

**Land Development and Transportation
Committee
Staff Report
June 24, 2021**



Case No:	21-DDP-0058
Project Name:	Dairy Queen
Location:	5103 Outer Loop
Owner(s):	DFWM Outerloop LLC
Applicant:	Fourteen Foods
Jurisdiction:	Louisville Metro
Council District:	24- Madonna Flood
Case Manager:	Julia Williams, AICP, Planning Supervisor

REQUEST(S)

- Waivers:
 1. Waiver from 5.5.2.A to permit the building façade along Outer Loop to not have consistent building design than the façade along Buena Vista Court. (21-WAIVER-0064)
 2. Waiver from Table 9.1.3B to exceed the maximum parking requirements. (21-PARKWAIVER-0007)
- Revised Detailed District Development plan

CASE SUMMARY/BACKGROUND

The proposal is for a 3,300 SF drive thru restaurant. Access to and from the site will be from Outer Loop. The proposed pick-up window will be located along the Outer Loop façade. The site was rezoned from R-4 to C-1 under case #15ZONE1045. Chapter 9 requires a minimum of 8 parking spaces and maximum of 16 parking spaces for the site. The proposal is for 31 parking spaces.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

Chapter 5.5.2.A states that "Principal buildings and building entrances on a site shall have entrances and glazing, display windows or windows affording views into the business which face the abutting public street serving the development. In the alternative, principal buildings and entrances shall be oriented toward a focal point. Structures located at a street corner may have a single entrance, located at the corner of the building. Buildings with frontage on two streets shall have consistent building design and materials on each façade. Internally oriented structures closest to the public street(s) serving the development shall also have doors or windows facing the street.

The fence shown on the plan is not the same fence as shown on the 15ZONE1045 plan. That plan showed a 8' concrete panel wall/privacy fence in the middle of the buffer area with trees to be planted on the residential side of the wall.

INTERESTED PARTY COMMENTS

None received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The requested waiver will not adversely affect adjacent property owners as the proposal places the drive-thru window on the opposite side as the residential property. Planting for the parkway buffer will be met and provide further screening of the drive-thru from Outer Loop.

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

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. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. 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. The parkway plantings will provide additional screening of the drive-thru from Outer Loop.

- (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 parkway plantings will provide additional screening of the drive-thru from Outer Loop.

- (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 since the parkway plantings will provide additional screening of the drive-thru from Outer Loop.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARKING WAIVER

a. All General Parking Waivers

i. The Parking Waiver is in compliance with the Comprehensive Plan; and

Staff: Plan 2040's 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. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. 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. The proposal shows parking the same as it did for the 2015 zoning plan. It is anticipated that the parking for this use will be the same or similar as it was for the 2015 zoning plan.

ii. 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;

Staff: The proposal does not have the capability to share parking with adjacent uses since they are all residential. The parking is the same or similar as what was shown on the previously approved plan.

b. Waivers to Reduce the Minimum Number of Required Parking Spaces

i. The requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use; and

Staff: NA

ii. Adjacent or nearby properties will not be adversely affected; and

Staff: NA

- iii. The requirements found in Table 9.1. 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: NA
- iv. That there is a surplus of on-street or public spaces in the area that can accommodate the generated parking demand;
Staff: NA
- c. Waivers to Provide More Parking Spaces than the Maximum Allowed
 - i. The requirements found in Table 9.1.3.B do not allow the provision of the number of parking spaces needed to accommodate the parking needs of the proposed use; and

Staff: The parking shown on the plan is consistent and lower than the parking spaces provided on other Dairy Queen sites.
 - ii. The requested increase is the minimum needed to do so.

Staff: The parking shown on the plan is consistent and lower than the parking spaces provided on other Dairy Queen sites and is based on the interior and outdoor seating available.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and 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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan.

- 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 the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Building Design Waiver**
- **APPROVE** or **DENY** the **Parking Waiver**
- **APPROVED** or **DENY** the **Revised Detailed District Development Plan**

