

# Land Development and Transportation Committee Staff Report

March 22, 2018



<b>Case No:</b>	18WAIVER1005
<b>Project Name:</b>	1725 GAGEL AVE.
<b>Location:</b>	1725 Gagel Ave.
<b>Owner(s):</b>	Joe Ackerman – Advanced ENT Holdings of South Louisville LLC.
<b>Applicant:</b>	Michael Schoech – Prism Engineering & Design Group LLC.
<b>Representative(s):</b>	Michael Schoech – Prism Engineering & Design Group LLC.
<b>Project Area/Size:</b>	1.003 acres or 43,690 sf.
<b>Zoning:</b>	C-2
<b>Form District:</b>	Suburban Marketplace Corridor
<b>Jurisdiction:</b>	City of Shively, KY
<b>Council District:</b>	3 – Mary Woolridge

## REQUEST(S)

**WAIVER:** A waiver from Shively, KY LDC Section 5.5.2.B.1.a to not provide connections between parking lots for both vehicular and pedestrian connections of the abutting developments to the east and west as found along Gagel Ave. and associated with Category 2B Development Plan, Case No. 17DEVPLAN1220 and Landscaping Plan case no. 17LSCAPE1205.

## CASE SUMMARY/BACKGROUND

The subject property is currently a vacant parcel on the north side of Gagel Ave. approximately 423 feet east/southeast of Dixie Highway in the City of Shively, KY. The subject site is a rectangular parcel that has Taco Bell and Circus Auto sales abutting their western property line, Spencerian College abutting to the north, another Medical office (Dialysis Clinic) abutting to the east, and across Gagel Ave. the Home Instead Senior Care Office.

The applicant is proposing to construct a 8,849 sf. medical office with a height of 28 ft. 6 in. and a vehicular use area of 19, 213 sf. having 58 parking spaces including 4 ADA spaces. The site will have one 24 ft. wide entrance off the Gagel Ave. frontage located in the southwestern corner of the site. Additionally, the applicant will provide a 5 ft. wide sidewalk with access from the right of way to the main entrance of the medical office with bicycle parking provided.

The waiver request is for the applicant to not provide vehicular and pedestrian cross access between the Taco Bell/Circus Auto Sales to the west and the medical office to the east. The previously approved 17DEVPLAN1031 located at 1715 Gagel Ave. does provide a vehicular cross connection to the subject site.

## Related Cases:

17LSCAPE1205 – associated landscaping plan for 17DEVPLAN1220 and 18WAIVER1005. Approval of 17DEVPLAN1220 is dependent upon the approval of 18WAIVER1005.

17DEVPLAN1220 – Category 2B Development Plan as 18WAIVER1005 is associated for a proposed 8,849 sf. Medical Office with a height of 28 ft. 6 in. and a Vehicular Use Area of 19, 213 sf. having 58 parking spaces including 4 ADA spaces. Still open and awaiting the approval of 18WAIVER1005, the Category 2B is staff approvable so long as all applicable requirements per Shively, KY LDC are met.

## Related Cases:

17DEVPLAN1031 – adjacent western property (1715 Gagel Ave.) with a proposed 5,212 sf. medical office (Dialysis Clinic) with a 26,515 sf. VUA, approved at BOZA on May 1, 2018. 16CERT1248 – zoning certification for 1715 Gagel Ave.

17MINORPLAT1075 – a minor subdivision plat to create 3 tracts from 1 on 8.41 acres in the C-1/C-2 zoning district. Currently, an open application pending approval.

13153 – a minor subdivision plat to create 3 tracts from 1 on 8.41 acres in the C-1/C-2 zoning district. Approved on Feb. 15, 2017.

11956 - A Category 2B development plan to allow construction of (3) 3-story apartment buildings with 66 units and associated parking. A waiver to reduce the landscape buffer along Gagel Avenue from 15 feet to 5-12 feet has also been requested. Approved by DRC on Jan. 7, 2009 and is now defunct since the applicant never constructed the proposal.

