

# Land Development and Transportation Committee Staff Report September 14, 2023



|                          |                                |
|--------------------------|--------------------------------|
| <b>Case No:</b>          | 23-DDP-0067                    |
| <b>Project Name:</b>     | SandBar                        |
| <b>Location:</b>         | 2819 N Hurstbourne Pkwy        |
| <b>Owner(s):</b>         | DWT, Inc.                      |
| <b>Applicant:</b>        | DWT, Inc.                      |
| <b>Jurisdiction:</b>     | Louisville Metro               |
| <b>Council District:</b> | 17 – Markus Winkler            |
| <b>Case Manager:</b>     | John Michael Lawler, Planner I |

## **REQUEST(S)**

- **Revised Detailed District Development Plan**

## **CASE SUMMARY**

The applicant is proposing a restaurant with outdoor dining and alcohol sales. Volleyball courts would flank either side of the restaurant. Vehicular access comes from an existing private access easement off North Hurstbourne Parkway. No new vehicular access will be created. The existing parking on the site will be utilized by the restaurant, with some minor restriping. Pedestrian access comes from a striped crosswalk that connects to the ROW along Hurstbourne Parkway. The change in zoning was done under Docket # 9-44-94 for the existing Walgreens on the adjacent lot to the North.

## **STAFF FINDING**

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code.

## **TECHNICAL REVIEW**

Staff found inconsistencies in the binding elements between the original two approvals under Docket # 9-44-94. The most recent approval, dated January 23, 1997, shows the plan certain area as subdivided, with the site involved in this case being vacant with no development detail. Staff believes a fresh set of binding elements for the vacant site is the best way to address these discrepancies in binding elements. This will make a record of the change and modernize the binding elements for the new development. The binding elements on the January 23, 1997 plan will remain for the corner property, which is already developed.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and 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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided 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 the Kentucky Transportation Cabinet 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.

