

Board of Zoning Adjustment Staff Report

Feb. 20, 2017



Case No:	16DEVPLAN1052
Request:	Construction of a Thornton's Gas Station, drive –thru car wash with variances and waivers.
Project Name:	Thornton's Store
Location:	4900 Brownsboro Road
Project Size:	1.38 acres or 79,715 sf.
Zoning:	C-1
Form District:	Town Center
Owner:	The Glenview Trust
Applicant:	Jode L. Ballard – Thornton's Inc.
Representative:	Glenn Price – Frost, Brown, and Todd LLC
Jurisdiction:	Louisville Metro
Council District:	7 – Angela Leet
Case Manager:	Ross Allen – Planner I

REQUEST

- **Variance #1:** from the Land Development Code, Section 5.2.4.C.3.a to allow the convenience store to exceed the 15 foot setback from the edge of right of way by 167 feet.

Location (U.S. HWY - 42)	Requirement	Request	Variance
Convenience Store	15 ft.	75.2 ft.	60.2 ft.

- **Variance #2:** from the Land Development Code, Section 5.2.4.C.3.a to allow the convenience store to exceed the 15 foot setback from the edge of right of way by 55 feet.

Location (KY - 22/Brownsboro Rd.)	Requirement	Request	Variance
Convenience Store	15 ft.	249 ft.	234 ft.

- **Waiver #1:** from LDC section 5.5.1.A.1.b to not have a retail building with a customer entrance facing the primary street, Brownsboro Rd (northeastern property line), or the secondary street, US HWY 42 (northeastern property line) or a corner entrance.
- **Waiver #2:** from LDC section 5.5.1.A.2 to not build five feet away from both right of ways at the corner of KY-42 and/or KY 22 nor to build to the corner that contains frontage along the primary street.
- **Waiver #3:** from LDC section 5.5.1.A.3.a to allow parking between the convenience store and US HWY 42 (northwest), KY-22 (northeast), and the I-264 east exit ramp (southeast).
- **Waiver #4:** from LDC section 5.5.1.A.5.a to allow an attached gas station canopy to be between the convenience store (principal structure) and the public street, US HWY 42 (northwest).

- **Waiver #5:** from LDC section 5.6.1.A.1 to allow the principal structure (convenience store) to have less than 75% of their length to have blank walls facing public streets and sidewalks along KY-22 (northeast), and the I-264 West exit ramp towards US HWY 42 (southwest).
- **Waiver #6:** from LDC section 5.6.1.C.1 to allow the principal structure (convenience store) to have less than 50% of the wall surfaces at street level to not consist of clear windows and doors as found along the I-264 off ramps on the southeastern façade and southwestern façade.
- **Waiver #7:** from LDC section 8.2.1.D.6 to allow an existing changing image sign to be closer than 300 feet to a residentially zoned district (Northfield Subdivision).
- **Landscape Waiver #8:** from LDC section 10.3.5.A.1 to not provide the required 30 foot setback and 30 foot buffer area with 1 type A tree for each 40 feet of road frontage and a visually continuous berm needed to screen the VUA with an average height of 3 feet and shrub massings on or fronting the berm with at least 1/3 of the frontage length planted along US HWY 42 (northwest) and KY-22 (northeast).
- **Landscape Waiver #9:** from LDC section 10.2.4, table 10.2.3 to reduce the 35 landscape foot buffer to 18 feet in width along the southwestern property line adjacent to the I-264 off ramp to US HWY 42.
- **Landscape Waiver #10:** from LDC section 10.2.4, table 10.2.3 to reduce the 35 foot landscape buffer to 5 feet in width along the southeastern property line adjacent to the I-264 off ramp to KY- 22.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Thornton's Inc. is proposing to demolish the existing Thornton's Convenience Store, Car Wash, a vacant building (formerly occupied by Goodwill Industries) and Dairy Queen on the 1.38 acre site. Thornton's Inc. proposes to build a new one story 4,409 sf. Convenience Store located approximately 63 feet from the southeastern property line parallel to the I-264 off-ramp to KY-22. The proposed carwash (1,754 sf.) will be located southwest of the Convenience Store. Access to the Car Wash originates along a lane parallel to KY-22 on northeast side of the subject parcel and follows southeast and then due south towards the car wash building and having 12 queuing spaces leading to the two bay entrances. The gas canopy with an area of 5,236 sf., a 22 foot height, is found to the west (southwest) of the convenience store parallel to US HWY 42 having 12 pumps with the capacity to allow 24 vehicles to fuel. The subject site will have three entrances, a 36 foot wide ingress/egress off of US HWY 42, and two other ingresses/egresses off of KY-22, one having a 35.5 width and the other ingress/egress is 36 feet in width. The site has 29 spaces, 2 of which are ADA compliant, found immediately to the front, street side, and rear of the convenience store.

