

CHAPTER 157: COMMERCIAL ESTABLISHMENT DESIGN STANDARDS

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§ 157.01 INTRODUCTION.

The following design standards are intended to be used as a design aid by developers proposing commercial establishments and as an evaluation tool by the Development Review Board and Planning Commission in their review processes. These guidelines apply to all projects, which are processed according to the criteria for proposed development plans and to all projects for commercial establishments. These guidelines are to be used in conjunction with the *Nelson County 2020: A Comprehensive Plan, Zoning Regulations for All of Nelson County*, and *Subdivision Regulations for All of Nelson County*. (Ord.795, passed 1-27-04)

§ 157.02 BACKGROUND AND JUSTIFICATION.

(A) These standards are intended to ensure that commercial building development is compatible with its surrounding area and contributes to the unique community character of the county. The intent is to encourage a more human-scale development that residents of the city/county will be able to identify. The resulting scale of commercial buildings will ensure a greater likelihood for reuse of structures by subsequent tenants.

(B) It is well-recognized in the planning and development literature that careful attention to attractive and citizen-friendly urban design is in the economic interests of a municipality, its citizens, and business owners. Attractive and integrated urban design features tend to improve a town's image, raise overall property values, attract new businesses and residents, and improve the quality of life. Research and experience has demonstrated that there is a positive return on investment for design features for both government, private industry, and property owners. For example, the money a town spends on landscaped roadway medians, sidewalks, and street trees is likely to be amply returned in the form of increased tax revenue resulting from the overall increase in property values that accompanies attractive and desirable urban areas.

(C) In towns and cities across the country, including the city/county, there is a growing realization that incompatibilities between land uses are very often a function of design and development impacts rather than of differences in their land uses. The focus in current use-based development regulation is to require strict separation and substantial buffers between different land uses, regardless of design or site impacts. However, with appropriate and compatible urban design it could be entirely reasonable for commercial, office, and residential uses to be placed literally side-by-side, with little need for strict separation and buffering. This realization has in part led to the emergence of the traditional neighborhood development movement and has prompted numerous municipalities to shift from strict use-based regulation of development to design-based and impact-based regulation which is much more flexible. This Commercial Establishment Design Standards chapter is a first step towards such design- and impact-based guidance of development in the city/county.

(D) State and National Trend Towards Pedestrian-Friendly Design Guidelines.

(1) Throughout the state and country, communities are reevaluating their standards for commercial development and demanding that national and regional chains integrate local custom and character into their site and building designs. This trend has surfaced as the commercial industry has continued its shift towards generating national commercial chains (often through corporate mergers), and as various regional chains have expanded into new markets. Because these larger companies have standardized their designs to mass-market products at a lower cost, there is little variation in building and site design from coast to coast. This phenomenon has begun to concern citizens as they see their communities become "normalized" and molded into patterns similar to every other town and city in America.

(2) This loss of a sense of uniqueness and place, in addition to the continued focus on designs which cater solely to the automobile, has led many communities to implement stronger local design requirements in order to recapture individual town character and to reclaim the realm of the pedestrian. Many of these communities' design guidelines have sought to balance the mobility needs of residents with respect to a range of transportation modes (i.e., by automobile, transit, pedestrian, and bicycle modes). Municipalities locally and across the country have adopted design guidelines that encourage the integration of common design themes which complement those existing in the community, reduce building setbacks, and orient buildings onto streets and public spaces to achieve a more human-scale and pedestrian-friendly environment.

(3) Lexington and Georgetown, Kentucky, Gresham, Oregon, Fort Collins, Colorado, Bellevue, Washington, and Mashpee, Massachusetts, are examples of municipalities from across the state and country that have successfully adopted design standards for local

development which are intended to preserve local character and promote pedestrian-friendly, human-scale development. Examples of successful commercial projects developed under these standards are given below:

(a) Mashpee Commons is a commercial center in Mashpee, Massachusetts. It offers a good example of a center that was redeveloped under new municipal design guidelines. It is also representative of the activity center concept described throughout the *Nelson County 2020: A Comprehensive Plan Land Use Plan*. The Mashpee Commons renovation consisted of reorienting shops from a strip configuration to one oriented towards the streets, and which created public spaces such as plazas and porticos, as well as providing a mix of shops that include larger national chains and local operators. Mixing office, institutional, and public spaces has brought more people to the center, and it has become a focal point for the community. The gross leasable area on the site's 25 acres doubled, and average annual rents have nearly doubled as well. Expansion of this center was conducted in a fully saturated commercial market.

(b) In Gresham, Oregon, no building footprints larger than 70,000 square feet are allowed in the Neighborhood Civic District. Thus, "big box" retailers are required to design buildings having smaller footprints, and/or build upward. Guidelines requiring pedestrian-oriented commercial centers have been in place for eight months. A Walgreen's Drugstore site has been approved for development based upon their conformance with these guidelines. Some of the town's other design guidelines include restrictions against blank walls along streets, having buildings oriented and built to street fronts, and having parking distributed to the sides and rear of sites. Retailers continue to seek approval of development plans in Gresham, knowing that they will have to work within local guidelines. The pace of development and local economic growth has not slowed under these guidelines.

(c) The City of Bellevue, Washington, requires that all new development and redevelopment of commercial sites abide by its pedestrian-oriented design guidelines, which have been in place for six years. Bellevue Square was developed under these standards, and has proven to be immensely successful. The Square was converted from an old open-air mall to a two-story enclosed structure. The mall fronts two streets at a corner and is sited on 35 acres. Parking is distributed around the building and in structured lots. Major anchor tenants with sidewalk entrances are located there, including JC Penney, which had historically not located in non-conventional mall settings. Other stores within the Square include high-end retailers like Nordstroms, Ann Taylor, and Bally.

