

Land Development & Transportation Committee

Staff Report

August 28th, 2104



Case No:	14DEVPLAN1089
Request:	Revised Detailed District Development Plan with Binding Element Amendments
Project Name:	Skyline Chili
Location:	340 Whittington Parkway
Owner:	Cobalt Automotive LLC
Applicant:	Matt Smith
Representative:	Land Design and Development Inc.
Jurisdiction:	Hurstbourne
Council District:	18 – Marilyn Parker
Case Manager:	Christopher Brown, Planner II

REQUEST

- Binding Element Amendment
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-2
Proposed Zoning District: C-2
Existing Form District: Town Center
Existing Use: Vacant
Proposed Use: Restaurant
Minimum Parking Spaces Required: 35
Maximum Parking Spaces Required: 86
Parking Spaces Proposed: 53
Plan Certain Docket #: 13545

The applicant is requesting to construct a proposed 4,300 SF restaurant on the subject site. The building will be 22' tall with a combination of brick, stone and EIFS per the existing general plan binding elements from Case #13545. The proposed development plan will follow the previously approved waivers and variances from Case #18563 to allow stream buffer encroachments, additional building setbacks and the location of the parking. All required parking will be provided on the site. The development plan will follow all 2006 Land Development Code requirements for landscaping.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	C-2	TC
Proposed	Restaurant	C-2	TC
Surrounding Properties			
North	Bank	C-1	TC
South	Vacant Office	C-2	TC
East	Office	C-2	TC
West	Retail/Restaurant	C-1/C-2	SMC

PREVIOUS CASES ON SITE

- 9-75-79: A change in zoning from R-9 to C-2 was approved on the subject site.
- 13545: A change in zoning was approved from OR-3 and C-1 to C-2 by the City of Hurstbourne based on a recommendation for approval from the Planning Commission for the larger development known as the Vinings. The subject site was identified as Lot 5 on the general district development plan.
- 18563: Development Review Committee recommended approval to the City of Hurstbourne for the proposed detailed district development plan with a land development code waiver and the associated changes in binding elements regarding use, access and building design. The Board of Zoning Adjustment approved variances for the building to exceed the maximum setback, encroachments into the rear yard and encroachments into the required 100' Type B stream buffer.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments

APPLICABLE PLANS AND POLICIES

2006 Land Development Code
Cornerstone 2020

STANDARD OF REVIEW FOR DEVELOPMENT PLAN 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: Landscape will be restored to the south and east with pavement being removed and the applicant will utilize bioswales along the stream side of the property with riparian plantings along Hurstbourne Creek.

- 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 both within the development and the community are followed with proper circulation on the site and connections to the existing access along the north.

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

STAFF: Sufficient open space will be provided on the site.

- 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 reviewed the plan and given preliminary approval demonstrating adequate drainage facilities are proposed on 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 overall design of the site is compatible to the surrounding commercial areas which maintain a range of intensity of uses with parkways and parking areas located along the street frontage. The building has similar materials to other buildings that exist in the area and maintains a high level of animating features as required within the traditional form districts.

- 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 the comprehensive plan with the inclusion of landscape character elements that enhance the site from its current state, a use that follows the pattern of a mix of commercial uses with differing levels of intensity, parking location that allows proper circulation from the existing access throughout the site and a building design and materials compatible to the form district.

TECHNICAL REVIEW

There are no technical review issues that need to be addressed.

