

Land Development and Transportation Committee

Staff Report

October 8th, 2015



Case No:	15DEVPLAN1055
Request:	Revised Detailed District Development Plan with Land Development Code Waivers and Binding Element Amendments
Project Name:	Liquor Palace
Location:	4002 Preston Highway
Owner:	Kentucky Property Investments LLC
Applicant:	Kentucky Property Investments LLC
Representative:	Garber – Chilton Engineers and Land Surveyors Inc
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Christopher Brown, Planner II

REQUEST

- Waiver #1: Waiver from Chapter 10.2.4 of the Land Development Code to allow pavement to encroach into the required 35' landscape buffer area along the southern property perimeter
- Waiver #2: Waiver from Chapter 10.2.4 of the Land Development Code to allow pavement and dumpster to encroach into the required 35' landscape buffer area along the western property perimeter
- Binding Element Amendments
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1
Existing Form District: Suburban Marketplace Corridor
Existing Use: Vacant Business
Proposed Use: Liquor Store
Minimum Parking Requirement: 11
Maximum Parking Requirement: 19
Proposed Parking: 12
Plan Certain Docket #: 9-103-85

The applicant is requesting to construct a 2,818 SF building on the existing three parcels that will be consolidated along Preston Highway. The applicant will be providing one space above the minimum number of parking spaces and a drive thru area that will allow the minimum 7 spaces of queuing for traffic. As a result of the access, parking area and location of the dumpster, a reduction in the required 35' landscape buffer areas along the western and southern property perimeters are required for the proposal. The 35' landscape buffer areas result from the location to adjacent residentially zoned properties. The buffer area along the south property perimeter is adjacent to a non-residential use located on residentially zoned property. The rear buffer area is adjacent to vacant residentially zoned properties along Lupino Court. Only one residence was constructed along the west side of Lupino Court. The reduction in the required buffer areas will not adversely affect residentially zoned properties as identified within the Land Development Code. The planting and screening materials will be able to be provided on the site. The existing binding elements are proposed to be

amended to update to current binding element language and eliminate the limitations on signage. The proposed signage on site will follow the Land Development Code requirement.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant Business	C-1	SMC
Proposed	Liquor Store	C-1	SMC
Surrounding Properties			
North	Aldi	C-1	SMC
South	Office	R-5	SMC
East	Retail	C-1	SMC
West	Vacant	R-5	SMC

PREVIOUS CASES ON SITE

- 9-103-85: A change in zoning from R-4 to C-1 was approved to allow a retail use on the subject site.
- 15VARIANCE1048: Board of Zoning Adjustment approved variances to allow setback reductions in the same areas as the requested landscape waivers on August 17th, 2015.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code
Cornerstone 2020

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 does 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 with the current proposal. Future multi-family developments proposed on the subject site will be required to meet Land Development Code requirements.

- 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 provisions 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waiver will not adversely affect adjacent property owners since the required screening and planting materials will be provided on the site.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. 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 required screening and planting materials will be provided to meet the intent of the buffering policies and regulations; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

(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 screening planting materials will be provided within the reduced buffer areas to be provided along the property perimeters.

(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 by reducing the parking below the minimum required and eliminating the areas needed for proper vehicular circulation on the site.

TECHNICAL REVIEW

- No outstanding technical review issues need to be addressed.

STAFF CONCLUSIONS

The standard of review for the requested waivers has been met. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Land Development and Transportation Committee must determine if the proposal meets the standards for granting waivers and a development plan with binding element amendments as established in the Land Development Code.

