

Development Review Committee
Staff Report
July 29, 2020



Case No:	20-AMEND-0002
Project Name:	7425 St Andrews Church Rd Binding Elements
Location:	7425 St Andrews Church Rd
Owner(s):	Sanh Nguyen
Applicant:	Sanh Nguyen
Jurisdiction:	Louisville Metro
Council District:	25 – David Yates
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Modification of Binding Elements.**

CASE SUMMARY/BACKGROUND

The applicant is proposing to modify binding elements to allow auto sales and delete binding element #3 from the existing binding elements applicable to the subject site. The site is zoned C-2 in the Neighborhood form district. It was rezoned from C-1 to C-2 under docket 9-16-99 and a binding element was added that restricted uses on the site to C-1 uses except for auto repair, as well as limitations on hours of operation. The site is located in southwestern Louisville Metro between the Auburndale and Pleasure Ridge Park neighborhoods. A request for a revised detailed district development plan with similar revisions to binding elements to allow auto sales was denied under docket 19DEVPLAN1087.

STAFF FINDING

The request is adequately justified and meets the standard of review. Auto sales would not represent a significant increase in intensity beyond the auto repair use that has historically existed on the subject site. Staff is unable to discern a rational basis for limiting the hours of operation to not include Sundays for the site.

TECHNICAL REVIEW

The site has an open Zoning Enforcement case number ENF-ZON-20-000781-03. The applicant has filed this request as part of an attempt to address the violations cited.

The site will likely need a new Revised Detailed District Development Plan approved prior to using the site for auto sales or any other use unless it is to be used only as a light-auto repair/muffler repair facility as has existed prior to the rezoning.

INTERESTED PARTY COMMENTS

Nearby residents have expressed concern over allowing the auto sales use on the subject site and have reported property maintenance issues.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR AMENDMENT TO 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 site is within the floodplain for Big Run. Future development plans would need to address the conservation of natural resources for the subject site.

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

STAFF: Future development plans for the subject site would need to address vehicular and pedestrian safety issues on the subject site. There are no sidewalks on Windemere Dr adjacent to the subject site and there is an excess of curb cuts.

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

STAFF: There are no open space requirements associated with this request.

- 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: Adequate drainage facilities will need to be provided per MSD requirements along with any future development plan approvals. There is a flood plain compensation area delineated on the approved plan from 1999.

- 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 site meets all required setback regulations, and there are no new landscaping requirements triggered as part of this proposal.

- 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: The proposal conforms to the Comprehensive Plan and the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the Revisions to Binding Elements.

