

Planning Commission

Staff Report

March 15, 2018



Case No:	17DEVPLAN1237
Project Name:	Mellwood Art Center
Location:	300 Delmont Ave
Owner(s):	1860 Mellwood, LLC
Applicant:	Mose Putney, Putney Architecture
Representative:	Mose Putney, Putney Architecture
Jurisdiction:	Louisville Metro
Council District:	9 - Bill Hollander
Case Manager:	Laura Mattingly, AICP, Planner II

REQUEST(S)

- Waiver of 5.8.1.B to not provide a sidewalk along Delmont Avenue and Bertie Avenue
- Parking Waiver to reduce the number of spaces from 242 to 145
- Detailed District Development Plan with Binding Elements

CASE SUMMARY/BACKGROUND

This case was continued from the February 8, 2018 meeting of the Development Review Committee. The subject site is located on the south side of Mellwood Avenue in the Clifton Heights neighborhood. The Mellwood Art Center is an existing event space with artist studios, galleries, and shops. The applicant is proposing to re-use what is currently the Bunberry Theatre for event space with a 6,861 square foot addition and 5,900 square foot outdoor patio. Parking is located in front of the structure, as well as on the opposite side of Mellwood Avenue and is shared with the Art Center's current space.

Previous Cases:

9-63-03: Change in zoning from R-5B, R-6, M-1, M-2 & M-3 to C-1 & C-2 on 21.272 acres. Approved by Planning Commission on February 5, 2004. Revised plan and Landscape Waiver approved by Land Development & Transportation Committee on May 12, 2005.

17DEVPLAN1142: Revised Detailed Development Plan for Phase 3, parking lot expansion. Staff Approved on September 30, 2017.

STAFF FINDING

Staff finds that the revised detailed district development plan and sidewalk waiver appear to be adequately justified and meet the standard of review based on the staff analysis. The parking waiver does not meet the standard of review due to lack of information. The applicant needs to submit a parking study in order to determine if the waiver is justified.

TECHNICAL REVIEW

- Applicant has not submitted the parking study as of March 8, 2018.
- Applicant needs to correct parking calculations on the plan.
- Transportation has the following outstanding issues:

- Review needed of the parking study
- Dedication of right-of-way required (or administrative waiver granted)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 5.8.1.B to not provide a sidewalk along Delmont Avenue and Bertie Avenue:

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

STAFF: The waiver will not adversely affect adjacent property owners as there is an existing sidewalk on the opposite side of Delmont Avenue that serves the development. Bertie Avenue does not connect to any other right of way and dead ends behind the subject site, making a sidewalk in this location unwarranted.

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

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. These guidelines are not violated, as existing sidewalks along the site frontage and the east side of Delmont Avenue give pedestrian access to the development and provide pedestrian connectivity along Mellwood Avenue.

- (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 as the existing topography makes the addition of sidewalks along Delmont difficult and costly. Additionally, Bertie Avenue is mostly unimproved, making a sidewalk in this location unreasonable.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING REDUCTION WAIVER

- (a) The Parking Waiver is in compliance with the Comprehensive Plan; and

STAFF: Guideline 7 Policy 10 states that parking requirements should take into account the density and relative proximity of residences to businesses in the market area, the availability and use of alternative modes of transportation, and the character and pattern of the form district. Additional considerations including hours of operation and opportunities for shared parking may be factored on a site by site basis. On-site parking standards should reflect the availability of on-street and public parking. These guidelines are not violated as the site is located in an urban area with nearby transit access along Frankfort Ave. Additionally, the various uses that operate within the center have different peak times, resulting in a lower need for parking overall.

- (b) The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions; and

STAFF: The applicant made a good faith effort to provide as many parking spaces as possible on the site, on other property under the same ownership, or through joint use provisions as parking is proposed in all of the available space on the site. The parking area directly across

Mellwood is part of the development but could not be counted because no pedestrian access currently exists.

