

Development Review Committee Staff Report

September 6, 2017



Case No:	17DEVPLAN1133
Project Name:	Landscape waivers as associated with a Category 2B
Location:	7715 and 7723 Bardstown Road
Owner(s):	Stephen C. Lannert – Lannert Station LLC.
Applicant:	Rodney Kistner – Popeye’s
Representative:	Mark Patterson – Power of Design
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Ross Allen – Planner I

REQUEST(S)

Waiver # 1: from LDC Section 10.2.4.B.3 to allow a property perimeter landscape buffer area to encroach a water easement by 100% along the northern property line for an approximate distance of 216.37 feet and to allow the proposed 15 foot sanitary sewer and drainage easement to encroach 75% of the 20 foot property perimeter landscape buffer area along the eastern property line.

Waiver #2: from the LDC Section 10.2.4.B.1 to allow pavement, parking, and dumpster to be located within the 20 foot property perimeter landscape buffer area width along the eastern and northern property lines and to eliminate the plantings in the 20 foot LBA where the 40 foot LWC easement is located.

Waiver #3: from the LDC Section 10.2.12 to allow two interior landscape areas as located within the northern portion of the vehicular use area to be less than the required 290 sf. Specifically, ILA #7 which is 84 sf. less and ILA #8 which is 126 sf. less than the 290 sf. required.

Waiver #4: from the LDC Section 10.2.4.B.7 to eliminate the 8 foot screen along both adjacent C-1 zoned parcels on the eastern and northern property lines.

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 3,149 sf., 20.83 foot tall Popeye’s Restaurant on an C-1 zoned parcel within a Neighborhood From District. The parcel has an existing Waffle House located on the northern half of the subject site and the Popeye’s has a frontage along Bardstown Rd. being setback approximately 81 feet from the parcel line along Bardstown Rd. having a setback of approximately 76 feet from the parcel line along Brentlinger Lane. The parcel also has two ingress/egresses off of Bardstown Rd., one entrance being 24 feet in width and the other being (the more northern) being 26 feet in width and in closer proximity to the Waffle House. The site has sidewalks along both frontages with access to both the Waffle House and proposed Popeye’s Restaurant. The VUA for both proposed uses is approximately 40,675 sf. with 73 parking spaces for both the existing Waffle House and the proposed Popeye’s Restaurant. The applicant has indicated on their development plan that they will exceed the required 7.5% by providing 3,841 sf. of Interior

Landscaping Area (ILA). The applicant is providing the 30 foot Parkway buffer and associated 100 foot linear distance of the Parkway buffer of 15 feet along Brentlinger Lane.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Commercial (Waffle House)	C-1	Neighborhood
Proposed	Commercial (Waffle House + Popeye’s Restaurant)	C-1	Neighborhood
Surrounding Properties			
North	Public and Semi-Public (Institutional Use – Church)	C-1/R-4	Neighborhood
South	Commercial	C-1	Neighborhood
East	Vacant	C-1	Neighborhood
West	Commercial/Single Family Residential/No Determined Land use	C-1	Neighborhood

STAFF FINDING / RECOMMENDATION

Waiver # 1: from LDC Section 10.2.4.B.3 to allow a property perimeter landscape buffer area to encroach a water easement by 100% along the northern property line for an approximate distance of 216.37 feet and to allow the proposed 15 foot sanitary sewer and drainage easement to encroach 75% of the 20 foot property perimeter landscape buffer area along the eastern property line. The existing pressurized water main as shown on the development plan is and will be in place since it serves parcels to the east. Staff would ask the waiver be approved based upon the existing condition and the site constraint while the applicant is still able to meet the landscaping requirements as established by LDC Chapter 10.

Waiver #2: from the LDC Section 10.2.4.B.1 to allow pavement, parking, and dumpster to be located within the 20 foot property perimeter landscape buffer area width along the eastern and northern property lines and to eliminate the plantings in the 20 foot LBA where the 40 foot LWC easement is located. The existing parking lot as used by the Waffle House was constructed in 1999, adjoining property owners to the north and east are zoned C-1. The northern property is an approximate 46 foot wide green space with a paved entrance leading to Cedar Creek Baptist Church the eastern property is a vacant parcel with several trees and grass. The existing dumpster is screened. Staff would ask that the waiver to be approved given the existing conditions as found on the subject site.

