

# Development Review Committee

## Staff Report

December 2, 2020



<b>Case No:</b>	20-DDP-0048
<b>Project Name:</b>	Matly Digital Solutions
<b>Location:</b>	3432 Preston Hwy
<b>Owner(s):</b>	George Matly, MD LTD Partnership
<b>Applicant:</b>	George Matly, MD LTD Partnership
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	21 – Nicole George
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

### REQUESTS:

1. **Waiver** of Land Development Code section 10.2 to allow the proposed building to encroach into the 5 foot LBA at the rear property line (20-WAIVER-0093)
2. **Revised Detailed District Development Plan with Binding Element Amendments**

### CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 1,600 square foot accessory structure and reconfigure the adjacent asphalt parking area.

The subject site is zoned C-1 in the Suburban Marketplace Corridor form district on approximately 1.91 acres. The site is currently developed with a 10,000 square foot commercial printing business as approved under docket 9-50-88.

### STAFF FINDINGS

The Revised Detailed District Development Plan and waiver are adequately justified and meet the standard of review. The expansion is an accessory to an existing commercial facility. The adjacent residentially zoned property is a Jefferson County Public School maintenance and storage facility and is unlikely to be redeveloped for residential use in the future.

### TECHNICAL REVIEW

There is an associated variance under docket 20-VARIANCE-0127 to allow the proposed building to encroach into the required 25 foot setback at the rear property line, which will be heard by the Board of Zoning Adjustment on 12-07-20.

### INTERESTED PARTY COMMENTS

A representative of Jefferson County Public Schools has contacted staff and expressed concerns that the proposal will negatively impact security on their adjacent maintenance facility.

## 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 since the adjacent residentially zoned property is not used residentially and is unlikely to be redeveloped for residential use in the future.

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

STAFF: The Comprehensive Plan requires buffering between incompatible uses. The adjacent residentially zoned property is used as a commercial or light industrial use by Jefferson County Public Schools and is unlikely to be redeveloped for residential use. If the adjacent property was more properly zoned for its actual intensity of use, no buffer or setback would be required.

- (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 encroachment is minimized.

- (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, as the adjacent property is not used residentially and a buffer would not be required if it were zoned for commercial use.

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

- (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. Tree canopy requirements of the Land Development Code are not applicable to this proposal due to the limited area of new structure or impervious surface.

- (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. Public Works and KYTC have provided preliminary approvals.

- (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 with this 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. The proposed addition is an accessory use to an existing commercial site. The adjacent residentially zoned property is used as a commercial or light industrial use by Jefferson County Public Schools as a maintenance and storage facility.

- (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.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan with Binding Element Amendments**