The subject site is bounded to the northwest by US HWY 42, northeast by KY-22, the southwest by the I-264 off Ramp to US HWY 42, and southeast by the I-264 off ramp to KY-22. The subject site has the Northfield subdivision to the northwest, a BB&T Bank, The Weekly Juicer, Heine Bros. Coffee to the northeast, the proposed Veterans Affairs Hospital location and I-264 off ramp to KY-22 to the southeast, and the I-264 off ramp to US HWY 42/ I-264 Expressway to the southwest. The subject site has issues that will require the applicant to request the relocation of LG&E electric light poles and associated overhead wires. The Louisville Water Company has a pressurized water main that passes within the southwestern portion of the subject site parallel to US HWY 42. Last, a TARC stop will need to be relocated further southeast of the existing location along KY-22. Last, a portion of Brownsboro Rd./KY-22, approximately 444 linear feet, found along the southeastern property line will need to be acquired from the Kentucky Transportation Cabinet (KYTC)/State of Kentucky. The development plan as provided is solely dependent upon the acquisition of the aforementioned,

road segment of KY-22/Brownsboro Rd., state property and is currently pending approval via KYTC and the Federal Highway Administration.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zonin g	Form District
Subject Property			
Existing	Commercial	C-1	Town Center
Proposed	Commercial	C-1	Town Center
Surroundi ng Properties			
North	Residential Single Family ; Commercial	R-4; C-1	Neighborhood ; Town Center
South	ROW; Vacant	ROW; PD	ROW ; Town Center
East	ROW ; Public and Semi-public ; Commercial	ROW; PD; C- 2	ROW ; Town Center
West	ROW ; Commercial	ROW; R-4	ROW ; Neighborhood

PREVIOUS CASES ON SITE

None found per Hansen or Development Logs previous to 2007.

INTERESTED PARTY COMMENTS

No comments from concerned citizens have been received to date.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code (April 2016)

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A VARIANCE (#1): from the Land Development Code, Section 5.2.4.C.3.a to allow the convenience store to exceed the 15 foot setback from the edge of right of way by 167 feet.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the location of the convenience store to allow for safe vehicular and pedestrian movement.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity since the site was previously a gas station and has long standing history as a gas station.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public pending the approval of land acquisition from KYTC the proposed layout provides for the safe movement of motor vehicles and pedestrians, having adequate on-site parking and access points to and from the proposed site.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations because convenience stores and accessory structures built in conjunction with gas/convenience facilities must be at a greater setback than typically found in the Town Center Form District.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone since the subject site is bounded by interstate ramps on two sides and by US HWY 42 and KY-22 on the remaining two sides. The subject site is the only property in the general vicinity having abutting roads in this configuration. As a result of the road configuration, the location of the gas pump/s canopy and buildings are situated to allow the safe movement of vehicular.

2. 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.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the regulation would require the placement of the convenience store and car wash at the front corner of the site, resulting in the gas canopy to be placed to the rear of the principal structure (convenience store).

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the configuration of the site and situation of the structures abut two interstate ramps and fronts two state roads (US HWY 42 and KY-22/Brownsboro Rd.).

