

Development Review Committee

Staff Report

October 30, 2019



Case No.	19-AMEND-0002
Project Name	Mortenson Family Dental
Location	3701 Hopewell Road
Owner	John K. Gutterman
Applicant	Smart LED Signs & Lighting
Representative	Frost Brown Todd LLC
Jurisdiction	Louisville Metro
Council District	20 – Stuart Benson
Case Manager	Beth Jones, AICP, Planner II

REQUEST

AMENDMENT of Binding Element #14

CASE SUMMARY/BACKGROUND

The applicant is requesting an amendment to a Binding Element associated with the rezoning of the property at 3701 Hopewell Road (Case #09-042-90). Binding Element 14 included restrictions on sign types to be used on the building by the tenant occupants. In 2008, a permit inconsistent with the Binding Element restrictions was issued to a tenant for an LED changing image sign. According to the applicant, noncompliant cabinet-style signs have also been permitted and installed. These signs remain in place and in use.

The requested amendment will bring the existing signs into compliance with the Binding Element; these signs are compliant with current LDC regulations for the property use and form district.

Current LDC regulations limit the number of changing image signs to one per property. One freestanding sign (existing) and one attached sign per business per façade are also permitted. Regulations would not permit a changing image sign to be mounted on the front face of the existing structure due to the proximity of existing residential uses. Any future signage on the site must meet regulations in place at the time a permit is requested.

STAFF FINDING

Staff finds the requested amendment to the Binding Elements justified.

TECHNICAL REVIEW

The existing signs on the site are the subject of enforcement action. No additional technical issues remain.

The Binding Element amendment is as follows:

14. The buildings, including 42” high entrance wall, shall be constructed using the architectural design features shown on the rendering submitted to the LD&T Committee on June 28, 2001. Building materials, including the rear façade, shall be brick and stone or masonry-type material or a combination thereof using earth-tone-type colors. No backlit awnings shall be permitted. ~~Attached signage shall be restricted to channel-cut letter signs.~~

INTERESTED PARTY COMMENTS

No comments have been received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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: No apparent natural resources exist on the subject site, which is already developed.

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

STAFF: No changes to existing vehicular or pedestrian circulation are associated with this request.

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

STAFF: No open space requirements are associated with the amendment request.

- (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: No changes in existing drainage facilities on the subject site are associated with this request.

- (e) The compatibility of the land use or uses and the overall site design, including the location of buildings, parking lots, screening and landscaping, with the existing and projected future development of the area;

STAFF: While the existing signs on the site do not comply with the Binding Elements, they do comply with current LDC regulations.

- (f) Conformance of the development plan with Plan 2040 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 requested binding element modification conforms to applicable guidelines and policies of the Plan 2040 and to requirements of the Land Development Code. The intent of the

Binding Element is to bring existing signs on the site, all of which are permitted under current LDC standards, into compliance with the Binding Elements for the site.