### **REQUIRED ACTIONS:**

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

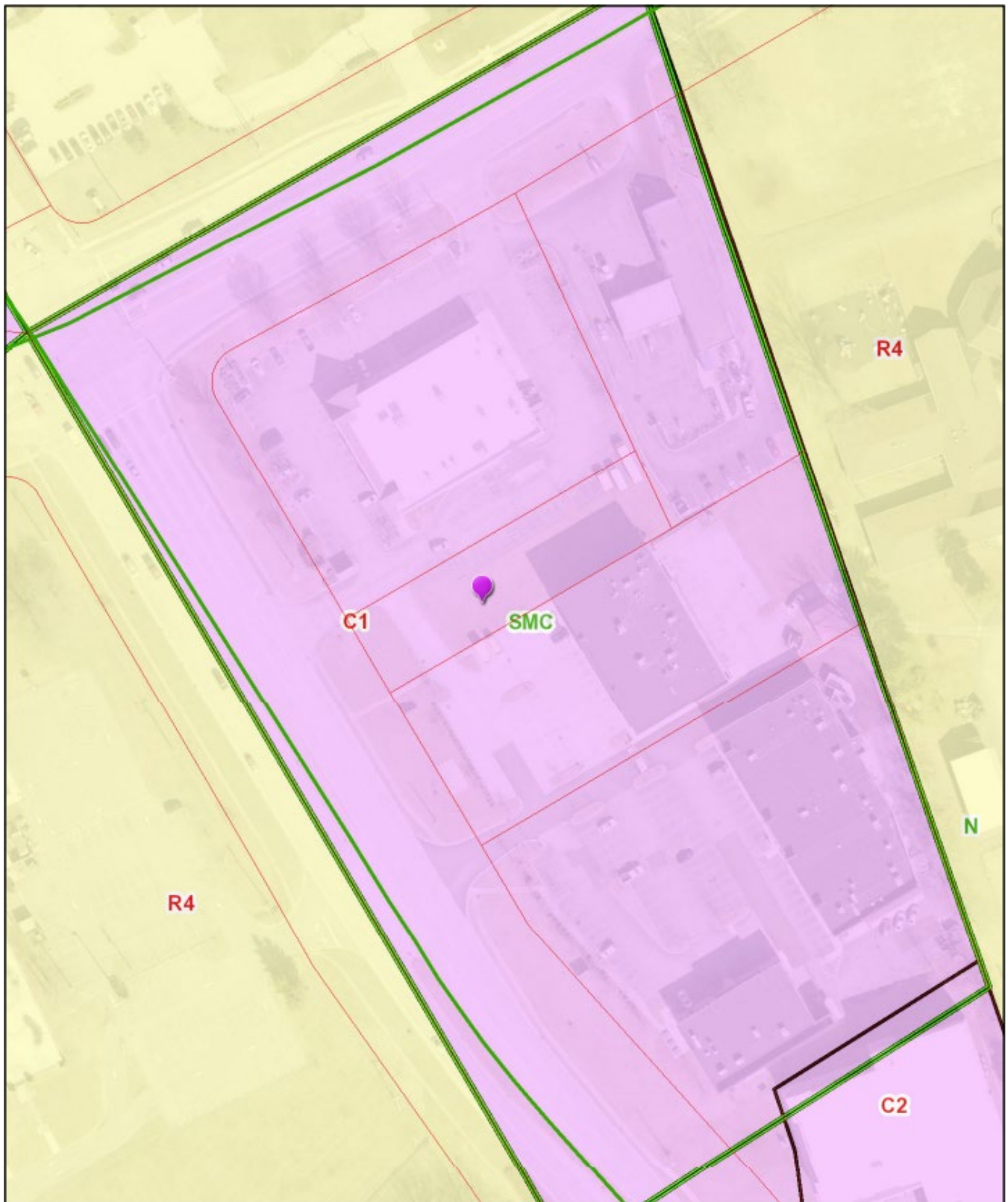
**NOTIFICATION**

| Date      | Purpose of Notice                            | Recipients                                                                                                                                                                      |
|-----------|----------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| X/XX/XXXX | Hearing before LD&T on<br>September 14, 2023 | 1 <sup>st</sup> tier adjoining property owners and current residents<br>Speakers at Planning Commission public hearing<br>Registered Neighborhood Groups in Council District 17 |

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (To be removed)
4. Proposed Binding Elements

1. Zoning Map



## 2. Aerial Photograph



### **3. Existing Binding Elements (To be removed)**

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 approval from the Planning Commission.
2. There shall be no restaurant or other uses requiring a parking ratio greater than one space per 200 square feet of floor area permitted on the drugstore lot unless parking can meet the requirement of the proposed use.
3. The development shall not exceed 17,074 square feet of gross floor area for retail, 650 square feet of gross floor area for restaurant and 580 square feet of gross floor area for outdoor eating area.
4. The only permitted freestanding sign shall be located as shown on the approved district development plan. The signs shall not exceed the following:
  - a) Sign A: 35 square feet in area, 12 feet tall.
  - b) Sign B: 55 square feet in area, 15 feet tall
  - c) Sign C: 90 square feet in area, 15 feet tall
5. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
6. There shall be no outdoor storage on the site.
7. Outdoor lighting shall be directed down and away from surrounding residential properties.
8. If the adjacent parcels to the south and east are ever developed for non-residential uses, the owner shall grant an easement of ingress and egress to, and from the owner's entrances and over necessary access way for the purpose of ingress and egress to the applicable properties; provided corresponding easements are conveyed by the adjoining property owner. The instrument shall be signed and recorded, and a copy shall be submitted to the Planning Commission counsel.
9. The hours of operation for the fast-food restaurant shall be limited to between 10:00 A.M. and 12:00 A.M.
10. Before a building or alteration permit and/or a certificate of occupancy is requested:
  - a) The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation 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 and the Parkway Policies (November 5, 1992) for the entire parkway buffer area located on the subject sit and in the Hurstbourne Parkway right-of-way. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.
  - d) A subdivision plat consolidating the existing lots and creating the two lots as shown on the approved district development plan shall be recorded prior to issuance of building permits.
  - e) An access and crossover easement agreement shall be executed to guarantee shared access, between the drug store and fast-food restaurant, as shown on the general district

development plan. A copy of the recorded instrument shall be submitted to the Planning Commission.

11. The owner agrees to execute and submit the Landscape Maintenance Agreement to the Office for Economic Development and to coordinate with the Office for Economic Development, Jefferson County and the Planning Commission with respect to the design and implementation of that portion of the Hurstbourne Landscape Project landscaping located on owner's property.
12. The curb cut on Westport Road, that is closest to Hurstbourne Parkway, as shown on the approved general district development plan, shall be designed to accommodate right in, right out turning movements only subject to the approval of the Jefferson County Department of Public Works and Transportation.
13. The outdoor speakers for the fast-food restaurant shall not be audible beyond a distance of 60 feet.
14. Prior to any additional grading or construction activity, the applicant shall submit a plan for review by the Staff Landscape Architect to protect the large oak tree situated near the southwest corner of the property and other trees located on the site. The plan shall indicate the location of construction fencing to prevent compaction of root systems and shall be implemented prior to initiation of any site disturbing activities.
15. Prior to requesting a certificate of occupancy, sidewalks shall be constructed on Hurstbourne Parkway for the width of the property frontage, subject to approval of the Jefferson County Department of Public Works and Transportation.
16. There shall be no alcoholic beverages sold on the site.
17. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, 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.
18. 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**

**These binding elements only apply to the current development site. The corner property in the original plan area is still subject to binding elements as approved under Docket # 9-44-94 (January 23, 1997) unless revised elsewhere per Planning Commission policies.**

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. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. 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.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
6. 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.