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A VARIANCE (#2): from the Land Development Code, Section 5.2.4.C.3.a to allow the convenience store to exceed the 15 foot setback from the edge of right of way by 55 feet.

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the location of the convenience store to allow for safe vehicular and pedestrian movement.

- (b) The requested variance will not alter the essential character of the general vicinity.

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2. 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.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since the regulation would require the placement of the convenience store and car wash at the front corner of the site, resulting in the gas canopy to be placed to the rear of the principal structure (convenience store).

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: No, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought since the configuration of the

site and situation of the structures abut two interstate ramps and fronts two state roads (US HWY 42 and KY-22/Brownsboro Rd.).

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#1) from section 5.5.1.A.1.b to not have a retail building with a customer entrance facing the primary street, Brownsboro Rd (northeastern property line), or the secondary street, US HWY 42 (northeastern property line) or a corner entrance.

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

STAFF: The waiver will not adversely affect adjacent property owners since on-site access point/s do not affect adjacent property owners. The subject site is an parcel that is bounded by two I-264 off ramps and US HWY 42 and KY-22/Brownsboro Rd.

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

STAFF: The waiver is supported by Bicycle, Pedestrian, and Transit Guideline 9, and policies within this guideline because sidewalks will be constructed along US HWY 42 and KY-22/Brownsboro Rd. (along the northeastern property line) and leading to the convenience store as well as striping across vehicular ingresses and egresses promoting adequate and appropriate movement of pedestrians.

- (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 two access points are proposed, one access faces the primary street (US HWY42), the second set of access points are located facing KY-22/Brownsboro Rd. and traffic restraints as found at the intersection of KY-22/Brownsboro Rd. and US HWY 42 limit optional reconfigurations.

- (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 because the applicant would be unable to monitor the activities outside the building/s to ensure customer safety.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#2) from section 5.5.1.A.2 to not build five feet away from both right of ways at the corner of US HWY 42 and/or KY- 22 nor to build to the corner that contains frontage along the primary street.

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

STAFF: The waiver will not adversely affect adjacent property owners since on-site access point/s do not affect adjacent property owners. The subject site is an parcel that is bounded by two I-264 off ramps and US HWY 42 and KY-22/Brownsboro Rd.

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

STAFF: The waiver is supported by Bicycle, Pedestrian, and Transit Guideline 9, and policies within this guideline because sidewalks will be constructed along US HWY 42 and KY-22/Brownsboro Rd. (along the northeastern property line) and leading to the convenience store as well as striping across vehicular ingresses and egresses promoting adequate and appropriate movement of pedestrians.

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- (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 because the applicant would be unable to monitor the activities outside the building/s to ensure customer safety.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#3): of section 5.5.1.A.3.a to allow the parking lot to be located in front of the building between the convenience store and US HWY 42 (northwest), KY-22 (northeast), and the I-264 east exit ramp (southeast).

- (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. The waiver creates a design that only affects the layout of the subject site posing no impact on adjacent property owners.

- (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. The proposed layout provides for adequate parking and mobility of vehicular traffic and the safe movement of pedestrians to and from the subject site. 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. The structures height as proposed for the convenience store, 24 feet, the gas canopy, 22 feet are within the characteristic of the general vicinity. 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. The subject site is a gas station and the promotion of non-vehicular mode of transportation is contrary to their intent. However, the proposed development plan is moving a TARC transit stop southeast of where the applicant has proposed to construct a section of sidewalk. The waivers are compatible with the pattern of development within the form district, and therefore do are in compliance with the regulations to be waived. Therefore, the requested waivers will not violate specific guidelines and policies of Cornerstone 2020.

- (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 the site situation, subject site constrained by Scenic Roadways/State Roads and I-264 off ramps restrict the ability to locate the structures on site in few alternative layouts for parking.

