

**Development Review Committee**  
**Staff Report**  
May 5, 2021



<b>Case No:</b>	21-DDP-0016/21-WAIVER-0035
<b>Project Name:</b>	Thornton's
<b>Location:</b>	5489 Clearwater Farm Blvd
<b>Owner(s):</b>	Fern Valley Development Partners LLC
<b>Applicant:</b>	Woolpert, Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	2 – Barbara Shanklin
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

**REQUEST(S)**

- **Waiver** of Land Development Code section 5.6.1.C.1 to allow a proposed gas station to have frosted glass instead of clear glass windows on the façade facing Shepherdsville Rd.
- **Revised Detailed District Development Plan**

**CASE SUMMARY/BACKGROUND**

The applicant is proposing to construct a gas station and convenience on approximately 5.029 acres in the C-1 zoning district, within the Suburban Workplace form district. The site was rezoned from R-4 to C-1 as part of a larger project known as Clearwater Farm under docket 9-25-05. Most of the multi-family residential portion of the development has been constructed to the west of the site under consideration today. DDDPs for other commercial developments were previously approved on this site under 14DEVPLAN1140, 17DEVPLAN1219 and 18DEVPLAN1183.

**STAFF FINDING**

The Detailed District Development Plan is in conformance with the Land Development Code, The Comprehensive Plan, the Highview Neighborhood Plan and the General Development Plan. The waiver request is adequately justified and meets the standard of review.

**TECHNICAL REVIEW**

The plan has received preliminary approval from MSD and Transportation Planning staff.

**INTERESTED PARTY COMMENTS**

Staff has received no comments concerning this proposal.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP**

- 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.

- 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 and KYTC 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- 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.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

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

STAFF: The waiver will not adversely affect adjacent property owners as the development will be in keeping with other development in the area. The frosted glass provided will meet the architectural style required by the Land Development Code.

- (b) The waiver will not violate specific guidelines of the Comprehensive Plan; and

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district.

- (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 since all other aspects of the Land Development Code are being met for the subject site, including other building design standards.

- (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. The proposed layout of the store has mechanical equipment in an area that makes clear windows impractical along a portion of the structure. The applicant will provide frosted glass windows in the required style and size.

### **REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

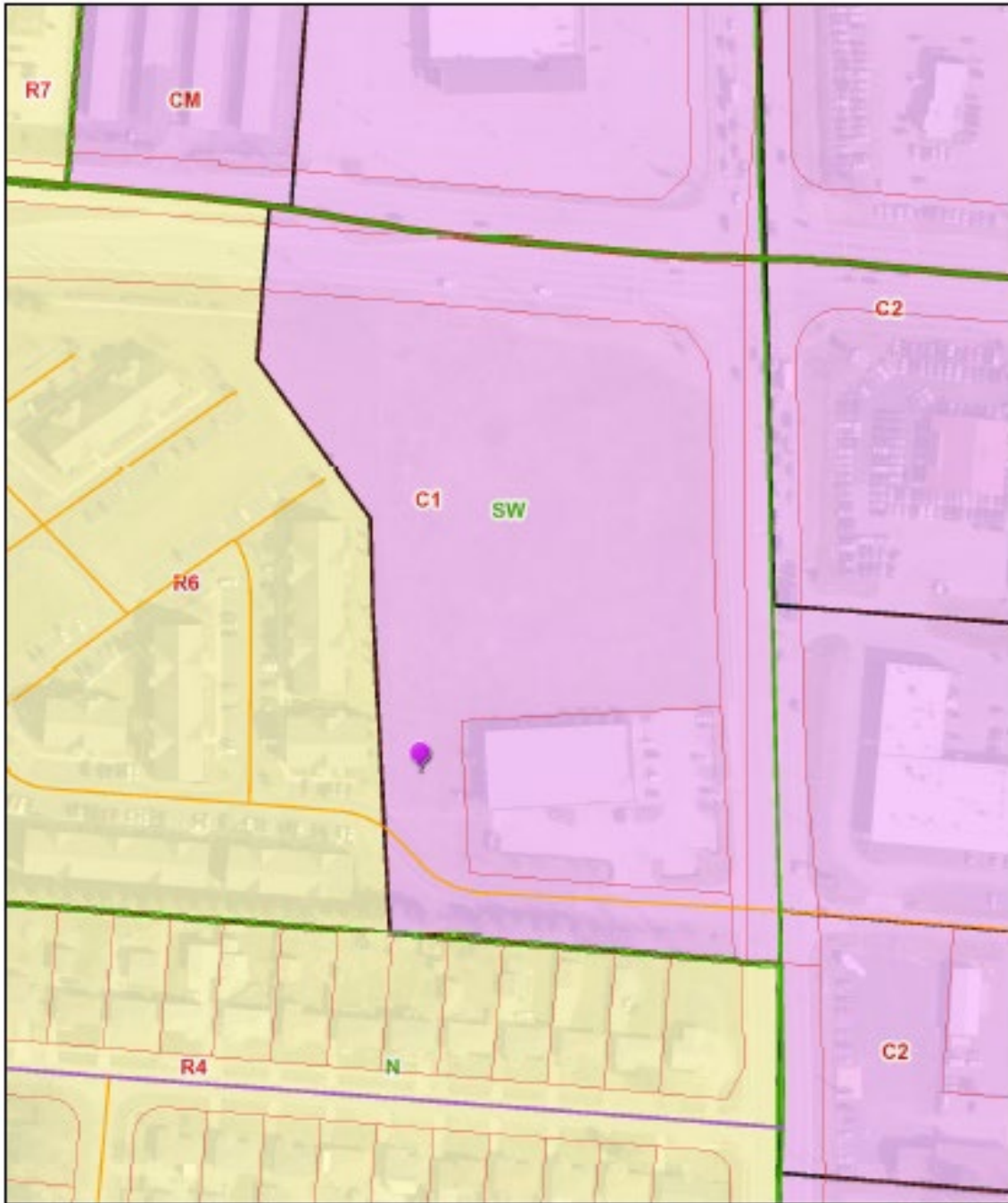
### **NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>4-20-21</b>	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 2

### **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements

1. Zoning Map



**21-DDP-0016**

Tuesday, April 27, 2021 | 4:33:38 PM



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This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



**21-DDP-0016**

Tuesday, April 27, 2021 | 4:32:14 PM



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### 3. Existing Binding Elements

**All General Plan binding elements are applicable to this site, in addition to the following:**

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, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Develop Louisville Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. 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.
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.
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.