(4) Not only do design guidelines that seek to foster development of natural amenities and architecturally pleasing features at a human scale provide public benefits, but in most instances, the rate of return for the developer is dramatically higher. This trend has been recorded through surveys conducted by the Urban Land Institute

(ULI) and documented in its publication, *Value by Design*. These studies have documented that added financial benefits are routinely reaped in both commercial and residential developments where extra design features are incorporated. Results of other surveys conducted for ULI have concluded that home buyers value open space, pedestrian/bicycle paths, community control over design, and small clusters of neighborhood-oriented retail located near residences.

(5) Evidence shows that implementation of design standards that focus development in a human-scale, pedestrian-friendly manner are profitable both emotionally and financially. While such design standards are being adopted more and more throughout the country, retailers are altering their design models in order to compete in these towns' large and growing markets. Areas that are viewed as desirable commercial markets are obviously in a sound position to implement local design guidelines. The city/county is just such a market. Retailers know that there is likely to be untapped consumer demand in the city/county as it grows, making Bardstown-Nelson County an extremely attractive commercial development market.

(6) This chapter does not seek to create a set of rigid standards. Instead, the plan ordinance provides a flexible alternative to conventional shopping center development, designed to answer residents' wishes for commercial and residential development that gives greater consideration to pedestrian access, is more accessible to neighborhoods, and builds an even more attractive town environment. The *Nelson County 2020: A Comprehensive Plan* suggests the following:

"Page 33. Interview and Workshop Findings.

4. Maintain Quality of Community. The issue of maintaining the quality of life in Nelson County was identified as an issue that should be a top priority. The attractiveness of Nelson County was recognized as a major factor for the amount of growth in the County recently. The prevalent attitude expressed was that growth and new development should respect, maintain or improve the quality of life in Nelson County, and not detract from it. Several factors were identified as contributing to or determining the quality of life in the community. Preserving the historic appearance and atmosphere of Nelson County is a major concern, as is the preservation of strong downtown areas (in New Haven and Bloomfield as well as Bardstown). Similarly, it is important

that the rural character and atmosphere be maintained throughout the County in order to sustain the quality of life that has attracted and retained residents and industry to Nelson County.

Page 34. Visions for the Future.

- Strong rural character
- Small town atmosphere
- Adequate roads to serve demands
- Quality entryways/gateways to each Community
- Maintenance of the historic character
- Increased tourism industry

Page 35. Cornerstone Issues - Objectives

Community Identity - Maintain the sense of place and small town atmosphere of each community by recognizing the contributions of historic structures, small town character, public institutions, central business districts and the appearance and land use composition of existing neighborhoods and by evaluating the impact that future development will have on community identity.

Quality of Life - Support growth and development that enhances the overall quality of life of Nelson County through the encouragement of quality schools and education, a strong economic mixture and diversity in industry, high quality and planned services and utilities, a responsive local government, a mixture of housing types, an aesthetically pleasing built environment, and a safe, healthy environment.

Page 36. General Development Policies.

- Future non-residential growth should be guided to locate within existing Commercial/Industrial Centers in Urban Area, Central Business District.

- Careful impact assessment of proposed industrial establishments should be conducted to determine potential impacts on environmental, infrastructure and community conditions.

Page 37. General Development Policies.

- Evaluate future large scale development proposals on the basis of the impact on the existing and future public services and infrastructure, requiring mitigation techniques where feasible. The public services impact evaluation should include at a minimum an assessment of impact on roads, water treatment and distribution capabilities, sewer treatment and distribution capabilities, schools, electric, police and fire services and a statement of the availability of adequate service levels for each type of service.
- Limit the impact of future and existing development on the rural character of Nelson County by establishing criteria and development standards to address issues associated with development, such as noise, light, and storm water runoff impacts.

Pages 50-51. Commercial Retail Centers.

1. The Eastern Bardstown Gateway refers to the largely undeveloped land located at and surrounding the Bluegrass Parkway exit at US 150, including the land adjacent to SR 245 in this area. The development of this area will be important to Bardstown and to Nelson County, because this area is a gateway to Bardstown and many visitors utilize this route. The Land Use Plan for the Urban Community Area recommends that the Eastern Gateway develop as a planned commercial park - combining retail, service and office uses. The construction and layout of this area should be coordinated to ensure a compatible design theme is established for the entire area. It is recommended

that a more detailed conceptual plan for the land uses in this area be developed with the input of the property owners, Nelson County officials, City of Bardstown officials and the Joint Planning Commission. The development of a Conceptual Plan for the Eastern Gateway, which is primarily zoned Light Industrial Park (LIP) that includes the participation of the parties described above, could result in a well-defined vision for the future development of this area. Such a conceptual plan should address land use composition (including uses and densities), site design (parking, surface area and open space ratios), circulation and access, and design/appearance (internal circulation, landscaping and signage).

