

**Development Review Committee**  
**Staff Report**  
May 8, 2019



<b>Case No:</b>	19WAIVER1022
<b>Project Name:</b>	Ghasem - Factory Lane
<b>Location:</b>	12910 Factory Lane
<b>Owner(s):</b>	Ghasem Properties, Inc.
<b>Applicant:</b>	Ghasem Properties, Inc.
<b>Representative(s):</b>	Milestone Design Group, Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Julie Denton
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

**REQUEST(S)**

- **Waiver** of Land Development Code, section 10.3.7.A to allow a detention basin to occupy more than 50% of the 50' Gene Snyder Freeway buffer

**CASE SUMMARY**

The requested waiver, in part, was overlooked by planning staff during its review of the change in zoning approved under in case 18ZONE1022. Additionally, during the landscape and construction planning phase of the proposed development, the size of the detention area was increased to the needed size.

**Associated Cases**

9-74-00 & 9-88-98: Change-in-zoning from R-4 to C-1 and revised plan with parking waiver (app. 11/2/00)  
18ZONE1022: Change in zoning from R-4 to C-1 (approved by Council on 12/3/18) with the following additional requests:

- Street Closure (18STREETS1013)
- Waivers:
  1. Waiver of Land Development Code, section 5.8.1.B to not provide sidewalks along Old Factory Lane (un-named in LOJIC)
  2. Waiver of Land Development Code, section 10.2.4 to allow encroachments for parking and maneuvering in 15' LBA (East P/L)
  3. Waiver of Land Development Code, section 10.2.12 to reduce 10' VUA LBA to 5'
  4. Waiver of Land Development Code, section 10.3.7.A to allow encroachments for building and parking in 50' Gene Snyder Freeway buffer
- Revised Detailed & Detailed District Development Plan

**STAFF FINDING**

The waiver has been adequately justified and meets the standard of review contained in the staff analysis.

## **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 as the landscape buffer request does not impact abutting property owners and allows for the proper detention of runoff.

- (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 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. All required planting material and screening will be provided. All required plantings will be provided as required by the LDC.

- (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 request is in keeping with the approved plan, meets the needs of the development, and the intent of the LDC as all plantings will be required and the placement of the detention basin in the buffer does not reduce the real buffer between buildings and the interstate right-of-way.

- (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 create an unnecessary hardship on the applicant as detention/retention facilities are necessary for storm water management and the encroachment does not prohibit compliance with planting material.

## **REQUIRED ACTION**

- **APPROVE** or **DENY** the **Waiver** of Land Development Code, section 10.3.7.A to allow a detention basin to occupy more than 50% of the 50' Gene Snyder Freeway buffer

