility easement and existing 16 ft. sewer easement running along the rear property line. The northeastern property line, running in a northwestern/southeastern direction and perpendicular to Taylorsville Rd., has a very narrow green space running the length of the property and contains an existing 16 ft. wide sanitary sewer easement with an overhead utility easement. The applicant intends to provide the screening (eight ft. as required by Chapter 10) along both the northwestern and northeastern property lines as adjacent to residential dwellings with existing pavement present prior to the proposal, existing conditions.

It is undetermined what potential impacts that placement of the dumpsters and newly stripped parking will have along the portion of the northeastern or parking/maneuvering area along the northwestern property line will have upon adjacent residents.

(c) What impacts will granting of the waiver have on adjacent property owners?

STAFF: The applicant states, "The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since VUA LBAs will be provided on the site drives and along the roadways with screening along the north and east property boundaries. New landscape islands will also be provided within the existing vehicular use area." It is undetermined what nuisances/impacts may occur as a result of the proposed development. Many of the current conditions are existing conditions though the use for the areas has intensified.

(d) Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?

STAFF: The applicant states, "The strict application of the provisions of the regulations would create an unnecessary hardship on the applicant by requiring large portions on the existing building and the VUA area around the building with existing parking to be eliminated on the site."

**REQUIRED ACTIONS**

- **Approve/Deny Waiver from LDC 5.7.1.B.3.a/10.2.4.A to not provide a 25 ft. or 35 ft. Landscape Buffer Area with required plantings along the 1,071 ft. northeastern property line and 586 ft. northwestern property line adjacent to R-5 zoned residential parcels on proposed Lot 1.**

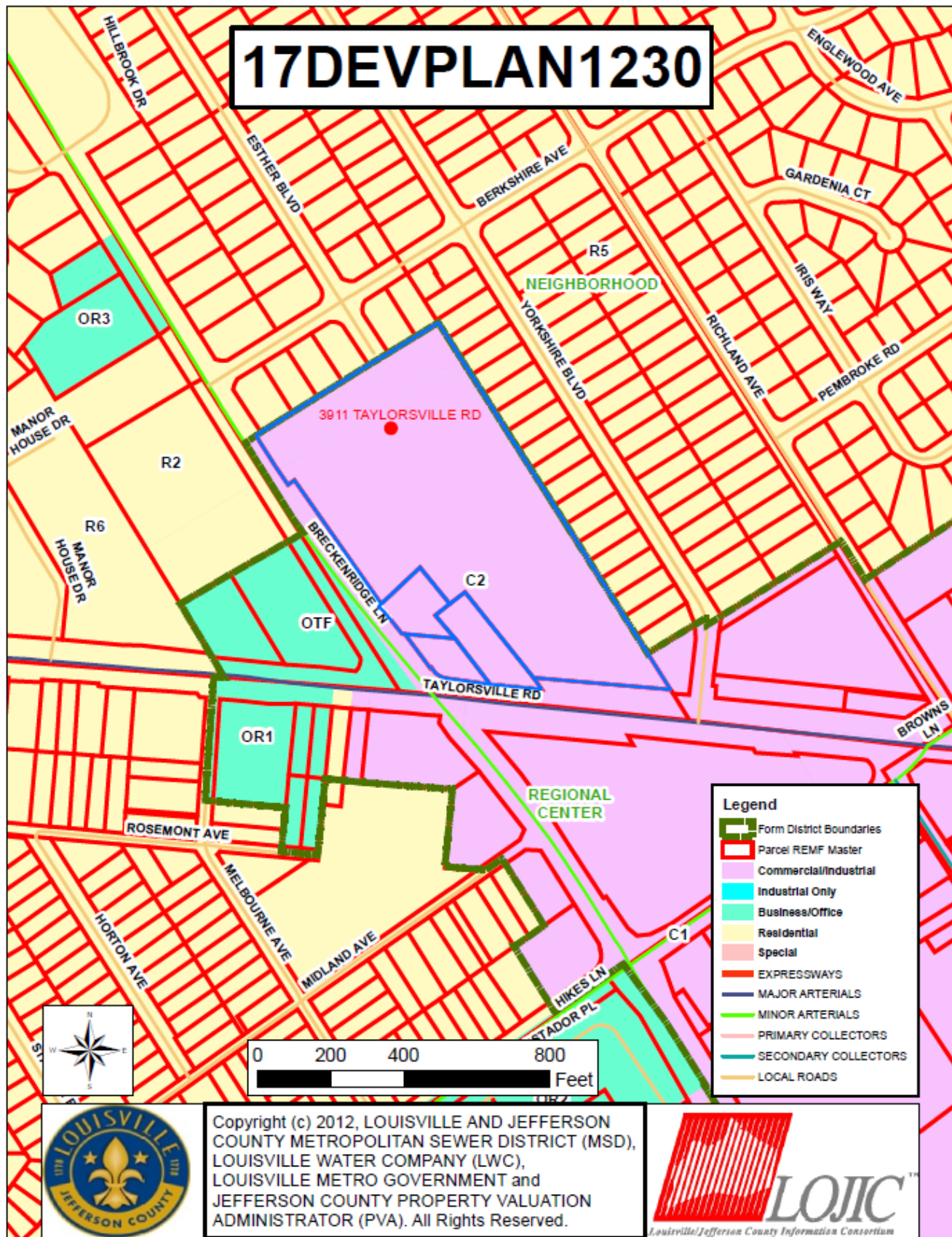
**NOTIFICATION**

Date	Purpose of Notice	Recipients
July 7, 2018	Hearing before DRC on July 18, 2018	1 <sup>st</sup> tier adjoining property owners
July 19, 2018	Gov Delivery Notice	Subscribers of Council District 26 Notification of Development Proposals

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map





2. Aerial Photograph