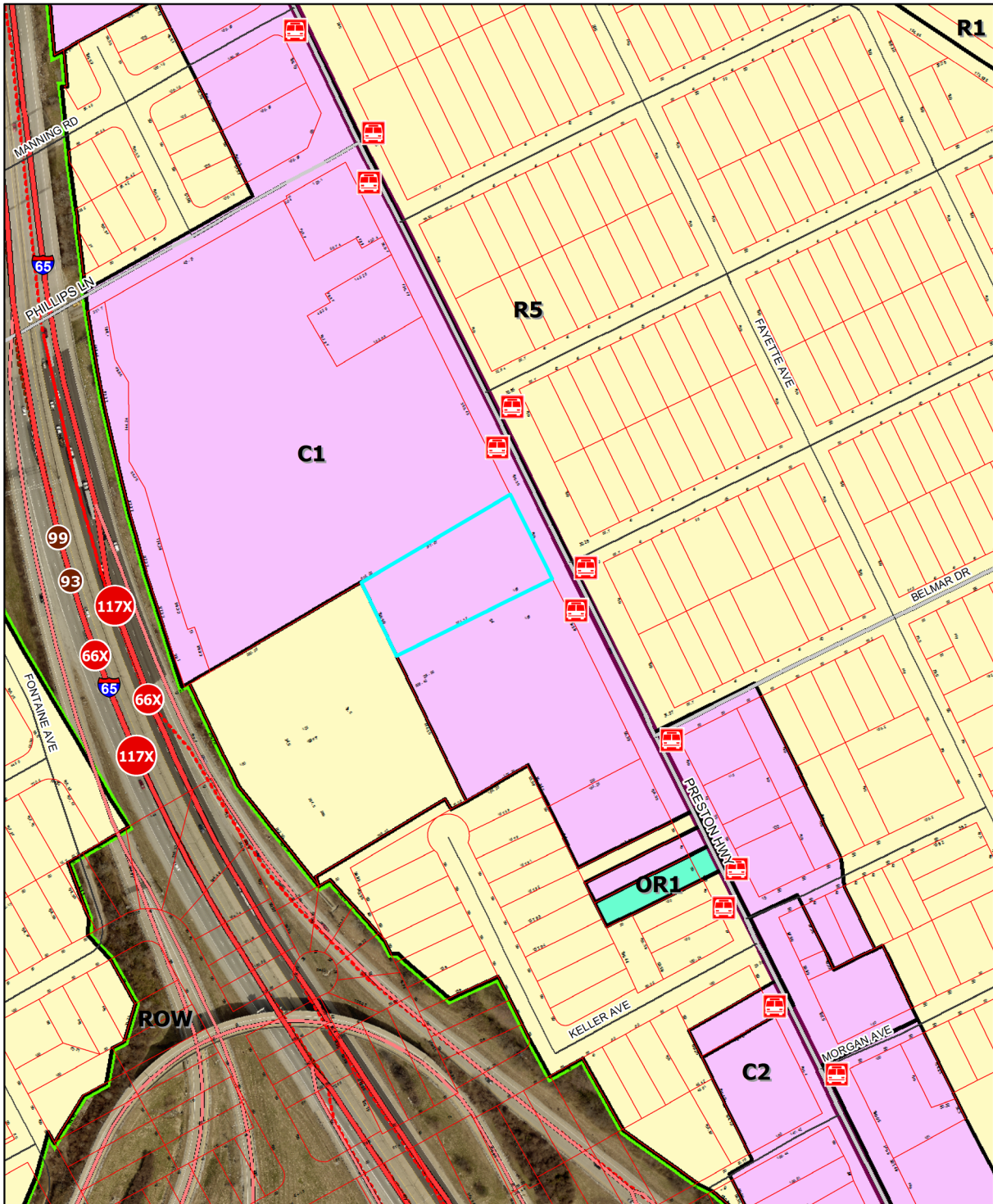
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11-18-20	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 21

**ATTACHMENTS**

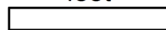
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes
4. Proposed Binding Elements

1. **Zoning Map**



3432 PRESTON HWY

feet



240

Map Created: 10/13/2020

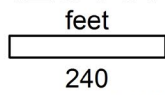


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2. Aerial Photograph



3432 PRESTONY HWY



Map Created: 10/13/2020



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**3. Existing Binding Elements with Proposed Changes**

1. The development shall be in accordance with the approved district development plan, land use and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior to approval from the Planning Commission.
- ~~2. The development shall not exceed 6,600 square feet of retail use and 6,900 square feet of office use.~~

3. Before a building or alteration permit and/or a certificate of occupancy is requested:

- a) ~~The development plan must be reapproved by the City of Louisville Department of Inspections, Permits and Licenses and the Metropolitan Sewer District.~~ **The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works 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 ~~Article 12~~ **Chapter 10**. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
- d) **The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.**

4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.

5. The permitted uses within the development shall be those uses allowed in the C-1 Commercial District plus the following permitted use:

Restaurant with outdoor seating where entertainment is excluded and no alcoholic beverages are served or consumed, which is adequately screened and buffered from adjacent residential development.

Binding Element No. 5 may not be changed, amended or removed by the Planning Commission without a public hearing in accordance with the notice requirements set forth in KRS 100.212.

6. In the event that the City of Louisville Board of Aldermen enact an ordinance amending the permitted uses within the C-1 Commercial District to allow the operation of restaurants, where food and drink may be served or consumed, outside as well as inside a building, the applicant agrees that the application for rezoning may be considered to have been amended to request to rezone the development to C-1 Commercial District.

7. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed 75 square feet in area and 20 feet in height.

~~8. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.~~

9. A certificate of occupancy must be received from the appropriate code enforcement office 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.

#### **4. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan, land use and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior to approval from the Planning Commission.

2. Before a building or alteration permit and/or a certificate of occupancy is requested:

- a) The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works 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. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
- d) The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.

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8. A certificate of occupancy must be received from the appropriate code enforcement office 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.