2. The South Bardstown Gateway isolated on US 31E surrounding the Blue Grass Parkway interchange and is also a primary entry into the City of Bardstown. The current zoning regulations should be amended to include more detailed standards and evaluation criteria for such issues as traffic impact, lighting control, noise impacts, screening and buffering and access location for future uses in this area.
3. The US 31 E/SR 245 Corridor Area is the primary retail center for Bardstown and for Nelson County. Retail commercial development is concentrated on the western side of the US 31 E/SR 245 intersection. Traffic congestion, access management and future development designs are primary concerns for the future in this area. This Commercial Center is recommended to remain the designated location for regional retail commercial uses. The Land Use Group Map indicates that this Commercial Center should expand west along the south side of SR 245 to the intersection of Withrow Court and SR 245. Proposed transportation improvements in this area should improve traffic congestion. For example, the State has included widening at SR 245 to five lanes from Templin

Avenue east to US 62 in its six year road budget plan. This should provide needed transportation capacity, particularly during noon and evening peak hour traffic. Also, the Transportation Plan (Chapter 6) recommends that the City construct an extension of Withrow Court. While this proposed road is not intended to be a bypass, it will remove local traffic that currently must use US 31 E and SR 245.

The City/County should undertake a more detailed traffic and access study for this area. Future access locations, potential frontage roads, traffic signal timing and more detailed land use analysis should be conducted as part of such a study. This area would also benefit from the proposed zoning regulation amendments described for the South Bardstown Gateway. The use of Planned Unit Developments should also be encouraged in this Commercial Center to provide greater design flexibility and control.

(Ord.795, passed 1-27-04)

§ 157.03 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ADDITION." Any expansion or enlargement of an existing commercial establishment.

"ARCADE." An area contiguous to a street or plaza that is open and unobstructed, and that is accessible to the public at all times. Arcades may include building columns, landscaping, statuary and fountains. Arcades do not include off-street loading/unloading areas, driveways or parking areas.

"ARTICULATE." Emphasis to or distinctly identify a particular element on the face of a wall including a change in setback, materials, roof pitch or height.

"BERM." An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise or provide a buffer from adjoining uses.

"BREEZEWAY." A structure for the principal purpose of connecting a main building or structure on a property with other buildings.

"BUFFER." An area provided to reduce the conflict between two different land uses. Buffers are intended to mitigate undesired views, noise and glare - effectively providing greater privacy to neighboring land uses. Typical buffers consist of materials that serve this purpose and include, but are not limited to, plant materials, walls, fences and/or significant land area to separate the uses (see also "Screen").

"BUFFER STRIP." A portion of a lot or property used to visually separate one use from another through the use of vegetation, distance or other approved method.

"BUILDING FACE, FRONT." Any building face, which can be touched by a line drawn perpendicular to street (public or private).

"BUILDING FACE, PUBLIC." Any building site which is visible from public or private right-of-ways and/or the faces that contain public entry.

"BUILDING MASS." A building's expanse or bulk and is typically used in reference to structures of considerable size.

"COMMERCIAL ESTABLISHMENT." A permitted use located in P-1, B-1, B-2, B-3, B-4, B-5, or LIP or any conditional use as listed in the adopted Zoning Regulations for All of Nelson County but not including commercial establishments used entirely for industrial purposes and structures located in the Historic District of Bardstown.

"DESIGN GUIDELINES." Statements and graphics intended to direct the planning and development of the built environment in a particular manner or style so that the end result contributes positively to the overall development.

"DORMER." A window set vertically in a gable projecting from a sloping roof. Expansion or Enlargement Any addition to an existing commercial establishment.

"FACADE." The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall or eaves and extending the entire length of the building.

"FRONT YARD." The portion of the front yard extending the full width of the lot and measured between the front lot line and a parallel line across the front of the building. Corner and double lots shall adhere to the front yard setback(s) for each frontage.

"GABLE." A triangular wall section at the end of a pitched roof, bounded by the two slopes.

"HIP ROOF." Roof without gables.

"PARAPET." The portion of a wall that extends above the roof line.

"PEDESTRIAN ORIENTED DEVELOPMENT." Development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and buildings/structures rather than on auto access. The buildings/structures are generally located close to the public or private right-of-way and the main entrance(s) is orientated to the street sidewalk. There are generally windows or display cases along building facades. Although parking is provided, it is generally limited in size and location.

"PEDESTRIAN WALKWAY." A surfaced walkway, separate from the traveled portion of a public or private right-of-way or parking lot/driving aisle.

"PORTICO." A porch or walkway with a roof supported by columns, often leading to the entrance to a building.

"RIGHT-OF-WAY, PUBLIC OR PRIVATE." Any public or private road, access easement intended to provide public access to any lot/development, but excluding any service road or internal driving aisles (i.e., within parking lots).

"SCREEN." A structure to block views and constructed of opaque materials and whose height will be effective in obstructing unwanted views. (See also "buffer".)

"SETBACK." A prescribed distance or an area between one element and another (i.e., a building and the road right-of-way). Within these guidelines, the term also refers to: The minimum distance and the area measured from the property line to the interior of a parcel where buildings may be constructed. The required distance and the area between the edge of the parking lot pavement curb and the property line or buildings/structures. Placing a building face on a line to the rear of another building line.