- (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 create an unnecessary hardship on the applicant since the proposed development is constrained as a result of the bounding roadways surrounding the property thus, limiting layout options for the proposed structures resulting in the inability to utilize the property.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#4): from LDC section 5.5.1.A.5.a to allow an attached gas station canopy to be between the convenience store (principal structure) and the public street, US HWY 42 (northwest).

- 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.

(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. The waivers are not compatible with the pattern of development within the form district, and there do not appear to be physical restraints preventing compliance with the regulations to be waived. Therefore, the requested waivers will violate specific guidelines and policies of Cornerstone 2020.

(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 are no physical restraints preventing compliance with the regulations to be waived.

(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 since the proposed development can be built on the site while complying with the requirements requested to be waived.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#5): from LDC section 5.6.1.A.1 to allow the principal structure (convenience store) to have less than 75% of their length to have blank walls facing public streets and sidewalks along KY-22 (northeast), and the I-264 West exit ramp towards US HWY 42 (southwest).

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

STAFF: The requested waiver will not adversely affect adjacent property owners since the waiver creates a design which only affects the layout, including interior layout, of the convenience store on the subject site having no effect on nearby properties owners. The current gas station is similar in scope and size as would be the case for the design, only the layout as situated on the larger parcel would change, again having no impact upon adjacent property owners.

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

STAFF: Guideline 3, Policies 1 and 2 call for the 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. The type of building materials as proposed in elevations provided by the applicant are for branding based on scale of the structures and coloration. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential with the intent to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75% of the store frontage. The convenience store fronts four roads and meets applicable design guidelines as found in the LDC along the US HWY 42 and KY-22/Brownsboro Rd. sides. However, the sides fronting the I-264 off ramps do not meet the LDC guidelines, 75% of the frontage being windows or other animating features, but there will not be an adverse visual impact when the frontage of the building has the intent to be visually appealing, based on branding, to motorists along the US HWY 42 and KY-22/Brownsboro Rd. The I-264 ramps may not be considered streets as defined by the LDC regulation.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the convenience store's US HWY 42/KY-22/Brownsboro Rd. frontage will have storefront windows, meeting the LDC guidelines, and must provide for storage and display space within the store.

- (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 because the 75% windows or animating features requirement of the convenience store will not allow the store to be visually impactful nor necessary for frontages along the I-264 ramps and KY-22/Brownsboro Rd. The I-264 ramps may not be considered streets as defined by the LDC regulation.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#6): from LDC section 5.6.1.C.1 to allow the principal structure (convenience store) to have less than 50% of the wall surfaces at street level to not consist of clear windows and doors as found along the I-264 off ramps on the southeastern façade and southwestern façade.

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

STAFF: The requested waiver will not adversely affect adjacent property owners since the waiver creates a design which only affects the layout, including interior layout, of the convenience store on the subject site having no effect on nearby properties owners. The current gas station is similar in scope and size as would be the case for the design, only the layout as situated on the larger parcel would change, again having no impact upon adjacent property owners.

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

STAFF: Guideline 3, Policies 1 and 2 call for the 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. The type of building materials as proposed in elevations provided by the applicant are for branding based on scale of the structures and coloration. The proposal is for a non-residential use. The Land Development Code provides building design standards for non-residential with the intent to provide visual interest and a human scale that are representative of the form district through the use of windows, columns, pilasters, piers, variation of material, entrances, storefront windows, and other animating features along no less than 75% of the store frontage. The convenience store fronts four roads and meets applicable design guidelines as found in the LDC along the US HWY 42 and KY-22/Brownsboro Rd. sides. However, the sides fronting the I-264 off ramps do not meet the LDC guidelines, 75% of the frontage being windows or other animating features, but there will not be an adverse visual impact when the frontage of the building has the intent to be visually appealing, based on branding, to motorists along the US HWY 42 and KY-22/Brownsboro Rd. The I-264 ramps may not be considered streets as defined by the LDC regulation.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant because the convenience store's US HWY 42/KY-22/Brownsboro Rd. frontage will have storefront windows, meeting the LDC guidelines, and must provide for storage and display space within the store.

