

**Development Review Committee**  
**Staff Report**  
May 23, 2018



<b>Case No:</b>	18DEVPLAN1054
<b>Project Name:</b>	138 Wiltshire Ave
<b>Location:</b>	138 Wiltshire Ave
<b>Owner(s):</b>	Scott Boehnlein
<b>Applicant:</b>	Scott Boehnlein
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	9 – Bill Hollander
<b>Case Manager:</b>	Jay Lockett, Planner I

**REQUEST(S)**

- Waiver of Land Development Code section 10.2.4 to allow vehicle use areas to encroach into the 15' property perimeter buffers
- Revised District Development Plan

**CASE SUMMARY/BACKGROUND**

The applicant is proposing to add a 528 SF expansion to an existing office/residential mixed use structure. The property was rezoned to OR-2 under docket 9-62-78. A waiver is requested to allow the vehicle use areas to encroach into property perimeter buffers where the site is adjacent to residentially zoned properties to the north and west of the subject site.

**STAFF FINDING**

The requests are adequately justified and meet the standard of review.

**TECHNICAL REVIEW**

The existing sidewalk in the front of the property will need to be placed into an easement to allow for public usage.

**INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this request.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LDC SECTION 10.2.4 TO ALLOW VEHICLE USE AREAS TO ENCROACH INTO PROPERTY PERIMETER LANDSCAPE BUFFER AREAS.**

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

STAFF: The waiver will not adversely affect adjacent property owners since the vehicle use areas have existed in a similar manner for a long time without this buffering.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 6 calls for screening and buffering to mitigate adjacent incompatible uses. 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 proposed expansion will not add significant traffic or intensity of use to the prevailing conditions of the 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 the minimum necessary to afford relief to the applicant since all other Land Development Code landscape requirements will be met on 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, as it would be virtually impossible to fit the required parking and drive aisles onto the site if the buffers were installed.

## 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, except for the requested waiver. 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**
- **APPROVED** or **DENY** the **Revised District Development Plan**

**NOTIFICATION**

Date	Purpose of Notice	Recipients
5-14-18	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 9

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing and/or Proposed Binding Elements

1. **Zoning Map**



2. Aerial Photograph



### **3. Existing Binding Elements**

- ~~1. There will be no access to the site from Willis Avenue. Access will be via Wiltshire Avenue.~~
- ~~2. The existing garage will be used for storage only. Motor vehicles will not have access to the garage from Willis Avenue.~~
- ~~3. Prior to occupancy of the building appropriate variances will be obtained from the Board of Zoning Adjustment to permit parking in a required street side yard.~~
- ~~4. The proposed sign will not exceed 16 square feet in area (double faced sign 8 square feet each side). If the sign is proposed to be in a required yard the appropriate variances will be obtained from the Board of Zoning Adjustment.~~
- ~~5. No expansion of existing buildings will occur until a District Development Plan is approved by the Planning Commission.~~
- ~~6. A solid wooden fence or dense evergreen screening will be placed along the northwest property line between the rear of the existing main structure and the rear property line to provide a buffer for the adjoining residences.~~
- ~~7. Reapproval must be received from the Water Management Section of the Jefferson County Works Department and the Traffic Engineering Department prior to occupancy of the building for the proposed use.~~
- ~~8. Unless use in accordance with the approved plan and binding elements has been substantially established within one year from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.~~

### **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. There shall be no direct vehicular access to Willis Avenue.
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the 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, site disturbance, alteration permit or demolition permit)
  - a. The development plan must receive full construction approval from Develop Louisville 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.
7. 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.
8. A solid wooden fence or dense evergreen screening will be placed along the northwest property line between the rear of the existing main structure and the rear property line to provide a buffer for the adjoining residences.
9. An easement shall be recorded for the existing sidewalk in the front of the site along Wiltshire Ave.
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.