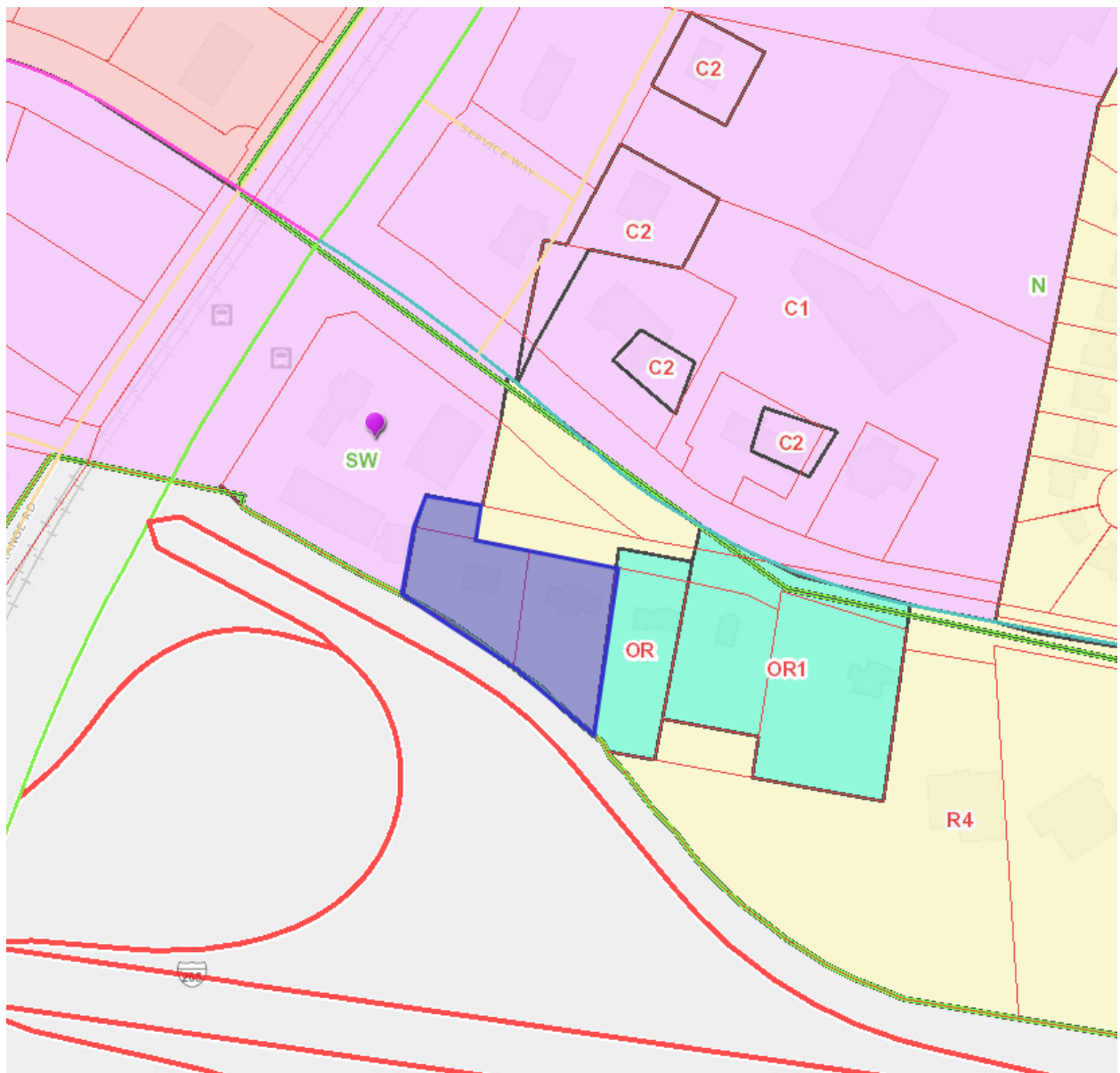
## **NOTIFICATION**

Date	Purpose of Notice	Recipients
4/25/19	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 19

## **ATTACHMENTS**

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

1. **Zoning Map**



2. Aerial Photograph



**5. Binding Elements (9-74-00 & 9-88-98 & 18ZONE1022)**

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. An Individual Historic Resource Survey Form shall be completed for any historic resources (structures over 65 years old) on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.
3. Signs shall be in compliance with Ch. 8 of the Land Development Code.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage sales, or display on the site.
6. 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.
7. 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.
8. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Land Development Code, Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - 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.
  - e. A minor plat creating the lots as shown on the approved district development plan shall be recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - g. A road closure for a portion of "Old Factory Lane" as shown on the development plan shall be recorded prior to requesting a building permit. Easements will be provided prior to recording of the street closure for each utility agency requesting the retention of their services within the area of the closure
  - h. Building renderings for all new structures and additions shall be approved by Planning Commission staff
9. 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.
10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
11. 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.
12. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. A copy of said plan shall be provided to Planning and Design Services for incorporation into the record.
13. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the November 2, 2000 & October 18, 2018 public hearings of the Planning Commission.
14. The property owner shall provide a cross over access easement if the property to the east is ever re-developed for a nonresidential use requiring the provision of additional parking or any voluntary expansion of parking. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.