- (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 because the 75% windows or animating features requirement of the convenience store will not allow the store to be visually impactful nor necessary for frontages along the I-264 ramps and KY-22/Brownsboro Rd. The I-264 ramps may not be considered streets as defined by the LDC regulation.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#7): from LDC section 8.2.1.D.6 to allow an existing changing image sign to be closer than 300 feet to a residentially zoned district (Northfield Subdivision).

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

STAFF: The waiver will not adversely affect adjacent property owners since the sign is to convey information to motorists travelling north on US HWY 42. Residentially zoned properties located in the City of Northfield, across US HWY 42 from the site within the 300 foot radius are screened with existing landscaping and a six foot tall fence.

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

STAFF: Guideline 3, Policy 8 of the Comprehensive Plan calls for the mitigation of adverse impacts of lighting from proposed development on nearby properties and on the night sky. Guideline 3, Policies 21 and 22 requires appropriate transitions between uses that are substantially different in scale and intensity or density of development, and to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. These transitions and buffers are to address issues such as outdoor lighting. The proposed changing image sign will be directed to motorists along US HWY 42 (north/south) as opposed to residences in the City of Northfield.

(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 proposed changing image sign will be directed to motorists along US HWY 42 (north/south) as opposed to residences in the City of Northfield.

(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 because the inability to have the changing image sign would impact product advertisement in a safe manner without the requirement of several smaller signages along the US HWY 42 frontage.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR PARTIAL WAIVER (#8): of section 10.3.5.A.1, Parkway Development Standards, to not provide the required 30 foot setback and 30 foot buffer area with 1 type A tree for each 40 feet of road frontage and a visually continuous berm needed to screen the VUA with an average height of 3 feet and shrub massings on or fronting the berm with at least 1/3 of the frontage length planted along US HWY 42 (northwest) and KY-22 (northeast).

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

STAFF: The waiver will not adversely affect adjacent property owners since the frontage along US HWY 42 is not uniform and the 30 foot parkway buffer will be provided along the northeastern portion of the site where the sidewalk is to be located. Moving westward along US HWY 42 there is insufficient space for the 30 foot parkway buffer and/or the 3 foot berm. The same screening requirements are not applicable to surrounding sites across KY-22/Brownsboro Rd.

(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 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The applicant intends to partially provide landscaping along the US HWY 42 frontage. Screening and buffering to mitigate adjacent incompatible uses and further require the protection of the character of parkways. The location of the site at the confluence of 4 roadways, particularly at the intersection of US HWY 42 and the Waterson Ramps justifies not providing the full width of the parkway buffer.

- (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 because the site frontage is to be located on US HWY 42 near the US HWY 42 entrance to the site, where the frontage on US HWY 42 diminishes heading westwardly.

- (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 because the requirement of the 30 foot parkway buffer would not allow the site layout to be utilized.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#9): of section 10.2.4., table 10.2.3 to reduce the 35 landscape foot buffer to 18 feet in width along the southwestern property line adjacent to the I-264 off ramp to US HWY 42.

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

STAFF: The waiver will not adversely affect adjacent property owners since the pass through lane is strictly an on-site safety and convenience lane benefitting customers. The waiver will not impact adjacent property owners since there are no adjacent properties.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 airborne and waterborne pollutants. The waiver will allow for the safe and efficient circulation of motor vehicles while allowing motorists to exit the car wash and thereafter exit the Thornton's 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 the minimum necessary to afford relief to the applicant because the reduction in width will allow for the accommodation of the pass-through lane and the applicant is willing to provide the required landscaping and buffering by the land development code.

- (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 because the ability to allow both customers leaving the site and the car wash to have sufficient space to exit.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (#10): of section 10.2.4, table 10.2.3 to reduce the 35 foot landscape buffer to 5 feet in width along the southeastern property line adjacent to the I-264 off ramp to KY- 22.

