

Development Review Committee

Staff Report

November 20, 2019



Case No:	19-DDP-0017
Project Name:	O'Reilly Auto Parts
Location:	5911 Bardstown Rd
Owner(s):	Dennis Littrell, Corridor Holdings, LLC
Applicant:	Mike Leonard, Hogan Property Development Co
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

Waivers:

1. **Waiver** of Land Development Code section 10.2.4.A to reduce the 25 foot landscape buffer area adjacent to the R-4 zoned property to the south to 8 feet (19-WAIVER-0005)
2. **Waiver** of Land Development Code section 10.2.4.A to permit the proposed pavement and dumpster enclosure to encroach into the 25 foot landscape buffer area adjacent to the R-6 zoned property to the east (19-WAIVER-0005)
3. **Waiver** of Land Development Code section 10.2.4.B.3 to permit more than a 50% overlap of the north property line variable landscape buffer area and the proposed 15 foot sewer and drainage easement. Existing plantings within the LBA will be preserved where possible, but required LBA plantings are requested to be waived (19-WAIVER-0005)

Request:

1. **Revised Detailed District Development Plan and Binding Element Amendments**

CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 Commercial in the Neighborhood Form District. It is located on the east side of Bardstown Road, at the opposite side of the street of the intersection and terminus of Wimsatt Way. The site is currently undeveloped, and is surrounded on the same side of the street by parcels zoned R-4 Residential, and on the opposite side of the street by parcels zoned OR-3 Office Residential. The applicant is proposing to construct a 7,225 square foot O'Reilly's Auto Parts.

Previous cases:

- 16934: Change in zoning from R-4 Single-family Residential to C-1 Commercial and R-6 Multi-family Residential, a Preliminary Subdivision Plan, and a Detailed District Development Plan.

At the October 18, 2012 meeting, the Planning Commission discussed connectivity and traffic concerns along the proposed Street 'A' connecting Bardstown Road on the west side of the subject site to Shelby Street on the east side.

There is a related case, 19-VARIANCE-0004, to allow the location of the proposed building to exceed the Bardstown Road 80 foot maximum setback. This request will be heard by the Board of Zoning

Adjustment on December 16, 2019. The Development Review Committee takes no action on this request.

STAFF FINDINGS

The revised detailed district development plan is adequately justified and meets the standard of review. The waiver requests are also adequately justified and meet the standard of review, however, staff recommends the Development Review Committee discuss with the applicant the site restrictions and mitigation measures such as areas of the subject site that would accommodate additional plantings.

TECHNICAL REVIEW

Public Works' and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

Staff has received an email in opposition to this proposal, which is included with the case file.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.A TO REDUCE THE 25 FOOT LANDSCAPE BUFFER AREA ADJACENT TO THE R-4 ZONED PROPERTY TO THE SOUTH TO 8 FEET

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

STAFF: The waiver will not adversely affect adjacent property owners since, according to PVA, the property to the south is over 3 acres of vacant residential land. Additionally, the currently proposed plan only proposes to develop an approximately 250 foot deep portion of the subject site, so the waiver request does not extend the entire perimeter of the neighboring property to the south.

- (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. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Land Use & Development Goal 1, Policy 10 calls to mitigate 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.

According to the applicant, buffers will be provided as well as the required trees and screening. Additionally, there is a future/proposed 35 foot access easement along the south property line which provides additional space between the development and the adjoining property.

- (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 there is a proposed 35 foot access easement that runs along the southern property line.

- (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 because, according to the applicant, including the full LBA would not provide sufficient developable land area and the subject site could not be developed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.A TO PERMIT THE PROPOSED PAVEMENT AND DUMPSTER ENCLOSURE TO ENCROACH INTO THE 25 FOOT LANDSCAPE BUFFER AREA ADJACENT TO THE R-6 ZONED PROPERTY TO THE EAST

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

STAFF: The waiver will not adversely affect adjacent property owners since the property to the east of the subject site is currently vacant and is not proposed to be developed at this time.

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

STAFF: 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. 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. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.

The applicant is requesting a waiver to allow the proposed dumpster to encroach into the 25 foot LBA on the east side of the property by approximately 5 feet. The property to the east of the subject site is not proposed to be developed at this time. Additionally, the proposed plan indicates that all required LBA plantings will be provided.

- (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 applicant proposes to provide all required plantings and only encroach into the LBA by approximately 5 feet on the eastern property line.

- (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 applicant proposes to provide all required plantings, and the dumpster is only proposed to encroach approximately 5 feet into the LBA.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.A TO PERMIT MORE THAN A 50% OVERLAP OF THE NORTH PROPERTY LINE VARIABLE LANDSCAPE BUFFER AREA AND THE PROPOSED 15 FOOT SEWER AND DRAINAGE EASEMENT. EXISTING PLANTINGS WITHIN THE LBA WILL BE PRESERVED WHERE POSSIBLE, BUT REQUIRED LBA PLANTINGS ARE REQUESTED TO BE WAIVED

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

STAFF: The waiver will not adversely affect adjacent property owners since the existing use of the property to the north of the subject site is religious/exempt (a church), and the existing church structure is located over 100 feet away from the subject site's north property line.

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

STAFF: 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. 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. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements.

The applicant is requesting to waive the required LBA plantings but preserve existing plantings and landscaping. There appears to be existing landscaping that will provide a visual buffer between the subject site and the property to the north.

