

Land Development and Transportation Committee
Staff Report
October 12, 2017



Case No:	17DEVPLAN1126
Project Name:	Oscar's Hardware
Location:	1515 S Shelby St
Owner(s):	Paul Fussenegger
Applicant:	Patrick Miller
Jurisdiction:	Louisville Metro
Council District:	10 – Pat Mulvahill
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- Waiver of Land Development Code section 5.5.1.b to not provide an entrance facing E Burnett Ave.
- Waiver of Land Development Code section 5.5.1.A.3.a to allow 2 ADA accessible parking spaces to be permitted in front of the building.
- Waiver of Land Development Code section 10.2.10 to not provide Vehicle Use Area Landscape Buffer Areas.
- Revised District Development Plan

CASE SUMMARY/BACKGROUND

The applicant is proposing to add a 4920 SF addition onto an existing 6328 SF hardware store. The existing store is on a parcel zoned C-1 in the Traditional Neighborhood form district. The area of proposed expansion is onto an adjacent lot that was rezoned from C-1 to C-2 for an automobile sales and repair facility under docket #9-65-96. The proposed consolidated lot would occupy the southeast corner of the intersection of S Shelby St and E Burnett Ave.

STAFF FINDING

The expansion onto the adjacent lot makes the business a corner lot, whereas before it had only fronted a single street. Since the development is located in the Traditional Neighborhood form district, and will now be on a corner lot, several specific provisions of the Land Development Code are applicable, resulting in a total of three waiver requests and two variance requests.

The Revised District Development Plan is in compliance with the Land Development Code, with the exceptions of the waivers and variances requested.

The waivers are all adequately justified and meet the standard of review.

TECHNICAL REVIEW

The variances requested for this development will be considered by the Board of Zoning Adjustment on October 16, 2017.

INTERESTED PARTY COMMENTS

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R) DDP and/or 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 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. The applicant has requested a waiver from landscape buffering requirements, but the lot will be partly screened by a masonry wall. The applicant is requesting relief from setback requirements to be reviewed by the Board of Zoning Adjustment.

- (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, with the exception of the requested waivers and variances.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE SECTION 5.5.1.B TO NOT PROVIDE AN ENTRANCE FACING E BURNETT AVE

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

STAFF: The requested waiver will not adversely affect adjacent property owners, as the building currently has only a single entrance facing S Shelby St.

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

STAFF: Guideline 3, Policies 1 and 2 call for the compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. The type of building materials may be considered as a mitigation measure and may also be considered in circumstances specified in the Land Development Code. When assessing compatibility, it is appropriate to consider the choice of building materials in the following circumstances: (1) projects involving residential infill; (2) projects involving non-residential uses; and (3) when specified in the Land Development Code. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential and mixed use buildings. The purpose of the regulation is to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features. The façade facing E Burnett St will still features windows and a mixture of building materials.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant. The applicant wishes to maintain only a single customer entrance, so that staff may monitor it more easy and prevent theft of merchandise.

- (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 applicant has incorporated a corner plaza and pedestrian path onto the site design that brings the focal point of the site to the corner from the sidewalk.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE SECTION 5.5.1.A.3 TO ALLOW TWO ADA ACCESSIBLE SPACES TO BE LOCATED IN FRONT OF THE BUILDING.

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance, and provisions for safe vehicular circulation have been provided on site.

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

STAFF: Guideline 2, Policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, Policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, Policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The waiver is only for the two Accessible spaces; all other parking on site will comply with this section of the Land Development Code.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant. The accessible spaces need to be located near the primary customer entrance, and all other parking will be on the side or in the rear of the building.

- (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.

The strict application of the provisions of the regulation may not cause an unnecessary hardship for the applicant, but could create a significant hardship or safety hazard for patrons that needed to use the ACA accessible spaces.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE SECTION 10.2.10 TO NOT PROVIDE THE VEHICLE USE AREA LANDSCAPE BUFFER AREA

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

STAFF: The waiver will not adversely affect adjacent property owners since the site has no buffering around the corners of the site, and this development will provide significant improvement to the site, including additional plantings and masonry walls.

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

STAFF: The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for

screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The property currently has no buffering, whereas the proposed improvements will add some buffering and greatly improve the appearance 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. The masonry wall will provide some buffering of the lot, and tree canopy will be exceeded 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 there is insufficient room to include the required buffer and still maintain the required dimensions of parking spaces and drive aisles.

