

**Planning Commission**  
**Staff Report**  
December 5, 2019



<b>Case No.</b>	19-AMEND-0003
<b>Project Name</b>	Highview Center
<b>Location</b>	7207 Fegenbush Lane
<b>Owner</b>	RB5 LLC
<b>Applicant</b>	Smart LED Signs & Lighting
<b>Jurisdiction</b>	Louisville Metro
<b>Council District</b>	23 – James Peden
<b>Case Manager</b>	Beth Jones, AICP, Planner II

**REQUEST**

**AMENDMENT** of Binding Element #3

**CASE SUMMARY/BACKGROUND**

The applicant is requesting an amendment to a Binding Element associated with the rezoning of the property at 7207 Fegenbush Lane (Case #09-003-98). Binding Element 3 included restrictions on the type of freestanding sign, as well as the size, height and location, to be used on the site. The existing sign appears to be out of compliance with these requirements.

The site is located within a Town Center form district on a minor arterial. According to the applicant, it currently houses three tenants. Commercial properties in the vicinity have a mix of monument and pole/pylon signs in a mix of heights. It appears that older signs tend to be taller while newer ones are shorter. Recent photos of the site and the vicinity are included in the Legistar file associated with this case.

The site is also located within the Town Center area of the Highview Planned Development District (PD), which was adopted in October 2016. The only specific text reference to signage is as follows, (with emphasis as shown in the document):

**I. Signage**

- i. Chapter 8 of the Land Development Code **shall** apply to the Highview Town Center.

Removal of the binding element as requested by the applicant would permit any new sign that meets current LDC requirements. Individual attached signs would be permitted for each tenant on the site; the size would depend on the size of each tenant's storefront. While only one freestanding sign would be permitted on the site, compared to the existing binding element it could be (1) a pole/pylon sign rather than a monument sign; (2) 100 sq ft in area rather than 45 sq ft; (3) 12 ft high rather than 7 ft; and (4) located in a place other than shown on the approved development plan. In addition, a single changing image sign, composing up to 60% of the total sign area, could be integrated into an attached or freestanding sign on the site.

This case was heard by DRC on 11/20/2019; motion to approve passed by 3 to 1 vote; therefore, request was forwarded to Planning Commission for consideration.

### **STAFF FINDING**

Staff finds the requested amendment to the Binding Elements justified. The amendment would bring signage requirements for the site into compliance with the current LDC and with the Highview PDD requirements. The Planning Commission may impose further standards or restrictions on proposed and/or future signage on site

### **TECHNICAL REVIEW**

Binding Element #3 would be deleted in its entirety. It currently reads as follows:

3. The only permitted freestanding sign shall be a monument style sign and located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 0 feet to front property line. The sign shall not exceed 45 square feet in area per side and 7 feet in height. No sign shall have more than two sides.

### **INTERESTED PARTY COMMENTS**

Comments in opposition have been received from Councilperson James Peden. These have been included in the Legistar file for this case.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR 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: No apparent natural resources exist on the subject site, which is already developed.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: No changes to existing vehicular or pedestrian circulation are associated with this request.

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

STAFF: No open space requirements are associated with the amendment request.

- (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: No changes in existing drainage facilities on the subject site are associated with this request.

- (e) The compatibility of the land use or uses and the overall site design, including the location of buildings, parking lots, screening and landscaping, with the existing and projected future development of the area;

STAFF: While the existing signage on the site appears to be out of compliance with Binding Element 3, it does appear to comply with current LDC regulations and with the PDD document. Any future signage would be required to comply with both.

- (f) Conformance of the development plan with Plan 2040 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 requested binding element modification conforms to applicable guidelines and policies of the Plan 2040 and to current requirements of the Land Development Code, and would require all future signage to also be in compliance with these guidelines and standards.

