April 18, 2017

Develop Louisville - Planning and Design Services
c/o Laura L. Mattingly
Metro Development Center - 3rd Floor
444 S. Fifth Street, Louisville, KY 40202
RE: Appeal of DRC Denial for Waiver regarding LDC 10.2.11
17DEVPLAN1010 (Thorntons of Hazelwood)
4170 Taylor Boulevard, Louisville, KY 40215
Dear Ms. Mattingly:
Thorntons has a unique opportunity to make a recommitment to Louisville's mature southwest neighborhoods through a major investment in a blighted urban infill site at the northwest corner of Taylor Boulevard and Bluegrass Avenue. During our appearance at the Development Review Committee on April 5, 2017, we proposed to comply with Chapter 10, Section 2.11 of the Louisville Metro Land Development Code that allows for the vehicular use area (VUA) vegetative screening to be reduced to 18 -inches when security is determined to be a factor, which the Committee denied thereby requiring a 36 -inch vegetative screening at our site. Attached as Exhibit A, is the excerpt of Chapter 10, Section 2.11 of the Louisville Metro Land Development Code. We humbly request an opportunity to appeal of the Development Review Committee's April 5, 2017 denial.

I have attached, as Exhibit B, five recent articles from news outlets of victimizations that have occurred against Thorntons or against our guests by criminals. These articles are merely a sampling of the incidents that occur, however any person who watches the local news can agree that businesses in our industry tend to be targets of criminals. Frankly, we are sick and tired of the victimization and are happy to try the countermeasures allowed by the Land Development Code to reduce the likelihood of criminal acts at our locations.

During the April 5, 2017 the Development Review Committee hearing, Thorntons' verbal description of the lack of visibility from off-site into our proposed development was responded to by the Committee with disbelief and lack of understanding of how visibility would be impaired by the 36 -inch vegetative screening of the VUA. I have attached hereto, as Exhibit C, a simple cross section depicting the vertical and horizontal geometry which shows an insufficient line of sight created by the 36 -inch vegetative screening between vehicles on Taylor Boulevard and the site. As shown, the southbound drivers on Taylor Boulevard line of sight is impaired BY the 36 -inch vegetative screening FROM seeing anything lower than 7 ft above the ground at our fuel pumps (noted with star symbol \#1), AND impairs FROM seeing anything lower than 12 ft above ground at our building (noted with star symbol \#2). Police cruisers along Taylor Boulevard would face this same visibility impairment while patrolling along Taylor Boulevard, which we feel is unacceptable.

As we approach this and other future potential sites, we would like to continue employing the available countermeasures that can discourage criminal acts against our guests and our business operations. We humbly request an opportunity to appeal of the Development Review Committee's April 5, 2017 denial as we seek to redevelop this blighted site.

Sincerely,
THORNTONS INC.


Jode L. Ballard
Sr. Manager of Development
Attachments

# Exhibit A <br> Excerpt of LDC 10.2.11 

## Appeal of DRC Denial for Waiver regarding LDC 10.2.11

17DEVPLAN1010 (Thorntons of Hazelwood)
4170 Taylor Boulevard, Louisville, KY 40215

# LAND DEVELOPMENT CODE 

for all of

# LOUISVILLE - JEFFERSON COUNTY KENTUCKY 

## March 2006

In effect within Louisville Metro only Last updated on 1/17/17 to include the following Ordinance:


CORNERSTONE


LOUISVILLE METRO DEP ARTMENT OF PLANNING AND DESIGN SERVICES
Louisville Metro Planning Commission

## Tree Canopy, Landscaping and Open Space

| Update | $\begin{aligned} & \text { February } \\ & 2010 \end{aligned}$ | Part 1 | Tree Canopy | 10.1-1 |
| :---: | :---: | :---: | :---: | :---: |
| Update | February | Part 2 | Landscape Design | 10.2-1 |
| Update | $\begin{aligned} & \text { February } \\ & 2010 \end{aligned}$ | Part 3 | Parkway and Scenic Corridor Development Standards | 10.3-1 |
| Update | February | Part 4 | Implementation Standards | 10.4-1 |
|  | $\begin{aligned} & \text { March } \\ & 2006 \end{aligned}$ | Part 5 | Streetscape Master Plan | 10.5-1 |
|  | $\begin{aligned} & \text { March } \\ & 2006 \end{aligned}$ | $\begin{gathered} \text { Appendix } \\ 10 \mathrm{~A} \end{gathered}$ | Preferred Plant List | 10A-1 |
|  | $\begin{aligned} & \text { March } \\ & 2006 \end{aligned}$ | $\begin{gathered} \text { Appendix } \\ 10 B \end{gathered}$ | Prohibited Plant List | 10B-1 |
| Update | $\begin{aligned} & \text { July } \\ & 2007 \end{aligned}$ | $\begin{aligned} & \text { Appendix } \\ & 10 \mathrm{C} \end{aligned}$ | Parkway, Gene Snyder Freeway, Olmsted Parkway and Scenic Corridor Maps | 10C-1 |
| Update | $\begin{aligned} & \text { October } \\ & 2009 \end{aligned}$ | $\begin{gathered} \text { Appendix } \\ 10 D \end{gathered}$ | PDS Tree Preservation Policy | 10D-1 |


