

Land Development and Transportation Committee Staff Report

May 8, 2014



Case No:	14DEVPLAN1007
Request:	Revised Detailed District Development Plan, Waivers and Amendment to Binding Elements for the existing McDonald's Ormsby Station and being in the City of Lyndon
Project Name:	McDonald's Ormsby Station
Location:	9901 Ormsby Station Rd.
Owner:	Marshall Realty Company
Applicant:	American Engineers, Inc.
Representative:	American Engineers, Inc.
Jurisdiction:	City of Lyndon
Council District:	18 – Marilyn Parker
Case Manager:	David B. Wagner – Planner II

REQUEST

- Waiver #1 to allow Vehicular Use Area (VUA) to encroach into the 30' Parkway Buffer along Hurstbourne Parkway per Land Development Code (LDC) Table 10.3.1.
- Waiver #2 to allow the dumpster and small building to encroach into the 10' VUA Landscape Buffer Area (LBA) along Ormsby Park Place per LDC Table 10.2.6.
- Revised Detailed District Development Plan
- Amendment to Binding Elements

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This request is a joint proposal that goes along with a Variance request (#14VARIANCE1023) which was approved by the Board of Zoning Adjustment (BOZA) on April 21, 2014. The proposal is for the expansion of the existing McDonald's and patio area and the creation of a dual drive-thru. The building will be expanded from 3,192 SF to 4,320 SF and the patio will be 475 SF. Additional parking spaces were added to meet the minimum parking spaces requirement of 38 spaces.

In order to accommodate the additional drive-thru lane, VUA, and parking spaces, the Waiver along Hurstbourne Parkway requests the Parkway Buffer be reduced from 30' to 20'. The site currently has landscaping installed along the street which should not be greatly affected. The second Waiver along Ormsby Park Place is to allow the existing dumpster and small building to remain within the 10' VUA LBA. Both of the Waiver requests will allow the site to be in compliance with the LDC in effect in the City of Lyndon.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

Existing Zoning District: C-1
Proposed Zoning District: N/A
Existing Form District: Campus
Existing Use: Restaurant
Proposed Use: Restaurant

Minimum Parking Spaces Required: 38

Maximum Parking Spaces Allowed: 96

Parking Spaces Proposed: 38

	Land Use	Zoning	Form District
Subject Property			
Existing	Restaurant	C-1	Campus
Proposed	N/A	N/A	N/A
Surrounding Properties			
North	Office	PRO	Campus
South	Restaurant	C-1	Campus
East	Bank	C-1	Campus
West	Hotel	C-1	Campus

PREVIOUS CASES ON SITE

- 9-106-97/10-13-97: General District and Preliminary Major Subdivision Plan for the Forest Green development
- 9-106-97: Detailed District Development Plan for the McDonald's
- Plat Book 45, Page 73: Forest Green, Section 3

INTERESTED PARTY COMMENTS

Staff has not received any inquiries from interested parties.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1 to allow VUA to encroach into the 30' Parkway Buffer along Hurstbourne Parkway per LDC Table 10.3.1

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

STAFF: The waiver will not adversely affect adjacent property owners because the existing plantings along Hurstbourne Parkway will not be affected by the reduction in buffer area.

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

STAFF: The waiver will not violate the Comprehensive Plan as required plantings and screening will still be provided along the street.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the buffer is being reduced just enough to allow vehicular movement and parking on the site.

- (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: 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 because the site has already been developed as a restaurant for some time as approved by the Planning Commission. Some open space will be lost but the required plantings will remain as they are currently.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2
to allow the dumpster and small building to encroach into the
10' VUA LBA along Ormsby Park Place per LDC Table 10.2.6**

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

STAFF: The waiver will not adversely affect adjacent property owners because the existing dumpster and small building are existing structures and are at the end of the private street which will cause no vehicular movement issues.

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

STAFF: The waiver will not violate the Comprehensive Plan as the waiver allows the development to come into compliance with regulations that have changed since the original approval of the development.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the structures were built some time ago and they would otherwise have to be moved.

- (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: 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 because it would force the owner to move the permanent structures that have been there for some time.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND 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: The proposal conserves natural resources that currently exist on the site, including the existing landscaping and trees. The applicant will have to obtain approval of a revised landscaping and tree preservation plan as well.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Transportation Review has approved the proposal's transportation facilities.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space is not required for 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: MSD has approved the drainage facilities for the site.

- 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 proposal is compatible with the surrounding area as it will continue to be used as a restaurant which was approved by the Planning Commission. The surrounding area is developed for office and commercial uses as well.

- 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 proposal conforms to the Comprehensive Plan and Land Development Code upon the approval of the waivers. The proposal is compatible with the surrounding area as it will continue to be used as a restaurant which was approved by the Planning Commission. The surrounding area is developed for office and commercial uses as well.

TECHNICAL REVIEW

- Except for the Waiver requests, the proposal complies with the requirements of the LDC.

STAFF CONCLUSIONS

The proposal allows the development to comply with the current zoning regulations and to continue to be used as a fast food restaurant. There are existing encroachments due to the changes in the zoning regulations and the site is surrounded by commercial and office uses. This proposal will not affect any nearby residential uses.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Land Development and Transportation Committee must **RECOMMEND** that the City of Lyndon **APPROVE** or **DENY** the proposal for a Revised Detailed District Development Plan and Amendment to Binding Elements and Waivers.

