

Development Review Committee

Staff Report

July 16, 2014



Case No:	14WAIVER1022
Request:	Waiver to allow easements to encroach into the landscape buffer areas by more than 50%
Project Name:	Jefferson Post Apartments
Location:	4600 Fern Valley Road
Owner:	Noltemeyer Capital LLLP
Applicant:	Same
Representative:	Michael Keal
Jurisdiction:	Louisville
Council District:	2 - Barbara Shanklin
Case Manager:	Sherie' Long, Landscape Architect

REQUEST

A Waiver of LDC Section 10.2.4 is being requested to allow utility easements to encroach more than 50% of the required width of the perimeter Landscape Buffer Areas (LBA) as shown on the Landscape Plan Exhibit dated June 9, 2014

CASE SUMMARY/BACKGROUND/SITE CONTEXT

An 8.4 acre site, located on the south east corner of Fern Valley Road and Jefferson Boulevard, is proposed for 104 apartment units in seven buildings; a club house with pool; and associated parking. The development abuts Fern Valley Road (a Parkway), Jefferson Post Drive, and Jefferson Boulevard. All three streets require LBA along the perimeters adjacent to the property lines. Due to the location of existing and proposed utility easements along all three of the street perimeters, these easements are encroaching into the LBA widths by more than the allowed 50%. A preliminary landscape plan exhibit was submitted which shows the perimeter and interior chapter 10 requirements being fulfilled with the required planting of both trees and shrubs.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	R-6	SW
Proposed	Multi-family residential development	R-6	SW
<i>Surrounding Properties</i>			
North	Commercial, Office, Multi-family residential, & Single family residential across Fern Valley Road	C-N, OR-1, R-4	N
South	Vacant	EZ-1	SW
East	Multi-family residential across Jefferson Post Drive	R-6	SW
West	Vacant across Jefferson Boulevard	EZ-1	SW

CURRENT CASES ON SITE

Docket #9-25-05 & #10-40-05: Re-zoning from EZ-1 & R-4 to R-6 & C-1, Preliminary Major Subdivision Plan, General District Development Plan (Approved 2005)
Plat Book 52, Page 22: Clearwater Farm, Phase I
Plat Book 52, Page 55: Clearwater Farm, Phase II
13ZONE1019: Re-zoning from EZ-1 to R-6, Revised General District Development Plan, Detailed Development Plan, Binding Element amendment for multi-family apartment development. (Approved January 16, 2014)
14LSCAPE1105: Landscape and Tree Preservation Plan. (Pending approval of the waivers)

INTERESTED PARTY COMMENTS

No comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waivers will not adversely affect adjacent property owners because the required landscape plantings, trees and screening, will be provided as required within the buffers while still allowing the overlap and encroachment of the utility easements.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The proposal meets the goal of Cornerstone 2020 which is to enhance the landscape character of the site. The landscape materials required by the LDC will be installed with no reduction in size or quality. Plus the owner retains the requirement to perpetually maintain the required plantings.

- (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 is the minimum necessary to afford relief to the applicant because the utility and drainage easements do not inhibit the installation of the required trees and shrubs. Any buried utilities will be located to ensure no damages will occur. The applicant will be responsible to maintain and replace landscape materials which are damaged as a result of utility installation, utility operation, or detention basin operation.

- (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: Since required landscape materials can be successfully installed and maintained in the Landscape Buffer Area partially encumbered by utility and drainage easements strict application of the regulation, which establishes buffer widths based on the sum of the vehicle use areas on the entire

property regardless of configuration and visual effect, would create an unnecessary hardship by restricting the applicants development of the property.

TECHNICAL REVIEW

The applicant will need to add the following the plan:

1. Clearly label all the easements on the plan.
2. Clearly show and label the LBA and parkway buffer locations on the plan; Including the width of each.

STAFF CONCLUSIONS

Considering the applicant is providing the required plantings in all the perimeter and interior landscape areas, the overlap/encroachment of the utility easements by more than 50% of the width has minimal impact to providing screening and buffer of the vehicle use areas from the street.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for granting a LDC Waiver established in the Land Development Code.

