

Development Review Committee

Staff Report

March 15, 2023



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| Case No: | 23-WAIVER-0018 and 23-WAIVER-0019 |
| Project Name: | Proposed Gas Station |
| Location: | 4900 Brownsboro Road |
| Owner(s): | 4900 Brownsboro Road, LLC. |
| Applicant: | Dinsmore & Shohl, LLP. Thorntons, LLC. |
| Jurisdiction: | Louisville Metro |
| Council District: | 7 – Paula McCraney |
| Case Manager: | Molly Clark, Planner II |

REQUEST(S)

- Waivers:
 1. Waiver from 10.3.5.A.1 to reduce the parkway buffer landscape buffer and setback from 30 ft to 5 ft and reduce the required plantings.
 2. Waiver from 10.2.4.A to reduce the required landscape buffer area from 35 ft to 5 ft along the Watterson Expressway
 3. Waiver from 5.5.1.A.1.B for buildings facing two or more streets to not have at least one customer entrance facing the primary street and one customer entrance facing the second street or instead of two entrances, a corner entrance.
 4. Waiver from 5.5.1.A.3.A to allow parking lots in front of buildings
 5. Waiver from 5.5.1.A.5. to allow a gas canopy to be located between the principal structure and the public street
 6. Waiver from 5.6.1.A.1 to allow facades to have less than 75% animating features and to not provide 50% clear windows and doors.

CASE SUMMARY/BACKGROUND

The subject site is zoned C-1 in the Town Center Form District on 1.49 acres. The site currently developed with a smaller Thornton's Gas Station and a Dairy Queen restaurant. The applicant is proposing to construct a 6,488 square foot gas station with a detached car wash structure and a detached gas station canopy.

This site is related to a Category 2B case under 22-CAT2-0003. There was a previous Category 2B case under 16DEVPLAN1052 for a proposed gas station for Thorntons.

STAFF FINDING

Staff finds that the waiver requests are adequately justified and meet the standards of review.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.3.5.A.1, Parkway Development Standards, to reduce the parkway buffer and setback and reduce the required plantings (Waiver 1):

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

STAFF: The waiver will not adversely affect adjacent property owners since the site has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures. The proposal will also be decreasing impervious area.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 12 calls for the proposal to ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures.

- (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 applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures.

- (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 reasonable use of the land because the land has road frontage or highway off ramps on along all property lines. The applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.4.A to reduce the required landscape buffer area to 5 ft along the Watterson Expressway (Waiver 2):

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

STAFF: The waiver will not adversely affect adjacent property owners since the site has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 12 calls for the proposal to ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures.

- (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 applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures.

- (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 reasonable use of the land because the land has road frontage or highway off ramps on along all property lines. The applicant is still providing buffers with plantings while maintaining enough square feet on the site to construct the gas station and the accessory structures.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from section 5.5.1.A.1.B. for buildings facing two or more streets to not have at least one customer entrance facing the primary street and one customer entrance facing the second street or instead of two entrances, a corner entrance (Waiver 3):

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

STAFF: The waiver will not adversely affect adjacent property owners since the site has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The building will still provide clear windows and doors on other facades as well as plantings along all road frontages.

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

STAFF: Community Form Goal 1, Policy 4 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 2, Policy 2 encourages development of non-residential and mixed uses in designated activity centers provided that proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines; or when a proposed use requires a special location in or near a specific land use, transportation facility or when a use does not fit well into a compact center (e.g., car dealerships or lumberyards). With the proposal having frontages on all property lines, it is difficult for the applicant to provide entrances to every street frontage.

- (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 has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The building will still provide clear windows and doors on other facades as well as plantings along all road frontages.

- (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 reasonable use of the land since the site has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The building will still provide clear windows and doors on other facades as well as plantings along all road frontages.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from 5.5.1.A.3.A to allow parking lots in front of buildings (Waiver 4):

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

STAFF: The waiver will not adversely affect adjacent property owners since the site has multiple road frontages which makes it difficult to meet the regulation. The site will be replacing an existing gas station that has existed in the neighborhood for decades.

