

**Development Review Committee**  
**Staff Report**  
June 19, 2019



<b>Case No:</b>	19DEVPLAN1060
<b>Project Name:</b>	R+R Limo
<b>Location:</b>	4719 Poplar Level Rd
<b>Owner(s):</b>	Carey Fieldhouse, Fieldhouse Properties LLC
<b>Applicant:</b>	Carey Fieldhouse, Fieldhouse Properties LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Pat Mulvihill
<b>Case Manager:</b>	Lacey Gabbard, AICP, Planner I

**REQUESTS:**

1. **Waiver** of Land Development Code section 10.2 to reduce the landscape buffer from 15 feet to 9.5 feet on the north property line
2. **Revised District Development Plan with Binding Element Amendments**

**CASE SUMMARY/BACKGROUND**

The subject site is zoned C-2 Commercial in the Suburban Marketplace Form District. It is located on the east side of Poplar Level Road, near the intersection of Business Park Drive. The subject site is currently an auto dealership which contains three structures and four lots. The applicant is proposing to consolidate the lots, remove all of the structures, and construct a new structure for auto rental agency.

Previous cases:

- 9-59-83: Change in zoning from R-4 Residential to C-2 Commercial
- 9-29-85: Change in zoning from R-4 Residential to C-2 Commercial; amendment to binding element and a waiver for the buffer area adjacent to the R-4 zoning classification; a six foot high privacy fence constructed of wood is provided adjacent to the R-4 district
- 9-75-87: Change in zoning from M-1 Industrial to C-2 Commercial

It appears the site was re-zoned in stages, so the current development plan has several sets of binding elements. Staff is recommending removal of all existing binding elements, and replacement with proposed binding elements.

**STAFF FINDINGS**

The waiver request and Revised District Development Plan are adequately justified and meet the standard of review.

**TECHNICAL REVIEW**

Public Works and MSD have provided preliminary approval.

Urban Design provided the following comment:

- The structures proposed to be removed are over 50 years old and are potentially eligible for the National Register of Historic Places. This site will be subject to the requirements of the Wrecking Ordinance and a potential 30-day hold on the permit.

### **INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this proposal.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE SECTION 10.2 TO REDUCE THE LANDSCAPE BUFFER FROM 15 FEET TO 9.5 FEET ON THE NORTH PROPERTY LINE**

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

STAFF: The waiver will not adversely affect adjacent property owners since the abutting property along the north property line is owned by Louisville & Jefferson County MSD, and there appear to be existing plantings and trees on the MSD-owned side of the shared property line that will provide a visual buffer in addition to the 9.5 foot LBA the applicant is proposing.

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

STAFF: Land Use & Development Goal 1, Policy 9 ensures an appropriate transition between uses that are substantially different in scale and intensity or density of development. Land Use & Development Goal 1, Policy 10 calls for mitigation of the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances.

The waiver will not violate specific guidelines of Plan 2040. The applicant is proposing to reduce rather than eliminate the LBA along the north property line. Additionally, there appear to be plantings in place on the property to the north that provide a visual buffer. The property to the north, the Buecel Basin, is a wet weather storage facility owned by MSD and is unlikely to be re-developed.

- (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 the existing parking lot/impervious area on the northern property line will only allow a 9.5 foot LBA to be installed.

- (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 since the existing parking lot/impervious area on the northern property line will only allow a 9.5 foot LBA to be installed.

**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. Any future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- (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 Plan 2040 and to requirements of the Land Development Code.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Development Plan** subject to the abandonment of all existing binding elements and acceptance of proposed **Binding Elements**