**STAFF FINDING / RECOMMENDATION**

**WAIVER:** A waiver from Shively, KY LDC Section 5.5.2.B.1.a to not provide connections between parking lots for both vehicular and pedestrian connections of the abutting developments to the east and west as found along Gagel Ave. and associated with Category 2B Development Plan, Case No. 17DEVPLAN1220 and Landscaping Plan case no. 17LSCAPE1205. Staff finds that the waiver is not justifiable based upon the eastern adjoining property under case no. 17DEVPLAN1031 providing a cross access stub. The current proposal could eliminate the 24 foot wide entrance and allow one ingress/egress off of Gagel Ave. as found at 1715 Gagel Ave. and a cross access agreement be requested between 1715 Gagel Ave. and 1725 Gagel Ave. which would retain traffic within and between the addresses while deterring traffic stops to the proposed entrance at 1725 Gagel Ave. This would be a recommendation to the City of Shively, KY.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b><i>Subject Property</i></b>			
<b>Existing</b>	Commercial	C-2	Suburban Marketplace Corridor
<b>Proposed</b>	Commercial	C-2	Suburban Marketplace Corridor
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Commercial – Specerian College	C-2	Suburban Marketplace Corridor
<b>South</b>	Multi-family Residential/Commercial	R-6/C-2	Neighborhood /Suburban Marketplace Corridor
<b>East</b>	Commercial	C-2	Suburban Marketplace Corridor
<b>West</b>	Multi-family Residential/Commercial	C-2	Suburban Marketplace Corridor

**TECHNICAL REVIEW**

The abutting property to the southeast is a previously approved Category 2B Development Plan (17DEVPLAN1031) which provided a cross access point to the subject site (abutting to the northwest). Both the previously approved adjacent site and the current proposal are medical offices. The cross access if permitted would allow for the movement of vehicles between the sites without vehicles traversing Gagel Ave.

An ingress/egress point as found on the current proposal may be omitted if the applicant is willing to provide a cross access agreement with the owner of 1715 Gagel Ave. thus reducing the number of ingress/egress points from two to one. Additionally, staff is in support of the waiver to not provide cross access to the Taco Bell which is northwest of the subject site.

## **INTERESTED PARTY COMMENTS**

Staff has not received any comments from interested parties.

## **APPLICABLE PLANS AND POLICIES**

Land Development Code (LDC City of Shively, KY 2006)  
Comprehensive Plan (Cornerstone 2020)

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER: from Shively, KY LDC Section 5.5.2.B.1.a to not provide connections between parking lots for both vehicular and pedestrian connections of the abutting developments to the east and west as found along Gagel Ave. and associated with Category 2B Development Plan, Case No. 17DEVPLAN1220 and Landscaping Plan case no. 17LSCAPE1205.**

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

STAFF: Waiver approval will not adversely affect adjacent property owners since each of the adjoining properties along Gagel Avenue have direct access to Gagel Avenue. Additionally, the applicant is proposing to provide the required pedestrian connection from the proposed building to the proposed sidewalk along Gagel Avenue, which would, as stated in the LDC "allow customers to visit multiple establishments without moving their vehicles." Furthermore, waiver approval will allow the applicant to provide six additional parking spaces for their facility, which will aid in allowing personnel and visitors to park on the proposed site, in lieu of parking on the spaces located on adjoining properties. Chapter 9 of the LDC, allows the applicant to provide a maximum of 59 spaces. The current plan proposes 58 spaces, which meets the guidelines of the LDC and the Comprehensive Plan. A previously approved plan (17DEVPLAN1031) adjacent/abutting to the east of the subject site shows a cross access point along the western property line where the current proposal could provide a connection, as located at 1715 Gagel Ave. Issues arise if the current proposal is allowed their ingress/egress off of Gagel Ave. If the applicant is willing to forgo the ingress/egress and create a cross access agreement this would allow for one entrance/exit further limiting the necessity for vehicular traffic to exit one site in an effort to access the other site along Gagel Ave.