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

STAFF: The waiver will not adversely affect adjacent property owners since the pass through lane is strictly an on-site safety and convenience lane benefitting customers. The waiver will not impact adjacent property owners since there are no adjacent properties.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 airborne and waterborne pollutants. The waiver will allow for the safe and efficient circulation of motor vehicles while allowing motorists to exit the car wash and thereafter exit the Thornton's 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 the minimum necessary to afford relief to the applicant because the reduction in width will allow for the accommodation of the pass-through lane and the applicant is willing to provide the required landscaping and buffering by the land development code.

- (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 because the ability to allow both customers leaving the site and the car wash to have sufficient space to exit.

TECHNICAL REVIEW

- No Technical review was undertaken for this review.

STAFF CONCLUSIONS

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a LDC Partial Sidewalk Waiver, and a variance from the Land Development Code.

- **Approve or Deny Variance #1:** from the Land Development Code, Section 5.2.4.C.3.a to allow the convenience store to exceed the 15 foot setback from the edge of right of way by 167 feet.
- **Approve or Deny Variance #2:** from the Land Development Code, Section 5.2.4.C.3.a to allow the convenience store to exceed the 15 foot setback from the edge of right of way by 55 feet

- **Approve or Deny Waiver #1:** from LDC section 5.5.1.A.1.b to not have a retail building with a customer entrance facing the primary street, Brownsboro Rd (northeastern property line), or the secondary street, US HWY 42 (northeastern property line) or a corner entrance.
- **Approve or Deny Waiver #2:** from LDC section 5.5.1.A.2 to not build five feet away from both right of ways at the corner of KY-42 and/or KY 22 nor to build to the corner that contains frontage along the primary street.
- **Approve or Deny Waiver #3:** from LDC section 5.5.1.A.3.a to allow parking between the convenience store and US HWY 42 (northwest), KY-22 (northeast), and the I-264 east exit ramp (southeast).
- **Approve or Deny Waiver #4:** from LDC section 5.5.1.A.5.a to allow an attached gas station canopy to be between the convenience store (principal structure) and the public street, US HWY 42 (northwest).
- **Approve or Deny Waiver #5:** from LDC section 5.6.1.A.1 to allow the principal structure (convenience store) to have less than 75% of their length to have blank walls facing public streets and sidewalks along KY-22 (northeast), and the I-264 West exit ramp towards US HWY 42 (southwest).
- **Approve or Deny Waiver #6:** from LDC section 5.6.1.C.1 to allow the principal structure (convenience store) to have less than 50% of the wall surfaces at street level to not consist of clear windows and doors as found along the I-264 off ramps on the southeastern façade and southwestern façade.
- **Approve or Deny Waiver #7:** from LDC section 8.2.1.D.6 to allow an existing changing image sign to be closer than 300 feet to a residentially zoned district (Northfield Subdivision).
- **Approve or Deny Landscape Waiver #8:** from LDC section 10.3.5.A.1 to not provide the required 30 foot setback and 30 foot buffer area with 1 type A tree for each 40 feet of road frontage and a visually continuous berm needed to screen the VUA with an average height of 3 feet and shrub massings on or fronting the berm with at least 1/3 of the frontage length planted along US HWY 42 (northwest) and KY-22 (northeast).
- **Approve or Deny Landscape Waiver #9:** from LDC section 10.2.4, table 10.2.3 to reduce the 35 landscape foot buffer to 18 feet in width along the southwestern property line adjacent to the I-264 off ramp to US HWY 42.
- **Approve or Deny Landscape Waiver #10:** from LDC section 10.2.4, table 10.2.3 to reduce the 35 foot landscape buffer to 5 feet in width along the southeastern property line adjacent to the I-264 off ramp to KY- 22.