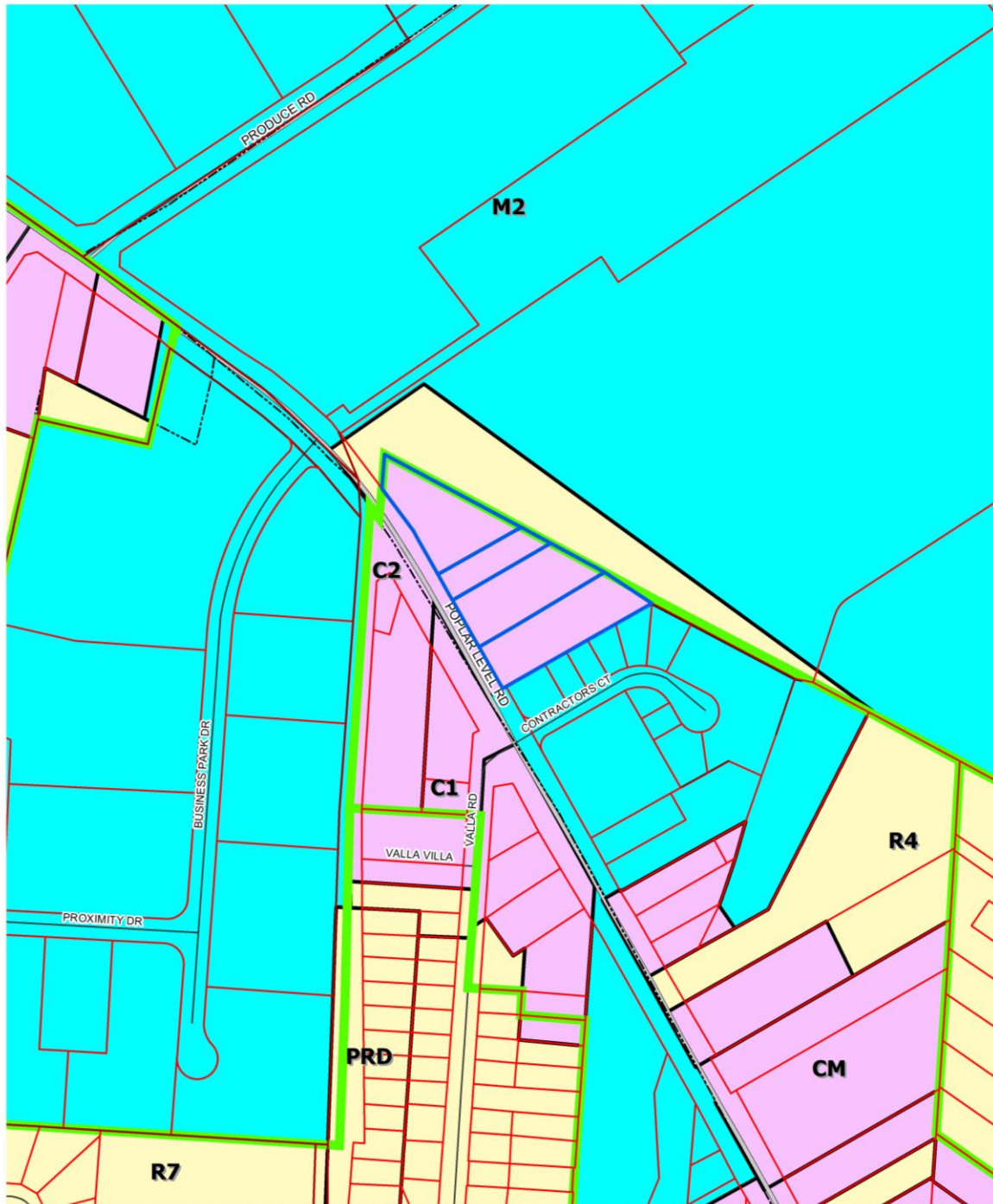
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6-19-19	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 10

**ATTACHMENTS**

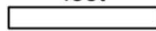
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. Zoning Map



4719 POPLAR LEVEL RD

feet



320

Map Created: 6/10/2019



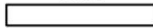
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2. Aerial Photograph



4719 POPLAR LEVEL RD

feet



320

Map Created: 6/10/2019



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### **3. Existing Binding Elements 9-75-87**

- ~~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. The development shall not exceed 6,365 square feet of gross building area.~~
- ~~3. 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. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.~~~~
- ~~4. The existing sign shown on the district development plan shall be located as shown on the approved district development plan and shall not exceed 32 square feet in area.~~
- ~~5. If a certificate of occupancy (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.~~
- ~~6. 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.~~

### **9-29-85**

- ~~1. The development will be in accordance with the approved district development plan. No further development will occur.~~
- ~~2. The development shall not exceed 1,900 square feet of gross floor area within the structure on the site.~~
- ~~3. Before certificates of occupancy are issued:
  - ~~a. The development plan must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Public Works and Transportation Cabinet.~~
  - ~~b. Encroachment permits must be obtained from the Kentucky Department of Transportation Bureau of Highways.~~
  - ~~c. The developer shall obtain approval of a landscaping plan for this site. The plan shall be implemented prior to occupancy and maintained thereafter.~~~~
- ~~4. The only permitted sign shall be located as shown on the approved district development plan and shall not exceed 32 square feet in area and 20 feet in height.~~

~~5. If a certificate of occupancy 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.~~

~~6. 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 and all binding elements must be implemented prior to requesting issuance of the certificate of occupancy.~~

~~7. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

### **9-59-83**

~~1. The development will be in accordance with the approved district development plan. No further development will occur.~~

~~2. The development shall not exceed 4,865 square feet of gross building area.~~

~~3. Before a certificate of occupancy is issued:~~

~~a. The development must be reapproved by the Transportation Engineering, Water Management and Fire Safety Sections of the Jefferson County Department of Public Works and Transportation.~~

~~b. All signs must be removed from the property except the sign shown on the approved district development plan. The sign to remain shall be located as shown on the approved district development plan and shall not exceed 36 square feet in area.~~

~~c. The appropriate variance must be obtained from the Board of Zoning Adjustment to allow parking in the required side yard.~~

~~4. No certificate of occupancy shall be issued more than one year from the date of approval of the plan or rezoning whichever is later or the property shall not be used in any manner.~~

~~5. 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.~~

~~6. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

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

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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.

3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.



4. 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.

5. 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.
- d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; 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. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

8. 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.