

Land Development and Transportation Committee Staff Report

September 10, 2015



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| Case No: | 15DEVPLAN1120 |
| Request: | Detailed District Development Plan with Landscape Waivers |
| Project Name: | Zaxby's |
| Location: | 13811 Terra View Trl |
| Owner: | CHOP Partners II LLC |
| Applicant: | CHOP Partners II LLC |
| Representative: | Mindel, Scott & Associates Inc |
| Jurisdiction: | Louisville Metro |
| Council District: | 19 – Julie Denton |
| Case Manager: | Christopher Brown, Planner II |

REQUEST

- Waiver #1: Landscape waiver from Chapter 10.2.4.B of the Land Development Code to allow existing utility easements to overlap required landscape buffers along Old Henry Road and Terra View Trail by more than 50%
- Waiver #2: Landscape waiver from Chapter 10.3.5 of the Land Development Code to reduce the required 30' parkway buffer along Old Henry Road
- Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1, Commercial
Existing Form District: SW, Suburban Workplace
Existing Use: Vacant
Proposed Use: Restaurant
Minimum Parking Spaces Required: 33
Maximum Parking Spaces Allowed: 82
Parking Spaces Proposed: 57
Plan Certain Docket #: 9-99-98

The applicant is proposing a 4,096 SF restaurant along Old Henry Road with access to the site from Terra View Trail. Sidewalk access will be provided from both frontages to the building. All planting and screening materials will be provided on the site but two landscape waivers have been requested. The existing utility easements on the site overlap the required VUA LBA along Terra View Trail and the buffering along Old Henry Road by more than 50%. Along Old Henry Road, the first parking aisle of 13 spaces will partially encroach into the required 30' parkway buffer. There is extensive open space existing within the ROW between the site and the edge of the Old Henry Road edge of pavement. The applicant will maintain sufficient buffering to provide the required planting materials. All other Land Development Code requirements will be met on the site.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

| | Land Use | Zoning | Form District |
|-------------------------------|---------------------|---------------|----------------------|
| Subject Property | | | |
| Existing | Vacant | C-1 | SW |
| Proposed | Restaurant | C-1 | SW |
| Surrounding Properties | | | |
| North | Hospital | OR-3 | SW |
| South | Quarry | M-3 | SW |
| East | Vacant | C-2 | SW |
| West | Proposed Commercial | C-1 | SW |

PREVIOUS CASES ON SITE

9-99-98: Rezoning for a mixed use development from R-4, single family residential, to R-5A, OR-3, OTF, C-1 and C-M along Old Henry Road in the area of the Old Henry Sub-area study. The Planning Commission approved the rezoning in 2001. The subject site was shown as Lot 7 on the general plan as a bank use.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
 Land Development Code
 Old Henry Road Sub Area Plan

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- 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 does 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 with 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 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. 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Utility Easement Overlap)

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

STAFF: The waiver will not adversely affect adjacent property owners since the required planting and screening material will be provided on the site.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. 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 4 calls for 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 air borne and water borne pollutants. The required planting material will be provided and meet the intent of the regulation; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

- (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 screening and planting materials will be provided on the 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 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 since the relocation of the landscape buffers would negatively affect the on-site vehicular circulation and the parking.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (Parkway Buffer)

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

STAFF: The waiver will not adversely affect adjacent property owners since an estimated 70' of verge exists between the edge of pavement along Old Henry and the subject site with the required planting and screening materials to be provided along Old Henry Road.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. 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 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The intent of the parkway will be maintained with the preservation of the existing extensive verge and the use of all required planting and screening materials; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

- (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 to allow the minimum parking requirements for the proposed use to be met on the 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 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 by not allow sufficient spacing for the vehicular circulation and parking associated with the proposed use.

TECHNICAL REVIEW

- There are no outstanding technical review comments that need to be addressed.

STAFF CONCLUSIONS

The standard of review has been met for the requested landscape waivers and associated development plan. Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Land Development & Transportation Committee must determine if the proposal meets the standards for granting landscape waivers and a detailed district development plan as established in the Land Development Code.