| Table 10.2.6 <br> VUA Landscape Buffer Area Requirements |  |  |
| :--- | :--- | :--- |
| Area of VUA (sf) | Form District | Form District |
|  | Downtown, Village Center, <br> Traditional Neighborhood, <br> Traditional Marketplace <br> Corridor, Traditional Workplace, <br> Town Center | Regional Center, Suburban <br> Marketplace Corridor, <br> Neighborhood, Suburban <br> Workplace, Campus, Village <br> Outlying |
| up to 10,000 | 5-FT | 5-FT |
| $10,001-30,000$ | 5-FT | 10-FT |
| $>30,000$ | 10-FT | 15-FT |

A. A five foot LBA shall be provided (containing a 6 foot continuous screen and 1 type $A$ tree per 50 feet of lineal distance) between any lot containing a VUA and a non-residentially zoned lot with a first floor residential use.
B. Landscape Buffer Areas shall be placed at the edge of pavement (or back of curb if present) when the elevation of the VUA is equal to or higher than the adjacent property. When the VUA is constructed at a lower elevation than the adjacent property, the buffer shall be placed at the common property line.

### 10.2.11 Vehicular Use Area Perimeter Planting

The equivalent of 1 Large (Type A) tree per 50 linear feet of boundary (or fraction thereof) shall be provided in all VUA perimeter Landscape Buffer Areas. Tree requirements may be deferred, if an equivalent number of street trees are present in the right-of-way, until such time that the street trees are removed to allow for roadway widening or other improvements. Additional landscape requirements shall vary relative to adjacent land uses and proximity to common property lines as follows:

| Table 10.2.7 VUA Perimeter Screening Requirements |  |  |  |
| :--- | :--- | :--- | :--- |
|  | Distance From Property Line |  |  |
| Land Use | Less than or equal to 30 <br> feet | Greater than 30 feet and <br> less than 50 feet | Greater than or equal to <br> $\mathbf{5 0}$ feet |
| VUA (except loading <br> area) adjacent to any <br> residential use | 6 foot continuous screen | 3 foot continuous screen | 3 foot screen for at least <br> $50 \%$ of VUA |
| VUA is a loading area <br> adjacent to any <br> residential use | 8 foot continuous screen | 6 foot continuous screen | 6 foot continuous screen <br> if adjacent to residential |
| VUA adjacent to a <br> Roadway | 3 foot continuous screen | 3 foot continuous screen | NA |

The 3-foot or 6-foot screen requirement can be met using shrubs, evergreen trees, berms, or fencing individually or in combination. Continuous screens may be broken and staggered for visual interest provided the result is a visually continuous screen. The 3-foot screen requirement may be reduced to 18 inches when adjacent to financial institutions, nursing homes, or other uses where security is determined to be a factor. All screening material including plants, fencing, walls, and berms used to satisfy these requirements shall conform to the standards found in Chapter 10, Part 4, Implementation Standards. Landscape material in buffer areas shall be protected by the use of curbs, wheel stops, fencing, or planted
at least 4 feet from the edge of pavement when sufficient buffer area exists.

> NOTE: If VUA LBA area contains a GMP, then plant materials found in Chapter 13: Native Revegetation from the MSD Design Manual (a link to document found in Appendix 10A) are to be used and at least a 3 foot minimum continuous screen is required.

### 10.2.12 Vehicular Use Area Interior Landscape Areas

Landscape areas shall be provided within all Vehicular Use Areas to break up large impervious areas and allow for a greater distribution of tree canopy coverage and to provide the opportunity: to capture parking lot stormwater runoff, thus increasing water quality: and retaining greater amounts of storm water on site through infiltration. Dimensional requirements have been established to insure that interior landscape areas serve the intended goals and provide enough ground area to support required plant material. Interior landscape areas shall not be required for enclosed VUAs that are secured from access by a fence, wall or similar barrier at least 3.5 feet in height and used for storage, loading docks or their associated maneuvering areas, or for loading, unloading, and storage areas in an industrial zone PD (industrial uses), C$\mathrm{M}, \mathrm{M}-1, \mathrm{M}-2, \mathrm{M}-3, \mathrm{PEC} \& E Z-1$ or in loading dock \& truck maneuvering areas in Commercial and Office zones.

