

Development Review Committee

Staff Report

November 5, 2014



Case No:	14DEVPLAN1130
Request:	Revised Detailed District Development Plan, and General and Detailed Plan Binding Element Amendments
Project Name:	Coffee Shop
Location:	10318 Westport Rd.
Owner:	Kentuckiana Development, LLC
Applicant:	Kentuckiana Development, LLC
Representative:	Heritage Engineering, LLC
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	David B. Wagner – Planner II

REQUEST

- Revised Detailed District Development Plan
- Binding Element Amendments for General and Detailed Plans

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a 2,000 SF coffee shop with a 360 SF outdoor patio for the site that sits close to the intersection of Westport Road and Freys Hill Road. There will be a drive through window with the ordering area and menu board facing the retail center to the south and the pick-up window facing the gas station to the east. A cross-over easement and shared parking agreement is already in place for the entire development and will continue to be utilized for the new out lot. Binding Element #19 of the General District Development Plan did not allow restaurants with drive through windows and the applicant is requesting it to be amended to allow the drive through for the coffee shop. The amendment of General District Development Plan Binding Element #3 regarding signs and #20 regarding the resolution of an access issue is to simply clean up the Binding Elements to reflect sign dimensions that already exist on the site and that the access issue was sufficiently resolved.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	C-1	N
Proposed	Coffee Shop	C-1	N
<i>Surrounding Properties</i>			
North	Retail	C-2	RC
South	Retail	C-1	N
East	Retail	C-1	N
West	Retail	C-1	N

PREVIOUS CASES ON SITE

- 9-41-04: Re-zoning from R-6 and OR-3 to C-1, Revised Detailed District Development Plan, and Binding Elements, and Waivers for a car wash.
- 9-73-02: Re-zoning from R-4 and R-6 to C-1, Detailed District Development Plan, CUP, and Waivers for retail, restaurant, and commercial kennel.

INTERESTED PARTY COMMENTS

- Staff has received no inquiries from interested parties.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND 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: The site was cleared and prepared for the existing parking spaces and a previously proposed restaurant. There are no existing natural resources on the site to be preserved.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Safe and efficient vehicular and pedestrian transportation is provided by the sidewalks and access on Westport Road. Bicycle parking is being added to the site to assist cyclists in using the site and there is vehicular access to the public road network through the cross over agreement.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space is not required for 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: MSD has approved the drainage facilities for the site.

- 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 proposal is compatible with the surrounding area as it is being used for a restaurant as was previously approved by the Planning Commission. The surrounding area is commercial uses and does not adjoin residential homes that would be negatively impacted by a commercial use.

- 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 proposal conforms to the Comprehensive Plan and Land Development Code as the land use is a proper use for an activity center in the Neighborhood Form District and helps to finish out a larger planned development. The proposal complies with the LDC or has previously obtained relief through Waivers.

TECHNICAL REVIEW

- The proposal complies with the requirements of the LDC.
- MSD and Transportation Review have given preliminary approval for the plan.

STAFF CONCLUSIONS

The proposal allows the development to be developed as a coffee shop which is a similar use as was previously approved by the Planning Commission. Appropriate landscaping and screening exists through the adjacent green way lot or will be provided on site and it will not adversely affect any nearby residential uses.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must **APPROVE** or **DENY** the proposal for a Revised Detailed District Development Plan and Amendment to Binding Elements.

