

# BARDENWERPER, TALBOTT & ROBERTS, PLLC

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September 7, 2017

Laura Mattingly, Planner I  
Louisville Metro Planning & Design Services  
444 S. 5<sup>th</sup> Street, 3<sup>rd</sup> Floor  
Louisville, KY 40202

Re: Proposed Tire Discounters store located at 13200 Shelbyville Road, #17DEVPLAN1173

Dear Laura:

We recently filed a Revised Detailed District Development Plan (RDDDP) for the above referenced property to allow a Tire Discounters store. Upon further review of the previous Binding Elements in the Middletown Municipal Order No. 98-11, there are binding elements that need to be amended or eliminated completely.

Binding Element #2 restricts this site to a drive-in restaurant. This binding element needs to be eliminated.

Binding Element #3 need to be updated to reflect the correct sq footage of the Tire Discounters Store, which is 8,195 sf.

Binding Element #8 refers to house of operation for the restaurant. This need to be updated to reflect the Tire Discounters hours of operation which are: "8:00 am to 7:00 pm, Monday – Friday; Saturday and Sunday 8:00 am to 6:00 pm".

Please let me know if you have any questions regarding these revisions.

Many thanks.

Sincerely,



Nicholas R. Pregliasco

Cc: Greg Ripple, Thompson Thrift

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17 DEVPLAN 1173

**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.3.6 to allow vehicle maneuvering into the 25 ft scenic corridor buffer

Explanation of Waiver:

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1. The waiver will not adversely affect adjacent property owners because the vehicle maneuvering area is an existing condition which was approved and built prior to the current 25 foot setback requirement of the Land Development Code. The redevelopment of this currently vacant Sonic restaurant site using this existing access road will improve the overall area.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the vehicle use area is an existing condition used by other property owners. Also, due to the extensive right of way along Shelbyville Road, the intent of the parkway setback will be met due to the distance from this vehicle maneuvering area and the edge of pavement. The existing setback of the vehicle maneuvering area is also consistent with the other nearby properties along Shelbyville Road.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because others use the current vehicle maneuvering area currently existing. Further, depending on the results of a full title exam, it is likely the applicant does not have the ability to move this vehicle maneuvering area due to private access easements.

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17 DEVPLAN 1173

undevelopable parcel, but for a user that can work with a long narrow site.

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**General Waiver Justification:**

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In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.12 to reduce the size of the ILA's

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the site as developed was developed under the prior Land Development Code without the current ILA minimum size requirement resulting in an improvement to the Property versus its current condition. Further, the Development Plan in total contains more than the total ILA square footage than what is required under the Land Development Code, but for the fact that certain ILAs are not counted due to their being below the minimum square footage.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the applicant spent considerable time in site planning to try to increase the ILAs and allow for a functional site design, but was unable to do so. Further, all but one of the ILAs on the Development Plan would satisfy the ILA minimum size requirement but for the change to the Land Development Code to increase this minimum size requirement from 133 square feet to 290 square feet. This change causes great problems with older narrow lots created prior to the current Land Development Code.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because requiring each ILA to satisfy the minimum individual size, while still providing the total Land Development Code ILA requirement (but for some not counting) would make this property an

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**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of: Section 10.2.10 to waive the 10 ft VUA next to the private access easement.

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Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the existing parking lot of the Sonic restaurant and the Private Access Drive already exist currently. The VUA along the Private Access Drive will only be improved with the redevelopment of this site.
2. The waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because increasing the VUA along this West side of the property along the existing Private Access Drive would preclude having parking with the minimum 24 feet necessary between the parking spaces along the front – North portion of the Property and would preclude having the minimum 22 feet along the building portion of the Property for a safe driving aisle.
4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because the Property is extremely narrow causing significant site restraints, such as this restraint, and this proposed use as retail tire store is one of few uses that can accommodate a very narrow building. Other proposed retail uses would not be able to design a narrow building with the only parking at the front and rear of the Property such as shown here.