Waiver #3: from the LDC Section 10.2.12 to allow two interior landscape areas as located within the northern portion of the vehicular use area to be less than the required 290 sf. Specifically, ILA #7 which is 84 sf. less and ILA #8 which is 126 sf. less than the 290 sf. required. The applicant exceeds the requirement of 7.5% ILA of the total area of the VUA, 40,675 sf., by providing approximately 9%. The two ILA’s that are less than the 290 sf. required existed prior to the development proposal.

Waiver #4: from the LDC Section 10.2.4.B.7 to eliminate the 8 foot screen along both adjacent C-1 zoned parcels on the eastern and northern property lines. The application of the screening requirement is a result of the adjacent properties, both owned by the Cedar Creek Baptist Church, being church owned/used (10.2.4.B.5) which asks that the intensity class be three as shown on table 10.2.2/10.2.3

having a 20 foot setback with a planting density of 1.0 with an additional eight foot screen. Staff recommends consideration of the vacant C-1 zoned parcel to the east which is currently undeveloped but owned by Cedar Creek Baptist Church and the main church entrance to the north.

TECHNICAL REVIEW

None

INTERESTED PARTY COMMENTS

None

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1: from LDC Section 10.2.4.B.3 to allow a property perimeter landscape buffer area to encroach a water easement by 100% along the northern property line for an approximate distance of 216.37 feet and to allow the proposed 15 foot drainage easement to encroach 75% of the 20 foot property perimeter landscape buffer area along the eastern property line.

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

STAFF: The waiver will not adversely affect adjacent property owners since the waivers are for conditions of an existing parking lot as constructed in 1999. Adjoining properties are both zoned C-1, the northern adjoining property is an entrance drive for the church and the eastern adjoining property is a vacant parcel.

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

STAFF: Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The comprehensive plan asks that subject properties and/or adjoining properties be developed as commercial.

- (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 the pressurized water main as running along the northern property and the drainage easement along the eastern property line are existing conditions both conditions if not waived prevent adherence to the LDC planting requirements.

- (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 create an unnecessary hardship on the applicant reducing the parking available to customers along the northern property line and both are existing conditions on this subject site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2: from the LDC Section 10.2.4.B.1 to allow pavement and parking to be located within the 20 foot property perimeter landscape buffer area width along the eastern and northern property lines and to eliminate the plantings in the 20 foot LBA where the 40 foot LWC easement is located.

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

STAFF: The waiver will not adversely affect adjacent property owners since the parking along the northern and northeastern (northern) property line which is and has been in use by the Waffle House predating the proposed development as it pertains to LWC easement. The LWC pipe centerline is found approximately 6 feet from the curb in the parking lot with a 5 foot verge allowing for plantings. Although, the all abutting properties are zoned C-1 the uses vary. Both abutting parcels, northern and eastern sides of the subject sites, are zoned C-1 but have different intensity of land uses. Along the entire northern property line (approx. 210 feet) and a small portion of the northeastern property line (approx. 84 ft.) the Cedar Creek Baptist Church, exist an institutional use, a less intense land use. Along the eastern abutting property line is a vacant parcel (approx. 275 ft.) with an existing drainage channel, approximately 173 feet in length, along the eastern property line and existing mature trees are present, plantings could also be provided to help screen the VUA and to lessen the effect of the differences in intensity of uses found further to the east.

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- (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 not the minimum necessary to afford relief to the applicant since the existing parcel has been used as a BP Gas Station and currently a Waffle House found on the northern portion of the parcel. The LWC easement found along the northern property line and the drainage channel found along the southern portion of the eastern property line do not prevent the applicant from providing plantings for the purpose of screening the VUA and mitigating the effects of the more intense land use, a restaurant.

- (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 not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because as stated previously there is available space along both the northern/northeastern and eastern property lines allow for plantings to help mitigate the effects of the more intense land use on the subject for both the existing Waffle House and the proposed Popeye's Restaurant.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #3: from the LDC Section 10.2.12 to allow two interior landscape areas as located within the northern portion of the vehicular use area to be less than the required 290 sf. Specifically, ILA #7 which is 84 sf. less and ILA #8 which is 126 sf. less than the 290 sf. required.

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STAFF: The waiver will not adversely affect adjacent property owners since both ILA's (# 7 and 8) as indicated on the development plan are existing conditions. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has an existing planting.

