

**Development Review Committee**  
**Staff Report**  
May 4, 2016



<b>Case No:</b>	<b>16devplan1025</b>
<b>Request:</b>	<b>Revised Detailed District Development Plan and waivers</b>
<b>Project Name:</b>	<b>Burger King</b>
<b>Location:</b>	<b>1309/1311 Bluegrass Ave. &amp; 4170 Taylor Blvd.</b>
<b>Owner:</b>	<b>Estate of Erma Shrader</b>
<b>Applicant:</b>	<b>Boos Development Group</b>
<b>Representative:</b>	<b>Miller Wihry; Bardenwerper Talbott and Roberts PLLC</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>15-Marianne Butler</b>
<b>Case Manager:</b>	<b>Julia Williams, RLA, AICP, Planner II</b>

**REQUEST**

- Waiver from 5.5.1.A.3.a. and 5.9.2.C.4. to allow the parking to be located in front of the building
- Revised Detailed District Development plan

**CASE SUMMARY/BACKGROUND/SITE CONTEXT**

The proposal is for a 2,866 sf. restaurant at the corner of Bluegrass Avenue and Taylor Boulevard. The restaurant is proposed to have a drive through which necessitated the request for a variance and the waivers. A 3' wall is proposed along the frontage to screen the vehicle use area and to mitigate the variance and waiver request.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	Land Use	Zoning	Form District
<b><i>Subject Property</i></b>			
<b>Existing</b>	Vacant	C-1	TN
<b>Proposed</b>	Restaurant	C-1	TN
<b><i>Surrounding Properties</i></b>			
<b>North</b>	Office	C-1	TN
<b>South</b>	Commercial	C-2	TN
<b>East</b>	Commercial	C-1/C-2	TN
<b>West</b>	School	R-5	TN

**PREVIOUS CASES ON SITE**

16variance1023- A variance for the building location was reviewed at the May 2, 2016 BOZA hearing.  
14zone1037- The property and the properties to the north were rezoned from OR-2 and C-2 to C-1 in 2015.

**INTERESTED PARTY COMMENTS**

None received.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

### 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 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.

- 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.

- 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 WAIVER of section  
5.5.1.A.3.a. and 5.9.2.C.4. to allow the parking to be located in front of the  
building**

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

STAFF: The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance and a 3' wall will be provided between the ROW and the vehicle use area.

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

STAFF: Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. A 3' wall will be provided between the ROW and the vehicle use area to create a street wall. The wall will screen the vehicle use area and mainly the drive through which is the cause for the waiver.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since there is a drive through proposed and a 3' wall will be provided between the ROW and the vehicle use area.

- (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 meet the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since a drive through cannot be accommodated on the site without have some vehicle use area in front of the building.

**TECHNICAL REVIEW**

- All technical review comments have been addressed.

## STAFF CONCLUSIONS

The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the / Development Review Committee must determine if the proposal meets the standards for granting a LDC Waiver and RDDDP established in the Land Development Code.

## NOTIFICATION

Date	Purpose of Notice	Recipients
4/18/16	Hearing before BOZA	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 15 Notification of Development Proposals
4/14/16	Hearing before BOZA	Sign Posting on property
4/20/16	Hearing before DRC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 15 Notification of Development Proposals

## ATTACHMENTS

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



## 2. Aerial Photograph



### **3. Proposed Binding Elements**

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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 2,900 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) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. 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.
  - d. The appropriate variance shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
  - e. 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.
  - f. 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 upon request.
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.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 4, 2016 DRC meeting.
7. Dumpster enclosures shall be constructed of brick or split-face block materials in keeping with materials and design of the proposed structures as depicted in the renderings presented at the April 23, 2015 Planning Commission meeting.