NOTIFICATION

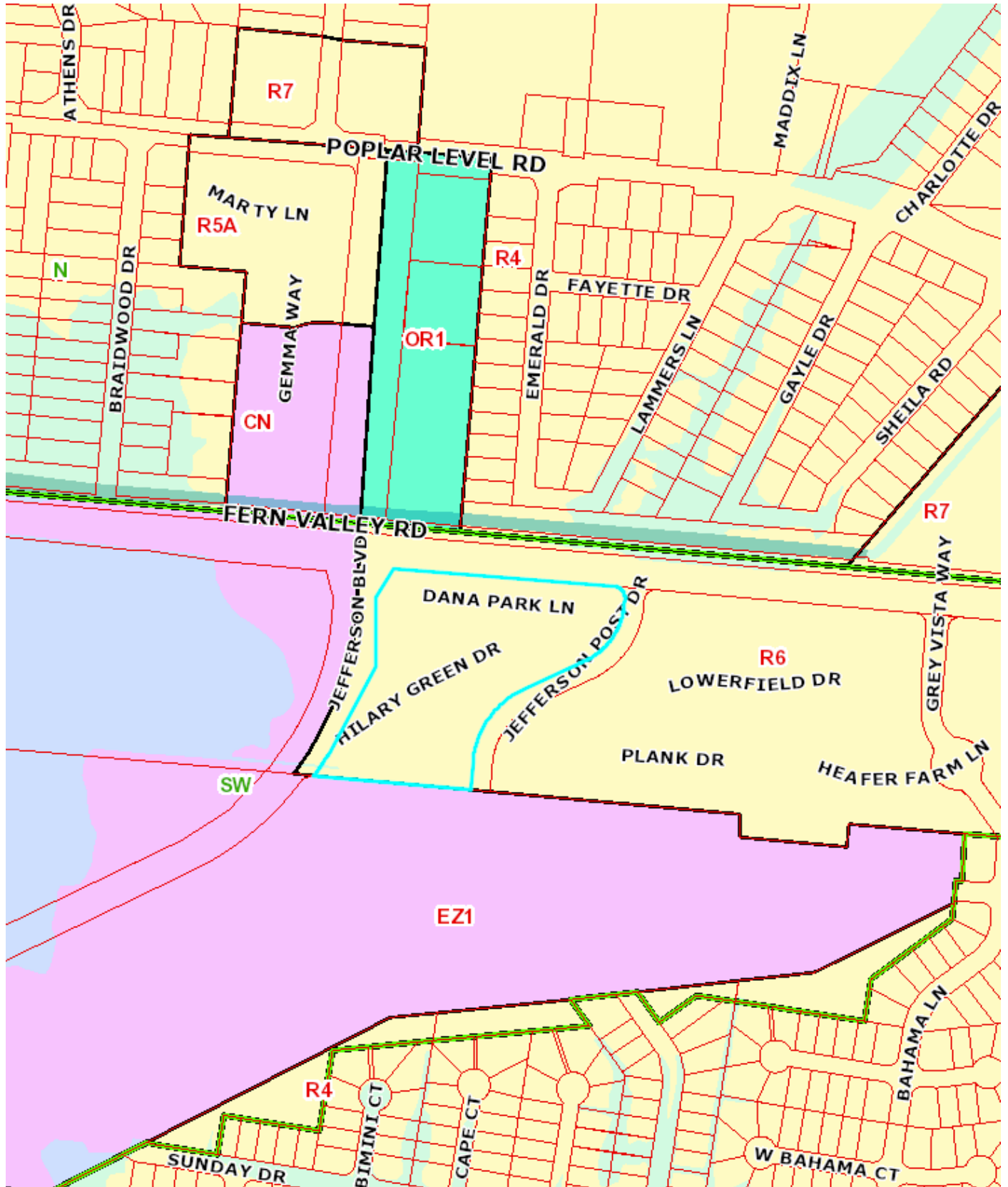
Date	Purpose of Notice	Recipients
06/30/2014	Notification for DRC	1 st tier adjoining property owners Subscribers of Council District 4 Notification of Development Proposals

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Corner Stone 2020 Staff Checklist
4. Applicant's Justification
5. Site Plan

ATTACHMENTS

Attachment 1. Zoning Map





Attachment 3. Cornerstone 2020 Staff Checklist

#	Cornerstone 2020 Guidelines & Policies	Cornerstone 2020 Plan Elements	Plan Elements or Portions of plan elements	Findings	Final Comments
14	Form District Goals G1, G2, G3, G4, Objectives G1.1, G2.1-2.5, G3.1-3.3, G4.1-4.4	Community Form/Land Use Guideline 3: Compatibility	A.24: The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. Parking areas and garage doors are oriented to the side or back of buildings rather than to the street.	√	The proposed landscaping will enhance the character of the site and reduce the impact of the parking on the adjacent streets.

√ Meets Guideline

Attachment 4. Applicant's Justification

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Will the waiver adversely affect adjacent property owners?

The waiver will not affect adjacent property owners because the required landscape plantings will be accommodated within the buffer area while overlapping areas with existing utility easements and proposed sewer and drainage easements

2. Will the waiver violate the Comprehensive Plan?

The waiver will not violate the Comprehensive Plan because the landscape material required by the Land Development Code will be installed with no reduction in size or quality and the owner retains the requirement to perpetually maintain the required plantings.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver is the minimum necessary to afford relief to the applicant because the utility and drainage easements do not inhibit the installation of the required trees and shrubs. Any buried utilities will be located to ensure no damages will occur. The applicant will be responsible to maintain and replace landscape materials which are damaged as a result of utility installation, utility operation, detention basin operation or utility repair operation.

4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?

Since required landscape materials can be successfully installed and maintained in the Landscape Buffer Area partially encumbered by utility and drainage easements strict application of the regulation, which establishes buffer widths based on the sum of vehicle use areas on the entire property regardless of configuration and visual effect, would create an unnecessary hardship by restricting the applicants development of the property

RECEIVED

MAY 19 2014

