

Development Review Committee

Staff Report
January 3, 2018



Case No:	17DEVPLAN1155
Project Name:	Southpointe Commons
Location:	7413 Bardstown Road
Owner(s):	Investors Exchange Company, LLC
Applicant:	Investors Exchange Company, LLC
Representative:	Wyatt, Tarrant, & Combs, LLP
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Laura Mattingly, AICP, Planner II

REQUEST(S)

- **Waiver** of Section 10.3.7.A.1 to decrease a portion of the required 50' Gene Snyder Landscape Buffer to 35'
- **Waiver** of Section 10.2.4.A to allow the proposed private roadway to encroach into the required 35' property perimeter Landscape Buffer Area and to not provide the required 8' screen along the southeastern property line
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located southeast of the I-265/Bardstown Road exchange in southeastern Jefferson County. It currently consists of several parcels totaling approximately 23.88 acres that will be consolidated. A private crossover easement will be created for Southpointe Blvd, the private road shown on the development plan. The proposal consists of four commercial buildings proposed to be retail and restaurant uses consisting of 179,201 square feet and a total of 842 parking spaces.

This detailed development plan was heard at Development Review Committee on November 15, 2017. A sidewalk waiver along Bardstown Road was granted and the development plan was approved on condition that parking calculations are updated, the landscape buffer required along the Gene Snyder Freeway matches the General approved development plan, and that the outdoor sales area needs to be confirmed in conjunction with the review of the amenities plan, by the Planning Commission or designee prior to issuance of building permit.

Previous Cases:

11640: Change in Zoning from OR-3, R-4 & R-5 to C-2 on 43.81 acres. Approved May 20, 2010.

STAFF FINDING

Staff finds that the revised detailed district development plan and waivers appear to be adequately justified and meet the standard of review based on the staff analysis. All conditions of approval from the November 15, 2017 DRC meeting have been met at this time.

TECHNICAL REVIEW

- Preliminary approvals have been given by MSD and Transportation

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER of Section 10.3.7.A.1 to decrease a portion of the required 50' Gene Snyder Landscape Buffer to 35'

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

STAFF: The waiver will not adversely affect adjacent property owners as the required buffer area is not adjacent to any adjoining properties and cannot be viewed from adjoining properties.

- (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. These guidelines are not violated as only a portion of the buffer is affected and the development will still be screened and buffered from the freeway.

- (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 as the provision of the required landscaping and amenity areas interior to the site caused a design change that requires the vehicle use area to encroach into the Gene Snyder buffer.

- (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 as providing the full 50' along the Gene Synder would not allow for the Interior Landscape Areas and Amenity Areas as proposed on the plan.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR A WAIVER of Section 10.2.4.A to allow the proposed private roadway to encroach into the required 35' property perimeter Landscape Buffer Area and to not provide the 8' screen along the southeastern property line

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

STAFF: The waiver will not adversely affect adjacent property owners as plantings and a portion of the required width will still be provided.

(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. These policies are not violated, as the applicant has still provided more than half the buffer area where there is no right turn lane proposed and will provide appropriate plantings that will serve the intent of the guidelines while allowing the applicant to provide better access to Bates Elementary to the south.

(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 as the buffer cannot be provided due to the applicant adding drive lanes that aim to alleviate congestion and increase traffic flow to Bates Elementary.

(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 as the additional drive lanes would not be able to be provided that will increase connectivity and benefit the surrounding community.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- 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: LOJIC has identified Karst terrain on site. The applicant has performed a Karst survey and will take measures to ensure the development will not negatively impact the natural resources on 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 appear to have been provided through adequate roadway connections and appropriately place sidewalks.

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

STAFF: The proposal includes amenity areas and focal points that meet the size and design requirements of the Land Development Code.

- 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 appear compatible with the existing and future development of the area. Buildings will meet all required setbacks and landscaping requirements are being met with the exception of the Gene Snyder buffer and property perimeter buffer to the south.

- 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 generally conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code with the exception of the Gene Snyder buffer and property perimeter buffer.

REQUIRED ACTIONS

- **APPROVE or DENY** the Detailed District Development Plan
- **APPROVE or DENY** the Waiver of Section 10.3.7.A.1 to decrease a portion of the required 50' Gene Snyder Landscape Buffer to 35'
- **APPROVE or DENY** the Waiver of Section 10.2.4.A to allow the proposed private roadway to encroach into the required 35' property perimeter Landscape Buffer Area and to not provide the 8' screen along the southeastern property line

