

# Development Review Committee

## Staff Report

August 19, 2020



<b>Case No:</b>	20-DDP-0035
<b>Project Name:</b>	Kentucky/Indiana Foot & Ankle Specialists
<b>Location:</b>	7397 Jefferson Boulevard
<b>Owner(s):</b>	Joseph Waldman, Covington Land Development, LLC
<b>Applicant:</b>	Dr. Syed A. Khader, Dr. Syed A. Khader, PLLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	24 – Madonna Flood
<b>Case Manager:</b>	Lacey Gabbard, AICP, Planner I

### REQUESTS:

1. **Waiver** of Land Development Code section 10.2 to waive the required landscape buffer between the C-2 and EZ-1 zones (20-WAIVER-0053)
2. **District Development Plan with Binding Element Amendments**

### CASE SUMMARY/BACKGROUND

The subject site is in the Regional Center form district and is zoned C-2 Commercial, with a small portion of the northwest quadrant zoned EZ-1 Enterprise Zone. The subject site is currently undeveloped. It is located east of Jefferson Boulevard, north of the intersection with McCawley Road. It is surrounded by other C-2 and EZ-1 zoned parcels, with a Metro-owned R-6 zoned parcel on the opposite side of Jefferson Boulevard.

The applicant is proposing to construct a 6,721 square foot medical office.

Because there is a zoning boundary between the C-2 and EZ-1 zones within the interior of the subject site, a landscape buffer area is required. The applicant is requesting a waiver to not provide the landscape buffer.

Previous cases:

- 9-41-88: Change in zoning from R-4 Residential Single Family to C-2 Commercial
- 15DEVPLAN1147: District Development Plan for a multi-family residential development

### STAFF FINDINGS

The Detailed District Development Plan and waiver requests are adequately justified and meet the standard of review.

### TECHNICAL REVIEW

Public Works and MSD have provided preliminary plan approval.

## INTERESTED PARTY COMMENTS

Staff has not received any comments pertaining to this request.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2 TO WAIVE THE REQUIRED LANDSCAPE BUFFER BETWEEN THE C-2 AND EZ-1 ZONES

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

STAFF: The waiver will not adversely affect adjacent property owners since the zoning boundary is interior to the subject site, and will not be noticed by adjoining properties.

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

STAFF: Land Use and Development Goal 1, Policy 5 encourages development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities. Land Use and Development Goal 1, Policy 10 mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density.

The area where the applicant is requesting to waive the landscape buffers is interior to the subject site, therefore the uses are not incompatible because they are the same use. The area of the site where the C-2 and EZ-1 zoning line occurs is primarily a parking area on the subject site.

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

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since providing the landscape buffer would create a disruption on the subject site. The landscape buffer would need to be placed in the middle of a parking area. The applicant is proposing to provide the required plantings on the rest of the subject site.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant, as the zoning district line does not follow the property line and therefore the landscape buffer would be placed in the interior of the subject site.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. Public Works and MSD have provided preliminary approvals.

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

STAFF: There are no Outdoor Amenity Area requirements with 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: The Metropolitan Sewer District has approved the preliminary development plan and will ensure 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.

- (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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- (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 development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Development Plan**

