

**DEVELOPMENT REVIEW COMMITTEE MINUTES**  
**January 8, 2020**

**NEW BUSINESS**

**CASE NUMBER 19-DDP-0061**

**Request:** Revised District Development Plan with Waivers  
**Project Name:** Dollar General Store  
**Location:** 7701 Smyrna Parkway  
**Owner/Applicant:** Kennie and Patricia Combs/ SC Development LLC  
**Representative:** Frost Brown Todd  
**Jurisdiction:** Louisville Metro  
**Council District:** 23-James Peden  
**Case Manager:** **Julia Williams, AICP, Planning Supervisor**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:47:07 Julia Williams presented the case (see staff report and recording for detailed presentation.)

00:49:19 Commissioner Mims asked if there will be access to this development from the adjacent lot. Julia Williams replied yes, there is an existing connection and they are owned by the same property owner.

**The following spoke in favor of this request:**

Jon Baker, 400 W. Market Street, Suite 2000, Louisville, Kentucky, 40202  
Brandy Zackery, 1136 South Park Drive, Bowling Green, Kentucky, 42103  
Kennie Combs, 2604 Evergreen Wynde, Louisville, Kentucky, 40223

**Summary of testimony of those in favor:**

00:50:24 Jon Baker, representing the applicant, presented a Power Point slide show (see recording for detailed presentation). Mr. Baker noted multiple iterations of the plan created with staff to diminish the impact on the Outer Loop buffer. Jon Baker stated Brandy Zackery is present to provide information regarding the development plan.

00:55:15 Brandy Zackery noted the access on Smyrna Parkway will be widened, the cross access easement to Outer Loop, and the reduced parking to not encroach on the Outer Loop buffer. Ms. Zackery detailed meetings with MSD for a public sanitation force main extension.

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00:57:44 Jon Baker clarified there will be a waiver for one parking space. He noted this a relocation of a store nearby to this stand alone building site. He detailed the landscape plan to include screening on Symrna Parkway and the back of the site.

01:00:07 Commissioner Mims asked if the windows will be faux or real. Brandy Zackery stated the majority of them will be faux. Commissioner Mims, Julia Williams, and Brandy Zackery discussed the type of windows allowed in the code requirements (see recording for detailed presentation).

01:02:54 Commissioner Brown expressed concerns with the layout of the sidewalks along Symrna Parkway. Commissioner Brown, Beth Stuber, and Brandy Zackery discussed the 15 foot verge space required by the Land Development Code (see recording for detailed presentation).

01:06:53 Commissioner Mims asked what the grade is like on the site. Brandy Zackery stated along Smyrna Parkway is up grade and noted the underground detention basin they will provide.

01:07:51 Commissioner Carlson asked Jon Baker if the landscaping will cover the back portion of the building from the road. Jon Baker replied there is an existing privacy fence and a mason enclosed dumpster will be provided as well to screen the back of the building. Mr. Baker stated the vegetation along the fence line will remain.

**The following spoke in neither for nor against to this request:**  
David Steff, 2812 Appieview Lane, Louisville, Kentucky, 40228

**Summary of testimony of those neither for nor against:**  
01:10:53 David Steff stated concerns with the façade of the building. He noted the east side of the building is metal and he would like to see brick along this side.

**The following spoke in opposition to this request:**  
John Torskey, 601 West Jefferson Street. Louisville, Kentucky, 40202

**Summary of testimony of those in opposition:**  
01:13:16 John Torskey stated he is opposed to the waiver of the Outer Loop buffer and Smryna Parkway buffer. He noted there should be brick on all four sides of the building.

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**The following spoke in favor of this request:**

Kennie Combs, 2604 Evergreen Wynde, Louisville, Kentucky, 40223

**Summary of testimony of those in favor:**

01:16:00     Kennie Combs, property owner, detailed the previous plan for Jewish Hospital. He noted this site has not have a business on the site for quite sometime and would like to see the current plan go through.

**Rebuttal:**

01:18:18     Brandy Zackery stated the applicant has no problem with brick wrapped around the east side of the building and there will be trees added to the back of the building to screen the metal siding. Commissioner Brown noted the binding element regarding the cedar fencing. Julia Williams replied the cedar fencing has been installed previously. Commissioners and Brandy Zackery discussed landscape screening along the back portion of the property (see recording for detailed presentation).

01:27:49     David Steff asked if the utility pole on the Smyrna Parkway will be relocated. Brandy Zackery stated if needed it can be moved.

01:28:52     Travis Fiechter, Brandy Baker, and Jon Baker discussed the sidewalk, pedestrian connections, and the window facades (see recording for detailed presentation). Julia Williams explained the Land Development Code requires clear windows and doors on facades facing roadways. Ms. Williams asked there be clarification for the window facades rendering prior to building permitting to confirm the correct types of windows to be installed. Brian Davis detailed the Land Development code regarding window facades (see recording for detailed presentation).