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

STAFF: *Guideline 2, Policy 13 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, Policy 13 requires joint and cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. Guideline 7, Policy 16 calls for the promotion of joint access and circulation systems for development sites comprised of more than one building site or lot. The purpose of the requirements to be waived are to allow similar, compatible non-residential uses to access adjacent sites without use of the main road to reduce curb cuts, the amount of surface parking, and traffic on the main thoroughfare. Waiver approval will not violate the Comprehensive Plan, as the applicant is proposing to provide the required pedestrian connection from the proposed building to the proposed sidewalk along Gagel Avenue, which would, as stated in the LDC "allow customers to visit multiple establishments without moving their vehicles." Furthermore, waiver approval will allow the applicant to provide six additional parking spaces*

for their facility, which will, as stated in the Comprehensive Plan, "afford adequate and appropriate vehicular parking" for the proposed development. This will aid in allowing personnel and visitors to park on the proposed site, in lieu of parking on the spaces located on adjoining properties. In addition to the vehicular parking and pedestrian access, the applicant is providing the required bicycle parking, which promotes alternate modes of travel as detailed within the objectives of the Comprehensive Plan. A previously approved plan (17DEVPLAN1031) adjacent/abutting to the east of the subject site shows a cross access point along the western property line where the current proposal could provide a connection, as located at 1715 Gagel Ave. Issues arise if the current proposal is allowed their ingress/egress off of Gagel Ave. If the applicant is willing to forgo the ingress/egress and create a cross access agreement this would allow for one entrance/exit further limiting the necessity for vehicular traffic to exit one site in an effort to access the other site along Gagel Ave.

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

STAFF: The applicant has multiple facilities in the Louisville area and has an understanding of the number of parking spaces that are necessary for successful operation of the proposed facility. With that in mind, the loss of parking that would be necessary to satisfy the vehicular connection requirements would be a substantial reduction in the number parking spaces that are necessary for the facility to operate properly. The waiver of LDC Section 5.5.2.B.1.a, as requested by the applicant, is the minimum necessary to afford relief to the applicant. A previously approved plan (17DEVPLAN1031) adjacent/abutting to the east of the subject site shows a cross access point along the western property line where the current proposal could provide a connection, as located at 1715 Gagel Ave. Issues arise if the current proposal is allowed their ingress/egress off of Gagel Ave. If the applicant is willing to forgo the ingress/egress and create a cross access agreement this would allow for one entrance/exit further limiting the necessity for vehicular traffic to exit one site in an effort to access the other site along Gagel Ave.

- (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 LOC Section 5.5.2.B.1.a, would create an unnecessary hardship on the applicant, since the applicant has multiple facilities in the Louisville area and has an understanding of the number of parking spaces that are necessary for successful operation of the proposed facility. The loss of parking that would be necessary to satisfy the vehicular connection requirements would be a substantial reduction in the number parking spaces that are necessary for the facility to operate properly. The loss of parking that would result from strict application of the regulation would affect patients, visitors, and personnel, by creating the need to park on adjoining properties. This, in turn, could have a negative impact on adjoining properties. A previously approved plan (17DEVPLAN1031) adjacent/abutting to the east of the subject site shows a cross access point along the western property line where the current proposal could provide a connection, as located at 1715 Gagel Ave. Issues arise if the current proposal is allowed their ingress/egress off of Gagel Ave. If the applicant is willing to forgo the ingress/egress and create a cross access agreement this would allow for one entrance/exit further limiting the necessity for vehicular traffic to exit one site in an effort to access the other site along Gagel Ave.