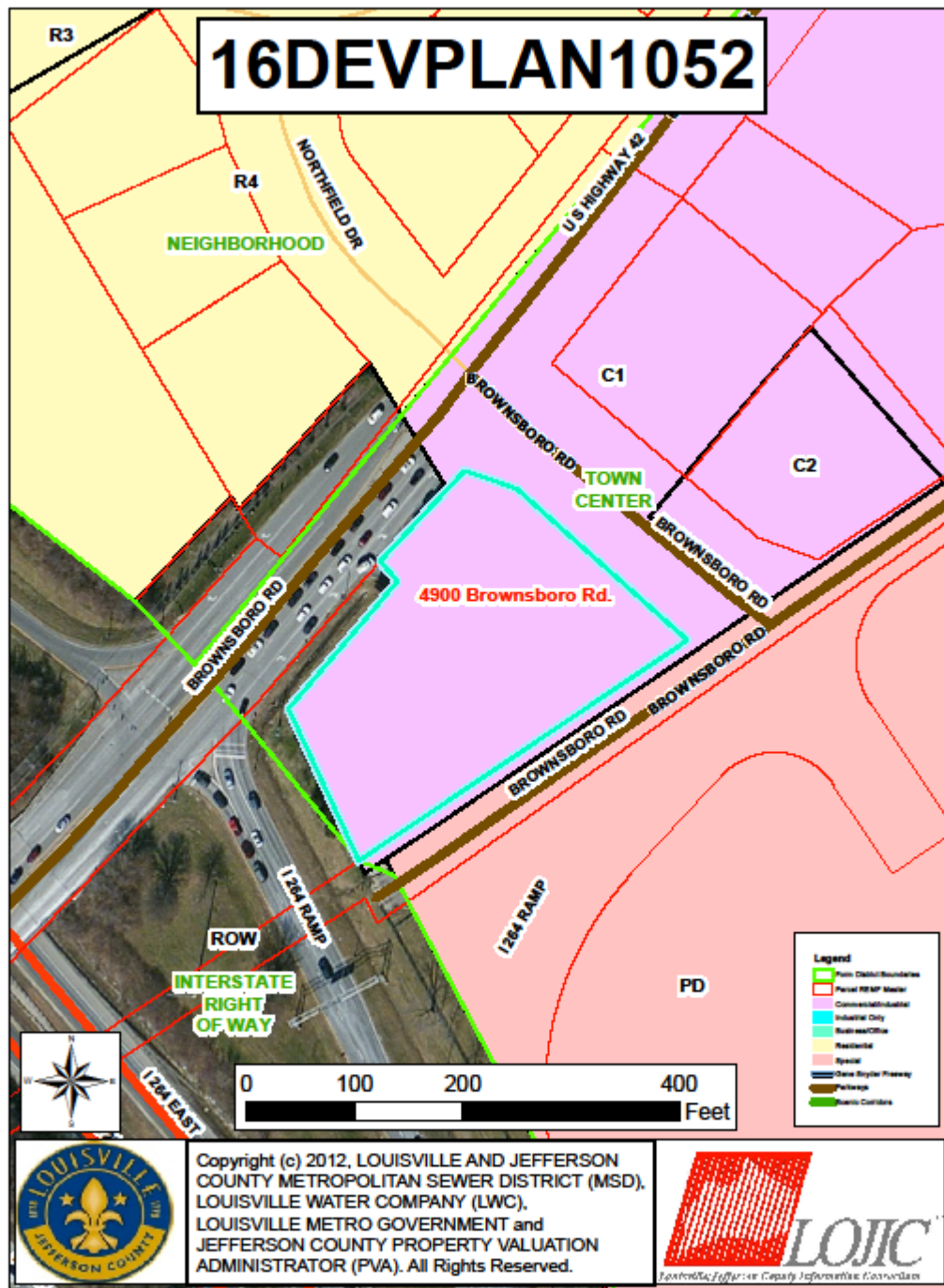
NOTIFICATION

Date	Purpose of Notice	Recipients
Feb. 20, 2017	Hearing before PC / BOZA	1 st tier adjoining property owners Subscribers of Council District 7 Notification of Development Proposals
Feb. 3, 2017	Hearing before PC / BOZA	Sign Posting on property

