

Planning Commission
Staff Report
March 5, 2020



Case No:	19-AMEND-0004
Project Name:	Fern Creek Speedwash
Location:	8102 Old Bardstown Rd
Owner(s):	Chris Harrison, Fern Creek Speedwash, LLC
Applicant:	Chris Harrison, Fern Creek Speedwash, LLC
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUEST

- **Amendment of Binding Element 10**

CASE SUMMARY/BACKGROUND

The subject site is located in the Fern Creek area on the west side of Old Bardstown Road, just south of the Gene Snyder Freeway. It is currently developed with a 9,947 square foot car wash with detailing bays, self-service stations and a drive-thru carwash.

The applicant proposes to amend an existing binding element from the subject property. Binding element #10 states that a 15 foot LBA shall be provided along the south property line with an 8 foot high privacy fence and tall shrubs. The applicant is proposing to not provide the 8 foot fence, but instead keep the existing 6 foot wood privacy fence and provide an 8 foot evergreen buffer.

The subject site was rezoned under 17ZONE1042 from R-4 and C-1 to C-1. Neighbors had concerns regarding the number of carwashes already present in the vicinity of the subject site, the use of the private access easement along Hillock Drive, and general traffic concerns. Neither the minutes nor the staff report appear to reflect why Binding Element #10 specifically required an 8 foot high privacy fence along the property perimeter shared with the daycare at 8105 Old Bardstown Road.

This case was heard by the Development Review Committee on January 22, 2020. The case was continued to Planning Commission on February 20, 2020 to allow the applicant and staff to better research the reason behind Binding Element #10, and for the applicant to attempt contact with surrounding property owners.

Staff reviewed the recording for 14ZONE1027 for a Zaxby's restaurant on the subject site. The recording was also made available to the applicant. At the November 20, 2014 Planning Commission hearing, Bill Bardenwerper (speaking for the applicant) stated that an agreement was made with the owners of the daycare to an eight (8) foot privacy fence on the south side of the site adjoining the daycare. Bill Bardenwerper suggested the addition of the binding element regarding the fence in order to solidify the agreement and reflect what was shown on the plan.

Previous cases:

- 17ZONE1042: Change in zoning from R-4 Single-family Residential to C-1 Commercial
- 14ZONE1027: Change in zoning from R-4 Single-family Residential to C-1 Commercial

STAFF FINDING

The request is adequately justified and meets the standard of review.

TECHNICAL REVIEW

There are no outstanding technical issues concerning this request.

Existing Binding Element #10:

- A 15 ft LBA shall be provided along the south property line with an 8 ft high privacy fence and tall shrubs to where the daycare ends and the office property begins.

The applicant proposes to amend this binding element. There is an existing 6 foot tall wood privacy fence provided by the daycare. The applicant proposes to provide plantings which will provide screening, and keep the existing 6 foot tall wood privacy fence. The amended binding element is proposed to read:

- A 15 ft LBA shall be provided along the south property line shared with the daycare (TB 657 Lot 6, 8106 Old Bardstown Rad) with an 8 ft high evergreen buffer.

INTERESTED PARTY COMMENTS

Staff has received a comment from interested parties in opposition concerning this request. The email is included with the case file.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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: The removal of Binding Element #10 will not affect any natural resources found on the subject site. The site is already developed, and any living vegetation that was existing before development and could be conserved, has been.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: There are no changes to existing vehicular or pedestrian circulation in and around the subject site associated with this request.

- (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 must approve any revised detailed district development plans that the developer will have to submit in the future to develop this site.

- (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 subject site will meet LDC screening and fence height requirements if Binding Element #10 is amended and the fence and plantings installed as described in the amended Binding Element. The 6 foot fence as indicated in the amended Binding Element is currently existing.

- (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 requested modification of binding elements conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Amendment of Binding Element**

