

Development Review Committee

Staff Report

November 30, 2016



Case No:	15DEVPLAN1192
Project Name:	Dollar General
Location:	10608 W. Manslick Road
Owners:	Multiple Owners
Applicant:	Susan A. Cox
Representative(s):	Gresham Smith & Partners; Wyatt, Tarrant, & Combs, LLP
Project Area/Size:	1.03 Acres
Existing Zoning District:	C-2, Commercial
Existing Form District:	VC, Village Center
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Joel P. Dock, Planner I

REQUEST

- **Category 3 Development Plan** for proposed retail establishment
- **Waiver** of Land Development Code (LDC), section 5.5.1.A.1.a to not provide customer entrance facing the primary street
- **Waiver** of LDC, section 5.5.1.A.3.a to not provide 3' masonry, stone, or concrete wall between the side parking area and right-of-way
- **Waiver** of LDC, section 5.8.1.B (6.2.6.a) to not provide an extension of the proposed sidewalk to an adjacent property
- **Landscape Waiver** of LDC, section 10.2.3 to allow parking/vehicle use area within the 25' property perimeter landscape buffer area

CASE SUMMARY

The applicant proposes a 9,100 square foot retail store with twenty-two parking spaces within the commercial center of the Fairdale neighborhood; located roughly one mile Southeast of the Gene Snyder Freeway via New Cut Road. The subject site currently contains commercial structures on two parcels that will be demolished for the proposed building and parking facilities. The commercial center and immediately surrounding residential areas make-up an area within the Village Center form district. These districts are described in the LDC as, “developments in the center of the village offering goods and services at a scale that is appropriate for nearby residential areas.” Village centers may reflect pre-World War II design elements; including, “connected and narrow streets and walkways, compact centers with a variety of village-serving uses, and designated sites for civic, historic, and cultural buildings, surrounded by rural lot patterns and a green belt.”

The applicant has requested two site design waivers as a result of not facing the customer entrance towards the primary street (W. Manslick Road) and not providing a masonry, stone, or concrete wall separating the parking area from pedestrian and vehicular traffic along the corridor. A sidewalk waiver is also being requested to not extend the proposed sidewalk from its terminus at the Northwest corner of the property along roughly twenty feet of frontage to the adjacent property. The applicant proposes to construct the remainder of the sidewalk at the time of development of this adjacent parcel. The request for the sidewalk waiver is being made due to an existing drainage swale along this property line. Lastly, a landscape waiver is needed to allow vehicular maneuvering within the property perimeter landscape buffer area.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Mixed-commercial	C-2	VC
Proposed	Retail	C-2	VC
<i>Surrounding Properties</i>			
North	Auto sales	C-2	VC
South	School	R-4	VC
East	Vacant	C-2	VC
West	Single- family residential	R-4	VC

RELATED CASES

16DEVPLAN1219: A community facility review for proposed off-site grading

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

Fairdale Small Area Plan

- *Mobility/Transportation:* Enhance the village center with pedestrian friendly designs that will serve to encourage a more efficient road, pedestrian and bicycle network and opportunities for transit use.
- *Village Design:* While existing design constraints within the center create difficulty in developing and redeveloping, it is important to add small businesses capitalizing on individuals visiting the Jefferson Memorial Forest, as well as attracting residents within the center and outlying areas into a safe and accessible center for both pedestrian and vehicle trips.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

LDC, section 5.5.1.A.1.a to not provide customer entrance facing the primary street

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

STAFF: The waiver will adversely affect adjacent property owners as the proposed development is located at the edge of the commercial center within the Village Center form district adjacent to a large tract of vacant land zoned for commercial uses. Orientation of the entrance with a focus on pedestrian traffic is essential in becoming a catalyst for future development on the adjacent vacant tract and within the center to design safe and attractive developments for pedestrians.

