

# Development Review Committee

## Staff Report

February 5, 2020



<b>Case No:</b>	20-WAIVER-0008
<b>Project Name:</b>	Dollar General Store
<b>Location:</b>	7701 Smyrna Parkway
<b>Owner(s):</b>	Kennie and Patricia Combs
<b>Applicant:</b>	SC Development LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23-James Peden
<b>Case Manager:</b>	Joel Dock, AICP, Planner II

### REQUEST(S)

- **Waiver** of Land Development Code, section 5.6.1.C.1 to not provide clear windows and doors on at least 50% of the wall surfaces at street-level

### CASE SUMMARY/BACKGROUND

A development plan with waivers for building entrance, parkway buffer, and parking was approved by the Development Review Committee on January 8, 2020. A discussion occurred at this meeting concerning the requirements for clear windows facing public streets. The applicant stated that the majority of the windows would be faux windows. Binding element 4e was modified to require submittal of rendering prior to site disturbance permits being requested. The rendering was received January 21<sup>st</sup>. It demonstrated that the majority of windows facing public streets would not be clear and consist of spandrel glazing that does not offer views into the building.

### STAFF FINDING

The requested waiver appears to be adequately justified based on the standard of review contained in the staff analysis.

### 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 proposed windows will not detract from the existing character of these properties or cause a nuisance through the design upon these properties. The user to the east is an auto garage, across Outer Loop an auditorium or gymnasium for an elementary school is nearest to the roadway which does not provide clear windows, and two other adjacent properties are vacant. The property owner to the rear/south is not impacted by the facades in question.

- (b) The waiver will not violate specific guidelines of Plan 2040.

STAFF: Plan 2040 Community Form Goal 1, Policy 4 encourages new development and redevelopment to be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment

projects. The character of Outer Loop in the immediate area consists of users in multi-tenant buildings or stand-alone services with parking lots between structures and the roadway. Immediately adjacent to the proposal are two auto service garages that provide bays opening to the roadway. A retail strip center with clear windows for tenants is present roughly ¼ mile east of the site. Based on a review using Google Streetview many of the clear windows are occupied by advertisements interrupting views into the business. The proposal is consistent with the design of Dollar General Stores located in throughout suburban areas of Louisville Metro. The materials proposed are consistent with the desired pattern of development as multiple building materials are proposed and the façade facing outer Loop contains a wall plane projection at the entrance, as well as clear windows in the area of the entrance. The faux windows provide architectural interest as they mimic a “real” window and provide awnings above. For these reasons, the requested waiver appears to be compliant with Plan 2040.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The full extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as display windows are specifically authorized and the internal layout can be revised to relocated restrooms and storage to walls not containing windows as two facades are not required to comply with the regulation.

- (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 or would create an unnecessary hardship on the applicant as the proposal does not negatively affect adjacent property owners and maintains consistency with Plan 2040.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **WAIVER** of Land Development Code, section 5.6.1.C.1 to not provide clear windows and doors on at least 50% of the wall surfaces at street-level

