

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

***NOTE: Commissioner Kirchdorfer left at approximately 3:00 P.M.**

Request (14DEVPLAN1036): Revised Detailed District Development Plan and Land Development Code Waivers for a proposed Wal-Mart Supercenter; Street Closure

Request (14STREETS1004): Street and Alley Closure for a portion of South 20th Street south of Anderson Street; a portion of Kendall Court south of Anderson Street; and an unnamed alley south of Anderson Street.

Project Name: Wal-Mart

Location: Multiple addresses on the southwest corner of West Broadway and Dixie Highway

Owner: Newbridge Development, LLC
Frank A. Bridgewaters, Representative
2350 New Millennium Drive
Louisville, KY 40216

Applicant: Wal-Mart Real Estate Business Trust
Kevin Thompson, Representative
1075 Broadripple Avenue #118
Indianapolis, IN 46033

Representative: Deborah Bilitski
Wyatt, Tarrant & Combs, LLP
500 West Jefferson Street Suite 2800
Louisville, KY 40202

Engineer/Designer: Pov Chin
Carlson Consulting Engineers, Inc.
7068 Ledgestone Commons
Bartlett, TN 38133

Jurisdiction: Louisville Metro

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

Council District: 4 – David Tandy

**Case Manager: Joseph Reverman, AICP, Planning & Design
Manager**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:15:31 Joseph Reverman presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.) He added that some requested variances to exceed the setbacks along West Broadway and Dixie Highway will be heard by the Board of Zoning Adjustment (BOZA) at a later date.

02:22:30 Mr. Reverman reviewed the additional binding elements that were requested by Metro Public Works and agreed to by the applicant this week, prior to today's hearing.

02:26:55 The Commissioners asked Mr. Reverman questions about what will happen to a corner parcel (developed, or left as greenspace); the YMCA and the Wal-Mart accesses; more details about the variance requests going to BOZA; the three alleys proposed for closure; and if staff had worked with the applicant to eliminate the waiver requests.

The following spoke in favor of the proposal:

Deborah Bilitski, Wyatt Tarrant & Combs, 500 West Jefferson Street, Louisville, KY 40202

Gary Roth, 500 West Jefferson Street Suite 1400, Louisville, KY 40202

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

Kevin Thompson, Representative, 1075 Broadripple Avenue #118, Indianapolis, IN 46033

Teresa Bridgewaters, 2350 New Millenium Drive, Louisville, KY 40216

Frank A. Bridgewaters, 2350 New Millenium Drive, Louisville, KY 40216

James Bridgewaters, 5316 Regent Way, Louisville, KY 40218

Elizabeth Heiles, 7068 Ledgestone Commons, Bartlett, TN 38133

Dave Wilgus, Harrison French & Associates, 1408 NW K Street, Bentonville, AR 72712

Toni Rodriguez, 321 School Side Drive, Brandenburg, KY 40108

Reverend Charles Elliott, 1501 Wever Court, Louisville, KY 40211

Reverend Milton C. Seymore, 1807 ½ West Oak Street, Louisville, KY 40210

Reverend Clay Calloway, 801 South 45th Street, Louisville, KY 40211

Reverend Gerome Sutton, 335East St. Catherine Street, Louisville, KY 40203

Lawrence Bentley, 3629 Robin Drive, Louisville, KY 40216

Bishop Oliver LeGrant, 1515 _____, Louisville, KY

Mark Tarver, 5409 B Kingston Pike, Knoxville, TN 37919

Minister James A. Matthis, Sr., 1258 Catalpa Court #204, Louisville, KY 40211

Jeffrey Thompson, 1712 Magazine Street, Louisville, KY 40203

Michael Marsh, 2649 Algonquin Parkway, Louisville, KY 40210

Hartie Lee, 2705 Greenwood, Louisville, KY 40211

Thurman S. Cox, 2148 West Gaulbert Avenue, Louisville, KY 40210

Danelle Martin, 4317 Bayberry, Louisville, KY 40216

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

Summary of testimony of those in favor of the proposal:

02:35:01 Deborah Bilitski, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

02:40:15 Elizabeth Heiles, civil engineer and Project Manager for this site, discussed vehicular, pedestrian, and bike access, and other design issues.