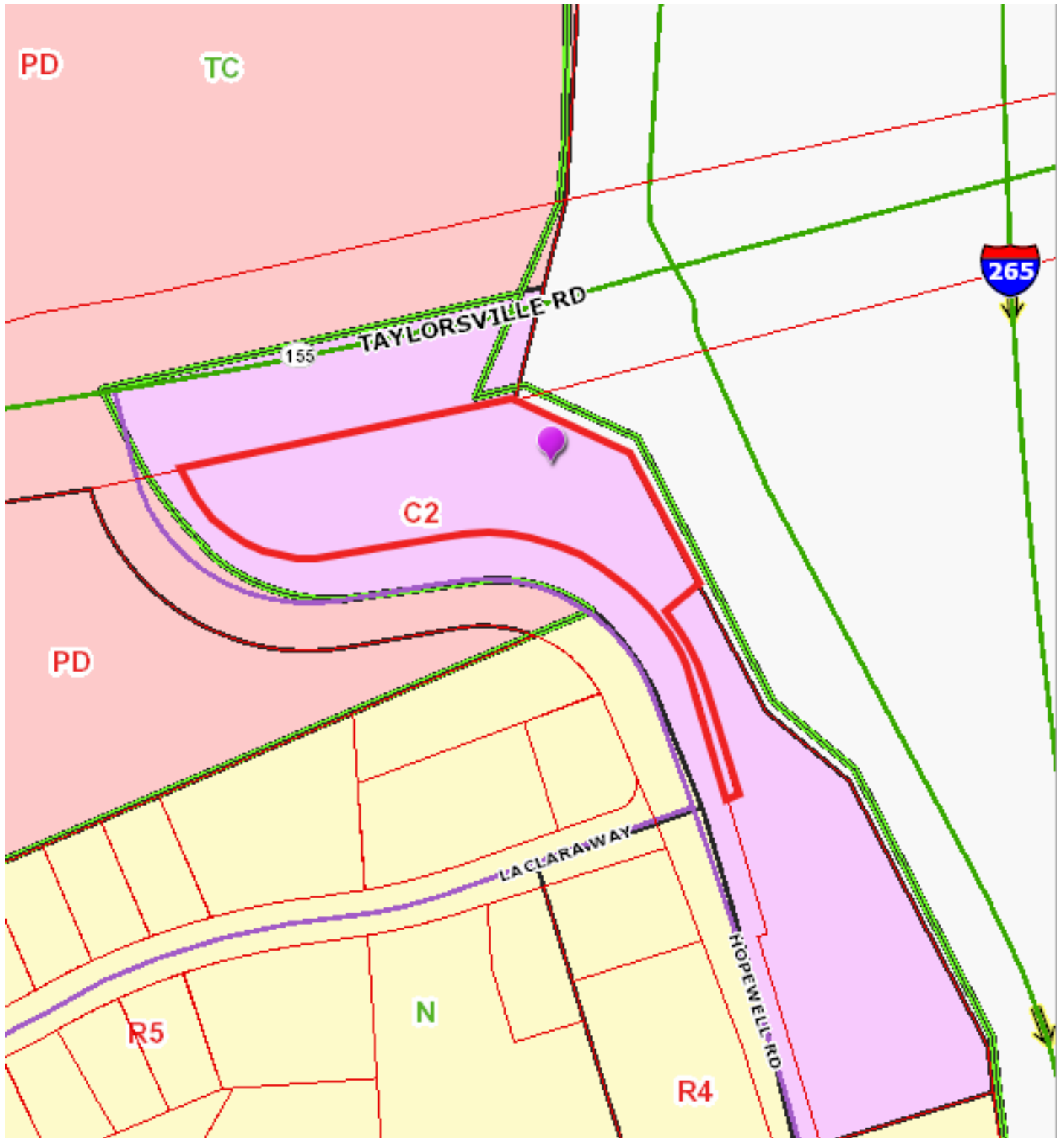
NOTIFICATION

Date	Purpose of Notice	Recipients
10/11/2019	Notice of DRC Meeting	1st tier adjoining property owners Registered Neighborhood Groups in Council District 20 Sign Posting

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements

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, or alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 11,088 square feet of gross floor area (a 2,938 square foot dental office, 4,130 square feet of retail and a 4,020 square foot restaurant).
3. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan/sign plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than five feet to front property line. The sign shall not exceed 60 square feet in area per side and six feet in height. No sign shall have more than two sides.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have 90-degree cutoff and height of the light standards shall be set so that no light source is visible off-site.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3 feet 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.
7. 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.
8. If a 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.
9. A certificate of occupancy must be received from the appropriate code enforcement agency 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.
10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
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 the 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 dumpster shall not be emptied between the hours of 10 PM and 8 AM.
14. The buildings, including 42" high entrance wall, shall be constructed using the architectural design features shown on the rendering submitted to the LD&T Committee on June 28, 2001. Building materials, including the rear façade, shall be brick and stone or masonry-type material or a combination thereof using earth-tone-type colors. No backlit awnings shall be permitted. Attached signage shall be restricted to channel-cut letter signs.
15. The hours of operation shall be restricted to 6:00 a.m. to 11:00 p.m.
16. Landscaping along the property lines subject to the parkway policies shall contain twice the amount of trees required by parkway policies, resulting in 1 tree per 25 feet.
17. The only permitted uses shall be uses permitted in the C-1 District, except for the balance of the site only which is not a part of the revised district development plan considered herein, which may remain a nursery/garden center under the originally approved plan.

4. Proposed Binding Elements

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, or alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
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