ILA shall be provided that in total area equals or exceeds the applicable minimum percentage of the vehicular use area, as specified in the following table:

| VUA Size | ILA Area |
| ---: | :--- |
| - -under 6,000 sq. ft. or containing < 10 parking spaces | $0 \%$ |
| $--6,000-12,000$ sq. ft. or up to 20 parking spaces | $5 \%$ |
| -- if in a Traditional or Downtown Form District | $(2.5 \%)$ |
| $--12,001-30,000$ sq. ft. or up to 100 parking spaces | $7.5 \%$ |
| -- if in a Traditional or Downtown Form District | $(5 \%)$ |
| -- over 30,000 sq. ft. or 100 parking spaces | $7.5 \%$ |

Any landscape area surrounded by or projecting into a Vehicular Use Area can be used to meet interior landscape area requirements provided they are no less than 290 sq.ft. in area and no less than 8 feet in either dimension. Smaller interior landscape areas are not prohibited, but will not count toward interior landscape area requirements.
The maximum distance between interior landscape areas shall apply as follows:
A. VUAs under $12,000 \mathrm{sq}$. ft . or less than 20 parking spaces - no maximum
B. VUAs of $12,000 \mathrm{sq}$. ft . or over or 20 or more parking spaces -20 spaces

The maximum distance shall be determined by measuring both:
A. radially from the closest perimeter landscaping area curb edge, and
B. lineally in each row of parking spaces from the closest curb edge of each ILA.

### 10.2.13 VUA Interior Landscape Area Planting Requirements

When interior landscape areas are required, one Medium or Large deciduous tree shall be provided for every 4,000 square feet of vehicular use area. The ground plane of all interior landscape areas shall be

## Exhibit B

News Outlet Articles on Victimizations at Thorntons Sites

## Appeal of DRC Denial for Waiver regarding LDC 10.2.11

## 17DEVPLAN1010 (Thorntons of Hazelwood)

4170 Taylor Boulevard, Louisville, KY 40215

## LMPD: Woman held people hostage at Thornton's

Published 5:25 p.m. ET Feb. 21, 2017 | Updated 5:25 p.m. ET Feb. 21, 2017

(Photo: Metro Corrections)

Barnes was charged with five counts of first-degree unlawful imprisonment, one count of first-degree wanton endangerment and one count of third-degree criminal mischief.

She remains in the Louisville jail on a $\$ 5,000$ cash bond. Her next court date is March 3 .

Reporter Danielle Lerner can be reached at dlerner@courier-journal.com or 502-582-4042.

## MORE HEADLINES

-Violent crime ticks up in first 7 weeks of year in Louisville (/story/news/politics/metro-government/2017/02/21/violent-crime-ticks-up-first-7-weeks-year-louisville/98147898/)

Lou City FC coach James O'Connor set for extension talks (/story/sports/soccer/louisville-city-fe/2017/02/21/loucity-coach-oconnor-set-extensiontalks/98188056
$\rightarrow$ Rally against Hargens scheduled before JCPS board meets (/story/news/education/2017/02/21/rally-against-hargens-scheduled-before-jcps-boardmeets/98065656/)

Read or Share this story: http://cjky.it/2m5n2Jk

## LMPD investigating fatal shooting in Thorntons parking I

Julia Rose, WHAS 12:17 PM. EDTMarch 14, 2017


LOUISVILLE, Ky. (WHAS 11)--Police tape surrounded the pumps at the Thomtons gas station in the 4100 block of Cane Run Road late Monday night.

Louisvilie Metro Police say a man was shot to death in the parking lot, leaving many people in the Lake Dreamland area on edge.
"I was shocked, totally," said Douglas Barnes, the General Manager of Hi-Way Muffler.

Barnes' shop sits directly across the street from the crime scene. He says he woke up to a slew of concerned calls and messages.
${ }^{\text {"I }}$ got a text this moming that said, 'hey Doug, someone was shot and killed across the street from your shop last night,' and l'm like, oh my gosh, do I want to tum back around and go home or go on and go to work?" said Barnes.

LMPD's homicide unit spent the overnight hours investigating. Officers interviewed people and are possibly using security video from the Thomtons to piece together what led up to the fatal shot.

As the investigation continues, Barnes says he hopes to see the violence stop, both close to his business and around the city.
"People now- a-days are just kind of getting crazy, it can happen anywhere, you know east end, west end, south end you know it's happening, it's a sad thing but it's happening right now," said Barnes.

