

Development Review Committee

Staff Report

August 14, 2019



Case No:	19DEVPLAN1098 and 19-WAIVER-0024
Project Name:	Popeye's
Location:	2618 W Broadway
Owner(s):	Sandra J. Metts
Applicant:	Sandra J. Metts
Jurisdiction:	Louisville Metro
Council District:	6 – David James
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Waiver** of Land Development Code section 5.5.1.A.3.a to allow the existing parking to remain in front of the proposed building
2. **Revised Detailed District Development Plan with Binding Element Amendment**

CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 Commercial in the Town Center form district. It is located south of W Broadway and west of the S 26th Street intersection. It is surrounded on the same side of Broadway by other C-1 zoned properties, and on the opposite side of the street is mostly C-1 with a section of OR-2 parcels. The subject site is currently a vacant Burger King restaurant, which the applicant is proposing to demolish and construct a 2,475 square foot Popeye's Louisiana Kitchen.

Previous cases:

- 9-93-83: Change in zoning from M-2 and M-3 Industrial to C-1 Commercial

The applicant is proposing to remove four (4) mature street trees along W Broadway, which requires a permit. The Land Development Code requires that three (3) trees be planted along the frontage.

Per Public Works' request, staff recommends the addition of Binding Element #9:

9. Upon development or redevelopment of adjacent properties, a unified access and circulation system shall be developed to eliminate preexisting curb cuts and provide for vehicular movement through adjacent sites as determined appropriate by the Department of Public Works.

STAFF FINDINGS

The plan and waiver are adequately justified and meet the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary plan approval.

INTERESTED PARTY COMMENTS

Staff received a letter in support of the proposal from District 6 Councilman David James. The letter is included in the case file.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.5.1.A.3.a TO ALLOW THE EXISTING PARKING TO REMAIN IN FRONT OF THE PROPOSED BUILDING

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

STAFF: The waiver will not adversely affect adjacent property owners since the subject site is located in a commercial area, internal to a shopping center.

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

STAFF: Land Use & Development Goal 2, Policy 14 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Land Use & Development Goal 2, Policy 15 states that parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Land Use & Development Goal 1, Policy 4 states that the proposal ensures new development and redevelopment are compatible with the scale and design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects.

The Town Center form district does not permit parking between the façade of the building and the right-of-way. However, there are several instances of this occurring within the vicinity of the subject site. This includes the other parking areas internal to the shopping center where the subject site is located, such as the abutting Kroger parking lot and the McDonalds parking lot on the other side of Kroger. On the north side of W Broadway, other examples include a parcel occupied by Taco Bell (2801 W Broadway), and shopping center (2721 W Broadway) where the parking areas are located between the building(s) and street.

Additionally, the parking area on the subject site is existing. The applicant is proposing to preserve just the section of parking spaces on the subject site that are between the building and the street. The remainder of the lot is proposed to be reconfigured to accommodate the new Popeye's restaurant.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there are several other instances in the vicinity of the subject site of parking lots existing between the building and the street, and the spaces for which the applicant is requesting the waiver are existing.

- (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 there are several other instances in the vicinity of the subject of parking lots existing between the building and the street, and the spaces for which the applicant is requesting the waiver are existing. Additionally, the applicant's proposal is to redesign the parking on the remainder of the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND BINDING ELEMENT AMENDMENTS

- (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 are 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 has provided preliminary plan approval.

- (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.

- (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 Detailed District Development Plan and Binding Element Amendments**