(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 15 foot sewer and drainage easement is existing and there appear to be existing plantings that the applicant is proposing to preserve.

(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 15 foot sewer and drainage easement is existing and there appear to be existing plantings that the applicant is proposing to preserve.

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. Public Works' has provided preliminary plan approval.

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

STAFF: The proposed plan does not require an Outdoor Amenity Area.

- (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. 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 **Waivers**
- **APPROVE** or **DENY** the **Revised Development Plan** and **Binding Element Amendments**

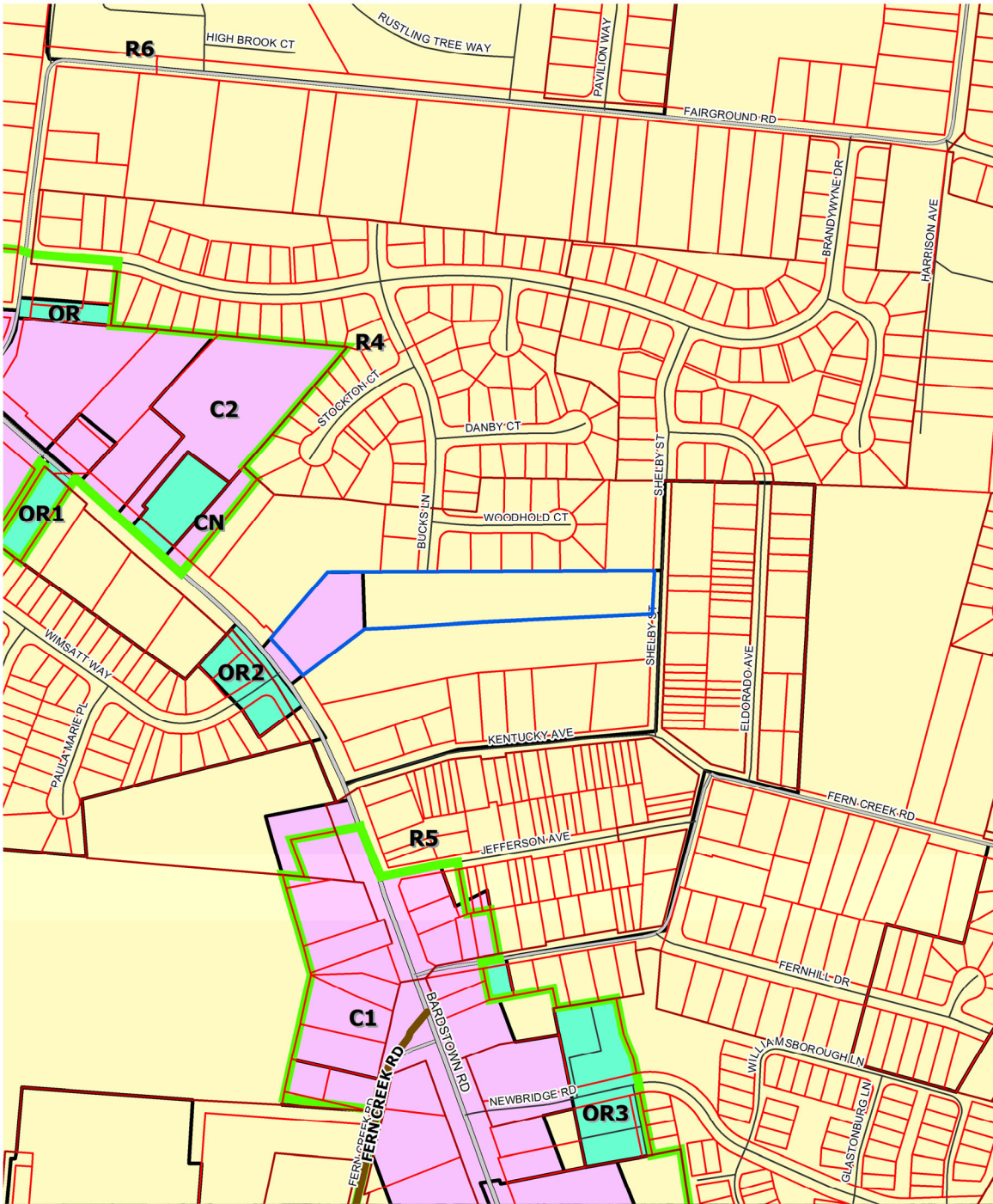
NOTIFICATION

Date	Purpose of Notice	Recipients
11-20-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

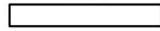
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. Zoning Map



5911 BARDSTOWN ROAD

feet



400

Map Created: 11/11/2019

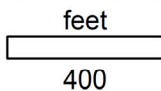


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2. Aerial Photograph



5911 BARDSTOWN ROAD



Map Created: 11/11/2019



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3. Existing 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 (and to the City of Lyndon, St. Matthews, Hurstbourne, or Middletown) for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
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. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 18, 2012 Planning Commission hearing.
8. Owners/developers shall fund the installation of traffic calming devices per the MUTCD (Manual of Uniform Traffic Control Devices) and Metro Public Works' requirements if warranted on Street A in the future.

3. 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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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 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 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. 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.
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. 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.

7. Owners/developers shall fund the installation of traffic calming devices per the MUTCD (Manual of Uniform Traffic Control Devices) and Metro Public Works' requirements if warranted on Street A in the future.