

Development Review Committee

Staff Report

June 15, 2022



Case No:	21-DDP-0078
Project Name:	Thompson Brothers Plumbing
Location:	436 Roberts Avenue
Owner(s):	Thompson Bros Construction LLC
Applicant:	Thompson Bros Construction LLC
Jurisdiction:	Louisville Metro
Council District:	25 – Amy Holton Stewart
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Waivers**
 - #1: from 10.2.4.B.1 to permit encroachment into a required property perimeter Landscape Buffer Area by up to 14' by a drive aisle and to waive required plantings (22-WAIVER-0036)
 - #2: from 5.9.2.A.1.b.ii to omit required pedestrian and vehicular circulation with an adjacent non-residential use (22-WAIVER-0037)
- **Revised Detailed District Development Plan** and revised Binding Elements

CASE SUMMARY

The subject site is located on Robert Avenue south of the intersection with Southside Drive and consists of one parcel developed with a former single-family residence now in non-residential use, with indoor storage. The applicant proposes to add a 420 square foot addition to the metal storage building for use as office space associated with the contractor's shop operated on the site, and 1,824 square feet of garaged racking in the rear of the site.

The site was partially rezoned from R-4 to C-2 in 2014 under docket 14ZONE1009. The remainder of the site was rezoned from R-4 to C-2 in 2017 under docket 16ZONE1025. The binding elements from 14ZONE1009 were replaced at that time.

This case was previously heard on June 1, 2022, and was continued in order to allow the applicant time to submit a new plan showing at 24' driveway in the shared easement with the adjacent property.

STAFF FINDING

The waivers are adequately justified and meet the standard of review. The RDDDP is adequately justified and meets the standard of review.

TECHNICAL REVIEW

MSD and Transportation Planning have provided preliminary approval of the proposal.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The waiver would not adversely affect adjacent property owners, as the driveway already exists and has caused no known adverse effects.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the Comprehensive Plan as the Comprehensive Plan encourages appropriate transitions between uses of significantly different intensity or density. While the zoning intensity is significantly different between the two properties, the uses are not of significantly different intensity.

- c. The extent of 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 driveway already exists and the circulation of the site requires it to be in its current location.

- d. Either: 1. 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 2. 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 because the circulation on the site would not work without the drive aisle being where it is located.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The waiver would not adversely affect adjacent property owners, as the site is in use as a contractor's shop, which is not normally visited by customers who would also patronize nearby commercial.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the Comprehensive Plan as no Mobility goals, objectives or policies are violated by securing the site and not providing circulation, as the use is not the type of business to attract customers who would also patronize nearby commercial.

- c. The extent of 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 use of the property is not the type that would attract retail customers, and providing pedestrian and vehicular circulation would not be to the public advantage.

- d. Either: 1. 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 2. 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 because providing the required pedestrian and vehicular circulation would require a significant redesign of a site which is already in use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- 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 natural resources on the site. No historic assets are evident on the 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. Louisville Metro Public Works has provided preliminary approval of the plan.

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

STAFF: No open space provisions are relevant to the 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 would be compatible with the existing and future development of the area as the requested expansion is relatively small, and the impact of the existing business has caused no known adverse effects on the neighborhood.

- 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, with the exception of a requested waivers.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with revised Binding Elements for the subject site only