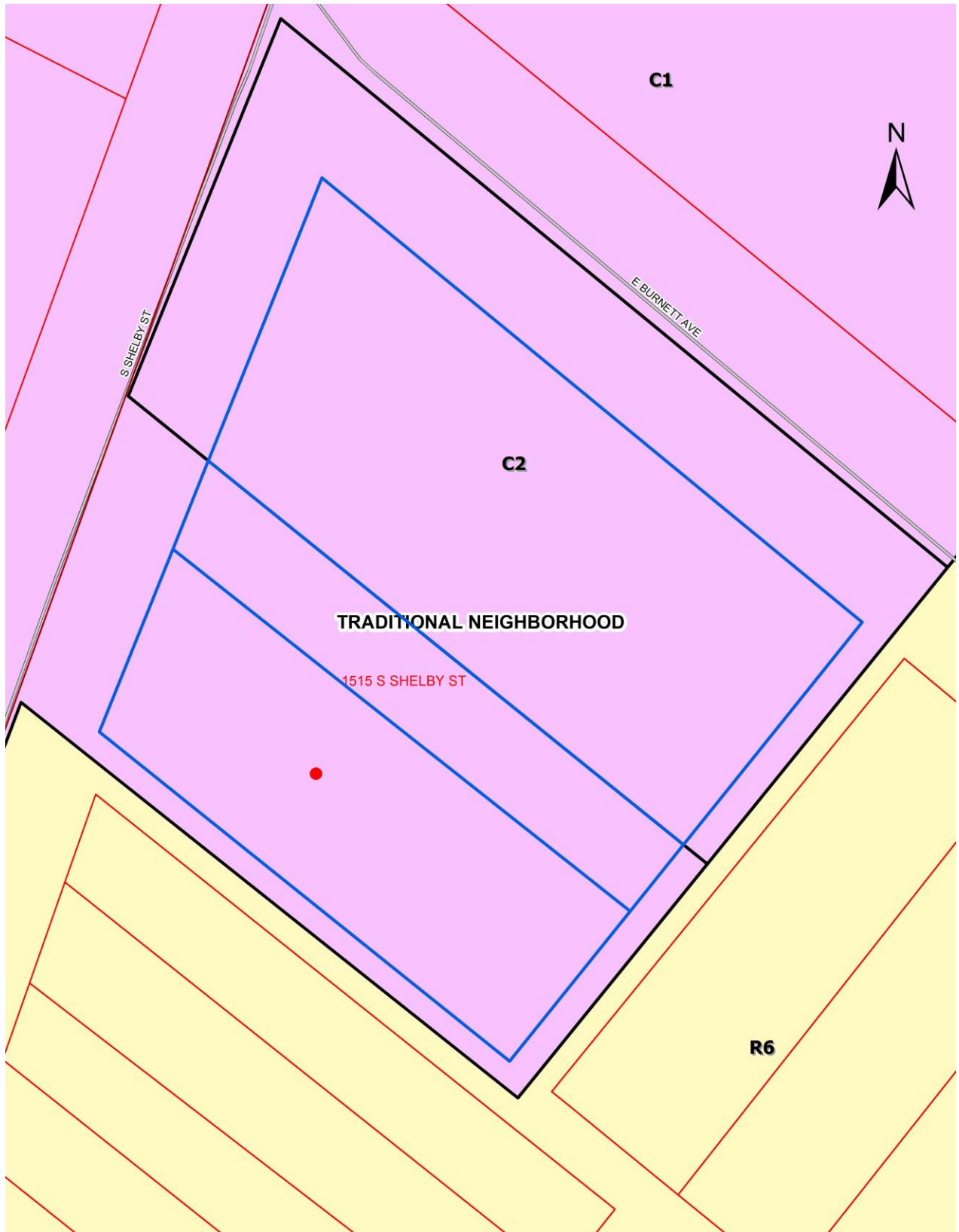
NOTIFICATION

Date	Purpose of Notice	Recipients
9-27-17	Hearing before LD&T	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 10

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements (Applicable to the C-2 Zoned portion of the site)

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. No further development shall occur without prior approval from the Planning Commission and the City of Louisville except for land uses permitted in the established zoning district.
2. The development shall not exceed 840 square feet of gross floor area for the office, 6,005 square feet of vehicular display area and 2 bays.
3. There shall be no direct vehicular access to Shelby Street.
4. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 30 square feet in area per side and 15 feet in height. No sign shall have more than two sides.
5. The hours of operation shall be from 9 A.M. to 6 P.M., Monday-Saturday.
6. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
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 City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering and landscape design) described in Article 12 prior to requesting a building permit. Such plan shall be implemented within six (6) months of legislative approval and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer shall submit to the Planning Commission written procedures for tire/oil disposal that comply with applicable state and federal regulations and have been approved by the appropriate Works Director. Said procedures shall be submitted within six (6) months of legislative approval and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.

10. If a certificate of occupancy is not issued within one year 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 office 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. The proposed sidewalks and curbs as shown on the approved district development plan shall be constructed within six (6) months of legislative approval and if other portions of the sidewalks are damaged during the construction process, they shall be restored as required by Public Works.
13. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

Proposed Binding Elements (applicable to the C-2 zoned portion of the site.)

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. No further development shall occur without prior approval from the Planning Commission and the City of Louisville except for land uses permitted in the established zoning district.
2. ~~The development shall not exceed 840 square feet of gross floor area for the office, 6,005 square feet of vehicular display area and 2 bays.~~
3. ~~There shall be no direct vehicular access to Shelby Street.~~
4. ~~The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 30 square feet in area per side and 15 feet in height. No sign shall have more than two sides.~~ **Signs shall be in accordance with chapter 8 of the Land Development Code**
5. ~~The hours of operation shall be from 9 A.M. to 6 P.M., Monday-Saturday.~~
6. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
7. There shall be no outdoor storage on the site.
8. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.

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 ~~City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street)~~ **Develop Louisville** and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering and landscape design) described in ~~Article 12~~ **Chapter 10** prior to requesting a building permit. Such plan shall be implemented ~~within six (6) months of legislative approval~~ **prior to occupancy of the site** and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the ~~Division of Planning and Development Services~~ **Office of Planning and Design Services**; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. ~~The property owner/developer shall submit to the Planning Commission written procedures for tire/oil disposal that comply with applicable state and federal regulations and have been approved by the appropriate Works Director. Said procedures shall be submitted within six (6) months of legislative approval and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.~~
- ~~10. If a certificate of occupancy is not issued within one year 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 office 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. The proposed sidewalks and curbs as shown on the approved district development plan shall be constructed within six (6) months of legislative approval and if other portions of the sidewalks are damaged during the construction process, they shall be restored as required by Public Works.
13. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.