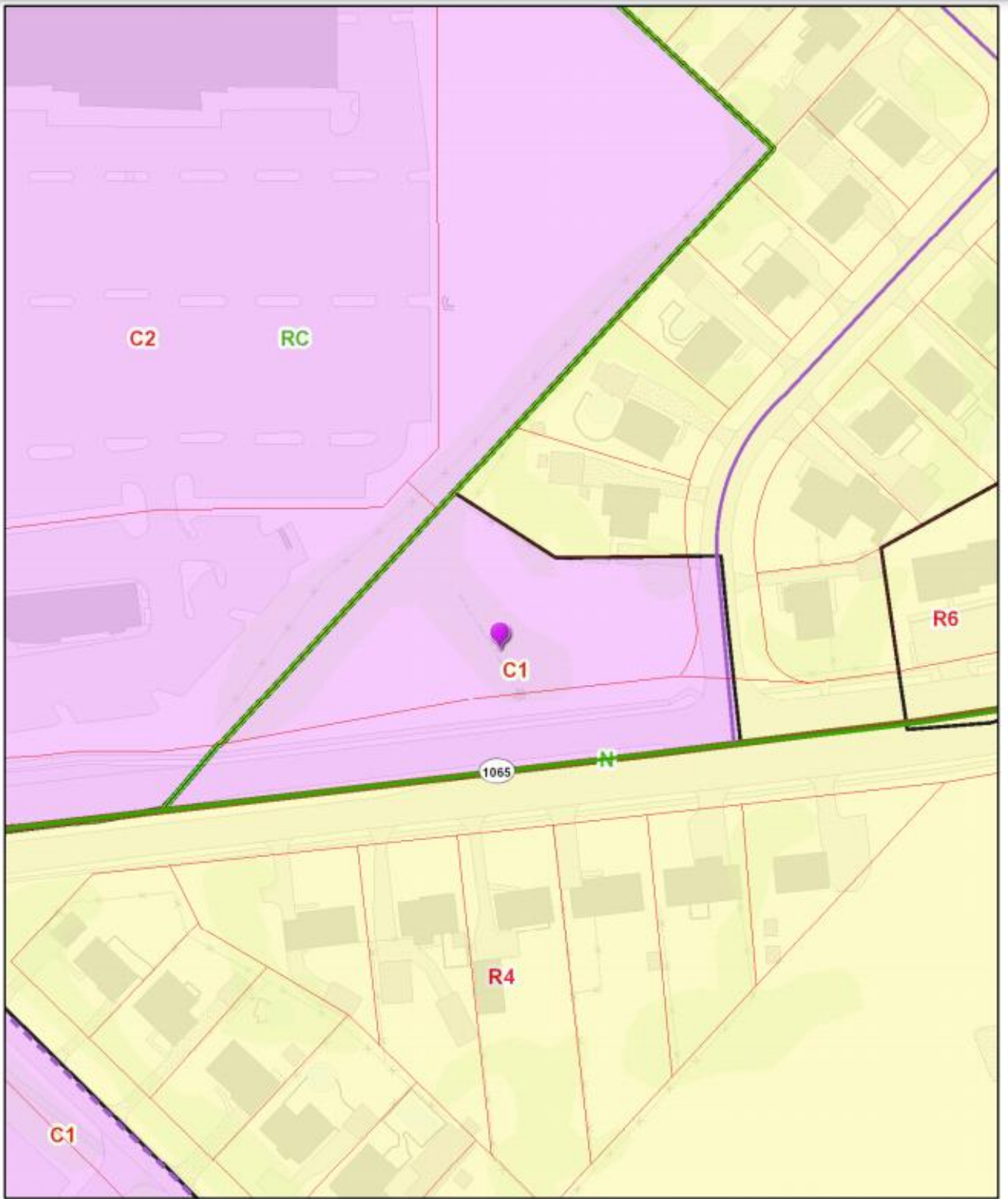
NOTIFICATION

Date	Purpose of Notice	Recipients
6/10/21	Hearing before LD&T on 6/24/21	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 24