STAFF CONCLUSIONS

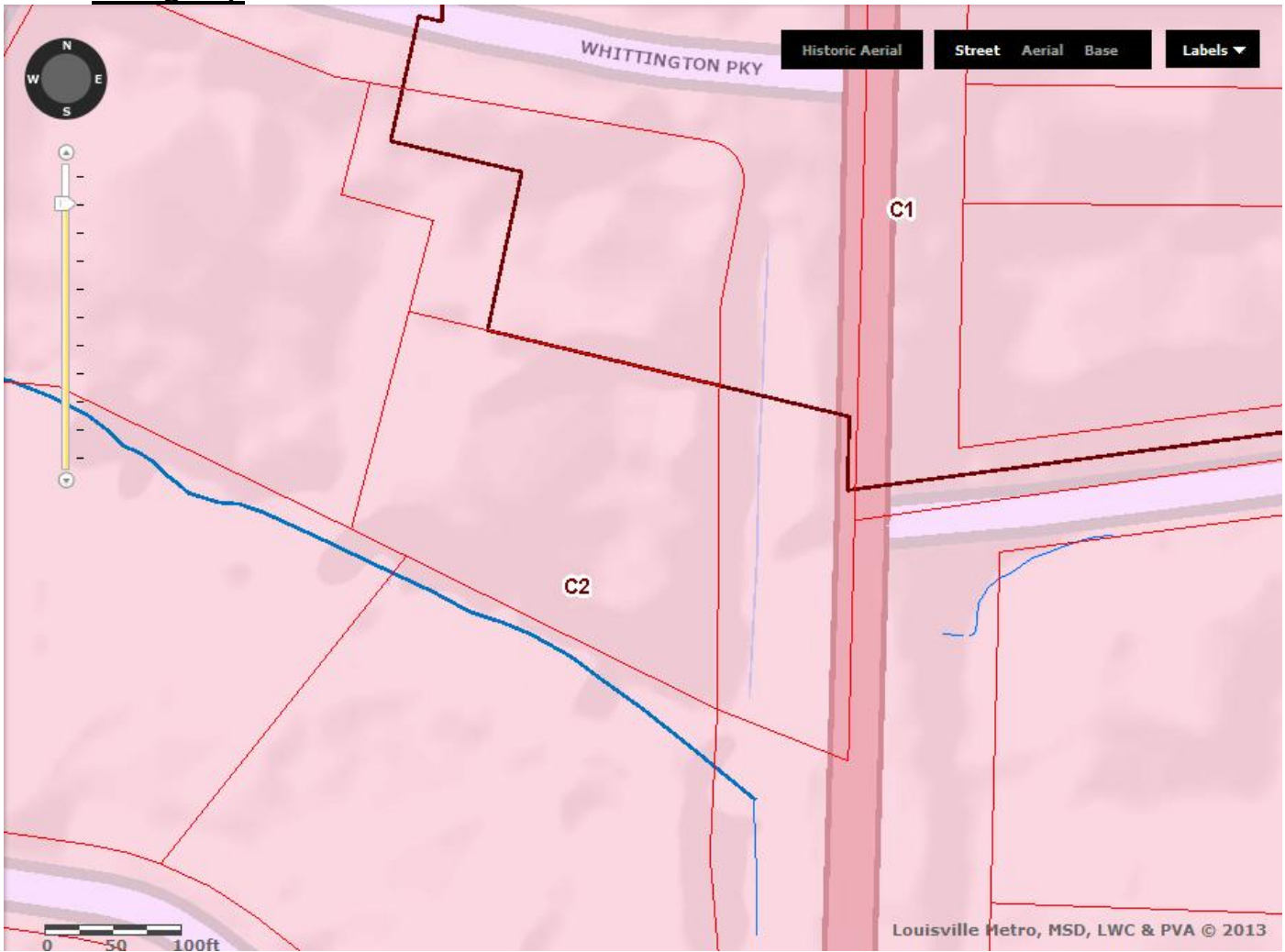
The applicant is proposing a restaurant following the Land Development Code and previous waivers and variances. The elevations follow the requirements of the 2006 Land Development Code and provide the required level of animating features. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Land Development & Transportation Committee must determine if the proposal meets the standards for the development plan as established in the 2006 Land Development Code. The action must be made as a recommendation to the City of Hurstbourne.

