

Planning Commission Staff Report

May 11, 2017



Case No:	17DEVPLAN1010
Request:	Appeal of the Denial of a Waiver from Section 10.2.10 to allow a screening height decrease from 3' to 18"
Project Name:	Thornton's Gas Station
Location:	4170 Taylor Blvd.
Owner:	Thornton's Inc
Applicant:	Jode Ballard, Thornton's Inc
Representative:	Eric Tracy, Kimley-Horn & Associates
Jurisdiction:	Louisville Metro
Council District:	15-Marianne Butler
Case Manager:	Laura Mattingly, Planner II

REQUEST

- **Appeal** of a DRC action that denied a Waiver of Section 10.2.10 to decrease the required screen from 3 feet to 18 inches.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposal is for a 4,400 square foot gas station with detached gas canopy located at the corner of Bluegrass Avenue and Taylor Boulevard.

At the April 5, 2017 meeting of the Development Review Committee, the following actions were taken:

- Waiver from 5.5.1.A.b to not provide a customer entrance on Bluegrass Avenue (Approved)
- Waiver from 5.6.1.A.1 to not provide 75 percent coverage of animating features along façade facing Bluegrass Avenue (Approved)
- Waiver from 5.5.1.A.5 to allow the detached gas canopy to be located between the principal building and the public street. (Approved)
- Waiver from 5.5.1.A.3.a & 5.9.2.C.4 to allow parking to be located in front of building and to not provide the 3' masonry wall along either frontage. (Approved)
- Waiver from 5.9.2.A.1.b.i to not provide a clearly defined pedestrian access from Taylor Blvd to entrance of building and to allow the pedestrian connection to be farther than 50 feet from the nearest transit stop (Approved)
- Waiver from 10.2.10 to reduce the required 10 foot Vehicle Use Area Landscape Buffer Area along Taylor Blvd to 5 and to decrease the required screen from 3 feet to 18 inches (VUA LBA Approved, Screen Height Decrease Denied)
- Revised Detailed District Development plan (Approved)

The applicant has appealed the denial of the waiver to reduce the screening height from the required 3 feet to 18 inches, basing the appeal on Section 10.2.11 which states that the screening height may be reduced to 18 inches when adjacent to uses where security is determined to be a factor. The applicant has submitted several news articles on crimes committed at Thornton's gas stations throughout the city and a cross section showing the affect a 3' screen would have on the line of sight from the public right of way, as opposed to an 18" screen.

**Waiver of Section 10.2.10 (Screening Height):
From April 5, 2017 DRC Minutes**

WHEREAS, the waiver WILL adversely affect adjacent property owners as the screening is not the required height to adequately screen the parking areas; and

WHEREAS, the waiver WILL violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver WILL violate guideline 13, Landscape Character, which calls for the protection of roadways through standards for buffers, landscape treatment, lighting and signs. These Guidelines are violated, as the screening will not be an adequate height to achieve the intent of the Comprehensive Plan; and

WHEREAS, the Louisville Metro Development Review Committee finds the extent of the waiver of the regulation is not the minimum necessary, as the masonry wall is not being provided and the width of the buffer along Taylor has been requested to be waived. The required screening is needed to justify these other waiver requests. In addition, as the pedestrian connection has requested to be waived, there needs to be adequate screening to guide pedestrians to the safe entrance on Bluegrass and discourage pedestrians from stepping over the screen and crossing the parking and gas canopies along Taylor Blvd.; and

WHEREAS, the Louisville Metro Development Review Committee further finds the strict application of the provisions of the regulation would t NOT deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as providing the additional foot of screening does not affect any other aspect of the proposed site plan.