"STREETSCAPE." All elements of a development or area that are in view from other points along a street.
(Ord.795, passed 1-27-04)

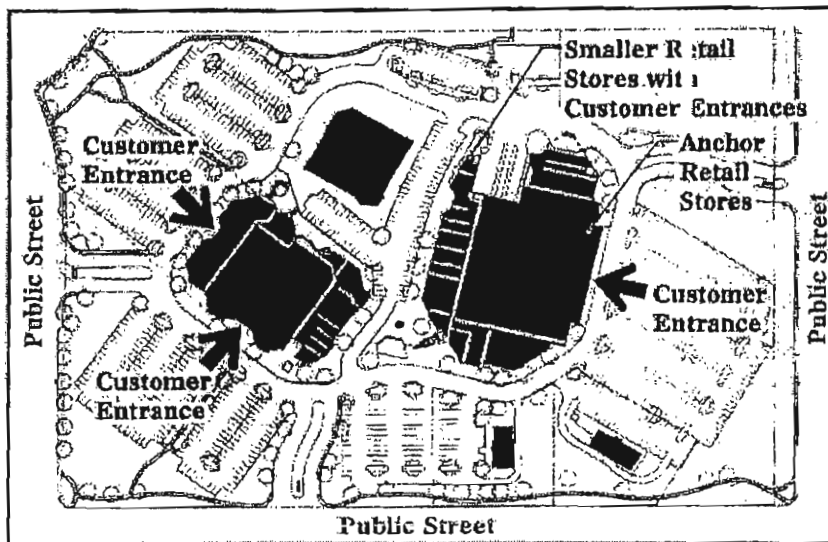
§ 157.04 SITE DESIGN AND RELATIONSHIP TO SURROUNDING COMMUNITY.

(A) Vehicular access. The project shall provide safety and protection to adjacent residential uses by having motor vehicle access from a major arterial road as designated by the adopted Comprehensive Plan. Access can also be provided from a street that is not designated by the Comprehensive Plan, provided it can be shown that any negative impacts on residential uses or residentially zoned properties can be mitigated.

(B) Entrance Design and Parking Layout.

(1) Entrances design. All sides of a commercial establishment that directly face an abutting public street shall feature at least one customer entrance. Where a large commercial establishment directly faces more than two abutting public streets, this requirement shall apply only to two sides of the building, including the side of the building facing the primary street, and another side of the building facing a second street as needed.

Figure 1: Example of a development with customer entrances on all sides facing a public street.



(Drawing courtesy of City of Fort Collins, Colorado Design Standards and Guidelines for Large Establishments)

(2) Parking layout. No more than 60% of the off-street parking area for the lot, tract or area of land devoted to the commercial establishment shall be located between the front facade of the large commercial establishment and the abutting streets (the "front parking area"). Parking spaces in the front parking area shall be counted to include all parking spaces within the boundaries of the front parking area. Variances of up to 80% may be granted by the Development Review Board if the front parking area is screened from view by out lot or out parcel development (such as restaurants, banks, and the like) and additional tree plantings and/or berms as approved by the Development Review Board. Landscaping within the parking area may be required for a large-scale commercial development.

(C) Buffering and streetscape.

(1) Buffering. The project shall provide visual and noise buffers where the site is adjacent to a residential use or residentially zoned property and/or an agricultural use or agriculturally zoned property that the Comprehensive Plan does not anticipate as commercial use in a Land Use Group Map adjacent to the site. This can be accomplished by providing a minimum building setback from a residential use or residentially zoned property that is adjacent to the site, this area must remain as green space. Table 1 provides required minimum building setbacks. (Setbacks listed in Table 1 below). An eight foot high or higher, masonry screen wall and at least a 20-foot wide landscape buffer shall be provided adjacent to the site property line. The landscape buffer shall be placed on the inside and or outside of the screen wall and shall include, in addition to shrubs and groundcover, canopy trees at 20- to 30-foot intervals depending on the separation needed for the tree canopies to touch at maturity to form a noise, light, and visual screen above the screen wall. Berms may be used as an alternative buffer if approved by the Development Review Board. No other uses, such as but not limited to parking or storage, are permitted within the landscape buffer area.

(2) Streetscape. A streetscape landscape plan shall be considered as a part of the overall design and include a mix of tree species a minimum of 1-inch diameter at breast height at planting, to be planted at 30-foot centers. The total number of trees necessary shall be determined by the combined footage of the front and side line defining the streetscape yard. Shrubbery, ground cover and other planting materials shall be used to complement the tree planting, but shall not be the sole contribution to the landscaping. Effective use of earth berms, existing topography, and existing trees is also encouraged as a component of the landscape plan and shall be considered as a part of the planting requirements. Any plant materials that die or are destroyed and, which are part of overall landscape plan must be replaced in a timely manner.

Table 1: Required Building Setbacks.

| <u>Building Size (square feet)</u> | <u>Setback (minimum)</u> |
|------------------------------------|----------------------------|
| 7,999 or less | See applicable regulations |
| 8,000 - 24,999 | 75 feet |
| 25,000 - 49,999 | 100 feet |
| 50,000 - 74,999 | 150 feet |
| 75,000 or greater | 200 feet |

(D) Outdoor storage areas. The project shall mitigate visual and noise impacts on public streets, residential uses, residentially zoned

properties, and/or an agricultural use or agriculturally zoned properties that the Comprehensive Plan does not anticipate as commercial use in a Land Use Group Map adjacent to the site and when permitted by the zone district requirements. The mitigation can be accomplished by locating these areas on-site with minimum setbacks. Table 1 lists the minimum setbacks. The areas should be screened or enclosed so that they are not visible from streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties. The screen shall be of masonry construction or other approved material (such as wrought iron fences or other suitable opaque materials) and a height that will be effective in obstructing storage materials and to assure the highest level of noise abatement and to confine any loose papers, cartons, and other trash. Storage materials should not be visible above the screen wall. It would be preferred that these outdoor storage areas be placed between buildings in a manner which would allow the buildings to act as screens.