NOTIFICATION

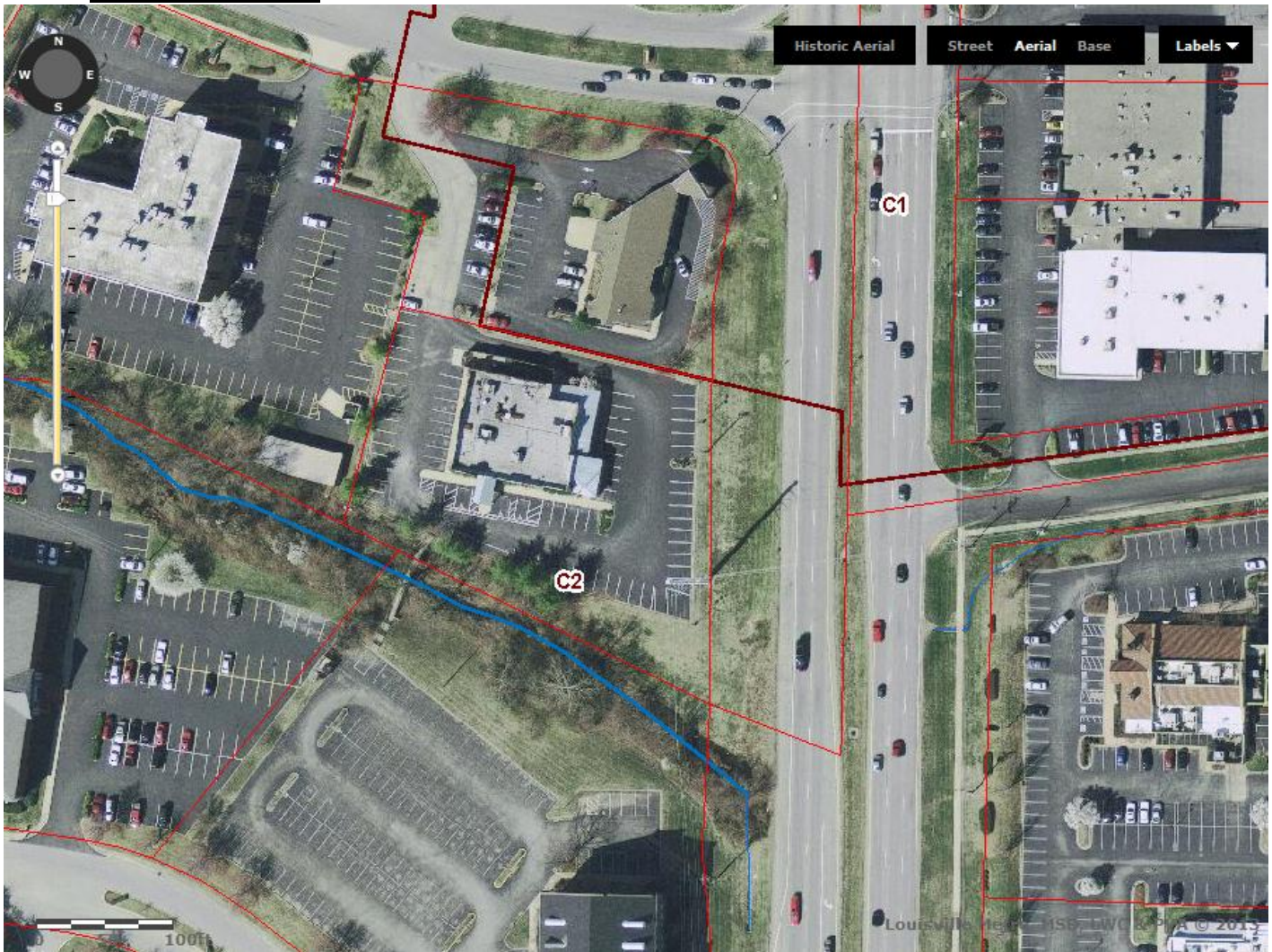
Date	Purpose of Notice	Recipients
08/14/14	Hearing before LD&T	1 st tier APO of subject property Registered Interested Parties for Council District 20 Individuals that spoke at previous public hearings

ATTACHMENTS

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements

1. Notwithstanding the use limitations contained in Binding Element 12, of Planning Commission Case Number 13545, Lot Five, as shown on the attached plan (Exhibit One) titled "The Vining Rezoning /GDDP Layout Plan"; Lot Five shall be permitted to be used for automobile sales, lease and repair, so long as the site is being used in conformance with the approved Detailed Development Plan and these additional Binding Elements.
2. Use of Lot Five on The Vining Rezoning /GDDP Layout Plan (Exhibit One), for automobile sales, lease and repair is limited to that associated with a new car, franchise dealership only. Sales of used cars and repair of any car shall be limited to that use which is ancillary to the primary use as a new car franchise dealership.
3. Car sales/rental hours of operation shall be limited to Monday-Friday, 8:00a.m. to 8:00 p.m. and on Saturday and Sunday Noon to 6:00 p.m.
4. No repairing of vehicles shall be conducted in the parking lot. No vehicle shall be located on the site for the purpose of being disassembled or "parted out" to provide parts or the repair of another vehicle.
5. No inoperable vehicles, nor vehicles with parts missing or removed, nor vehicle parts shall be located outside of the building on the site.