02:44:57 Dave Wilgus, architect, showed and discussed renderings of the project, including the interior store layout.

02:51:25 Toni Rodriguez, a Market Manager for Wal-Mart, discussed operating a Wal-Mart facility and why this site design optimizes that. She said that changing the site design and layout would affect operations.

02:53:45 Teresa Bridgewaters, the owner, discussed the history and the goals of the redevelopment, particularly the economic benefits to West Louisville.

02:57:48 Pastor Elliott concurred with Ms. Bridgewaters and expressed strong support for the project.

02:59:02 Kevin Thompson was called but declined to speak.

02:59:06 Reverend Milton C. Seymore said the emphasized that this development would offer jobs and spur economic development in this area.

03:00:04 Reverend Clay Calloway was called but was not present.

03:00:19 Jerome Sutton said he was strongly in favor of the development, but felt that Wal-Mart would not lose money if the design was revised. He wanted it to get done, but wanted it done "the right way". He also said it was important for the jobs to be full-time, not part-time only.

03:05:19 Lawrence Bentley was called but was not present.

03:05:31 Bishop Oliver LeGrant was called but was not present.

03:05:44 Mark Tarver was called but was not present.

03:05:45 Gary Roth spoke in support.

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

- 03:06:26 Minister James A. Matthis was called but was not present.
- 03:06:36 Jeffrey Thompson was called but was not present.
- 03:06:43 Frank A. Bridgewaters was called but declined to speak.
- 03:06:57 Michael Marsh was called but was not present.
- 03:07:03 James Bridgewaters was called but was either not present or declined to speak.
- 03:07:12 Hartie Lee was called but was either not present or declined to speak.
- 03:07:15 Thurman S. Cox was called but was either not present or declined to speak.
- 03:07:23 Ms. Bilitski resumed the podium to summarize.

03:10:38 through 03:44:34 – The Commissioners and the applicant's representatives discussed the following: "predominant building pattern" on this section of Broadway; design issues; pedestrian transit (particularly a walkway from West Broadway, TARC stop/s, etc.); and drainage. Ms. Bridgewaters spoke regarding the process they have gone through to get a good retail use on this site.

***The meeting went into brief recess and reconvened before the opposition was heard.**

The following spoke in opposition to the proposal:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Chanelle Helm, 2238 Farnsley Road, Louisville, KY 40216

Ron Schneider, 3619 Johnston Way, Louisville, KY 40220

Debra Harlan, 1734 Chichester Avenue, Louisville, KY 40205

Edith Bingham, 4310 Glenview Avenue, Glenview, KY 40025

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

Summary of testimony of those in opposition to the proposal:

03:45:15 Stephen Porter said he spoke in opposition to the *plan*, not to Wal-Mart or to Wal-Mart building on this site. He addressed the Wal-Mart store site specifically, but also discussed the entire development. His points were: too much parking in a heavily pedestrian area; making pedestrians cross a large parking lot (safety issue); the vital importance of economic development here; and the argument that the requested waivers are not needed. He added that the YMCA next door is conforming to the Land Development Code and there is no reason Wal-Mart can't.

04:06:45 Debra Harlan stated that she had given a comment from Edith Bingham to Mr. Reverman (Ms. Bingham had to leave) and that this comment should be part of the record. She spoke in strong opposition to the design and explained why this is not a sustainable, urban design.

04:12:09 Ron Schneider discussed transit issues and reiterated that a suburban design is not appropriate for an urban location.