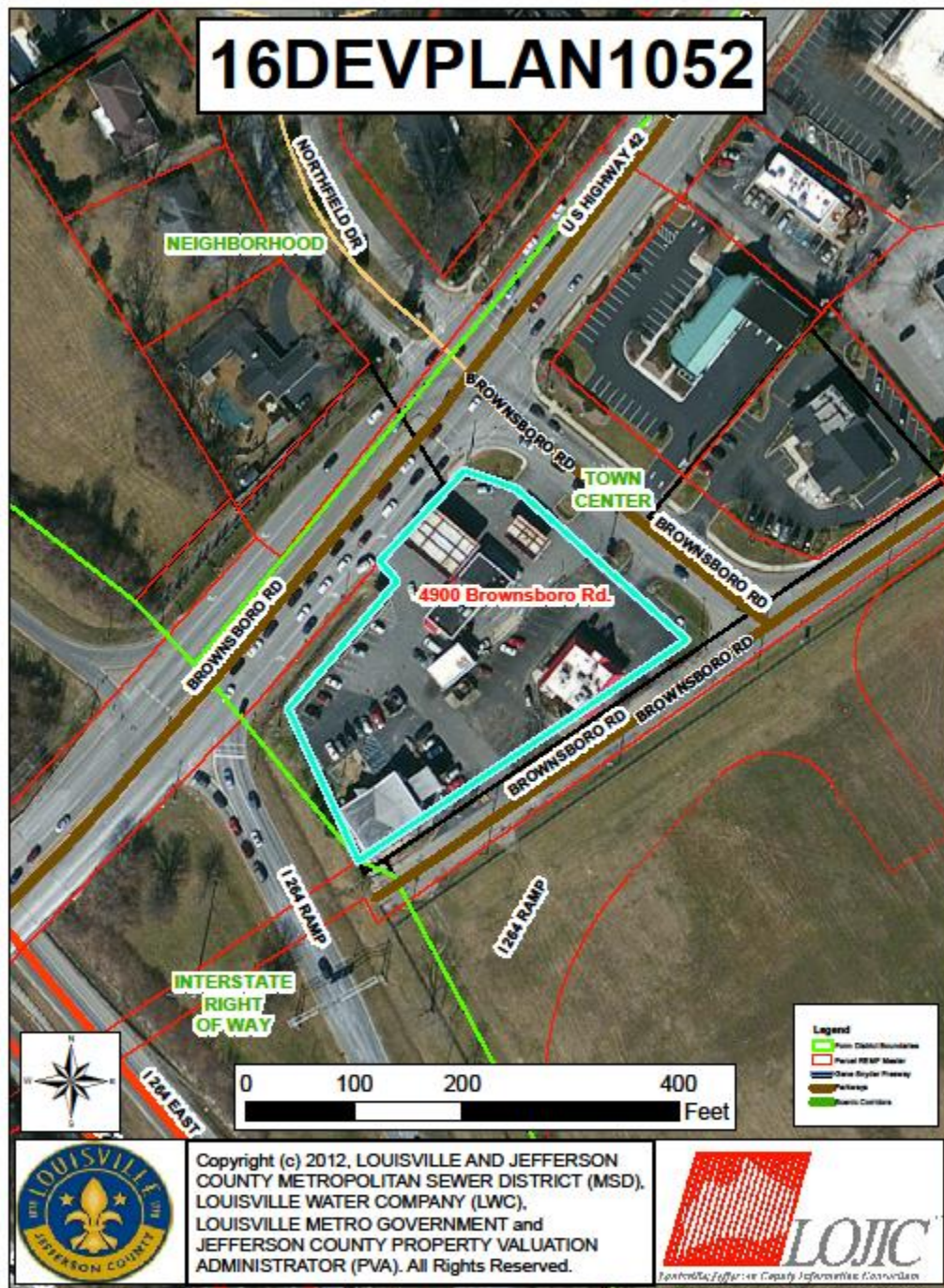
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Aerial Map with Development Plan Overlay

1. Zoning Map



2. Aerial Photograph



3. Aerial Map with Development Plan Overlay