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

STAFF: The proposed waiver will violate specific guidelines of Cornerstone 2020 as Guideline 8, Policy 4 and 12 encourages the development of livable streets which reflect the special character of form districts. The Village Center form district is defined as being the small-scale mixed-use center of the surrounding Village form District designed to encourage pedestrian, bicycle and transit use.

Furthermore, The Fairdale Small Area Plan, an adopted plan under Cornerstone 2020, emphasizes the importance of pedestrian, bicycle and transit oriented design which promotes safe and attractive development for users. The orientation of the customer entrance away from the primary street detracts from the recommended pedestrian oriented design and furthers the promotion of auto-centric development.

- (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 not the minimum necessary to afford relief to the applicant as the customer entrance could be re-oriented with minimal change to the overall design of the 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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the customer entrance could be easily redesigned to better suit the needs of pedestrians and be a catalyst for future pedestrian oriented design of the village center within the Fairdale neighborhood.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

LDC, section 5.5.1.A.3.a to not provide 3' masonry, stone, or concrete wall between the side parking area and right-of-way

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

STAFF: The waiver will adversely affect adjacent property owners as the proposed development is located at the edge of the commercial center within the Village Center form district adjacent to a large tract of vacant land zoned for commercial uses, as well as being adjacent to residential uses to the Northwest. The masonry, stone, or concrete wall is intended to reduce or eliminate visual or operational impacts to surrounding properties and the right-of-way from parking lots which occupy a large percentage of the street frontage. Suitable design and incorporation of such elements will serve as the catalyst for future development on the adjacent vacant tract and within the center to design safe and attractive developments for pedestrians and other users which reduce the negative visual impact of surface parking lots on passersby.

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

STAFF: The proposed waiver will violate specific guidelines of Cornerstone 2020 as Guideline 2, Policies 11 and 15 encourage the design of centers to be compatible with surrounding residential uses; keeping in mind the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 8, Policy 4 and 12 encourages the development of livable streets which reflect the special character of form districts. The Village Center form district is defined as being the small-scale mixed-use center of the surrounding Village form District designed to encourage pedestrian, bicycle and transit use. Furthermore, the Fairdale Small Area Plan, an adopted plan under Cornerstone 2020, emphasizes the importance of pedestrian, bicycle and transit oriented design which promotes safe and attractive development for users. Lastly, Guideline 3, Policies 1 and 9 encourage the compatibility of development and redevelopment with the pattern of development which protects from visual intrusions on residential areas, roadway corridors, and public spaces and to mitigate where appropriate. The masonry, stone, or concrete wall is intended to reduce or eliminate visual or operational impacts to surrounding properties and the right-of-way from parking lots which occupy a large percentage of the street frontage; thus,

enhancing the attractive design and function of the center as a pedestrian friendly environment. The required wall separates the function of the pedestrian network from auto-centric development using consistent building materials of the primary use on-site.

- (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 not the minimum necessary to afford relief to the applicant as the wall could be provided with minimal change to the overall design of the 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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant as the masonry, stone, or concrete wall could be provided to better suit the needs of pedestrians, mitigate visual intrusions to public spaces, and be a catalyst for future pedestrian oriented design of the village center within the Fairdale neighborhood.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR SIDEWALK WAIVER

LDC, section 5.8.1.B (6.2.6.a) to not provide the extension of the exiting sidewalk across the lot frontage

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

STAFF: The waiver will not adversely affect adjacent property owners as the subject site is at the edge of the commercial center roadway corridor and the sidewalk will be extended in the event of redevelopment of the adjacent property to the Northwest or any future right-of-way project that would require or construct sidewalks.

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

STAFF: The proposed waiver of the sidewalk will not violate specific guidelines of Cornerstone 2020 as Guideline 9, Policy 1 encourages, where appropriate, the safe movement of pedestrians between closely related land uses and public transportation corridors. The sidewalk will be extended in the event of redevelopment of the adjacent property to the Northwest or any future right-of-way project that would require or construct sidewalks.