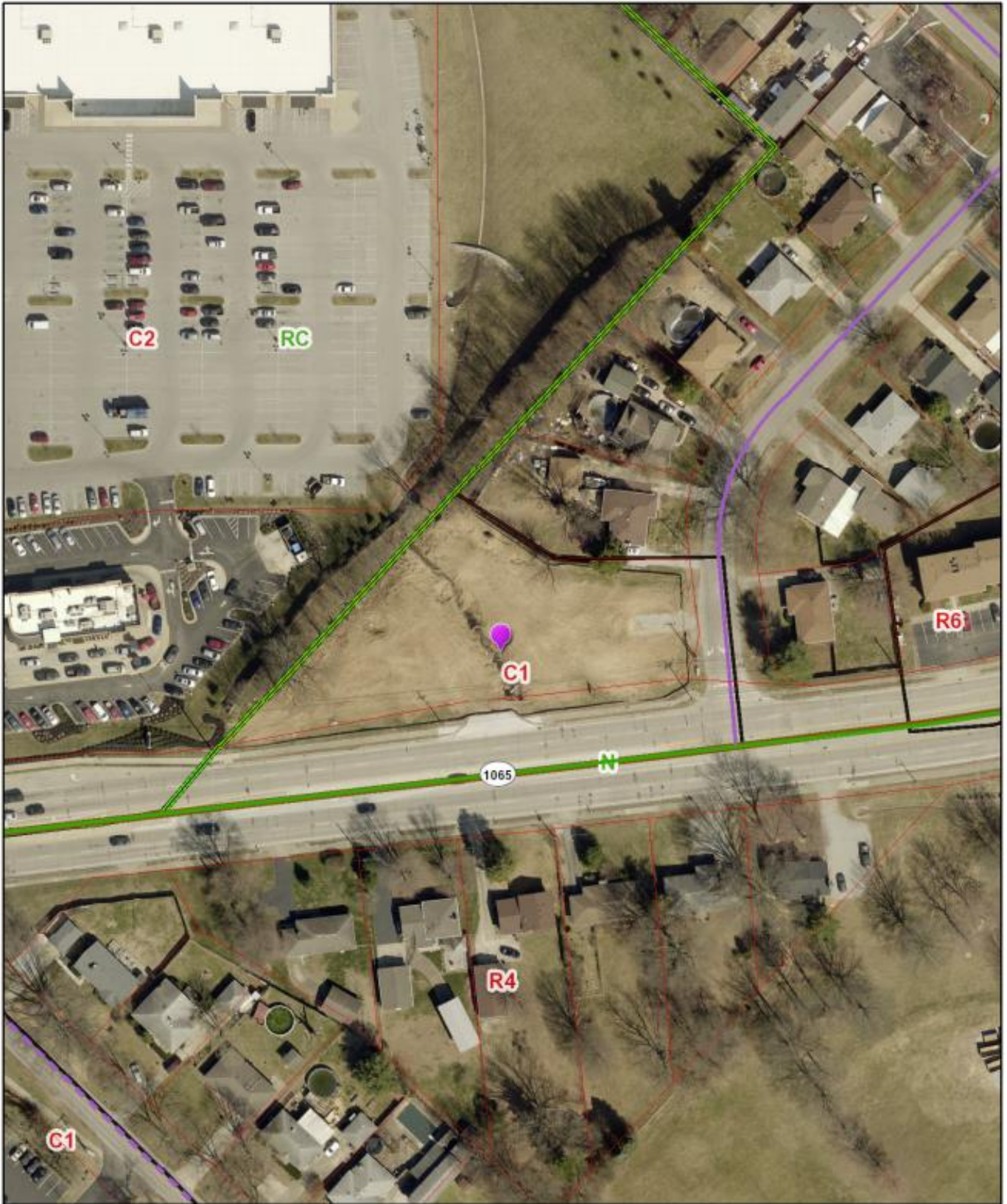
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing 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, 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. The development shall not exceed 4,900 square feet of gross floor area.
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, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - 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. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
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. The property owner shall provide a cross over access easement if the property to the west is ever re-developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

10. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
12. Customer service hours shall be limited to 6:30 a.m.-11:00 p.m. Parking lot pole lighting shall be cut off after customer service hours.
13. The style and design of the 8' screening wall shall be as shown at the 1/18/17 Planning Commission public hearing or as agreed to by the adjacent property owner to the north prior to landscape plan approval. Required trees shall be planted on the residential side of the screen wall.
14. The following C-1 uses shall be prohibited. Any amendment to this binding element shall be subject to full Planning Commission review and approval after a public hearing.
 - Convenience grocery
 - Auto service and repair
 - Auto rental agencies
 - Car washes
 - Package liquor stores
 - Gas station
15. The dumpster shall be screened with a masonry wall that matches the building materials. 6' evergreen trees shall also be planted in front of the dumpster screen to diminish its visibility from Outer Loop.
16. The applicant will allow reasonable access to the site for reasonable archeological investigation of the site prior to site disturbance.
17. There shall be no dumpster service between the hours of 7 pm and 7 am.
18. The hours of operation for any drive-through on the subject site shall be limited to 6:30 am to 10 pm Sunday through Thursday and 6:30 am to 11 pm on Friday and Saturday.
19. Any change in use or amendment to binding elements shall have a public hearing before the Planning Commission and must be approved by Metro Council.