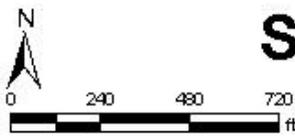
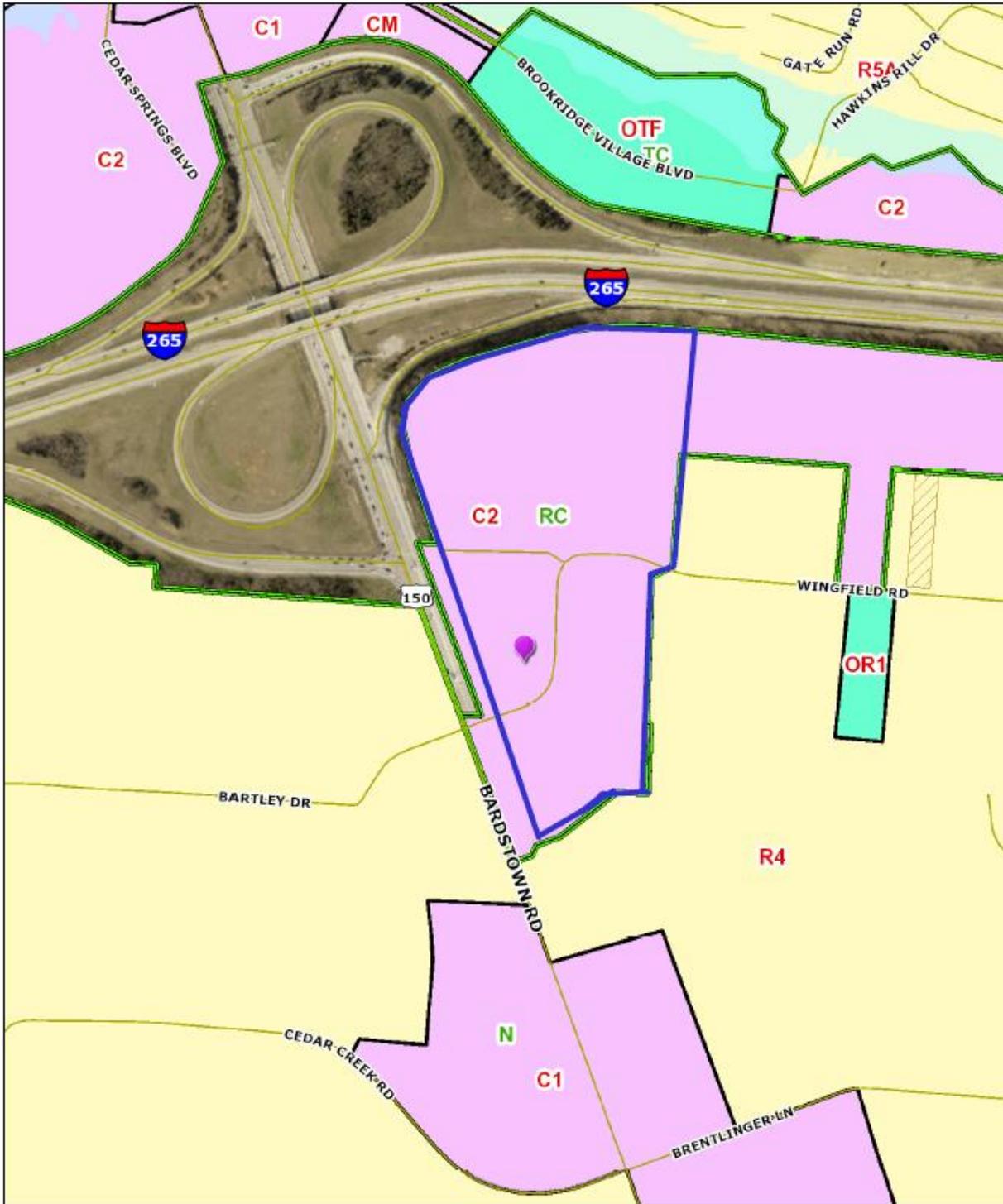
NOTIFICATION

Date	Purpose of Notice	Recipients
11/3/17	Hearing before DRC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22
12/18/17	Hearing before DRC	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

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

1. **Zoning Map**



Southpointe Commons

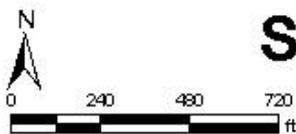


Tuesday, November 7, 2017 | 2:43:23 PM

LOJIC ©2017

This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



Southpointe Commons



Tuesday, November 7, 2017 | 2:41:51 PM

LOJIC © 2017

This map is not a legal document and should only be used for general reference and identification.

3. Proposed Binding Elements

All binding elements from the approved General Development Plan (11640) 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property 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.
5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
6. 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.

7. There shall be no outdoor music (live, piped, radio or amplified) **or** outdoor entertainment or outdoor PA system audible beyond the property line.
8. 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.
9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the January 3, 2018 DRC meeting.
10. The applicant will work with staff on providing twice as many trees and screening than what is required in the 35' LBA adjacent to the Steven D. Webb property.
11. Exhibits showing details of amenity areas must be submitted and approved by the Planning Commission or designee prior to issuance of building permit.