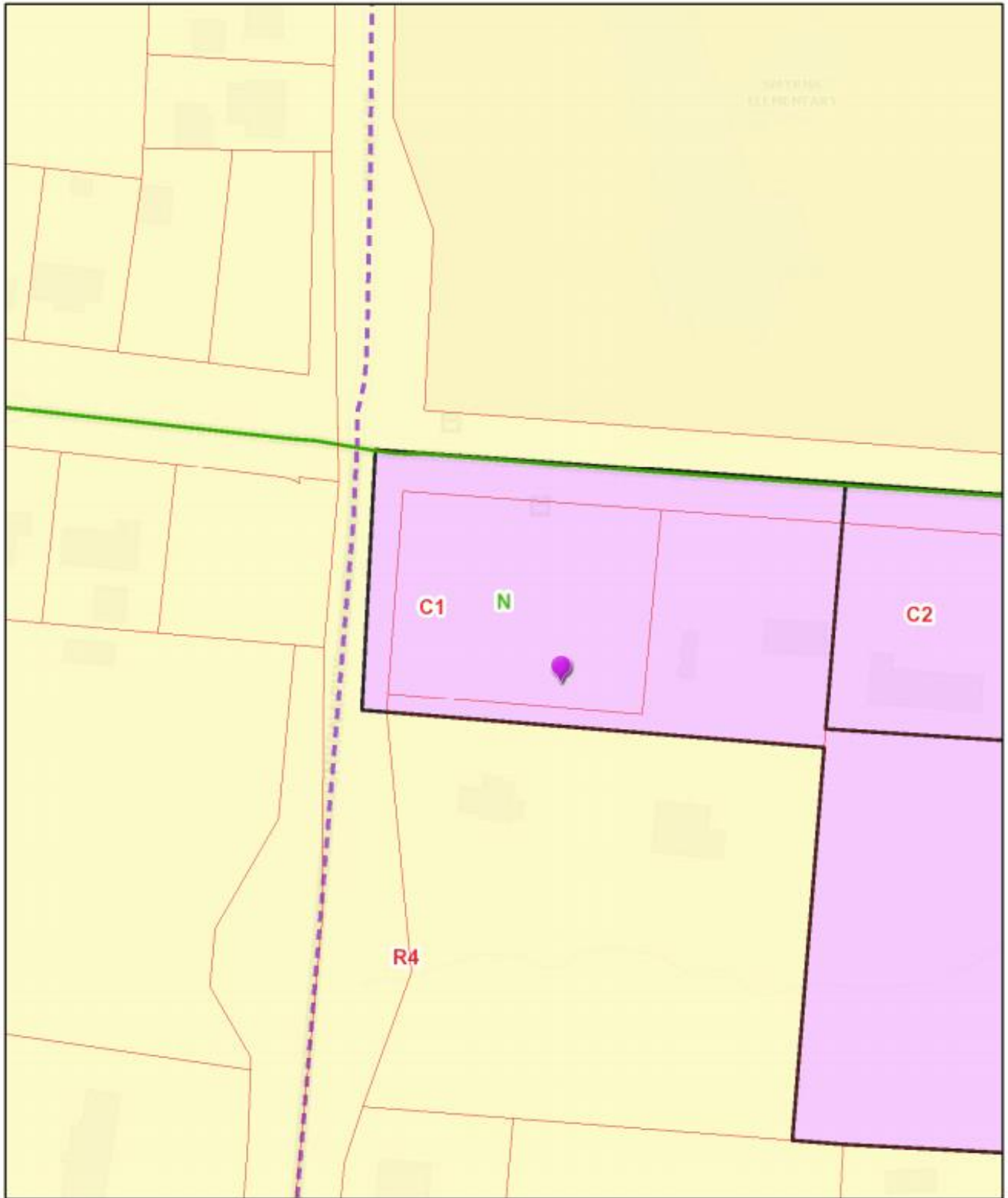
**NOTIFICATION**

Date	Purpose of Notice	Recipients
1/24/20	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 23.

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Binding Elements (case 19-DDP-0061)

1. Zoning Map



2. Aerial Photograph



**3. Binding Elements case 19-DDP-0061**

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, 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 Transportation Cabinet.
  - 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. A six foot western red cedar fence shall be erected along the south boundary of the site from a point 30 feet east of Smyrna Road for a distance of 338 feet. The fence shall be erected before occupancy and maintained thereafter.
  - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff prior to construction permitting. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 audible beyond the property line.
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.

8. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
9. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. Sidewalk location and verge along Smyrna Parkway and the pedestrian connection from Smyrna Parkway to the building entrance shall comply with the dimensional requirements in Chapter 6 of the LDC.
11. The east façade shall be substantially similar to the west façade.
12. In addition to the Chapter 10 requirements landscaping shall be provided as shown in the landscape exhibit presented at the January 8, 2020 Development Review Committee meeting.