04:21:15 After Reverend Gregory Wright spoke neither for nor against, Chanelle Helm spoke in opposition. Her emphasis was on economic justice, her concerns about gentrification, and her issues with the site plan.

The following spoke neither for nor against the proposal:

Reverend Gregory Wright, 2412 West Chestnut Street, Louisville, KY 40211

Summary of testimony of those in neither for nor against the proposal:

04:15:19 Reverend Gregory Wright said he is not opposed to Wal-Mart, but is concerned about the precedent this design will set. He also expressed concern that the Land Development Code is not being enforced equally for all projects. He said an alternative has been offered.

04:24:15 Mr. Reverman read a letter of opposition into the record from Martina Kunnecke, President of the Neighborhood Planning and Preservation, which was e-mailed to him this morning, before this hearing.

04:27:06 Commissioner Proffitt asked Ms. Bilitski if her client would be willing to consider Mr. Porter's suggestion to work with architects about some design changes.

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

Rebuttal:

- 04:28:09 Ms. Bilitski presented the rebuttal.
- 04:30:04 Kevin Thompson addressed some issues on behalf of Wal-Mart.
- 04:30:57 Ms. Bridgewaters made a closing statement.

Deliberation

- 04:33:08 Commissioners' deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Case No. 14STREETS1004 ONLY

05:15:02 On a motion by Commissioner Brown, seconded by Commissioner Proffitt, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the request to close the southern terminus of S. 20th Street, Kendall Court, and an unnamed alley running south from Anderson Street between S. 20th Street and Kendall Court complies with the Cornerstone 2020 Comprehensive Plan because the subject property lies within the Traditional Workplace Form District, which allows a mixture of industrial, commercial and office uses. In order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces, the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area. The proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District. The proposed development is consistent with the historical development pattern on the subject property, and is compatible with development in the surrounding area, which does not follow a predominant pattern; and

**Planning Commission Minutes
December 18, 2014**

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

WHEREAS, the Commission further finds that all of the lots surrounding the rights-of-way to be closed are under common ownership and will be reconfigured as shown on the proposed development plan, therefore, the streets and alley proposed to be closed are no longer required for access; the owner of 100% of the property adjacent to the rights-of-way to be closed agrees to the proposed closure and has submitted a notarized consent; the property surrounding the rights-of-way to be closed will continue to have direct vehicular and pedestrian access to West Broadway (via S. 20th Street), Anderson Street, Dr. J. W. Hodges Street, and Dixie Highway; the subject property is adequately served by public transportation, incorporates sidewalks and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the Land Development Code requirements; therefore, the proposed development will adequately accommodate all modes of transportation; and

WHEREAS, the Commission further finds that the requested street and alley closures will not result in a demand on public facilities and services that exceeds the capacity of such facilities; the unimproved roadways are no longer needed for any public or private purpose, nor is a future need for these roads anticipated; therefore, the proposed closure of these roads will not interfere with or exceed the capacity of the existing roadway infrastructure;

WHEREAS, the Commission further finds that the properties surrounding the rights-of-way to be closed are under common ownership and will be consolidated and re-subdivided as shown on the proposed development plan, therefore there is no need to reserve utility easements within the existing right-of-way areas to serve the existing lots; and to the extent determined necessary by affected utilities, easements will be reserved within the rights-of-way to be closed or will be provided in alternate locations on the site as needed to serve the proposed development; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Street and Alley Closure for a portion of S 20th St, south of Anderson St, a portion of Kendall Ct, south of Anderson St, and an unnamed alley south of Anderson St. on property described in the attached legal description.

Planning Commission Minutes
December 18, 2014

Public Hearing

**Case No. 14DEVPLAN1036
AND Case No. 14STREETS 1004**

The vote was as follows:

YES: Commissioners Blake, Proffitt, Peterson, Brown, Jarboe, White, Tomes, and Turner.

NO: No one.

NOT PRESENT: Commissioners Butler and Kirchdorfer.