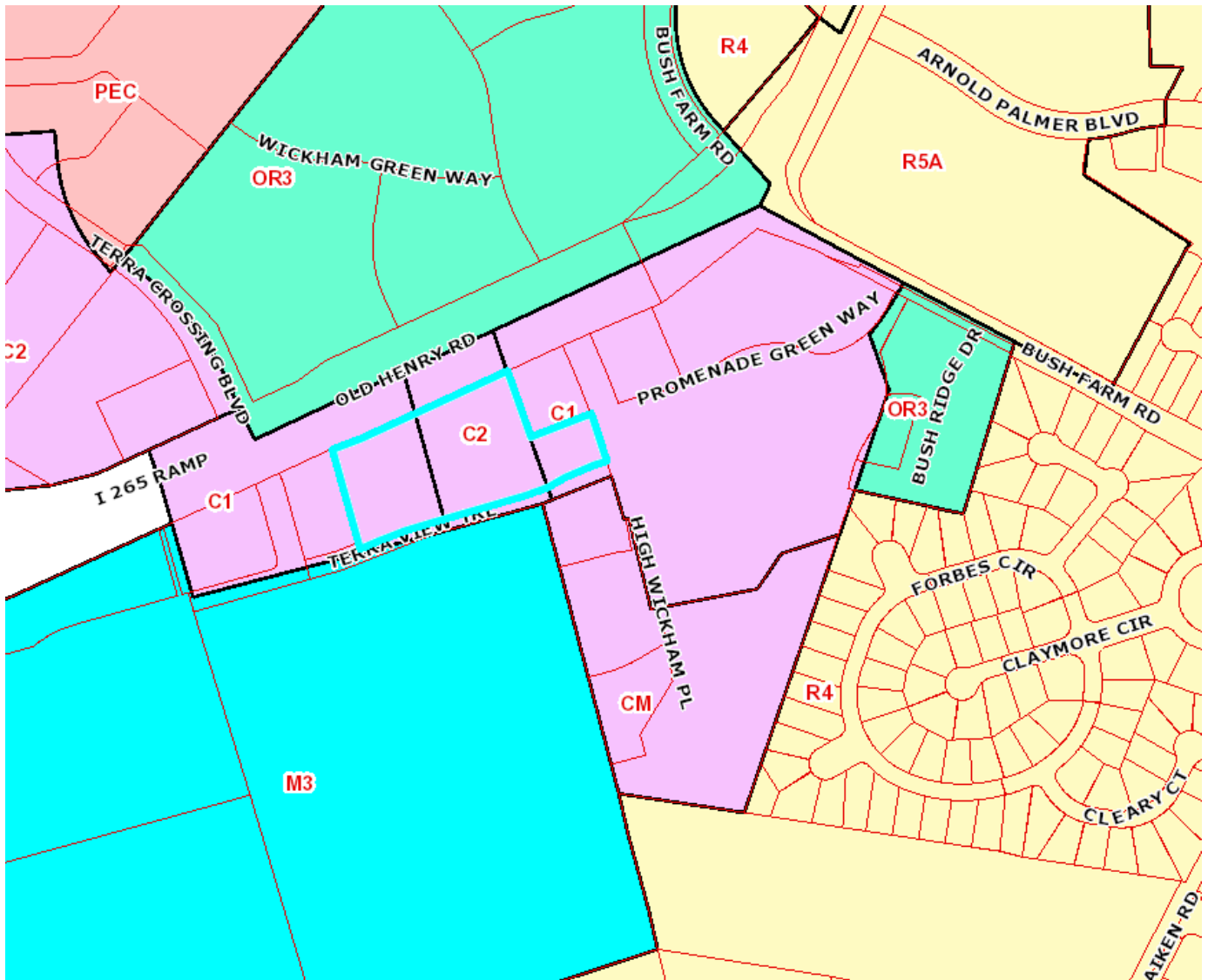
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|---------|---------------------|--|
| 8/31/15 | Hearing before LD&T | 1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals |

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Proposed Binding Elements

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, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Permit Review, Transportation Planning Review 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.
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 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.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 10th, 2015 Land Development and Transportation Committee meeting.