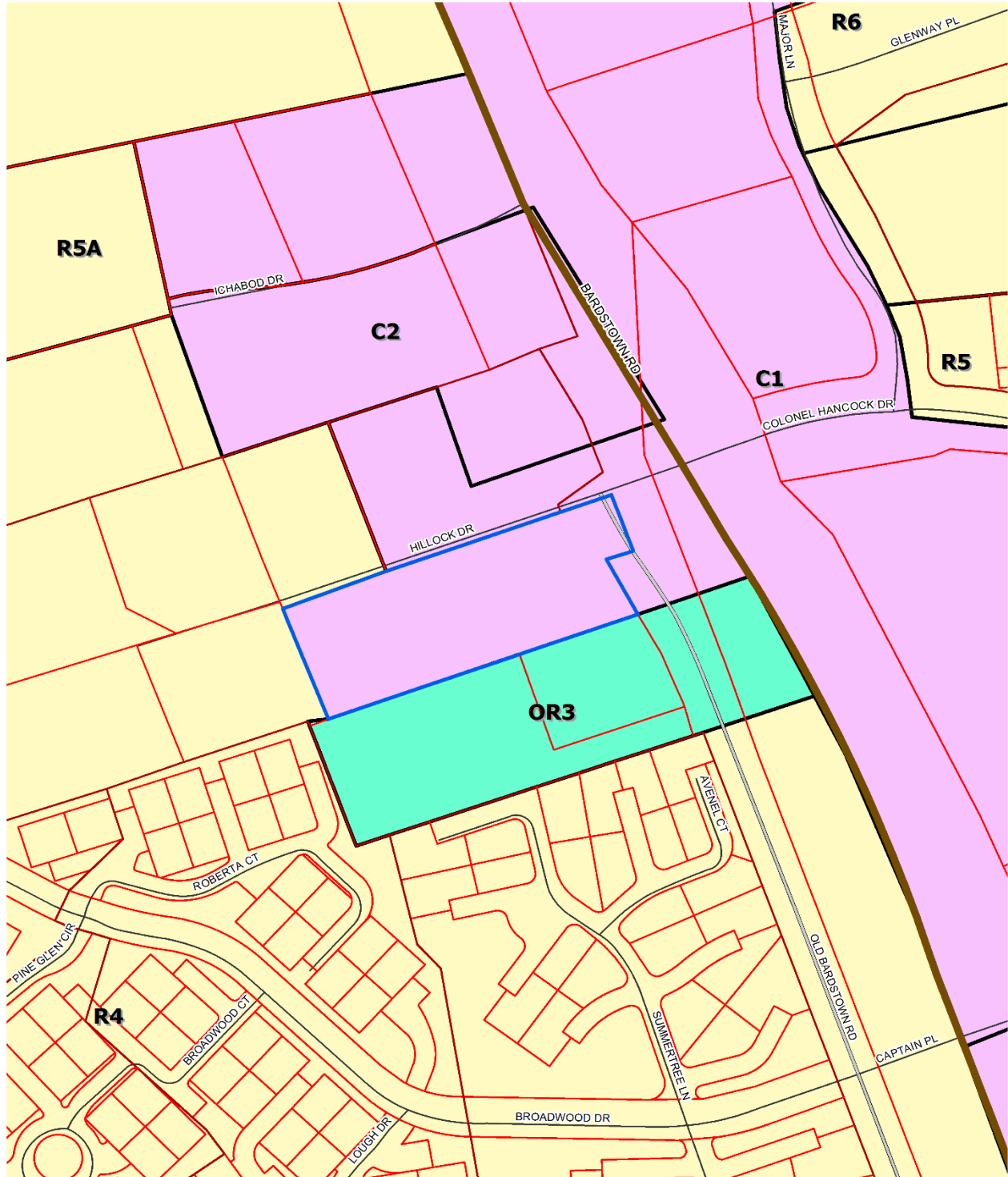
NOTIFICATION

Date	Purpose of Notice	Recipients
1/22/2020	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

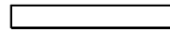
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements 17ZONE1042
4. Proposed Binding Elements

1. Zoning Map



8102 OLD BARDSTOWN ROAD

feet



190

Map Created: 12/16/2019



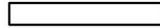
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2. Aerial Photograph



8102 OLD BARDSTOWN ROAD

feet



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Map Created: 12/16/2019



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3. Existing Binding Elements 17ZONE1042

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. Construction fencing shall be erected with 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.

3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

- a. The development plan must receive full construction approval from Develop Louisville and the Metropolitan Sewer District.
- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
- 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.
- d. A 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 Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

4. 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.

5. 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 the 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, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 1, 2018 Planning Commission meeting.

7. At such time that this property is redeveloped for a use other than a car wash, a unified access and circulation system shall be developed to eliminate preexisting curb cuts along Old Bardstown Road and provide for vehicular movement throughout abutting sites as determined appropriate by the Department of Public Works. A cross access agreement to run with the land and in a form acceptable to the Planning Commission legal counsel shall be recorded prior to the time of construction approval for the abutting property to be developed.

8. The area identified for future right-of-way for the relocation of Old Bardstown Road, as shown, shall be dedicated to public use by minor plat or deed at the applicant's expense within 60 days of request by the Director of Louisville Metro Public Works.

9. A 25 ft LBA shall be provided along the rear property line with an 8 ft high privacy fence and tall shrubs.

~~10. A 15 ft LBA shall be provided along the south property line with an 8 ft high privacy fence and tall shrubs to where they day care ends and the office property begins.~~

11. The hours of operation for the carwash shall be from 8:00 a.m. to 9:00 p.m.

4. 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.

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