6. The approved construction plan for drainage and the drainage/detention structures, as well as the final landscape plan (which must include a 3 foot berm height of which to be measured from the elevation of the parking lot on the site) must also be presented and approved by the City of Hurstbourne, prior to and as a condition of any building permit application and/or for any Occupancy Permit and/or bond release. Additionally, the improvements shown on said construction plans must be fully complete prior to the application for Occupancy Permit and/or bond release.

7. The only permitted freestanding signs shall be located as shown on the Development Plan and shall be the same as that shown on the attached rendering (Exhibit Two); the attached signage shall be the same as that shown on the renderings of the building (Exhibit Three). All sign illumination shall be internal. No sign shall have more than two sides. There shall be no off-premises signs.

8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, other than the proposed free standing signage and attached signage permitted herein (Exhibit Two and Three); with the exception that the service signs shall be black in color and no larger than the smallest attached Maserati sign.

9. The auto dealership building approved for Lot Five (i.e., the site fronting on Hurstbourne Parkway located between the creek and the branch bank along Whittington Parkway) shall be designed in accordance with revised one-story building elevations produced at the Planning Commission committee meeting on 4/25/13 and the 5/14/13 Hurstbourne City Commission meeting at which this RDDDP is approved. (Exhibit Three). Any changes in any of the drawings associated with this development must receive the prior approval of the City of Hurstbourne prior to construction.

10. Dumpster shown on plan is the only dumpster allowed on the site.

11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency and the City of Hurstbourne, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with the Land Development Code, General Development Plan Binding Element #10, and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted.

12. All landscaping on the site shall be irrigated.

13. All road and parking areas must be constructed to the standard of public roadways required by Louisville Metro regulations. Cars must be parked in marked spaces, shown on the development plan and the connector road shall be kept free from parked cars.

14. Exterior lighting shall be dimmed by 50% after hours of operation.

15. The Riparian Planting Exhibit, dated 3/26/13, (attached Exhibit Four and incorporated hereto), must be fully installed, prior to requesting any Occupancy Permit, including all drainage improvement required to direct the parking lot drainage through the Bio-swale shown on the North side of the site on Exhibit Four. The Riparian plantings must be maintained and plant material that dies must be replaced with like kind plant material as soon as possible, given planting conditions.

16. At such time as a detailed district development plan (DDDP) is approved for development of the property to the south of this site, and in the event that the bridge spanning the creek is approved by the Planning Commission and/or City of Hurstbourne as part of such DDDP approval, then this property is obligated to make accommodation on its site, per its approved DDDP, for that bridge and a connection thereto. Further, at such time as a revised district development plan (RDDDP) is approved for redevelopment of either or both of the properties to the north and/or the west of this site, and to the extent that cooperation can be obtained from the other of such properties not involved in such approved RDDDP, and in the event that the existing access to

and from Whittington Parkway as respects either or both of such properties is requested by the Planning Commission and/or City of Hurstbourne as part of such RDDDP approvals to be consolidated with the one serving this property, then this property is obligated to make accommodation on its site, per its approved DDDP, and to participate with such other properties in consolidating these points of access to and from Whittington Parkway into one shared point of access.

17. 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), or development plan revisions and all landscape plans shall be submitted to the Planning Commission or the Planning Commission's designee, and to the City of Hurstbourne for review and approval; any changes/additions/alterations not so referred shall not be valid.

18. The development shall not exceed 9,586 square feet of gross floor area and the revised one-story development plan presented produced at the Planning Commission committee meeting on 4/25/13 and the 5/14/13 Hurstbourne City Commission meeting at which this RDDDP is hereby approved (Exhibit Four).

