

# Development Review Committee

## Staff Report

October 14, 2015



<b>Case No:</b>	15DEVPLAN1132
<b>Project Name:</b>	CVS/Pharmacy
<b>Location:</b>	3708 Bardstown Road
<b>Owner:</b>	Kennedy-Ellis Properties, LLC.
<b>Applicant:</b>	Five Star Development – Nate Welch
<b>Representative:</b>	Foresite Group – Parker Ross
<b>Project Area/Size:</b>	2.97 acres
<b>Existing Zoning District:</b>	C-1 & C-2, Commercial
<b>Existing Form District:</b>	SMC, Suburban Marketplace Corridor
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	10 – Steve Magre
<b>Case Manager:</b>	Joel P. Dock, Planner I

### REQUEST

- Waiver from the Land Development Code (LDC), section **5.6.1.C**, to not provide clear windows and doors on 50% of the wall surfaces at street-level.
- Waiver from the land Development Code (LDC), section **10.2.4.B**, to allow a utility easement to encroach more than 50% into the Landscape Buffer Area along Bardstown Road.

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is located at the intersections of Bardstown Road, Buechel Bypass, and Hikes Lane, having vehicular access to both Bardstown Road and Hikes Lane.

The applicant is proposing an 11,945 sq. ft. retail/pharmacy with drive-thru. Parking is provided along the Hikes Lane and Bardstown Road frontages with the drive-thru service, loading area, and dumpster adjacent Buechel Bypass. As shown on the exterior elevations the façades along Bardstown Road and Hikes lane provide windows and doors meeting the 50% wall surface requirement. The customer entrance has been placed at a diagonal connecting the two façades and facing the corner. The Buechel Bypass exterior is being utilized by necessary loading and waste facilities which occupy much of the wall's area. The remainder is utilized by the pharmacy drive-thru window and queuing. A solitary window section is provided along the Buechel Bypass exterior next to the pharmacy window. For these reasons a waiver is required along this street to not provide clear windows and doors on 50% of the wall surfaces at street-level.

The necessity for the waiver to allow a utility easement to encroach more than 50% into the LBA arises from an existing sewer easement (DB 3477, PG 211) along the Bardstown Road frontage.

The subject site has a Category 2B Review pending based on the outcome of this waiver request.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	<b>Land Use</b>	<b>Zoning</b>	<b>Form District</b>
<b>Subject Property</b>			
<b>Existing</b>	Gas station/retail	C-1/C-2	SMC
<b>Proposed</b>	Retail/pharmacy	C-1/C-2	SMC
<b>Surrounding Properties</b>			
<b>North</b>	Restaurant/retail/service station	C-1/C-2	SMC
<b>South</b>	Mixed Commercial/residential	C-1/C-2	SMC/TC
<b>East</b>	Commercial	C-1/C-2	SMC/TC
<b>West</b>	Retail/mixed commercial	C-1/C-2	SMC

**PREVIOUS CASES ON SITE**

N/A

**INTERESTED PARTY COMMENTS**

Staff has not received any interested party comments to date.

**APPLICABLE PLANS AND POLICIES**

Cornerstone 2020  
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER of section 5.6.1.C to not provide clear windows and doors on 50% of the wall surfaces at street-level.**

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

STAFF: The waiver will not adversely affect adjacent property owners as the proposal is located at a commercial intersection and surrounded by a mix of commercial uses.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver would not violate specific guidelines of Cornerstone 2020 as Guideline 3; Policy A.1 & A.2 is to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development, as well as compatibility with the building materials of the surrounding uses. The proposal satisfies these policies.

- (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 as the building's design with respect to windows and doors is a function of the internal uses of the structure, specifically the security, storage, and receiving of merchandise including pharmaceuticals.

- (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 land or create an unnecessary hardship as the site is located at an intersection of mixed commercial uses with buildings of similar design and material.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.4 to allow a utility easement to encroach more than 50% into the landscape buffer area along Bardstown Road.**

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

STAFF: The waiver will not adversely affect adjacent property owners as the sewer easement is existed prior to this development proposal and LBA is being provided as required.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The proposed waiver is necessary to provide landscaping as required and fulfill listed guidelines and policies.

- (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 as the sewer easement existed prior to development.

- (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 create an unnecessary hardship as the sewer easement existed prior to this development proposal and the applicant is providing the LBA as required.

**TECHNICAL REVIEW**

Preliminary approval has been received from Metropolitan Sewer District and Transportation Review.

**STAFF CONCLUSIONS**

The proposed waiver appears to be adequately justified. Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving the waivers.

**REQUIRED ACTION**

- **APPROVE** or **DENY** the waiver of LDC section **5.6.1.C** to not provide clear windows and doors on 50% of the wall surfaces at street-level.
- **APPROVE** or **DENY** the waiver of LDC section **10.2.4.B** to allow a utility easement to encroach more than 50% into the Landscape Buffer Area along Bardstown Road.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
10/2/15	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered neighborhood groups

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