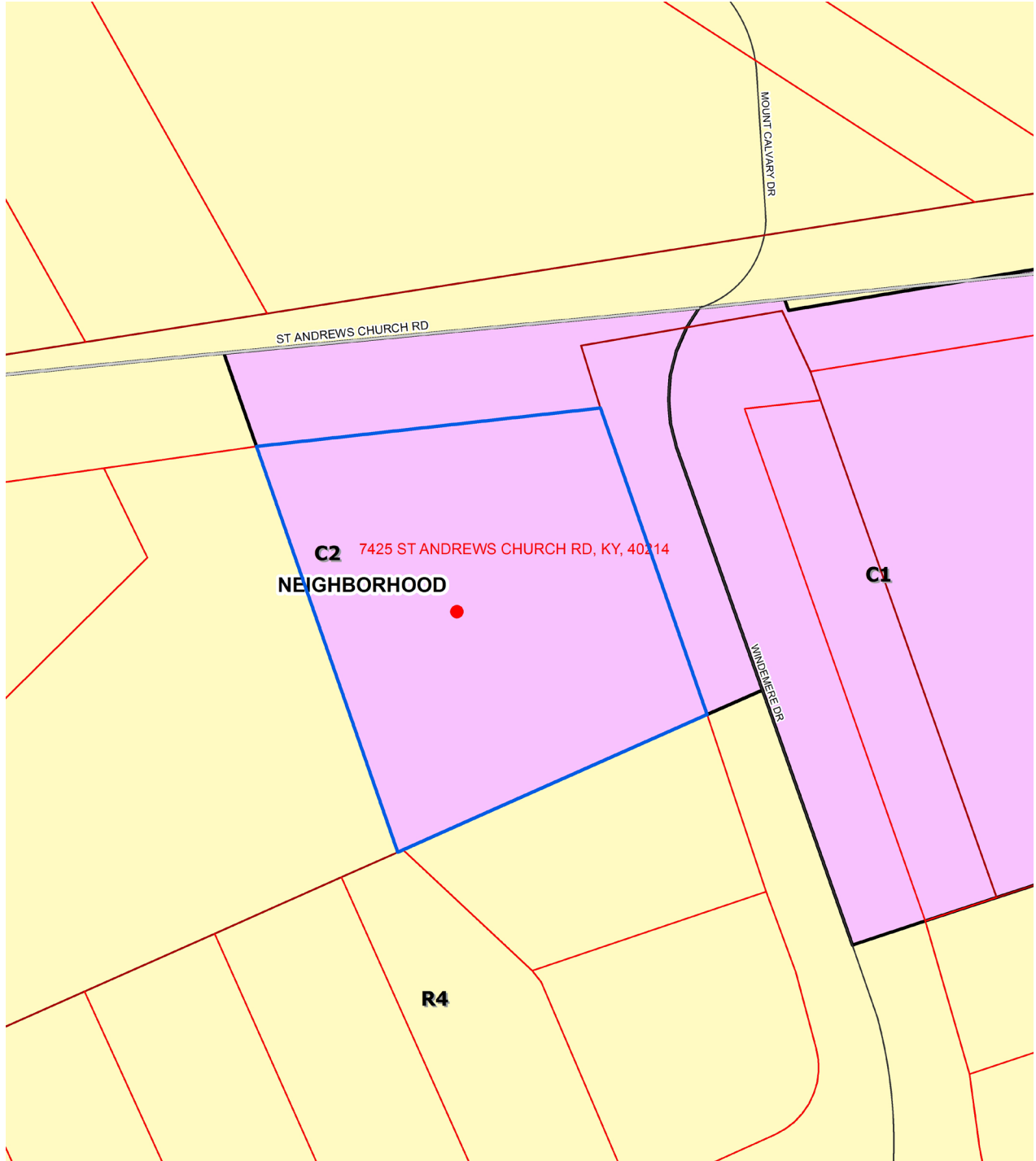
NOTIFICATION

Date	Purpose of Notice	Recipients
7-10-20	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 25

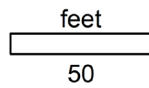
ATTACHMENTS

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

1. Zoning Map



19DEVPLAN1087



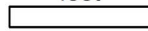
Copyright (c) 2017, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



19DEVPLAN1087

feet



50

Copyright (c) 2017, LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT (MSD), LOUISVILLE WATER COMPANY (LWC), LOUISVILLE METRO GOVERNMENT and JEFFERSON COUNTY PROPERTY VALUATION ADMINISTRATOR (PVA). All Rights Reserved.

3. **Existing Binding Elements with proposed changes**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding elements shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Use of the subject site shall be limited to auto repair (no body work or auto painting, other than the incidental painting of small parts (rear view mirrors, etc. or touch up painting for dents or scratches) shall be permitted), **auto sales** and other uses permitted in the C-1 district. There shall be no other C-2 commercial use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
3. ~~The development shall not exceed 2,671 square feet of gross floor area. The hours of operation shall be from eight in the morning to eight in the evening, Monday through Saturday. Closed on Sunday.~~
4. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
5. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
6. There shall be no outdoor storage (other than autos awaiting repair **or sale**) on the site.
7. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible offsite.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) the Metropolitan Sewer District
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat shall be recorded dedicating additional right-of-way to St. Andrews Church Road to provide a total of 50 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

- d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.
9. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
 10. 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.
 11. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
 12. 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.
 13. The dumpster shall not be emptied between the hours of midnight and 6 a.m.
 14. If the Department of Public Works requests sidewalks the applicant agrees to install them on both streets.

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding elements shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Use of the subject site shall be limited to auto repair (no body work or auto painting, other than the incidental painting of small parts (rear view mirrors, etc. or touch up painting for dents or scratches) shall be permitted), auto sales and other uses permitted in the C-1 district. There shall be no other C-2 commercial use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

3. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
4. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
5. There shall be no outdoor storage (other than autos awaiting repair or sale) on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff and height of the light standard shall be set so that no light source is visible offsite.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) the Metropolitan Sewer District
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat shall be recorded dedicating additional right-of-way to St. Andrews Church Road to provide a total of 50 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. The property owner, applicant, or developer shall submit to the Planning Commission and the Natural Resources and Environmental Protection Cabinet written procedures for tire/oil disposal that comply with applicable state and federal regulations. Said procedures shall be submitted prior to requesting a building and shall be followed for the duration of the use unless otherwise approved by the Planning Commission.
8. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

10. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system.
11. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
12. The dumpster shall not be emptied between the hours of midnight and 6 a.m.
13. If the Department of Public Works requests sidewalks the applicant agrees to install them on both streets.