

# Development Review Committee

## Staff Report

Date: February 16, 2022



<b>Case No:</b>	21-WAIVER-0162, 21-WAIVER-0163 & 22-WAIVER-0003
<b>Project Name:</b>	Proposed McDonalds
<b>Location:</b>	2961 Breckenridge Lane
<b>Owner(s):</b>	Joe & Mary Jo Bauer Family
<b>Applicant:</b>	Bill Terry – Weihe Engineers, Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	26 – Brent Ackerson
<b>Case Manager:</b>	Molly Clark, Planner I

### REQUEST(S)

- **Waivers:**
  1. **Waiver from 5.5.2.B.1.a of the Land Development Code to not provide a require vehicular connection to an adjacent non-residential use. (21-WAIVER-0162)**
  2. **Waiver from 5.6.1.C.1 of the Land Development Code to not provide 50% clear windows and doors for façade facing the public Right-of-way (21-WAIVER-0163)**
  3. **Waiver from table 10.2.6 of the Land Development Code to provide a 10 FT VUA/LBA instead of the required 15 FT.(22-WAIVER-0003)**

### CASE SUMMARY/BACKGROUND

These waivers are related to a category 2B case under 20-CAT2-0037. The entire site is zoned C1 Commercial zoning district with a small portion of C2 Commercial zoning district with the Regional Center form district.

### STAFF FINDING

The requests are adequately justified and meet the standard of review.

### TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

### INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of sections 5.5.2.B.1.a to not provide vehicular connection between parking lots of abutting developments:

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

STAFF: The waiver will not adversely affect adjacent property owners since this McDonalds has existed for decades. There are also other ways to maneuver around the shopping center to get from one business to another without taking Breckenridge Lane.

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

STAFF: Community Form Goal 2, Policy 14 calls to encourage adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Mobility Goal 2, Policy 6 calls to ensure that the internal circulation pattern for streets within a development be designed with an appropriate functional hierarchy of streets and appropriate linkages with existing and future development. Mobility Goal 3, Policies 1-5, 9, 12, 17, 18, 20 call to provide transportation services and facilities to promote and accommodate growth and change in activity centers through improved access management. If this new connection is made it is removing greenspace on the development and replacing it with impervious surfaces. There are already many ways to travel through the shopping center without the required connection. Ensure that transportation facilities of new developments are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Where appropriate, provide at least one continuous roadway through the development to tie all local access roads or parking areas to the arterial street system. Adequate stub streets and pedestrian connections should be provided by developments. Require cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. Minimize access points, connections and median openings within 1/4 mile of an interchange area to reduce safety hazards and improve flow of traffic onto and off the interchange. Promote joint access and circulation systems for development sites comprised of more than one building site or lot.

- (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 are already other ways to maneuver within the shopping center to get from the proposed McDonalds and existing gas station. There would also need to be the removal of mature plantings in order to create this connection.

- (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 create an unnecessary hardship on the applicant because in order to create a vehicular connection, a lot of mature plantings will need to be removed in order to do so. There are also other ways to maneuver within the shopping center that can bring the customer to the gas station without creating this connection.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.5.2.B.1 & C.1 to waive the 50% clear windows and doors affording into the business for facades facing public ROW:**

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

STAFF: The requested waiver will not adversely affect adjacent property owners, the applicant is meeting all the other requirements. They are providing all the landscaping plantings in the remaining landscape buffers that will provide visual interest and screening for the facades that do not meet the Land Development Code.

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

STAFF: Guideline 1, policy 4 of Plan 2040 mentions that new development should be compatible with scale and site design of nearby existing development. They are asking for the building design waiver regarding windows being less than 50% but will still be providing some clear windows and doors for around the areas that will have the primary customer entrance. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the façade facing Breckenridge Lane part of the drive thru queuing. The applicant is also providing all the required plantings along Breckenridge Lane that will help screen and bring visual interest to this side of the building.

- (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 applicant has incorporated other design measures that compensate for non-compliance with the requirements to be waived but providing all the required plantings in the remaining landscape buffers that will help screen and provide visual interest to the building façades that don't meet the Land Development Code.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from table 10.2.6 to reduce the required 15 FT VUA/LBA as shown on the development plan.**

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant is still providing all the required plantings along Breckenridge Lane frontage.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site 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. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The applicant is providing the required amount of plantings along the frontage of Breckenridge Lane within the reduced VUA/LBA.

- (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 does not have enough room on the site to provide a 15 ft buffer.

- (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 because the applicant has limited room on the site to provide a 15 ft VUA/LBA. The applicant is still providing all the required plantings in the reduced VUA/LBA.