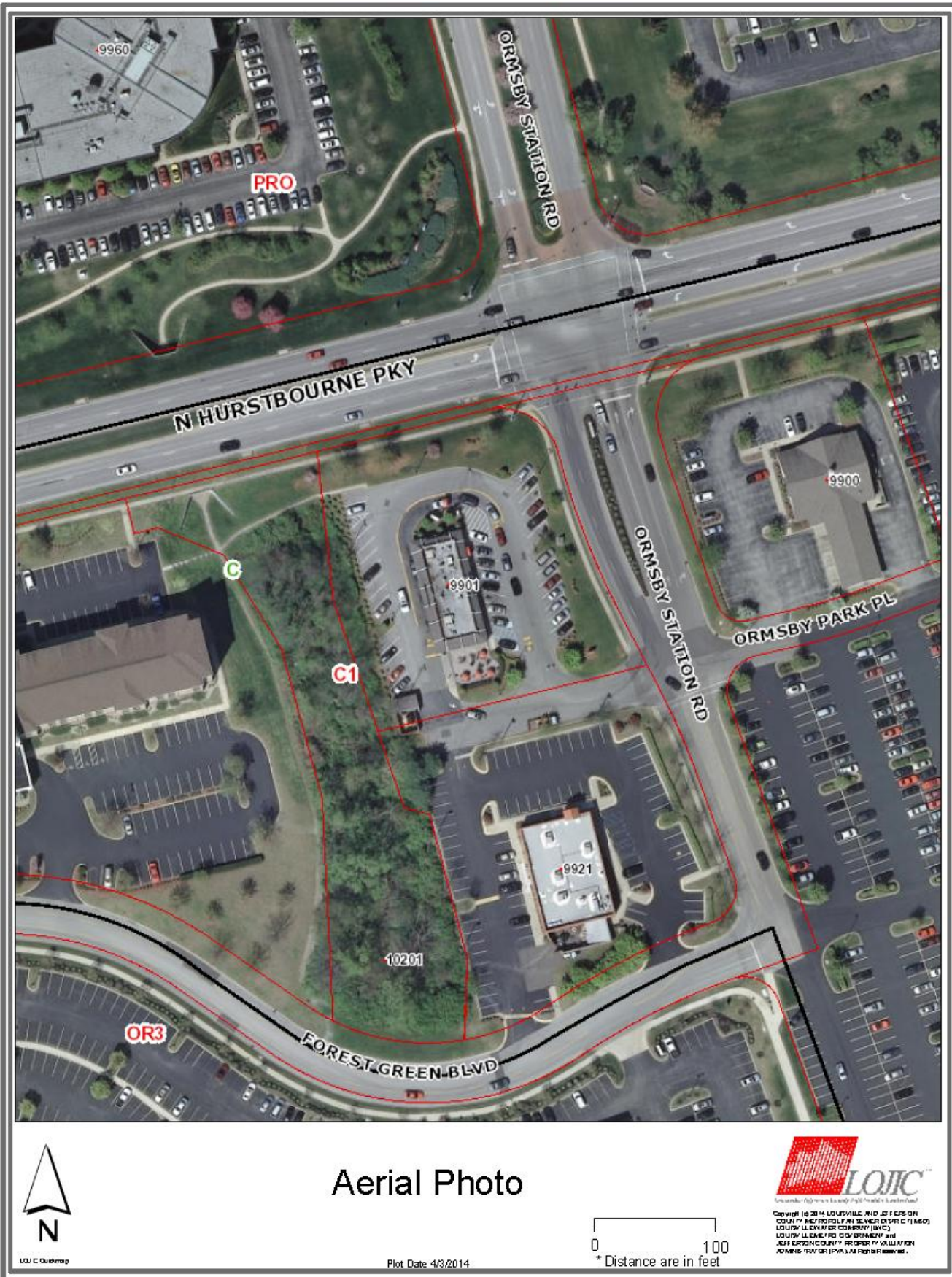
NOTIFICATION

Date	Purpose of Notice	Recipients
4/7/14	Meeting before LDT	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers to Council District 18 Notification of Development Proposals

ATTACHMENTS

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

2. Aerial Photograph



3. Existing Binding Elements

All binding elements from the approved General District Development Plan are applicable to this site, in addition to the following.

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 3,200 square feet of gross floor area.
3. There shall be no direct vehicular access to Hurstbourne Parkway.
4. There shall be no freestanding sign permitted on site without prior approval by the Land Development and Transportation Committee.
5. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible offsite.
7. The applicant shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e.. clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
9. 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.
10. 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.

11. 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.
12. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
13. The only freestanding sign permitted shall be as shown on the detailed district development plan and shall not exceed 7 feet in height and 63 square feet in area.

4. Proposed Binding Elements

All binding elements from the approved General District Development Plan 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 and to the City of Lyndon for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. There shall be no direct vehicular access to Hurstbourne Parkway.
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 Inspections, Permits and Licenses, 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.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. 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.

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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 8, 2014 Land Development and Transportation Committee meeting.