**Deliberation:**

01:43:18     Commissioners' deliberation (see recording for detailed presentation).

**An audio/visual recording of the Development Review Committee meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

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**Waivers:**

1. 5.5.2.A.1 to permit the building to have an entrance along 1 roadway instead of a corner entrance or entrances along both roadways (19-WAIVER-0110)
2. Waiver from 10.3.5 to permit encroachments into the Outer Loop and Smyrna Parkway buffers as shown on the development plan (19-WAIVER-0079)
3. Parking Waiver from 9.1.3 to reduce the required parking from 21 spaces to 20 (19PARKWAIVER-0008)

01:45:15 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

**(Waiver #1) WHEREAS**, the Louisville Metro Development Review Committee finds the waiver will not adversely affect adjacent property owners since there will be windows on the Smyrna façade and it will look similar to the front façade along Outer Loop; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 2040 Community Form Goal 1, Policy 4 encourages new development and redevelopment be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposal meets the comprehensive plan since there will be windows on the Smyrna façade and it will look similar to the front façade along Outer Loop; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there will be windows on the Smyrna façade and it will look similar to the front façade along Outer Loop; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 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 there will be windows on the Smyrna façade and it will look similar to the front façade along Outer Loop; and

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**(Waiver #2) WHEREAS**, the Louisville Metro Development Review Committee further finds the waiver will not adversely affect adjacent property owners since the screening and plantings requirements will still be met within the buffers; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 2040 Community Form Goal 1, Policy 12 encourages the design of parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. Mobility Goal 2, Policy 9 Develop, preserve, and maintain an interconnected system of scenic corridors and parkways. Encourage the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. The proposal meets Plan 2040 since the screening and plantings requirements will still be met within the buffers; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the screening and plantings requirements will still be met within the buffers; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 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 screening and plantings requirements will still be met within the buffers; and

**(Waiver #3) WHEREAS**, the Louisville Metro Development Review Committee further finds 2040 Community Form Goal 1, Policy 12 encourages parking, loading and delivery to be adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians; encourages elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 15 Parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. The proposal meets Plan 2040 since the request is to further reduce parking on the site from the minimum required; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the applicant made a good faith effort to provide as many parking spaces as possible on the

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site, on other property under the same ownership, or through joint use provisions since there are other waivers affecting the site but the site is also providing all landscape requirements. The reduction is for one space; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the proposal has indicated that there is not a need for more than 20 spaces; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds adjacent or nearby properties will not be adversely affected because all parking will be available on the site; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use because the proposal has indicated that there is not a need for more than 20 spaces; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds there is a surplus of off-street parking in the area that can accommodate additional parking demand if necessary, however the applicant has indicated there will not be a need; now, therefore be it,

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested **Waiver** 5.5.2.A.1 to permit the building to have an entrance along 1 roadway instead of a corner entrance or entrances along both roadways (19-WAIVER-0110) **AND** the requested **Waiver** from 10.3.5 to permit encroachments into the Outer Loop and Smyrna Parkway buffers as shown on the development plan (19-WAIVER-0079 **AND** the requested **Parking Waiver** from 9.1.3 to reduce the required parking from 21 spaces to 20 (19PARKWAIVER-0008).

**The vote was as follows:**

**YES: Commissioners Mims, Brown, and Carlson.**

**ABSENT: Commissioner Tomes**

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**District Development Plan**

01:46:13 On a motion by Commissioner Brown, seconded by Commissioner Mims, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Development Review Committee finds 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; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 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; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds there are no open space requirements pertinent to the current proposal; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 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; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds 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; and

**WHEREAS**, the Louisville Metro Development Review Committee further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it,

**RESOLVED**, the Louisville Metro Development Review Committee does hereby **APPROVE** the requested District Development Plan and the Proposed Binding Elements with the revision to SUBJECT to the following binding elements :

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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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - 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. A six foot western red cedar fence shall be erected along the south boundary of the site from a point 30 feet east of Smyrna Road for a distance of 338 feet. The fence shall be erected before occupancy and maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the



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recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff prior to construction permitting. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

5. 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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.
8. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
9. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. Sidewalk location and verge along Smyrna Parkway and the pedestrian connection from Smyrna Parkway to the building entrance shall comply with the dimensional requirements in Chapter 6 of the LDC.

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11. The east façade shall be substantially similar to the west façade.
12. In addition to the Chapter 10 requirements landscaping shall be provided as shown in the landscape exhibit presented at the January 8, 2020 Development Review Committee meeting.

**The vote was as follows:**

**YES: Commissioners Mims, Brown, and Carlson.**

**ABSENT: Commissioner Tomes**