## REQUIRED ACTIONS

**Approve/Deny the WAIVER from Shively, KY LDC Section 5.5.2.B.1.a to not provide connections between parking lots for both vehicular and pedestrian connections of the abutting developments to the east and west as found along Gagel Ave. and associated with Category 2B Development Plan, Case No. 17DEVPLAN1220 and Landscaping Plan case no. 17LSCAPE1205.**

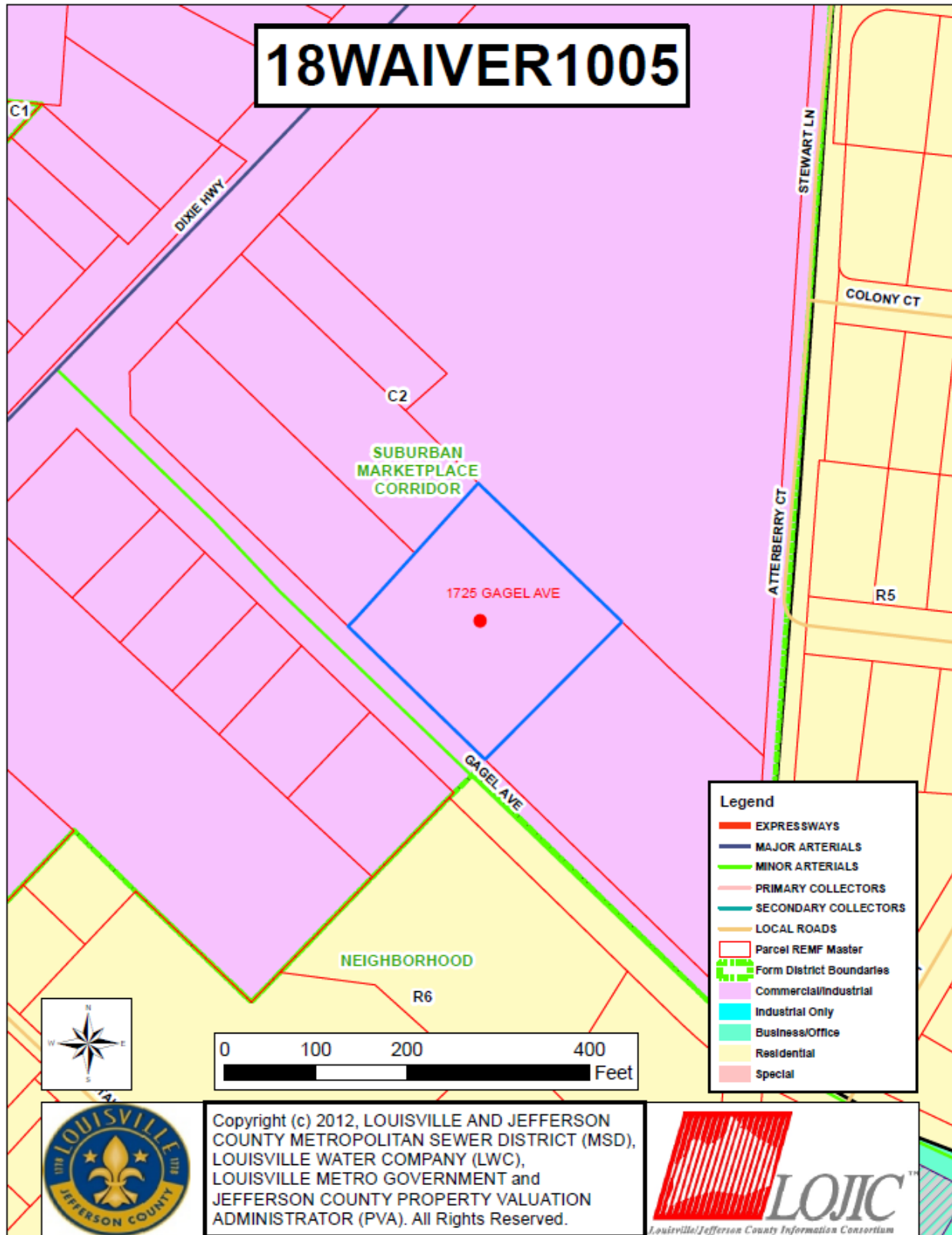
**NOTIFICATION**

Date	Purpose of Notice	Recipients
March 22, 2018	Hearing before LD&T	1 <sup>st</sup> tier adjoining property owners Subscribers of Council District 3 Notification of Development Proposals

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