At this point, no arrests have been made in the case and the victim's identity has not yet been released.
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## POLICE: Man kills wife then himself outside Cane Run Road gas station <br> Posted: May 31, 2014 11:49 PM EDT

Updated: Jun 01, 2014 11:23 PM EDT
LOUISVILLE, Ky. (WDRB) - Police say a husband and his wife are both dead after a shooting at the Thorntons on Cane Run Road near the Shawnee Expressway.

Scott Joslin Sr., 40, and Christina Joslin, 43, of Louisville died as a result of gun shot wounds. Police say Scott Joslin shot his wife in the parking lot of the gas station, and then turned the gun on himself.

Police say the pair arrived at the gas station separately and exchanged words. She then made her way into the store to make a purchase as he waited outside.
"She was just in and out of the store talking on her cell phone, while he was mumbling on the phone," said Donald Clay who claims he was standing behind Christina as she checked out. "We didn't see any arguments, we just heard a pop, pop, pop."

Police say Christina died on the scene, while Scott died at the hospital Sunday aftemoon.
The Jefferson County Coroner's office said the couple was separated. Officials say it appeared the victim had her car packed up and was possibly in the process of moving out of the home the couple shared in East Louisville.

Police say there were several witnesses to the shooting.
LMPD Homicide detectives are investigating the case.
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## Thornton's Gas Station Robbed

## New Media Producer: Rachel Chambliss

UPDATE, SUN, 9:15 PM: Evansville police are still looking for the suspect who robbed a gas station.
The robbery happened around 3:30 a.m. Saturday at the Thornton's on St. Joe and Maryland Street.
A man told the clerks "this is a robbery." Then, he put his hands in hls pockets, indicating he may be armed. No weapon was actually shown, but police say he made off with some cash.

UPDATE, SAT, 7:15 PM: Evansville police are still looking for the suspect that robbed the Thornton's gas station at St. Joe and Maryland Street. it happened just after 3:30 Saturday morning.
The clerks tell police a man was in the store for ten minutes when he came up to the counter and asked to use the phone. He then told them "this is a robbery" and put his hands in his pockets indicating he may be armed, but no weapon was actually shown. Police say he made off with some cash.

The suspect is described as a white male, $5^{\prime} 6^{\prime \prime}$ and 140 pounds. He was wearing a blue ball cap, black jacket, green flannel shirt and black pants. If you have any information, you're asked to call Evansville police.

PREVIOUSLY: Evansville police are investigatIng a robbery at an Evansville gas station.
According to a police report, the robbery happened around 3:30 Saturday morning at the Thornton's on the corner of St. Joe and Maryland on Evansville's westside.
No arrests have been made in the case.

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## WE RECOMMEND

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## Thorntons gas station robbed; two suspects found nearby and arrested

HIGHLIGHTS
Two men were arrested early Wednesday shortly after the Thorntons gas station on Versailles Road was robbed by two men who implied that they had guns.

By Morgan Eads - meads@herald-leader.com

Two men were arrested early Wednesday shortly after the Thorntons gas station on Versailles Road was robbed by two men who implied that they had guns.

Miles Blake Brizius, 22, and Claude Steven Dailey, 54, are accused of entering the gas station about 12:30 a.m. Wednesday and demanding cash, Lexington police Lt. David Biroschik said.

The men got away with an undetermined amount of cash, Biroschik said.
Police found them behind a nearby Lee's Famous Recipe restaurant and arrested them.

Both were charged with first-degree robbery.


## MORE CRIME

## SUGGESTED FOR YOU

## Exhibit C

## Cross Section Showing Line of Sight

## Appeal of DRC Denial for Waiver regarding LDC 10.2.11

17DEVPLAN1010 (Thorntons of Hazelwood)
4170 Taylor Boulevard, Louisville, KY 40215

## Exhibit C: Cross Section Showing Line of Sight



## 17DEVPLAN1010

Appeal of LDC 10.2.11 Waiver Denial (4/5/2017)
[18-inch Vehicular Use Area Screening When Security is determined to be a factor]

exterior elevation keynotes
NICHIHA PANEL SYSTEM STYLE: ILLUMINATION SERIES COLOR: PANTONE RED PMS 186 RED;
CONTRACTOR FURNISHED, CONTRACTORINSTALLED NICHHA PANEL SYSTEM-STYLE: PLYMOTH BRICK COLOR: CRIMSON ; CONTRACTOR FURNISHED,
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PREFINSHED METAL DOWNSPOUT SYSTEM, SUPPLY MATCHING RECEVING BOOT FOR TRANSITION TO
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