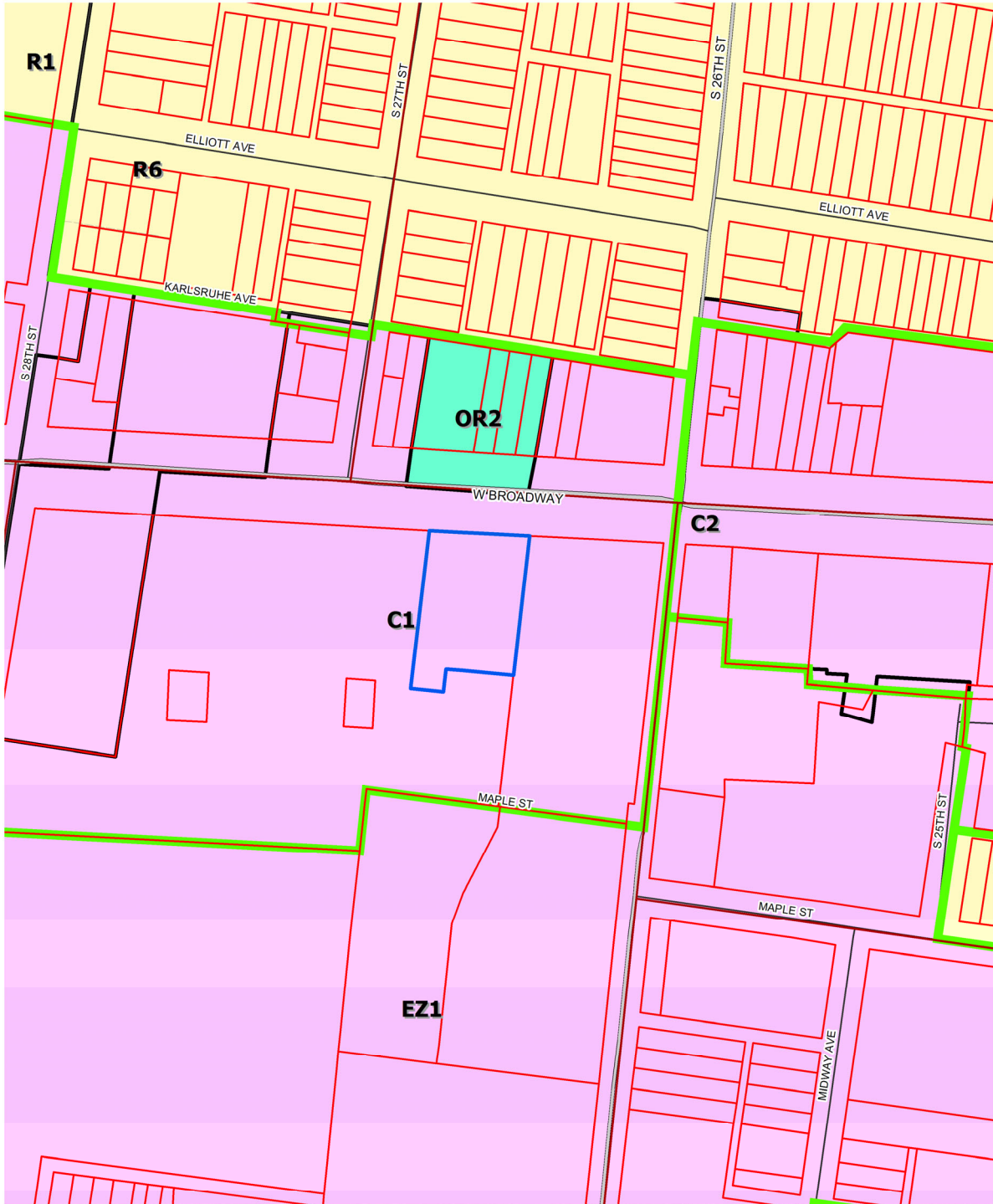
NOTIFICATION

Date	Purpose of Notice	Recipients
8-14-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 6

ATTACHMENTS

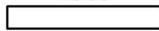
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. Zoning Map



