

Development Review Committee

Staff Report

December 17, 2014



Case No:	14DEVPLAN1124
Request:	Revised Detailed District Development Plan, Waivers and Binding Element Amendments
Project Name:	Indian Springs Hotel
Location:	3501 Indian Lake Dr. & 11021 Fairway Pointe Dr.
Owner:	Indian Springs, LLC Indian Springs Green Space, LLC
Applicant:	M and T, LLC
Representative:	Bardenwerper, Talbott & Roberts, PLLC Mindel, Scott & Associates, Inc.
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	David B. Wagner – Planner II

REQUEST

- Waiver #1 to allow dumpsters and VUA to encroach into the 15' LBA along the south property line (LDC 10.2.4)
- Waiver #2 to allow VUA to encroach into the 50' Gene Snyder Freeway Buffer Area along the northeast property line (LDC 10.3.7)
- Revised Detailed District Development Plan
- Binding Element Amendments

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is revising the previously approved plan from a 24,823 SF, 169 room hotel and conference center to a 23,363 SF, 124 room hotel and conference center. A restaurant and off-street parking has been added to the plan as well. The building will be 5 stories tall for a maximum height of 67'. A Conditional Use Permit for off-street parking in a residential zoning district and three Variances in regards to the building height, side yard setbacks, and maximum front yard setbacks were considered by the Board of Zoning Adjustment on December 15th (Case #14CUP1027). Two Waivers are requested along with the development plan and are necessary for encroachments into LBA and the Gene Snyder Freeway Buffer Area.

Existing Zoning District: OTF, Office/Tourist Facility and R-7, Multi-Family Residential
Proposed Zoning District: OTF, Office/Tourist Facility and R-7, Multi-Family Residential
Form District: Neighborhood
Existing Use: Open Space
Proposed Use: Hotel, Conference Center, Restaurant
Minimum Parking Spaces Required: 196
Maximum Parking Spaces Allowed: 343
Parking Spaces Proposed: 343

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Open Space	OTF, R-7	N
Proposed	Hotel, Conference Center, Restaurant	OTF, R-7	N
Surrounding Properties			
North	Gas Station/Restaurant	C-2	RC
South	Apartments	R-7	N
East	Open Space	R-4	N
West	Retail (Under Construction)	C-1	N

PREVIOUS CASES ON SITE

- Docket 9-74-92/10-42-92: Re-Zoning from R-6 and R-7 to R-7, General District Development Plan, and Preliminary Major Subdivision to create the Indian Springs Golf Community
- Case 19316: Change in Zoning from R-7 to OTF, Detailed District Development Plan, Revised Preliminary Major Subdivision Plan, Variances, Waivers, and Binding Elements for a hotel and conference center.

INTERESTED PARTY COMMENTS

- Staff has received no inquiries from interested parties.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1 to allow dumpsters and VUA to encroach into the 15' LBA along the south property line (LDC 10.2.4)

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

STAFF: The waiver will not adversely affect adjacent property because the dumpster is proposed to be located next to an existing maintenance building on adjoining apartment property and the VUA will encroach only in an area adjacent to the tennis courts for the apartment complex.

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

STAFF: The waiver will not violate the Comprehensive Plan because of all that is set forth in staff's analysis of the RDDDP in regards to applicable Guidelines and Policies of Cornerstone 2020.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the dumpster would extend out into the vehicle maneuvering area and create an unsafe hazard to vehicles traversing the parking lot if it was moved any further away from the property line.

The VUA encroachment allows the entrance to the site to align with the club house entrance across Indian Lake Drive which is required by Transportation Review.

- (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: Strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the dumpster would otherwise have to be located in an inconvenient spot on the site plan that would not necessarily be a better location for the adjoining apartment community or from the standpoint of aesthetics of the overall site relative to the larger Indian Springs community. Transportation Review has effectively required the VUA encroachment so that the two site entrances on Indian Lake Drive align.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2
to allow VUA to encroach into the 50' Gene Snyder Freeway Buffer Area
along the northeast property line (LDC 10.3.7)**

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

STAFF: The waiver will not adversely affect adjacent property owners because there are none adjacent to the encroachment.

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

STAFF: The waiver will not violate the Comprehensive Plan because of all that is set forth in staff's analysis of the RDDDP in regards to applicable Guidelines and Policies of Cornerstone 2020.

- (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 because the encroachment prevents more of the open space from being converted to hotel parking lot and the same encroachment was previously approved by the Planning Commission along the Gene Snyder Freeway for the OTF zoned portion of the development.

- (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: 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 because the homeowners association would like to keep as much open space as possible. If the encroachments wasn't allowed, the applicant would need to extend the parking lot further to the southeast which would take up even more open space.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND BINDING ELEMENTS

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

STAFF: The proposal conserves as many natural resources as possible that currently exist on the site while still allowing the development.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Safe and efficient vehicular and pedestrian transportation is provided by the sidewalks and vehicular access to the public road network through the entrance provided on the site.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space is not required for this proposal.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: MSD has approved the drainage facilities for the site.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposal would be in a neighborhood center that is across the street from a large Regional Center commercial development with a mixture of uses. It also sits at the intersection of a minor arterial street and interstate highway. Although the site abuts residential zoning, these sites are an apartment community to the south, open space to the east, and the retail site to the west that is currently under construction. As the site sits in a depression that is lower than surrounding land, the single family residences further to the south should be somewhat buffered by the apartment complex. The hotel, restaurant, and conference center serve as neighborhood uses.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: This development conforms to the intent of the form districts and the comprehensive plan as it would be in a neighborhood center that is across the street from a large Regional Center commercial development with a mixture of uses. It also sits at the intersection of a minor arterial street and interstate highway. Although the site abuts residential zoning, these sites are an apartment community to the south, open space to the east, and the retail site to the west that is currently under construction. As the site sits in a depression that is lower than surrounding land, the single family residences further to the south should be somewhat buffered by the apartment complex. The hotel, restaurant, and conference center serve as neighborhood uses.

TECHNICAL REVIEW

- Except for the Waivers, the proposal complies with the requirements of the LDC.
- MSD and Transportation Review have given preliminary approval for the plan.

STAFF CONCLUSIONS

Revised Detailed District Development Plan, Binding Elements, and Waivers

Staff analysis in the standard of review section of the staff report indicates the proposed RDDDP, Binding Elements, and Waivers are justified.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards for granting an RDDDP, Binding Elements, and Waivers established in the Land Development Code.

Required Actions

- Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee **APPROVES** or **DENIES** Waiver #1 and #2 listed in the staff report
- Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee **APPROVES** or **DENIES** the Revised Detailed District Development Plan and Binding Elements listed in the staff report

NOTIFICATION

Date	Purpose of Notice	Recipients
12/5/14	Meeting before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers to Council District 17 Notification of Development Proposals

ATTACHMENTS

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

3. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. Signs shall be in accordance with Chapter 8 and all applicable regulations and ordinances regarding signs.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition 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. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be secured from the adjoining property owner and recorded prior to construction approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - e. A minor subdivision plat shall be recorded creating the lot-lines as shown on the development plan. 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.
6. 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.
7. The materials and design of existing/proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the _____ Planning Commission public hearing.
8. 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.

9. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, 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 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 subdivision plat shall be recorded creating the lot-lines as shown on the development plan. 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.
 - f. The appropriate variances and conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.
4. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
5. 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.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 17, 2014 Development Review Committee meeting.

7. 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.