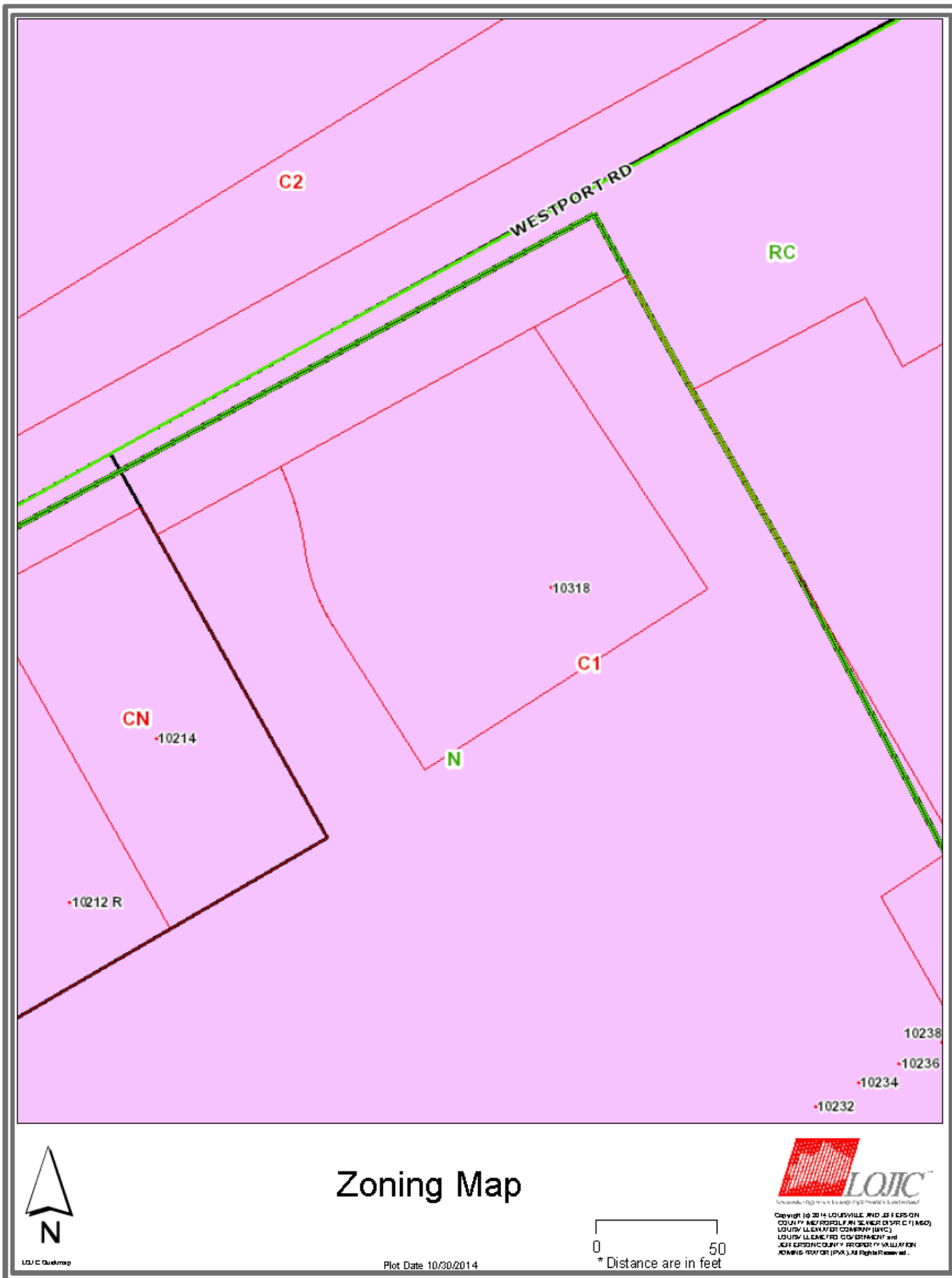
NOTIFICATION

Date	Purpose of Notice	Recipients
10/23/14	Meeting before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers to Council District 17 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Proposed General Plan Binding Element Amendments
5. Proposed Revised Detailed Plan Binding Elements

1. **Zoning Map**



2. Aerial Photograph



3. Existing General Plan 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 64,500 square feet of gross floor area (61,500 SQ FT Retail and 3,000 SQ FT Restaurant).
3. The only permitted freestanding signs shall be monument style signs, located as shown on the approved development plan/sign plan. No portion of the signs, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The signs shall not exceed 60 square feet each in area per side and 10 feet in height. No sign shall have more than two sides.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage, display or sales except as permitted under Section 9.7 of the Jefferson County Development Code and within designated areas on the approved development plan.
6. 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. Light levels due to lighting on the subject site shall not exceed 0.5 foot candles measured at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
7. 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.
8. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
9. 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. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan and dedicating additional right-of way as shown on the development plan. 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 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
10. If a building permit is not issued within two years 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.
11. 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.
12. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
13. 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.
14. 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.
15. The dumpster shall not be emptied and there shall be no deliveries (loading/unloading) between the hours of 10 p.m. and 7 a.m.
16. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 3, 2003 Planning Commission meeting.
17. No idling of trucks between the rear of the shopping center and adjacent single-family residences. No overnight idling of trucks shall be permitted on-site.
18. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
19. There shall be no restaurants with menu boards or order windows; restaurants with pick-up only windows/areas shall be allowed.
20. The site plan shall return to LD&T to resolve access issue with the adjacent properties prior to requesting a building permit.

4. Proposed General Plan Binding Element Amendments

3. ~~The only permitted freestanding signs shall be monument style signs, located as shown on the approved development plan/sign plan. No portion of the signs, including the leading edge of the sign frame, shall be closer than 5 feet to front property line. The signs shall not exceed 60 square feet each in area per side and 10 feet in height. No sign shall have more than two sides. Signs shall be in compliance with all sign regulations and as shown on the development plan.~~
19. There shall be no restaurants with menu boards or order windows; restaurants with pick-up only windows/areas shall be allowed. **Coffee shops with drive thru lane, including a menu board or order windows, shall be allowed.**
20. ~~The site plan shall return to LD&T to resolve access issue with the adjacent properties prior to requesting a building permit.~~

5. **Proposed Revised Detailed Plan Binding Elements**

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

1. The development shall be in accordance with the approved district development 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 element(s) 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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - 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.
4. 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.
5. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 5, 2014 Development Review Committee meeting.
6. 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.