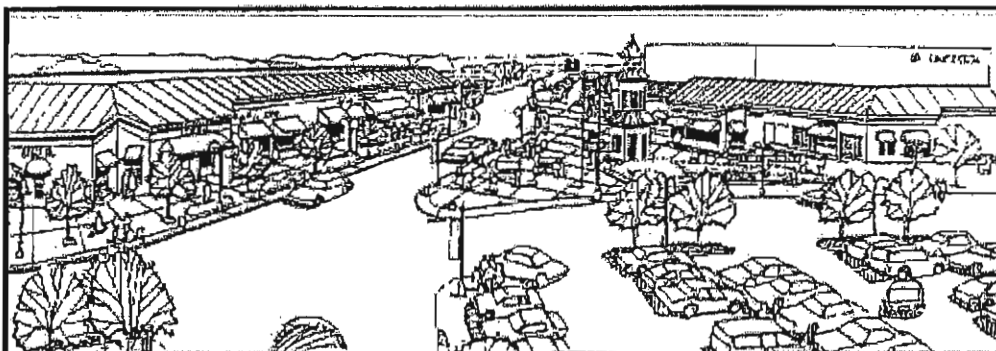
(E) Trash collection areas. The project shall mitigate visual and noise impacts, on public streets and adjoining residential neighborhoods from trash collection areas by locating these areas on-site away from any residential use, residentially zoned property, and/or an agricultural use or agriculturally zoned property that the Comprehensive Plan does not anticipate as commercial use in a Land Use Group Map adjacent to the site. (Setbacks listed in Table 1 above). The areas should be screened or enclosed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties. Screening and landscaping of these areas shall conform to the predominant materials used on the site. The screen shall be of masonry construction or other approved material (such as wrought iron fences or other suitable opaque materials) and a height that will be effective to ensure the highest level of noise abatement and to confine any loose papers, cartons, and other trash. It would be preferred that these trash collection areas be placed between buildings to allow the buildings to act as screens.

(F) Pedestrian flows. The project shall provide pedestrian accessibility, safety, and convenience to reduce traffic impacts and enable the development to project a friendly, inviting image. Sidewalks shall be at least five feet wide and unobstructed and shall connect the public street sidewalks, the main entrances to the stores, transit stops on or off-site, and other buildings on the site, in addition to providing convenient access to adjacent residential neighborhoods. Sidewalks shall be provided along the full length of any building where it adjoins a parking lot (six feet wide). Sidewalks shall have an associated three foot wide landscape strip for their entire length, except at intersections with parking area access lanes. (When no public sidewalks exist, the developer must provide a five foot wide sidewalk along street right-of-way that must be approved by the City or County Engineer). The landscaping shall include canopy trees or other shading devices to shade at least 65% to 75% of the sidewalks during the major part of the day (shadow pattern needs to be taken into consideration).

Walkways located within parking areas to provide safe pedestrian access from parking lot to retail business.

(G) Central features and community spaces. The project is to provide attractive and inviting pedestrian scale features, spaces, and amenities. Entrances and parking lot locations shall be functional and inviting with walkways conveniently tied to logical destinations. Walkways located within parking areas to provide safe pedestrian access from parking lot to retail business. Bus stops should be considered integral parts of the configuration whether they are located on-site or along the street. Customer drop-off/pick-up points that may be provided should also be integrated into the design (should not conflict with traffic lanes or pedestrian paths). Pedestrian ways shall be anchored by special design features, such as towers, arcades, porticos, light fixtures, planter walls, seating areas, and other architectural features that define circulation paths and outdoor spaces. Examples are outdoor plazas, patios, courtyards, and window shopping areas. Each development should have at least two of these. (See figure 2)

Figure 2: Example of a center with numerous special features and community spaces.



(Drawing courtesy of City of Fort Collins, Colorado Design Standards and Guidelines for Large Establishments)

(H) Delivery and loading spaces. Delivery and loading operations shall be designed and located to mitigate visual and noise impacts to adjoining residential neighborhoods. Delivery and loading spaces shall be set back from a residential use or residentially zoned property and/or an agricultural use or agriculturally zoned property that the Comprehensive Plan does not anticipate as commercial use in a Land Use Group Map adjacent to the site, (Setbacks listed in Table 1 above) unless such operations are located entirely within an enclosed building, provided it is no closer than the allowable building setback. The delivery and loading areas shall be screened or enclosed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent properties. The screen shall be of

masonry construction and at least ten feet high, measured from the loading dock floor elevation, to screen the noise and activity at the loading dock. The masonry screen assures the highest level of noise abatement. It would be preferred that the delivery and loading spaces be enclosed within a building or placed between buildings in a manner which would allow the buildings to act as screens.

(I) Traffic impacts study. The Applicant shall have a professional entity perform a Traffic Impact Analysis (TIA) for the development using the Institute of Transportation Engineers' Trip Generation publication as the standard for trip generation calculation. The scope and criteria for the study shall also conform to the Kentucky Department of Transportation (KDOT). The TIA shall identify traffic flow impacts on the public streets; recommend mitigation measures to address those conditions that fall below the standards established by the KDOT; and show how the applicant will provide the recommended improvements. If agreed upon the legislative body may provide the study and be reimbursed by the applicant.

(J) Outdoor lighting.

(1) Lighting policies have been developed to insure adequate security, to prevent glare which affects approaching motorists and pedestrians, and to minimize light trespassing onto adjoining properties. Horizontally mounted fixtures with full cut-off shall be utilized. The maximum height of lighting poles shall be 25 feet. The applicant may request a variance for up to 40 feet if the setback from a public road is sufficient and the proposed lighting satisfies the requirements set forth in this section. The property lighting shall not exceed 0.5 foot candles at the property line. Architectural and decorative lighting shall be evaluated on a case-by-case basis. Outdoor lighting between 10:00 p.m. and 7:00 a.m. shall be limited to low-pressure sodium lighting.