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

STAFF: Community Form Goal 1, Policy 4 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 2, Policy 2 encourages development of non-residential and mixed uses in designated activity centers provided that proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines; or when a proposed use requires a special location in or near a specific land use, transportation facility or when a use does not fit well into a compact center (e.g., car dealerships or lumberyards). The site has multiple road frontages which makes it difficult to meet the regulation. The site will be replacing an existing gas station that has existed in the neighborhood for decades. The applicant is also providing plantings and buffers along all street frontages.

(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 has multiple road frontages which makes it difficult to meet the regulation. The site will be replacing an existing gas station that has existed in the neighborhood for decades.

(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 reasonable use of the land since the property has multiple road frontages. The site will be replacing an existing gas station that has existed in the neighborhood for decades.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from 5.5.1.A.5. to allow a gas canopy to be located between the principal structure and the public street (Waiver 5):

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

STAFF: The waiver will not adversely affect adjacent property owners since the site has multiple road frontages which makes it difficult to meet the regulation. The site will be replacing an existing gas station that has existed in the neighborhood for decades.

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

STAFF: Community Form Goal 1, Policy 4 calls to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 2, Policy 2 encourages development of non-residential and mixed uses in designated activity centers provided that proposed uses, density and design are compatible with adjacent uses and meets Form District guidelines; or when a proposed use requires a special location in or near a spe-

cific land use, transportation facility or when a use does not fit well into a compact center (e.g., car dealerships or lumberyards). The site has multiple road frontages which makes it difficult to meet the regulation. The applicant is still providing plantings in reduced landscape buffers that will provide screening from the public roadways.

- (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 has multiple road frontages which makes it difficult to meet the regulation. The site will be replacing an existing gas station that has existed in the neighborhood for decades.

- (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 since the site has multiple road frontages which makes it difficult to meet the regulation. The site will be replacing an existing gas station that has existed in the neighborhood for decades.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from 5.6.1 to allow facades to have less than 75% animating features and to not provide 50% clear windows and doors. (Waiver 6):

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

STAFF: The requested waiver will not adversely affect adjacent property owners since the site has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The building will still provide clear windows and doors on other facades as well as plantings along all road frontages.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. The site has multiple road frontages which makes it difficult to meet the regulation. The applicant is still providing plantings in reduced landscape buffers that will provide screening from the public roadways.

- (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 since the site has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The building will still provide clear windows and doors on other facades as well as plantings along all road frontages.

(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 on the regulation would create an unnecessary hardship on the applicant since the site has 4 road frontages which include two off ramps for the Watterson Expressway and a major and minor arterial state roads. The building will still provide clear windows and doors on other facades as well as plantings along all road frontages.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **WAIVER** from 10.3.5.A.1 to reduce the parkway buffer landscape buffer and setback and reduce the required plantings
- **APPROVE** or **DENY** the **WAIVER** from 10.2.4.A to reduce the required landscape buffer area to 5 ft along the Watterson Expressway
- **APPROVE** or **DENY** the **WAIVER** from 5.5.1.A.1.B for buildings facing two or more streets to not have at least one customer entrance facing the primary street and one customer entrance facing the second street or instead of two entrances, a corner entrance
- **APPROVE** or **DENY** the **WAIVER** from 5.5.1.A.3.A to allow parking lots in front of buildings
- **APPROVE** or **DENY** the **WAIVER** from 5.5.1.A.5. to allow a gas canopy to be located between the principal structure and the public street
- **APPROVE** or **DENY** the **WAIVER** from 5.6.1.A.1 to allow facades to have less than 75% animating features and to not provide 50% clear windows and doors.