- (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 applicant has committed to the future construction of the sidewalk.

- (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 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) as the applicant has committed to the future construction of the sidewalk.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER

LDC, section 10.2.3 to allow parking/vehicle use area within the 25' property perimeter landscape buffer area

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

STAFF: The waiver will not adversely affect adjacent property owners as an eight-foot screen fence is being provided to mitigate visual intrusion of the development upon the residentially zoned and used properties to the Northwest.

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

STAFF: The proposed waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 13, Policy 6 and Guideline 3, Policy 9 encourage buffering standards and mitigation between incompatible uses and visual intrusions. Due to the configuration of the parking lot an encroachment into the buffer is necessary to maintain proper maneuvering of truck and passenger vehicle traffic. An eight-foot screen fence is being providing to mitigate the visual impacts of the development on adjacent residentially zoned and used property.

- (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 configuration of the parking lot creates an encroachment into the buffer that is necessary to maintain proper maneuvering of truck and passenger vehicle traffic. Parking spaces for customers are being provided near the minimum requirements.

- (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 create an unnecessary hardship on the applicant as the smaller size of the lot in relation to the proposed use creates difficulty in maneuvering vehicles if the parking lot is unable to encroach upon the landscape buffer in this location. Parking spaces for customers are being provided near the minimum requirements.

TECHNICAL REVIEW

Future vehicular connection will be provided to the adjacent vacant site to the Southeast at the time of development. This has been noted on the plan and conceptual future connection has been shown.

If the adjacent site to the Northwest is redeveloped for a use requiring sidewalks, a sidewalk connection will be provided from the subject site. This has been noted on the plan and is due to existing physical constraints of the subject site. Sidewalk extension shall also be provided in the event of any future right-of-way project which would construct sidewalks adjacent to the subject site. A Condition of Approval reflecting the sidewalk extension should be added by the Development Review Committee in the event of approving the sidewalk waiver. Language for the proposed condition has been included at the end of this staff report as proposed sidewalk waiver condition of approval #1.

The subject site will be required, per MSD, to mitigate for floodplain elevation by re-grading the site using off-site material. The off-site grading area is located adjacent to the subject site on Jefferson County Public School property; therefore, a community facility review (CFR) is required for the proposed work. A community facility review application was received by Staff on November 18, 2016, case 16DEVPLAN1219. Review and approval of the CFR will be required prior to transmittal of this proposed Category 3 development plan to the Division of Construction Review. A condition of approval has been included at the end of this staff report as proposed

category 3 development plan condition of approval #2 to reflect the approval of the CFR prior to final transmittal for the development plan.

STAFF CONCLUSIONS

The site design waivers of LDC 5.5.1.A.1.a and 5.5.1.A.3.a do not appear to be adequately justified or meet the standard of review based on staff analysis in the staff report.

The sidewalk waiver of LDC 5.8.1.B (6.2.6.a) appears to be adequately justified and meets the standard of review based on staff analysis in the staff report.

The landscape waiver of LDC 10.2.3 appears to be adequately justified and meets the standard of review based on staff analysis in the staff report.

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 a category 3 development plan, site design waivers, sidewalk waiver, and landscape waivers.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the Category 3 Development Plan
- **APPROVE** or **DENY** the waiver of Land Development Code (LDC), section 5.5.1.A.1.a to not provide a customer entrance facing the primary street
- **APPROVE** or **DENY** the waiver of Land Development Code (LDC), section 5.5.1.A.3.a to not provide a 3' masonry, stone, or concrete wall between the side parking area and right-of-way
- **APPROVE** or **DENY** the waiver of Land Development Code (LDC), section 5.8.1.B (6.2.6.a) to not provide an extension of the proposed sidewalk to an adjacent property
- **APPROVE** or **DENY** the waiver of Land Development Code (LDC), section 10.2.3 to allow parking/vehicle use area within the 25' property perimeter landscape buffer area