(2) A photometric plan and outdoor lighting report shall be submitted that addresses all aspects of property illumination, including but not limited to the parking area, building, parking, and signage. How outdoor lighting is addressed to mitigate negative impacts on adjacent residential uses or residentially zoned properties. The report will also address the negative impacts of outdoor lighting between the hours of 10:00 p.m. and 7:00 a.m. on adjacent properties and discuss methods of mitigation.

(K) Outdoor sales display/ancillary uses. The applicant shall identify measures to mitigate any negative impacts to a residential use or residentially zoned and/or an agricultural use or agriculturally zoned property that the Comprehensive Plan does not anticipate as commercial use in a Land Use Group Map. Property that is adjacent to the site from the location of any outdoor activity associated with services to the public, such as, but not limited to, outdoor

merchandise display and sales, outdoor storage, and outdoor snack bar and eating areas. The outside activity will be set back at least 100 feet and oriented to face away from any residential use or residentially zoned property and/or an agricultural use or agriculturally zoned property that the Comprehensive Plan does not anticipate as commercial use in a Land Use Group Map that is adjacent to the site, unless a building is located between the activity and the restricted area. Approved screening from the public view is required when Outdoor Sales Display/Ancillary Uses are needed.

(L) Signage. The visual transfer of business advertising and other public information through the use of external signs shall comply with all applicable sign ordinances and the following design standards. All completed signs must have a high quality professional appearance. Sign materials, colors, and shades shall be compatible with the related buildings on the property and shall be limited to high quality construction materials, such as stone, brick, or decorative block, finished wood (painted or stained), finished metal, or, high quality plastic. External lighting of monument signs shall be concealed and ground-mounted. Illumination of signs shall be directed away from all traffic and from all adjoining residential areas. The intensity of the light shall not exceed 15 foot candles at any point on the sign face. All signage plans shall be submitted to the Planning Commission Director for administrative review and approval, and a sign permit shall be obtained from the Planning Commission for all approved signage.

(Ord.795, passed 1-27-04)

§ 157.05 AESTHETIC CHARACTER OF BUILDINGS.

(A) Facades and exterior walls, including sides and back facades. The building shall be designed in a way which will reduce the massive scale and uniform and impersonal appearance and will provide visual interest consistent with the community's identity, character, and scale. Long building walls shall be broken up with projections or recessions. Developments with facade over 100 feet in linear length shall incorporate wall projections or recesses a minimum of three foot depth and a minimum of 20 contiguous feet within each 100 feet of facade length and shall extend over 20% of facade. The building design should include windows, arcades, or awnings along at least 60% of the building length. Architectural treatment, similar to that provided to the front facade, shall be provided to the sides and rear (rear only as needed) of the building to mitigate any negative view from adjacent properties and/or roads. Development shall use animating features such as arcades, display windows, entry areas, or awnings along at least 60% of the facade. Figures 3 and 4 show examples of facade standards.

Figure 3: Example of wall projections and recesses

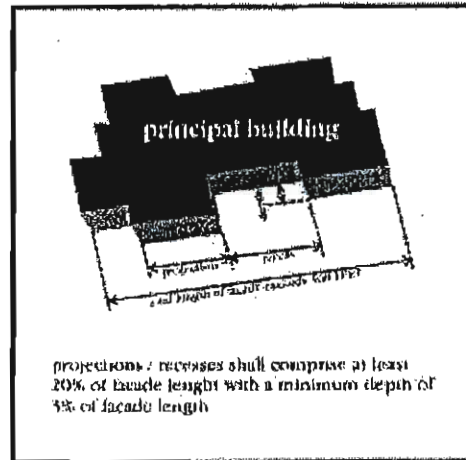
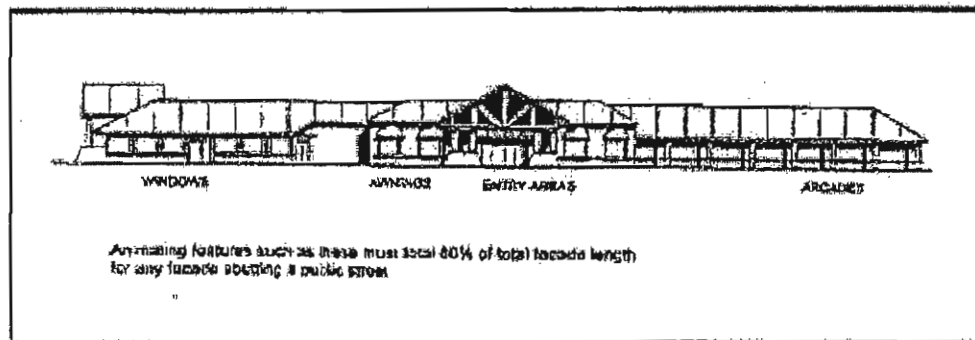


Figure 4: Example of facade animated features



(Drawings courtesy of City of Fort Collins, Colorado Design Standards and Guidelines for Large Establishments)

(B) Detail features. Provide architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the building wall, front, side, or rear, with color, texture change, wall offsets, reveals, or projecting ribs. Figure 4 shows an expression of architectural or structural bay.