2618 W BROADWAY

feet



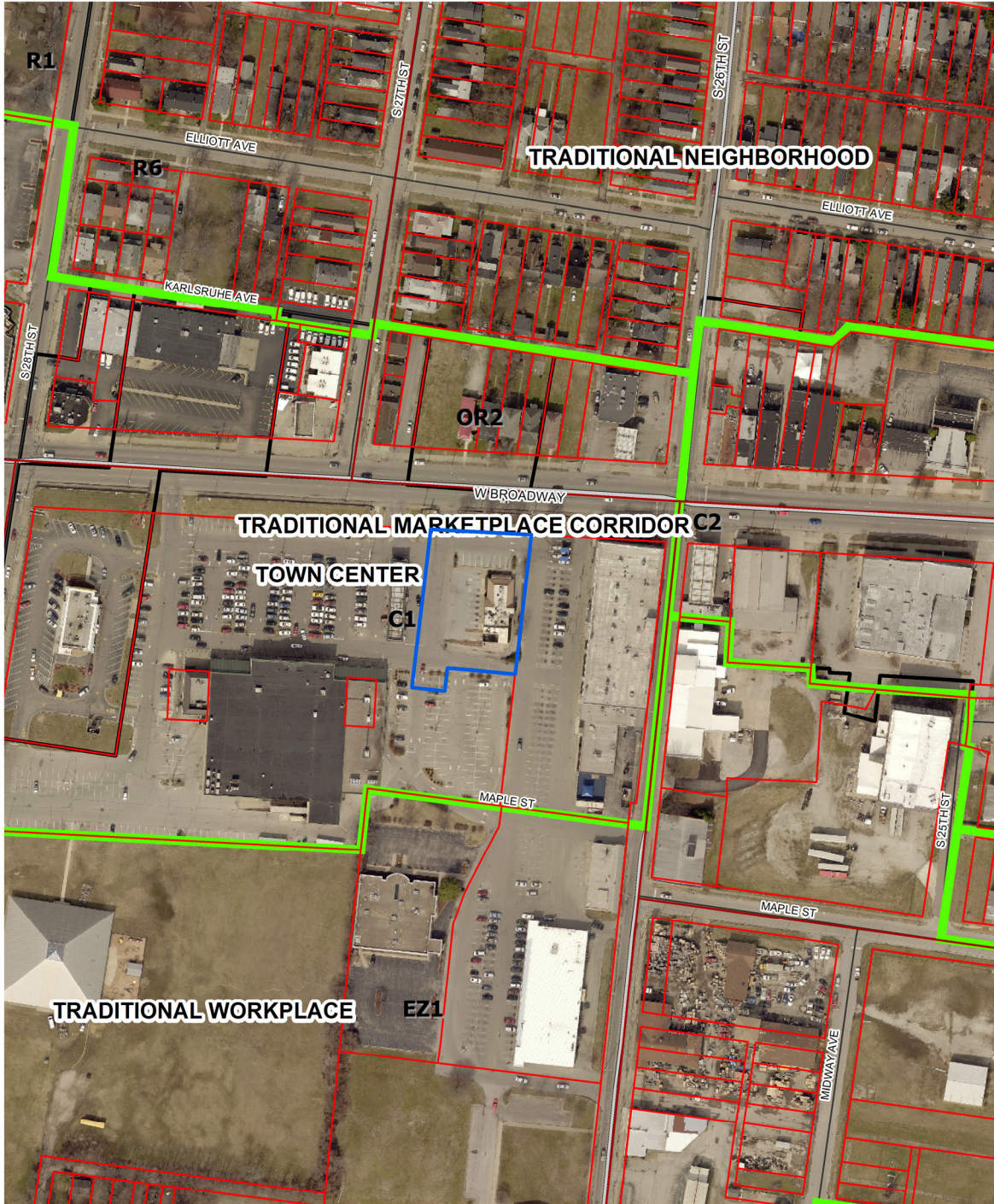
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Map Created: 7/24/2019

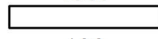


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2. Aerial Photograph



2618 W BROADWAY
feet



190
Map Created: 7/24/2019



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3. Existing Binding Elements

- ~~1. The development will be in accordance with the approved district development plan. No further development will occur.~~
- ~~2. The development shall not exceed 72,039 square feet of gross floor area.~~
- ~~3. Before building permits are issued:
 - ~~a. The development plan must be reapproved by the Water Management Section of the Jefferson County Public Works and Transportation Cabinet and the City of Louisville Department of Public Works.~~
 - ~~b. The size and location of all business identification signs must be approved by the Planning Commission. Business and shopping center identification signs must be approved by the Planning Commission. The Planning Commission may require that signs be smaller than would be otherwise permitted by the Zoning District Regulations.~~~~
- ~~4. If building permits are 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 extension is granted by the Planning Commission.~~
- ~~5. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of any structure or land for the proposed use.~~
- ~~6. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

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 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. 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. 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.

9. Upon development or redevelopment of adjacent properties, a unified access and circulation system shall be developed to eliminate preexisting curb cuts and provide for vehicular movement through adjacent sites as determined appropriate by the Department of Public Works.