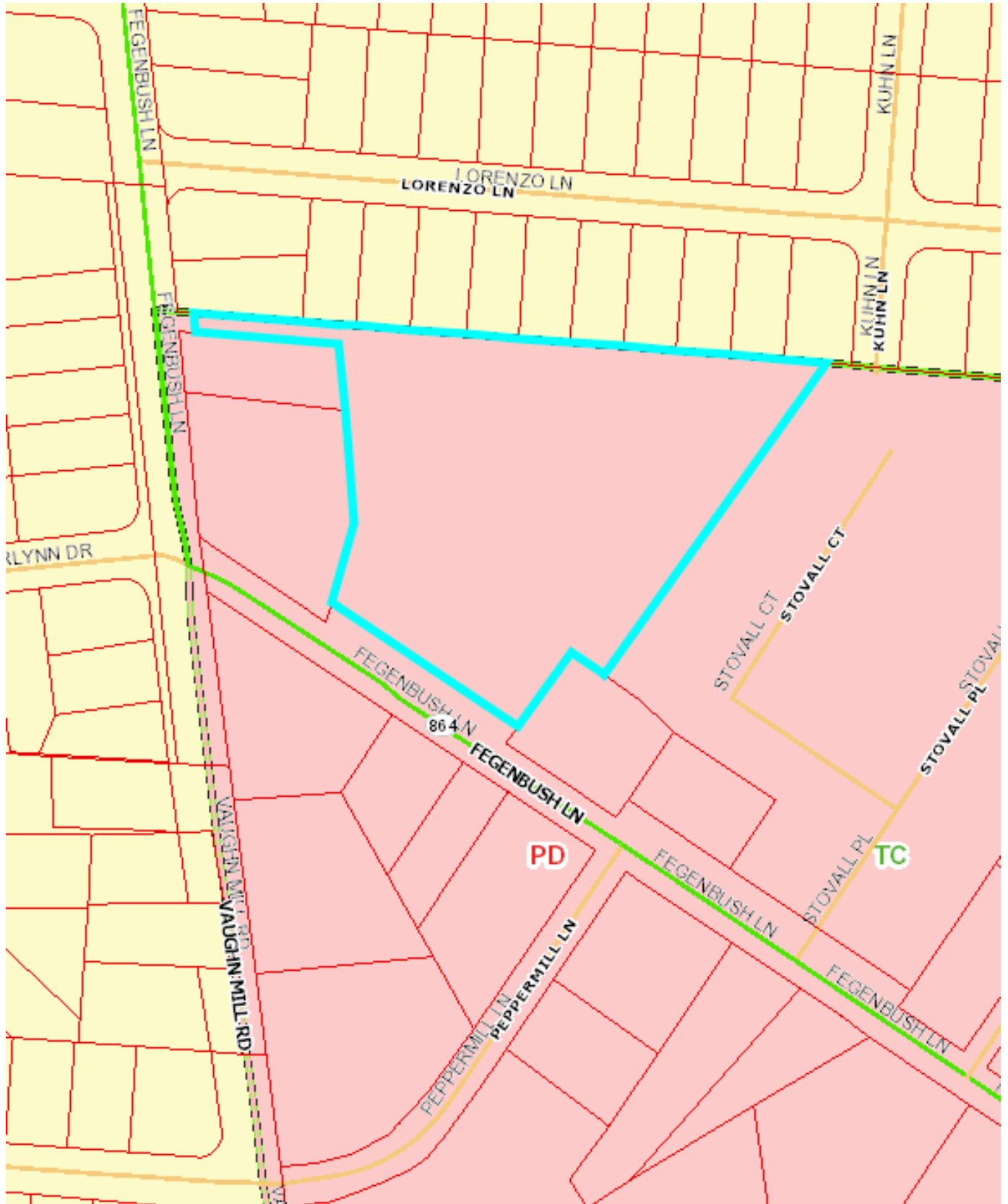
**NOTIFICATION**

Date	Purpose of Notice	Recipients
10/8/2019	Notice of DRC Meeting	1st tier adjoining property owners Registered Neighborhood Groups in Council District 23
		Sign Posting

**ATTACHMENTS**

1. Zoning Map
2. Aerial View
3. Location Within PDD
4. Existing Signage
5. Existing Binding Elements
6. Proposed Binding Elements

1. Zoning Map





2. Aerial View





3. Location Within PDD



#### 4. Existing Signage



#### 5. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
2. The development shall not exceed 38,113 square feet of gross floor area (4,013 square feet of gross floor area for the tavern, 23,605 square feet for the Bingo Hall, 10,495 square feet for retail space).
3. The only permitted freestanding sign shall be a monument style sign and located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 0 feet to front property line. The sign shall not exceed 45 square feet in area per side and 7 feet in height. No sign shall have more than two sides.



4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The construction plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. Landscaping shall be installed with 90 days after Fiscal Court approval (October 28, 1999).
  - d. An access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be secured from the adjoining property owner and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
8. If a certificate of occupancy is 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 an extension is granted by the Planning Commission.
9. A certificate of occupancy must be received from the appropriate code enforcement office 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.
10. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
11. The entire Fegenbush Lane Shopping Center site (Tax Block 645 Lot 46) shall comply with the requirements of Section 8.1 Plan Certain of the Development Code for Jefferson County.
12. 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.
13. No adult entertainment activities (as stated in Article 9.4 of the Zoning Regulations) shall be permitted on site.



14. If approval is granted by appropriate utility companies (LG&E, Bell South, MSD) and the Planning Commission to allow the required LBA to exist within the easement, and if work is required within that easement causing removal or damage of landscape materials, the property owner will be responsible for replacement of materials according to the approved landscape plan.

15. The hours for deliveries shall be restricted to 7:00 am to 9:00pm.

## **6. Proposed Binding Elements**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.

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