ABSTAINING: No one.

05:16:22 Commissioner Brown made a motion to approve Waiver #3, a Waiver of section 5.6.1.C.1 to waive the requirement to have 50% of the wall surfaces at street-level consisting of clear windows and doors along W Broadway and Dixie Hwy. The motion died for lack of a second.

05:17:38 Commissioner Tomes made a motion to approve Waiver #1, a Waiver of section 5.5.1.A.3.a to allow a parking lot to be located in front of the building along W Broadway and Dixie Hwy. The motion died for lack of a second.

05:19:45 On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 29, 2015** Planning Commission public hearing in order for the applicant to address Waivers #1 and #2, to investigate these pedestrian-orientation issues and possibly provide options for a more direct connectivity to both Dixie Highway and Broadway. The Commissioners asked for a clear justification from the applicant if this connectivity would not be provided.

The vote was as follows:

YES: Commissioners Blake, Proffitt, Peterson, Brown, Jarboe, White, Tomes, and Turner.

NO: No one.

NOT PRESENT: Commissioners Butler and Kirchdorfer.

ABSTAINING: No one.

PROPOSED FINDINGS OF FACT FOR STREET AND ALLEY CLOSURES

Walmart Supercenter – Newbridge Crossing Towne Center

Case No. 14STREETS1004

December 11, 2014

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PLANNING &
DESIGN SERVICES

WHEREAS, the Louisville Metro Planning Commission (“Planning Commission”) finds, based on the staff report, evidence and testimony presented at the public hearing, and the applicant’s proposed findings of fact, that the request to close the southern terminus of S. 20th Street, Kendall Court, and an unnamed alley running south from Anderson Street between S. 20th Street and Kendall Court complies with the Cornerstone 2020 Comprehensive Plan because the subject property lies within the Traditional Workplace Form District, which allows a mixture of industrial, commercial and office uses; in order to encourage reinvestment, rehabilitation and redevelopment in Traditional Workplaces, the Comprehensive Plan encourages flexible and creative site design along with a respect for the traditional pattern of development in the surrounding area; the proposed development represents a significant investment in the redevelopment and rehabilitation of an older and declining neighborhood in a manner that is consistent with the Traditional Workplace Form District.; the proposed development is consistent with the historical development pattern on the subject property, and is compatible with development in the surrounding area, which does not follow a predominant pattern;

WHEREAS, the Planning Commission further finds that all of the lots surrounding the rights-of-way to be closed are under common ownership and will be reconfigured as shown on the proposed development plan, therefore, the streets and alley proposed to be closed are no longer required for access; the owner of 100% of the property adjacent to the rights-of-way to be closed agrees to the proposed closure and has submitted a notarized consent; the property surrounding the rights-of-way to be closed will continue to have direct vehicular and pedestrian access to W. Broadway (via S. 20th Street), Anderson Street, Dr. J. W. Hodges Street, and Dixie Highway; the subject property is adequately served by public transportation, incorporates sidewalks and walkways throughout the proposed development, and bicycle parking will be provided in accordance with the Land Development Code requirements; therefore, the proposed development will adequately accommodate all modes of transportation;

WHEREAS, the Planning Commission further finds the requested street and alley closures will not result in a demand on public facilities and services that exceeds the capacity of such facilities; the unimproved roadways are no longer needed for any public or private purpose, nor is a future need for these roads anticipated; therefore, the proposed closure of these roads will not interfere with or exceed the capacity of the existing roadway infrastructure;

WHEREAS, the Planning Commission further finds the properties surrounding the rights-of-way to be closed are under common ownership and will be consolidated and resubdivided as shown on the proposed development plan, therefore there is no need to reserve utility easements within the existing right-of-way areas to serve the existing lots; and to the extent determined necessary by affected utilities, easements will be reserved within the rights-of-way to be closed or will be provided in alternate locations on the site as needed to serve the proposed development;