- (c) The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use; and

STAFF: The applicant applied all possible parking reductions for the site resulting in the smallest possible reduction for the requested waiver.

- (d) Adjacent or nearby properties will not be adversely affected; and

STAFF: Adjacent or nearby properties may be adversely affected as the streets in this area are narrow and overflow parking could potentially be located within these neighborhoods.

- (e) The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use; and

STAFF: The requirements found in Table 9.1.2 do not accurately depict the parking needs of the proposed use and the requested reduction will accommodate the parking demand to be generated by the proposed use as this is an adaptive reuse of a large warehouse. The gross square footage which the parking requirement is calculated on does not accurately represent the area of the building that is utilized for the proposed use.

- (f) That there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand;

STAFF: The area does have street parking available in the neighborhood to the south and east, although it is not clear if there is enough surplus to meet parking demand as no parking study has been submitted. Additionally the width of the streets may not be enough to accommodate street parking, creating an adverse impact for neighbors.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- 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: LOJIC has not identified any significant natural resources on site. The site is already mostly developed and none of the existing trees will be affected.

- 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 appear to have been provided through the existing roadway connections and appropriately place sidewalks.

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

STAFF: There is no requirement for open space for this 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 must approve 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 appear compatible with the existing and future development of the area. Most of the proposal already exists and the change in use with the small addition will put a use to an underutilized building.

- 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 generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the sidewalk waiver, which appears justified.

REQUIRED ACTIONS

- APPROVE or DENY the Waiver of 5.8.1.B to not provide a sidewalk along Delmont Avenue and Bertie Avenue
- APPROVE or DENY the Parking Waiver to reduce the required spaces from 242 to 145
- APPROVE or DENY the Detailed District Development Plan

