

Development Review Committee

Staff Report

Wednesday, April 3



Case No:	19DEVPLAN1024
Project Name:	Malone's Restaurant
Location:	4001 Summit Plaza Dr.
Owner(s):	CPT Louisville 1, LLC.
Applicant:	CPT Louisville 1, LLC.
Jurisdiction:	Louisville Metro
Council District:	16 – Scott Reed
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Waiver** of Land Development Code section 10.3.5 to allow a proposed building addition to encroach into the 30 foot parkway buffer area.
- **Revised District Development Plan** with amendments to Binding Elements

CASE SUMMARY/BACKGROUND

The applicant is proposing to convert a vacant retail building into a restaurant. A proposed building addition would encroach into the existing 30 foot parkway buffer area along the front property line adjacent to the Brownsboro Rd right-of-way. The site is located in the Paddock Shops commercial area, rezoned and developed under docket 9-68-99. The site is zoned C-2 in the Regional Center form district and is in northeast Louisville Metro near the Gene Snyder Freeway. The site is surrounded by a mix of commercial, office, institutional and multifamily land uses.

STAFF FINDING

The requests are adequately justified and meet the standards of review.

TECHNICAL REVIEW

There are no outstanding technical issues associated with the proposal.

INTERESTED PARTY COMMENTS

Staff has received several letter of opposition from community members concerned about the encroachment into the parkway buffer area.

A representative of the adjacent Drury Inn and Suites has submitted a letter in support of the proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners. The request is in an area that abuts the access road for the Drury Inn along Brownsboro Rd. The right-of-way is approximately 260 feet wide in this location as it includes the approach ramps for the Gene Snyder Freeway, the Drury Inn access and Brownsboro Rd.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: Community Form goal 1, policy 16 states that we should consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionally affected. Community Form goal 2, policy 9 states that we should encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses. The proposed waiver to encroach into the existing Landscape Buffer area will not violate the Comprehensive Plan in that it will facilitate the redevelopment of an existing commercial building within an existing center. The applicant will provide additional plantings and landscaping to mitigate the impact of the encroachment into the buffer area.

- (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.

- (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 design measures that exceed the minimums of the form district, as they will install additional landscaping in the area of the encroachment that exceeds the required plantings of the buffer area.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or AMENDMENT TO
BINDING ELEMENTS**

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. The applicant will install additional landscaping in the area of new development to mitigate the proposed encroachment into the parkway buffer.

- (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 pertinent to 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 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 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. Buildings and parking lots will meet all required setbacks.

- (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.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised District Development Plan** with amendments to Binding Elements.

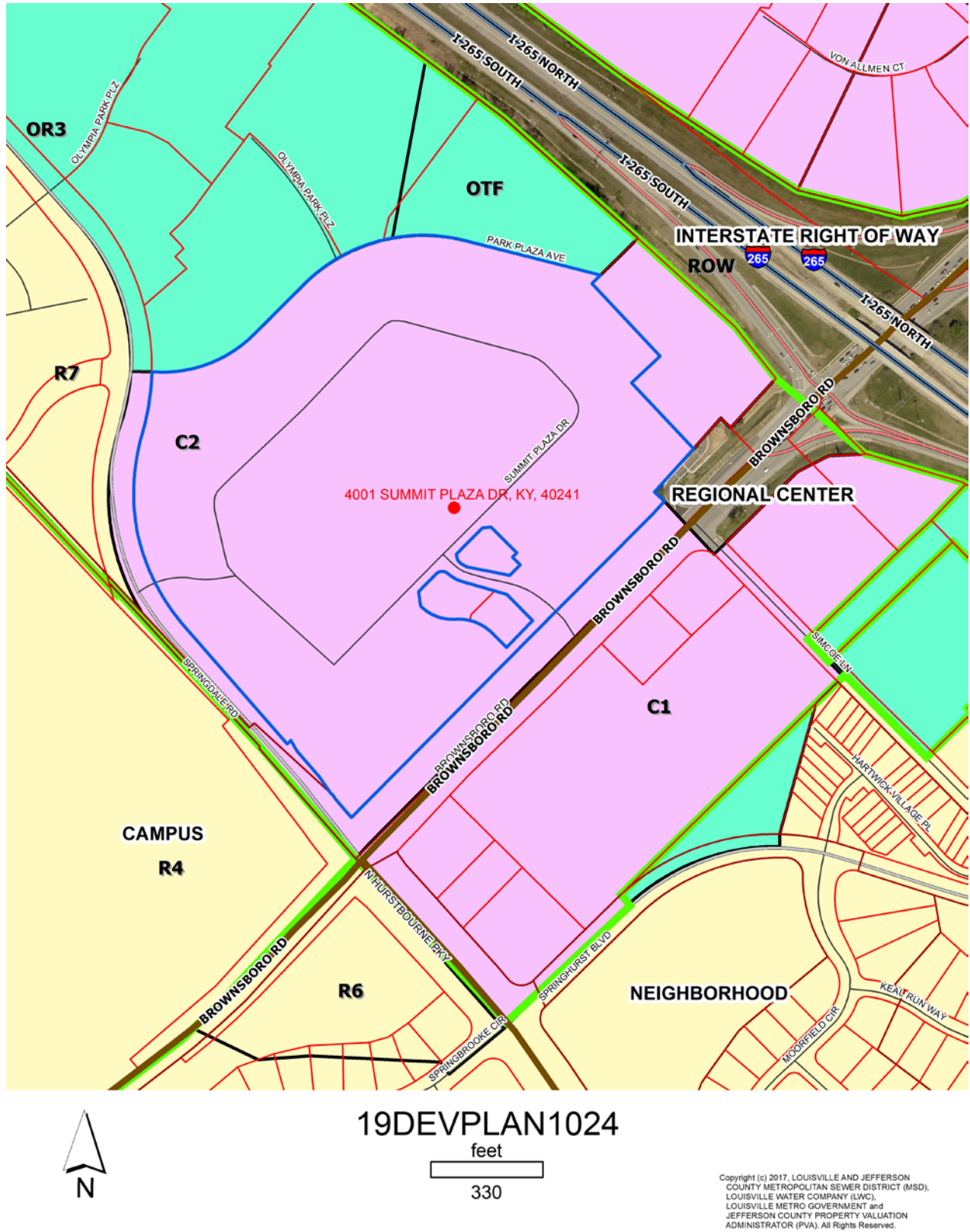
NOTIFICATION

Date	Purpose of Notice	Recipients
3-19-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 16

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



19DEVPLAN1024

feet

330

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COUNTY METROPOLITAN SEWER DISTRICT (MSD),
LOUISVILLE WATER COMPANY (LWC),
LOUISVILLE METRO GOVERNMENT and
JEFFERSON COUNTY PROPERTY VALUATION
ADMINISTRATOR (PVA). All Rights Reserved.

3. Existing Binding Elements with Proposed Changes

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the zoning District Regulations. Any changes/additions/ alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 367,500 square feet of total gross floor area. (312,500 square feet of retail and ~~55,000~~ **69,400** square feet of restaurant.)
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off- site.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the ~~Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building)~~ **Develop Louisville** and the Metropolitan Sewer District (~~700 West Liberty~~).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ **Chapter 10** and in conformance with the Parkway Policy prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. 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.

9. 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. Their 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 assigns, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
11. Restaurants with drive-thru's or drive-in shall not be permitted. Any proposal to change this binding element shall require a public hearing.

4. Proposed Binding Elements

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