### **REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **WAIVER 5.5.2.B.1.a** of the Land Development Code to not provide a require vehicular connection to an adjacent non-residential use. **(21-WAIVER-0162)**
- **APPROVE** or **DENY** the **WAIVER 5.6.1.C.1** of the Land Development Code to not provide 50% clear windows and doors for façade facing the public Right-of-way. **(21-WAIVER-0163)**
- **APPROVE** or **DENY** the **WAIVER table 10.2.6** of the Land Development Code to provide a 10 FT VUA/LBA instead of the required 15 FT. **(22-WAIVER-0003)**

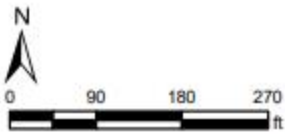
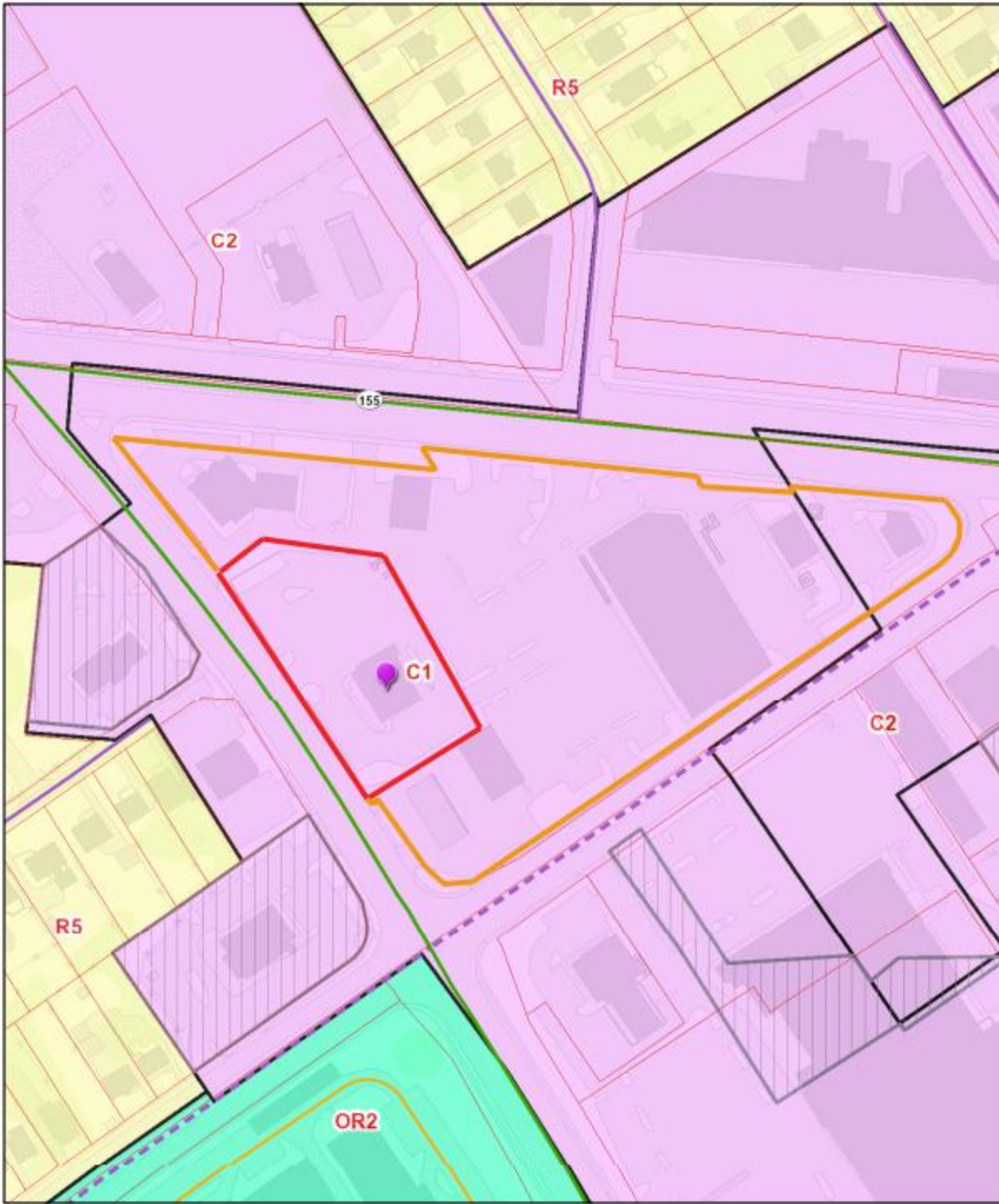
### **NOTIFICATION**

Date	Purpose of Notice	Recipients
1-31-22	Hearing before 2-16-22	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 26

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



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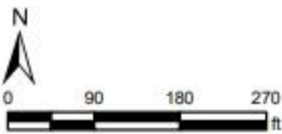


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2. Aerial Photograph



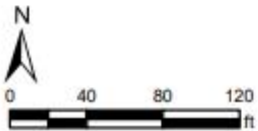
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