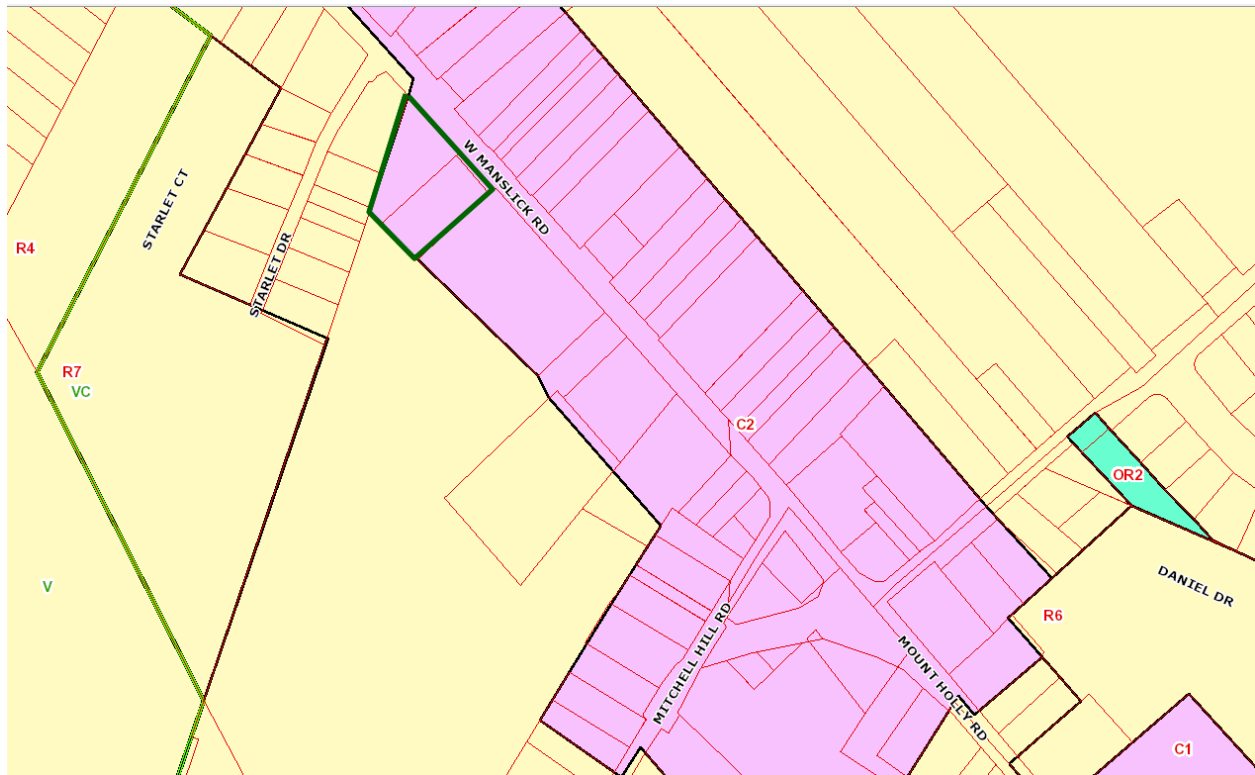
NOTIFICATION

Date	Purpose of Notice	Recipients
11/16/16	DRC	Adjoining property owners, registered users within the council district, applicant, representative, and case manager

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Sidewalk Waiver Conditions of Approval
4. Proposed Category 3 Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Proposed Sidewalk Waiver Conditions of Approval

1. At the time of redevelopment of the property located at 10518 W. Manslick Road for a use requiring a sidewalk to be constructed or any future right-of-way project which would construct sidewalks at this location, a sidewalk connection shall be made from the subject site to this adjacent property.

4. Proposed Category 3 Development Plan Conditions of Approval

1. Prior to final transmittal of the category 3 development plan to the Louisville Metro Division of Construction Review, a community facility review shall be completed by the Planning Commission or designee.