19. The Applicant, its successors and assigns, hereby consents and agrees that the City of Hurstbourne has full right and authority to take any and all appropriate direct legal action against Applicant, its successor and assigns, to enforce these binding elements and inspect the premises to determine compliance with the Binding Elements. Further, the Applicant shall sign a separate Binding Element Agreement re-stating this restrictions and no permit of any kind may be pulled unless and until said Binding Element Agreement is so signed. All binding elements and/or conditions of approval stated in this Municipal Order are accepted in total without exception by the entity requesting approval of this (these) development item(s).

4. Proposed Binding Elements

~~1. Notwithstanding the use limitations contained in Binding Element 12, of Planning Commission Case Number 13545, Lot Five, as shown on the attached plan (Exhibit One) titled "The Vining Rezoning /GDDP Layout Plan"; Lot Five shall be permitted to be used for automobile sales, lease and repair, so long as the site is being used in conformance with the approved Detailed Development Plan and these additional Binding Elements.~~

~~2. Use of Lot Five on The Vining Rezoning /GDDP Layout Plan (Exhibit One), for automobile sales, lease and repair is limited to that associated with a new car, franchise dealership only. Sales of used cars and repair of any car shall be limited to that use which is ancillary to the primary use as a new car franchise dealership.~~

~~3. Car sales/rental hours of operation shall be limited to Monday-Friday, 8:00a.m. to 8:00 p.m. and on Saturday and Sunday Noon to 6:00 p.m.~~

~~4. No repairing of vehicles shall be conducted in the parking lot. No vehicle shall be located on the site for the purpose of being disassembled or "parted out" to provide parts or the repair of another vehicle.~~

~~5. No inoperable vehicles, nor vehicles with parts missing or removed, nor vehicle parts shall be located outside of the building on the site.~~

~~7. The only permitted freestanding signs shall be located as shown on the Development Plan and shall be the same as that shown on the attached rendering (Exhibit Two); the attached signage shall be the same as that shown on the renderings of the building (Exhibit Three). All sign illumination shall be internal. No sign shall have more than two sides. There shall be no off-premises signs.~~

~~8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, other than the proposed free standing signage and attached signage permitted herein (Exhibit Two)~~

and Three); with the exception that the service signs shall be black in color and no larger than the smallest attached Maserati sign.

9. The ~~auto dealership~~ building approved for Lot Five (i.e., the site fronting on Hurstbourne Parkway located between the creek and the branch bank along Whittington Parkway) shall be designed in accordance with revised one-story building elevations produced at the ~~Planning Commission~~ **Land Development and Transportation** committee meeting on ~~4/25/13~~ **8/28/14** and the ~~5/14/13~~ Hurstbourne City Commission meeting at which this RDDDP is approved. (~~Exhibit Three~~). Any changes in any of the drawings associated with this development must receive the prior approval of the City of Hurstbourne prior to construction.

16. ~~At such time as a detailed district development plan (DDDP) is approved for development of the property to the south of this site, and in the event that the bridge spanning the creek is approved by the Planning Commission and/or City of Hurstbourne as part of such DDDP approval, then this property is obligated to make accommodation on its site, per its approved DDDP, for that bridge and a connection thereto. Further, At~~ such time as a revised district development plan (RDDDP) is approved for redevelopment of either or both of the properties to the north and/or the west of this site, and to the extent that cooperation can be obtained from the other of such properties not involved in such approved RDDDP, and in the event that the existing access to and from Whittington Parkway as respects either or both of such properties is requested by the Planning Commission and/or City of Hurstbourne as part of such RDDDP approvals to be consolidated with the one serving this property, then this property is obligated to make accommodation on its site, per its approved DDDP, and to participate with such other properties in consolidating these points of access to and from Whittington Parkway into one shared point of access.

18. The development shall not exceed ~~9,586~~ **4,300** square feet of gross floor area and the revised one-story development plan presented produced at the ~~Planning Commission~~ **Land Development and Transportation** committee meeting on ~~4/25/13~~ **8/28/14** and the ~~5/14/13~~ Hurstbourne City Commission meeting at which this RDDDP is hereby approved (~~Exhibit Four~~).