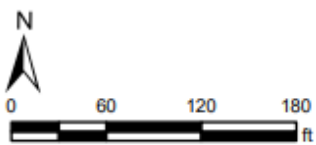
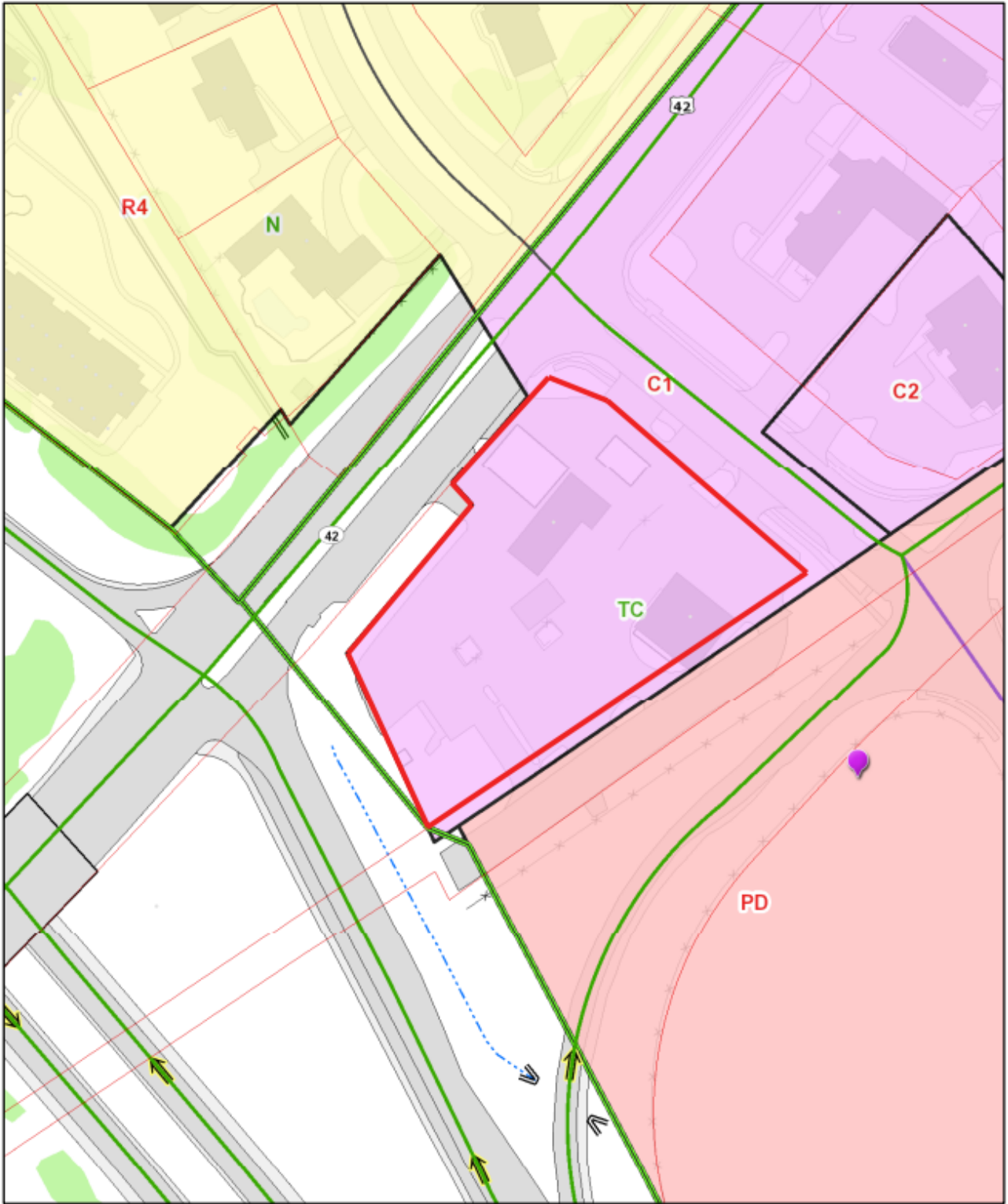
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|--------|--------------------|--|
| 3/2/23 | Hearing before DRC | 1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 7 |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. **Zoning Map**



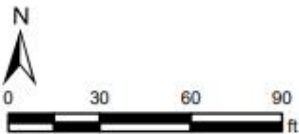
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2. Aerial Photograph



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