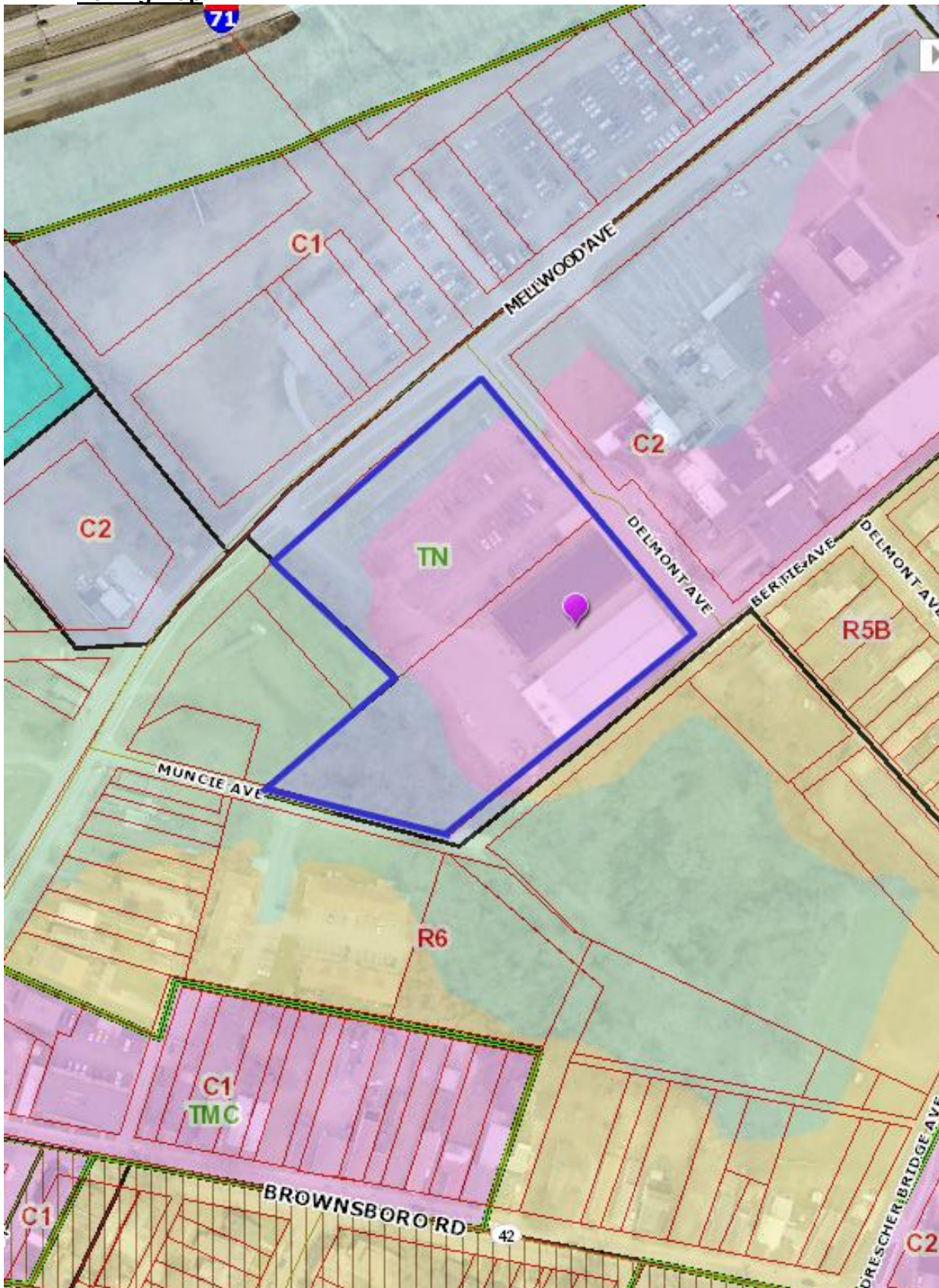
NOTIFICATION

Date	Purpose of Notice	Recipients
1/30/18	Hearing before DRC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 9
2/27/18	Hearing before Planning Commission	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 9

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. **Existing Binding Elements**

All binding elements from the approved General Development Plan (9-63-03) are applicable to this site, in addition to the following:

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 designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. All uses permitted and conditional uses in the C-1 zoning regulations shall be permitted on this site. Only C-2 Conditional uses and the following C-2 permitted uses will be allowed by binding element:
 - Billiard parlors; game rooms and similar entertainment uses
 - Contractor's shop, including but not limited to building, electrical, HVAC, landscape, and plumbing contractors, provided all operation are confined within a building.
 - Dance halls,
 - Dancing instruction
 - Engraving, watchmaking, and jewelry manufacturing, where products are sold on premises
 - Equipment rental, where all activities are within a building
 - Exposition building or center
 - Flea market
 - Indoor paint ball
 - Music and vocal instructions
 - Printing, lithographing, or publishing establishments, if constructed to ensure that there is no noise or vibration evident outside the walls of the building
 - Restaurants, where food and drink may be served or consumed, where dancing or entertainment is allowed, outside as well as inside a building, including drive-in restaurants where all or part of the service or consumption is inside a vehicle
 - Retail or wholesale stores or businesses are not involving any kind of manufacture, processing or treatment of products other than that which is clearly incidental to the business conducted on the premises, and provided that not more than fifty (50) percent of the floor area of the building is used in the manufacture, processing, or treatment of products, and that such operation or products are not objectionable due to noise, odor, dust, smoke, vibration, or other similar causes
 - Sign painting
 - Taverns, bars and saloons and lounges, and restaurants identified by signs as a "tavern", "bar", "saloon", "lounge" or similar designation
 - Theaters, enclosed within a building
 - Trade schools

Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The LD&T Committee may require a public hearing on the request to amend this binding element.