(C) Roofs. The roof design shall provide variations in roof lines to add interest to, and reduce the massive scale of, large buildings. Roof features shall complement the architectural and visual character of the community character/aesthetic. Roof lines shall be varied with a change in height every 100 linear feet in the building length. Parapets, mansard roofs, gable roofs, hip roofs, or dormers shall be used to conceal flat roofs and roof top equipment from public view. Parapet walls shall be architecturally treated to avoid a plain, monotonous look. Figure 5 provides an example of parapet design.

Figure 5: Expression of Architectural or Structural Bay.

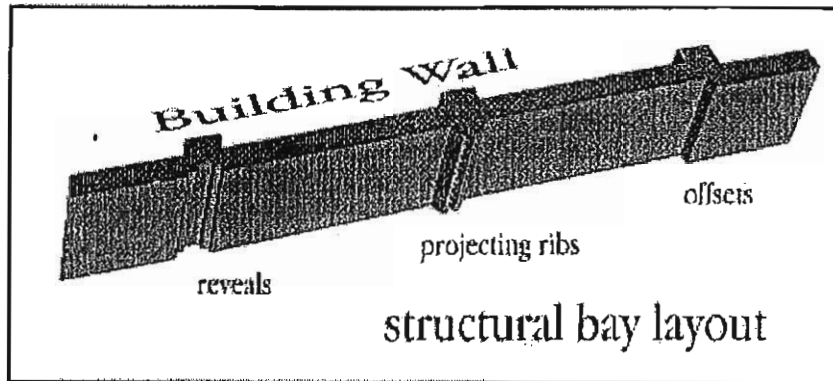
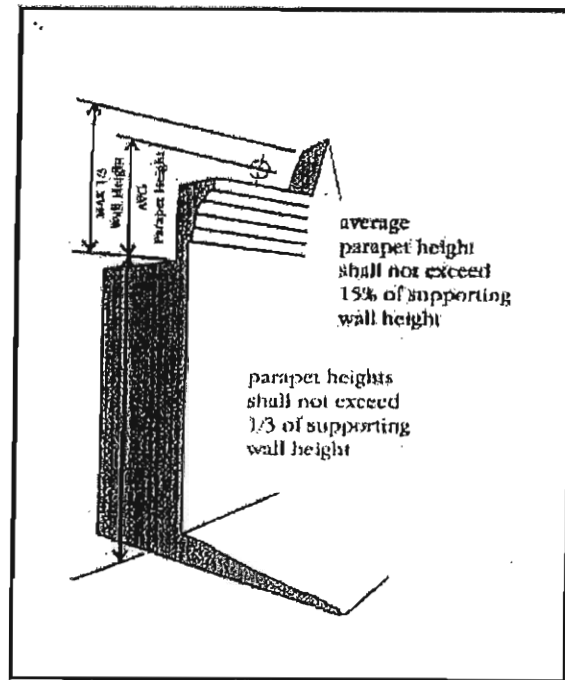


Figure 6: Parapet Standards.



(Drawings courtesy of City of Fort Collins, Colorado Design Standards and Guidelines for Large Establishments)

(D) Materials and color. The buildings shall have exterior building materials of brick, stone or other approved material which will blend with the Downtown Community area and/or in keeping with the rural theme of Nelson County, if located outside the Urban area. Colors which are aesthetically pleasing and compatible with materials and colors that are used in the Downtown Community area and/or in keeping

with the rural theme of Nelson County. This includes the use of high-quality materials and colors that are low reflective, subtle, neutral, or earth tone. Certain types of colors shall be avoided, e.g., fluorescent or metallic. Construction materials, such as tilt-up concrete, smooth-faced concrete block, vinyl siding, prefabricated steel panels, and other similar material shall be avoided.

(E) Entryways. The building design shall provide design elements which give customers orientation on accessibility and which add aesthetically pleasing character to buildings by providing clearly-defined, highly-visible customer entrances.

(F) Screening of Equipment. Roof- or ground-mounted HVAC or other equipment shall be screened to mitigate noise and views in all directions. If roof mounted, the screen shall be designed to conform architecturally with the design of the building, whether it is with varying roof planes or with parapet walls. A wood fence or similar treatment is not acceptable. Ground-mounted HVAC or other equipment shall be screened. The screen shall be of masonry construction or other approved materials and be of sufficient height to block the view and noise of the equipment.

(Ord.795, passed 1-27-04)

§ 157.06 DEVELOPMENT REVIEW BOARD.

(A) Membership. The Development Review Board shall consist of five members, all of whom shall be residents of the Nelson County. The Development Review Board members shall be appointed by the Mayor and County Judge/ Executive. The Mayor and County Judge/Executive shall appoint two members each, with the fifth member to be appointed by consent of both the Mayor and County Judge/Executive. The appointments shall be approved by the appropriate legislative body.

(B) Terms. The Development Review Board members shall serve for a three-year term. The initial terms of one County appointee, one city appointee, and the at-large appointee shall be two years; thereafter successive appointees shall serve for three-year terms.

(C) Vacancy. Any vacancy on the Development Review Board shall be filled by the Mayor and County Judge/Executive within 60 days. If the Mayor and County Judge/Executive fails to act within that time, the vacancy shall be filled by the appropriate legislative body. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(D) Expense reimbursement. The appropriate legislative body may authorize expense reimbursement for Development Review Board members.

(E) Removal or dismissal. Any Development Review Board member may be removed by the appropriate legislative body for inefficiency, neglect of duty, malfeasance or conflict of interest.