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

STAFF: Guideline 13, Policy 5 calls for standards to ensure the creation and/or preservation of tree canopy as a valuable community resource. The purpose of interior landscape areas is to break up large impervious areas and allow for a greater distribution of tree canopy coverage. The waiver will not violate specific guidelines of Cornerstone 2020 because both ILA's (# 7 and 8) as indicated on the development plan are existing conditions. Interior Landscape Area # 7 currently has a freestanding monopole Waffle House Sign and the ILA #8 has no existing planting allowing an existing space where tree canopy to help break up the large impervious area.

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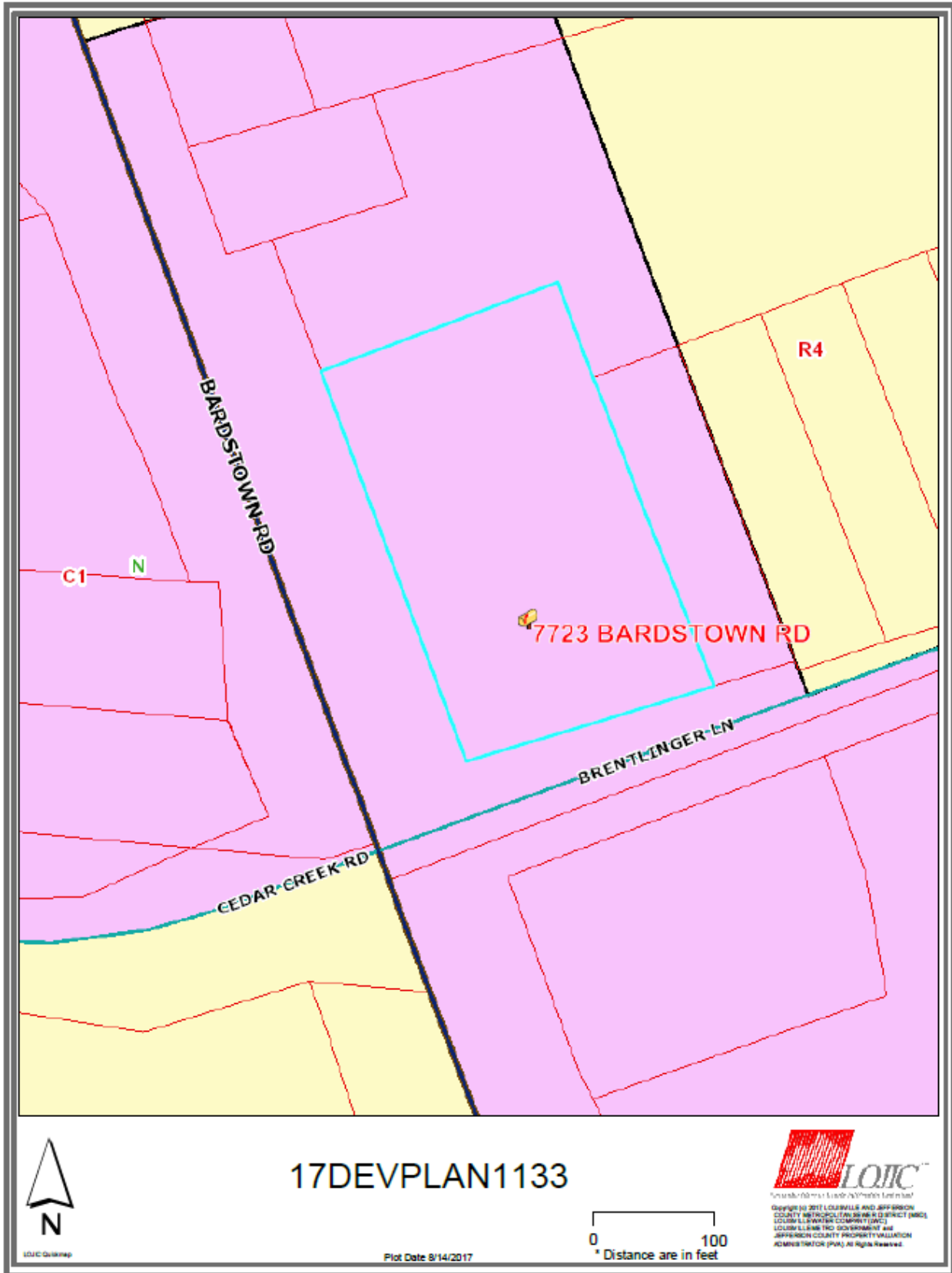
NOTIFICATION

Date	Purpose of Notice	Recipients
August 23, 2017	Notification of Public Hearing	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 22

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



2. Aerial Photograph