3. The development shall not exceed 360,000 square feet of gross floor area.
4. Signs shall be in accordance with Chapter 8.
5. No outdoor advertising signs shall be permitted on the site.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Any necessary variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan prior to parking being constructed in required yards.
 - c. 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. Shall be installed prior to utilizing the outdoor entertainment area or new parking areas.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
8. If a certificate of occupancy is not issued within one year of the date of approval of the plan or rezoning, whichever is later, 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. The parking lots on the north side of Mellwood are being built in phases and will have 3 years from the date of the approved plan to receive construction permits.
9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for any proposed new 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. Existing uses excluded.

10. 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.
11. The materials and design of façade changes shall be consistent with the concept rendering(s) entitled “ Preliminary Conceptual Drawing Only” presented at the February 5, 2004 Planning Commission meeting (Pedestrian walkway over Mellwood is not included in the proposal). Façade changes other than maintenance or repair of the existing structure shall be submitted to the Urban Design Administrator of Planning & Design Services for review and approval. If the Urban Design Administrator determines that a proposed façade change is a significant change from the concept rendering, the Administrator may require review by the Planning Commission, LD&T, or DRC. The Administrator shall provide notice of the review meeting in accordance with Category 3 notice procedures. The applicant shall provide renderings/plans to the Clifton Heights and Butchertown Neighborhood associations at the time they submit them to Planning and Design Services.
12. No idling of trucks shall take place within 200 feet of single-family residences.
13. The applicant shall provide documentation showing that the development complies with all the regulations from **Chapter 4, Part 1, Section 3**, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
 - a. Mounting Height Limit
 - b. Luminaire Shielding
 - c. Canopy Lighting Level
 - d. Light Trespass
14. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
15. As discussed with the community on Jan. 20, 2004, no *through* street are to be closed as part of this plan. The portion of Bertie that extends onto undeveloped property, where there are no other property owners, is agreed to by the neighborhood.
16. There shall be no parking by visitors/artists at the Bertie Ave. entrance/exit to the complex except for loading/unloading exhibits or materials and no store front or new public egress to the buildings will be constructed on Bertie Avenue. Access from Bertie shall be for employee and tenant use for loading/unloading only.

17. There shall be no outdoor *amplified* musical entertainment of any kind, live or recorded after 12 midnight on weekend nights (Friday-Saturday) or after 11:00 p.m. on week nights.
18. No adult entertainment activities shall occur on any portion of the subject property, including without limitation theaters, book stores, novelty sales, dancing or live performances. This binding element shall not be modified unless there is 30 days advance notice to adjoining property owners and the Clifton Heights Community Council of a hearing before the Planning Commission and the Metro Council.
19. There shall be no freestanding cell towers. There shall be no radio or television transmitting or receiving equipment (including antennas) located on the smokestack.
20. No clear cutting of the existing trees on the south east corner of the site as shown on the approved development plan shall be permitted.
21. The density of any future condominiums/apartments will be held to the number permitted under C-1, which is 17.4 dwellings per acre, due to the number of single family homes surrounding this development.
22. The demolition any of the major structures for new construction. The applicant and its successors and assignees shall consult with the Clifton Heights Community Council before filing any request for multifamily units on the site, or any demolition of existing structures for new construction.
23. The applicant shall have construction plans for the improvements on the south side of Mellwood Avenue approved by November 15th.
24. The developer/property owner shall mow to the centerline of the undeveloped portion of Bertie Ave on the same schedule as the rest of the property.

4. Proposed Binding Elements

- ~~3. The development shall not exceed 360,000 square feet of gross floor area.~~
7. Before any permit (including but not limited to building, parking lot, change of use, or site disturbance is requested):
 - a. The development plan must receive full construction approval from ~~Louisville Metro Department of Inspections, Permits and Licenses,~~ **Develop Louisville,** Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Any necessary variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan prior to parking being constructed in required yards.

- c. 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. Shall be installed prior to utilizing the outdoor entertainment area or new parking areas.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
25. The proposed sidewalk along the north side of Mellwood Avenue must be fully constructed by _____.