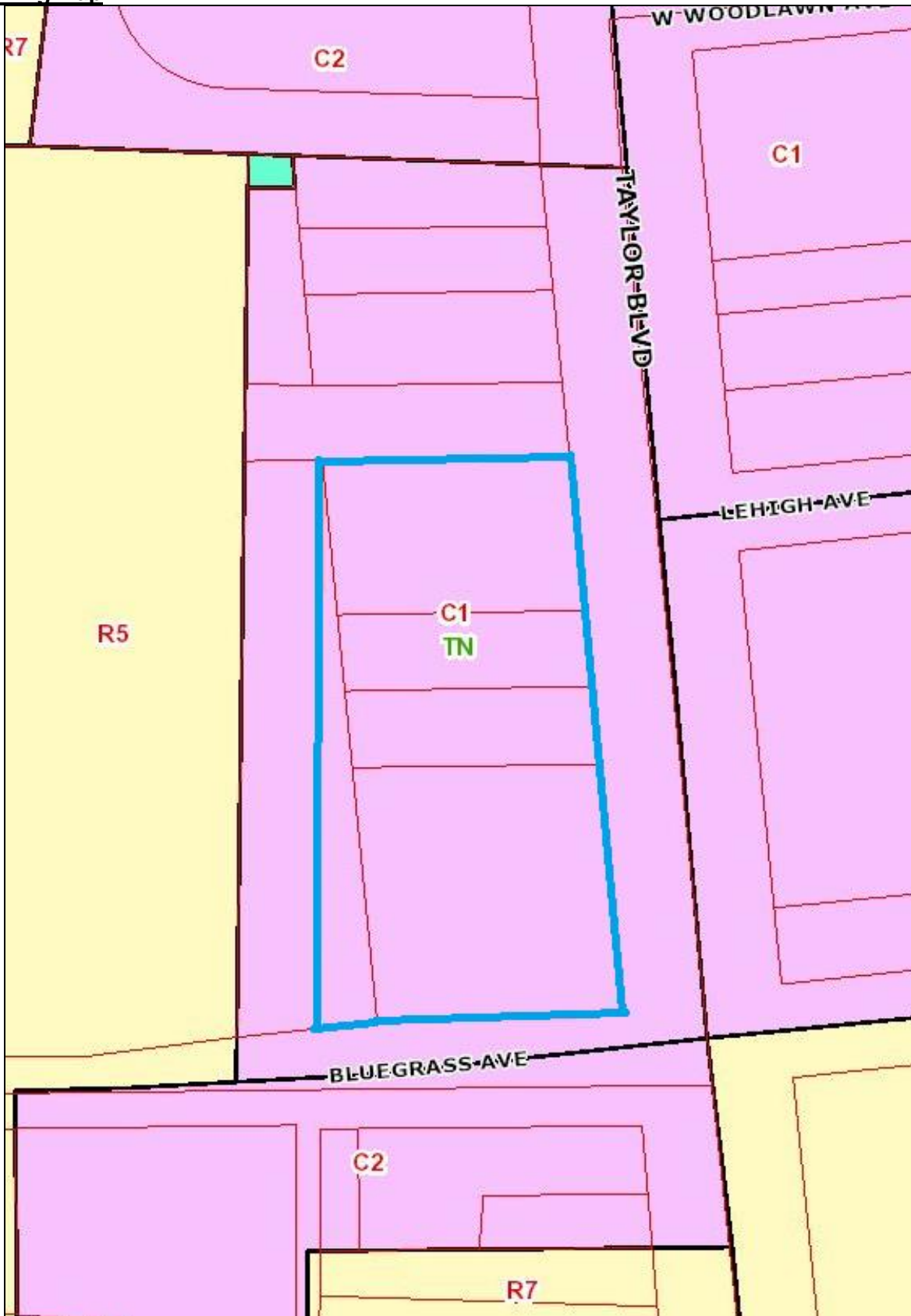
STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if it will **UPHOLD** or **OVERTURN** the Development Review Committee's action to deny the Waiver of Section 10.2.10 to decrease the required screen from 3 feet to 18 inches.

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Approved Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Approved Binding Elements

All binding elements from the approved General 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 4,400 square feet of gross floor area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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.
 - e. 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.
 - f. 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 upon request.
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. 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.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 5, 2017 DRC meeting.
7. Dumpster enclosures shall be constructed of brick or split-face block materials in keeping with materials and design of the proposed structures as depicted in the renderings presented at the April 23, 2015 Planning Commission meeting.
8. The Owner/Developer will maintain the transit stop on an as needed basis.