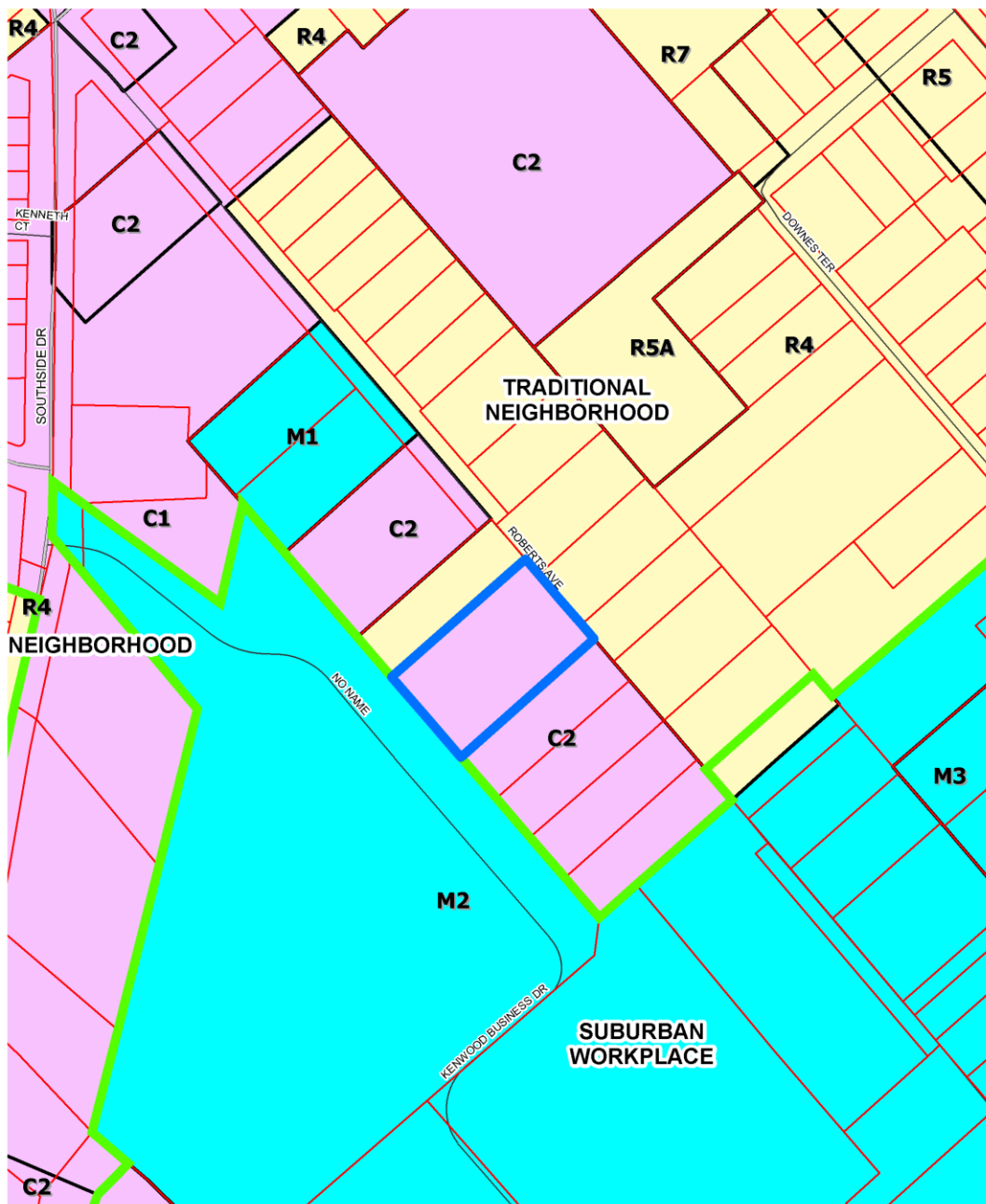
NOTIFICATION

Date	Purpose of Notice	Recipients
05/20/2022	Hearing before DRC	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 25

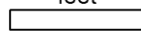
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (to be replaced on subject site only)
4. Proposed Binding Elements (subject site only)

1. Zoning Map



436 Roberts Avenue
feet



190
Map Created: 5/24/2022

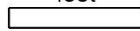


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2. Aerial Photograph



436 Roberts Avenue
feet



190

Map Created: 5/24/2022



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3. Existing Binding Elements (to be replaced on subject site only)

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 5,350 square feet of gross floor area for 436/438 Roberts Ave.~~
The development shall not exceed 6,400 square feet of gross floor area for 440/448/450 Roberts Ave.
The development shall not exceed 2,350 square feet of gross floor area for 452 Roberts Ave.
3. No 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - c. A minor plat or legal instrument shall be recorded consolidating ~~436/438 Roberts Avenue into one lot~~ and 440/448/450 Roberts Avenue 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. 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.

8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~December 1, 2016 Planning Commission~~ **June 1, 2022 Development Review committee** meeting.

4. Proposed Binding Elements (subject site only)

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 6,400 square feet of gross floor area for 440/448/450 Roberts Ave.
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 - b. 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.
 - c. A minor plat or legal instrument shall be recorded consolidating 440/448/450 Roberts Avenue 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.

7. 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.
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