(F) By-laws. The Development Review Board shall adopt by-laws for the transaction of business and shall keep minutes and records of all proceedings including transactions, findings and determinations and the number of votes for and against each question. If a Development Review Board member is absent or abstains from voting, said absence or abstention shall be noted in the minutes of the meeting. The Development Review Board shall have the authority to administer oaths and shall prepare written findings in support of their recommendations.

(G) Regular and special meetings. The Development Review Board's regular meeting shall be conducted on the second Tuesday of each month and shall meet pursuant to notice. The Development Review Board shall have the authority to call special meetings.

(H) Staffing. The Joint City-County Planning Commission of the county shall provide staff support and technical assistance to the Development Review Board.

(Ord.795, passed 1-27-04)

§ 157.07 APPLICATION SUBMITTAL FORMS, REQUIREMENTS, AND DEADLINES.

(A) Application forms. All development review applications shall be in a form developed by the Planning Commission and approved by the Development Review Board. Application forms shall be available to the public.

(B) Application contents. The Planning Commission Director, in consultation with and approval of the Development Review Board, shall develop a list of development review application submittal requirements. The list shall, at a minimum, include a listing of all information, data, explanations, analysis, testing, reports, tables, graphics, maps, documents, plans, forms, or other items reasonably necessary, desirable or convenient to determine whether or not the development address and satisfy each and every applicable development standards set forth in this chapter and the Zoning and Subdivision Regulations for All of Nelson County. The Planning Commission Director may waive items on the submittal requirements list that are not applicable due to the particular conditions and circumstances of the proposed development.

(C) Application deadline. The application and all applicable submittal requirements shall be submitted to the Development Review Board not less 21 days prior to the next regularly scheduled meeting. (Ord.795, passed 1-27-04)

§ 157.08 REVIEW PROCEDURES.

(A) Review requirement. Before the issuance of a building permit, all new commercial establishments and all additions to existing commercial establishments that increase the establishment's

total square footage by 25% or greater shall be reviewed for compliance with the provisions of this chapter. Variances from the criteria are permitted only in special circumstances. If one or more of the criteria cannot be met, the applicant may request approval through the Development Review Board process where there is substantial compliance with this chapter.

(B) Administrative review. New commercial establishments or expansions with less than 2,000 square feet in gross floor area shall be reviewed through an administrative review process. For projects within the city corporate limits, the Planning Commission Director, in consultation with a Development Review Board member, shall review the application and submit a recommendation to City Council for final action. For projects outside the city, the Planning Commission Director, in consultation with a Development Review Board member, shall review and take final action on the application. The Planning Commission Director reserves the right to defer review and consideration of any application to the Development Review Board and appropriate legislative body.

(C) Development Review Board and Legislative Body Review.

(1) The Development Review Board shall hold at least one meeting to make a recommendation on whether the proposed establishment or expansion complies with the provisions of this chapter. Within ten days of its recommendation, the Development Review Board shall transmit its recommendation to the appropriate legislative body for final consideration.

(2) The appropriate legislative body shall take final action upon the Development Review Board recommendation within 90 days from the transmission date of Development Review Board recommendation. In the event final action is not taken by the appropriate legislative body within 90 days, the Development Review Board's recommendation shall be deemed adopted as a matter of law.

(D) Upon final consideration by the appropriate legislative body and submission of all necessary documentation, building permits may be issued for said development.

(Ord.795, passed 1-27-04)

§ 157.09 APPEALS.

An applicant may appeal the final action of the legislative body to the Nelson County Circuit Court. Notice of appeal shall be filed within 30 days of the date of final action by the body or adoption of operation of law.

(Ord.795, passed 1-27-04)

§ 157.10 VIOLATIONS AND ENFORCEMENT.

(A) The Planning Commission Director, with the assistance of officials of appropriate city and county departments, is hereby

authorized and responsible for the enforcement of all provisions of this chapter and for ensuring that commercial establishments are developed in accordance with approved plans, requirements, and conditions. Periodic inspection of the commercial establishment development shall be made by the Director or his/her authorized representative to ensure that the development plans and requirements are properly implemented.

(B) The Director and other duly authorized official bearing proper identification shall be permitted to enter upon all properties for the purpose of inspection, observation, and measurement in accordance with the provisions of this chapter.

(C) If a commercial establishment is commenced without the required development review approval and building permit, the Director or other duly authorized official shall issue a Stop Work Order in writing. The Stop Work Order shall be issued in person or by certified, return receipt requested, mail.

(D) If the applicant fails to complete all requirements and conditions of the approved development review, the Director shall issue a notice of violation (NOV) and shall specifically state the deficiencies. The applicant shall have 30 days from the notification date to correct all deficiencies and to comply with this chapter and development review approval. If the applicant fails to comply with the notice of violation, the Director or other duly authorized official may initiate one of the following enforcement procedures:

(1) Issuance of a civil citation subject to penalties set forth in § 157.99; or

(2) Filing of a criminal complaint through the City Attorney or Nelson County Attorney to impose criminal penalties set forth in § 157.99; or,

(3) Issuance of Stop Work and revocation of the Building Permit.

(E) The applicant who is issued the notice of violation may appeal any decision made by the Director to the appropriate legislative body within 30 days of notification.
(Ord.795, passed 1-27-04)

§ 157.99 PENALTY.

Any person, firm, or corporation who violates or fails to comply with any provisions of this chapter shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not less than \$25 and not more than \$250. In lieu of penalties provided herein, whence civil citation is issued, the Director may assess a civil penalty of

not less than \$25 and not more than \$250. All civil penalties shall be paid to the Joint City-County Planning Commission. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(Ord.795, passed 1-27-04)