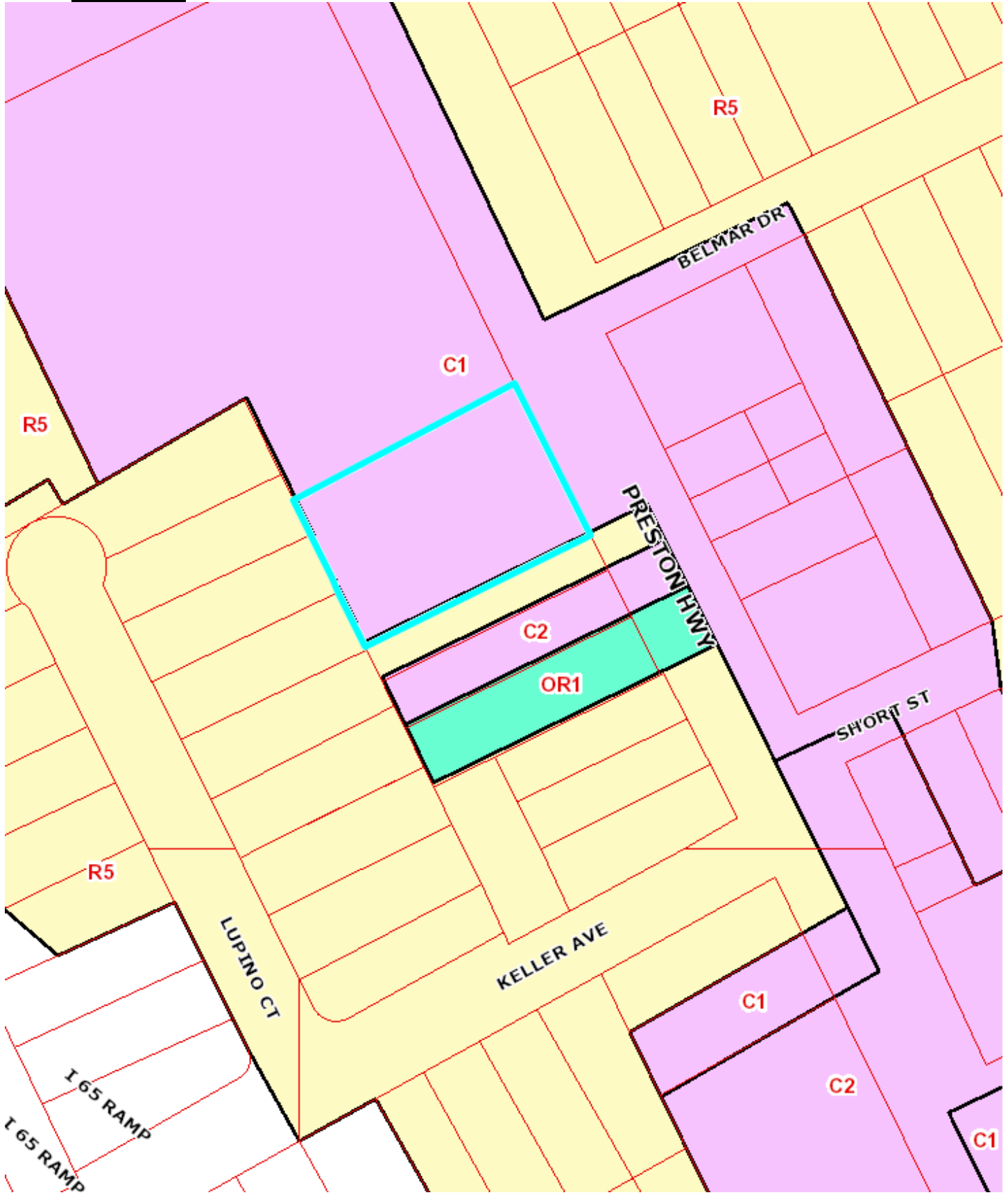
NOTIFICATION

Date	Purpose of Notice	Recipients
9/25/15	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 21 Notification of Development Proposals

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements

1. The development will be in accordance with the approved district development plan. No further development will occur.
2. The development shall not exceed 7,640 square feet of gross floor area.
3. Before a certificate of occupancy is issued:
 - a) The development plan must be reapproved by the City of Louisville Department of Public Works and the Water Management Section of the Jefferson County Public Works and Transportation Cabinet.
 - b) The appropriate variances must be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
4. The landscaping plan shown on the approved district development plan shall be implemented within 6 months.
5. The only permitted signs shall be located as shown on the approved district development plan. The sizes and heights shall not exceed the dimensions shown.
6. 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.
7. 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 must be implemented prior to requesting issuance of the certificate.
8. The above binding elements may be amended as provided for in the Zoning District Regulations.

** All existing binding elements proposed to be amended to current language and delete signage related binding element*

4. Proposed 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 2,818 square feet of gross floor area.
3. 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 Louisville Metro Department of Develop Louisville Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.

- b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The appropriate variances shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
 - d. 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.
 - e. A legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
4. 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.
5. 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.