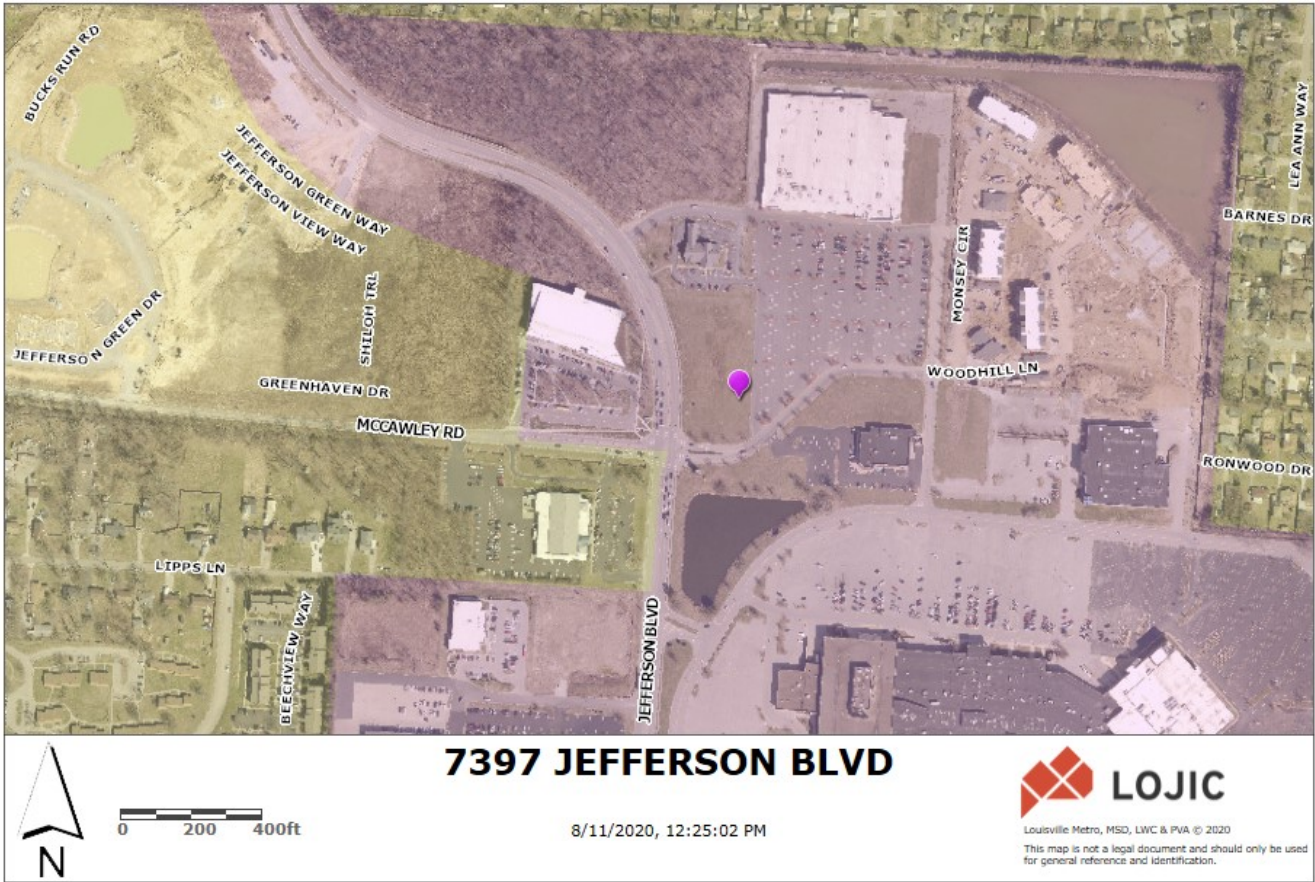
**NOTIFICATION**

Date	Purpose of Notice	Recipients
8-19-2020	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 24

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Proposed General Plan Binding Elements
5. Site Plan Binding Elements

1. **Zoning Map**



2. Aerial Photograph



**3. General Plan Binding Elements (Revised with 15DEVPLAN1147)**

1. The development will be in accordance with the approved District Development Plan. No further development will occur until approved by the Planning Commission.
- ~~2. The development shall not exceed 435,090 square feet of gross leasable area.~~
- ~~3. Before a building permit is requested:
  - a) ~~The Development Plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~
  - b) ~~The property owner/developer shall obtain approval of the detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy maintained thereafter.~~~~
4. When funds are committed for the extension of Jefferson Boulevard to Fern Valley Road, the developer will dedicate and construct Jefferson Boulevard on its property. The location of the proposed 100' right-of-way will be immediately located and marked. It shall be reserved by the owner, free of structures or any obstruction, until needed for road construction.
- ~~5. There shall be no small freestanding (temporary) signs permitted on any lot within the development.~~
- ~~6. If a building permit is not issued within two years 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.~~
- ~~7. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land before the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.~~
8. Storm drainage retention facilities shown on the District Development Plan shall be built during the initial phase of the mall expansion. Developer shall facilitate drainage with its project design and construction process and will meet all requirements of the MSD.
9. Ronwood Lane, Barnes Drive and Dougy Lane will not be connected to the development.
10. The developer will construct a 7-foot high continuous solid wood fence along the south property line of residences on Ronwood Lane that are adjacent to the existing Jefferson Mall. This fence will also be constructed along the property line of the mall extension site where it borders developed residential tracts.
11. Landscaping will be distributed uniformly throughout the proposed and existing Jefferson Mall development to create a uniform design as a substitute for the literal terms of ~~Article 12.10~~ requiring a maximum 120 foot separation between interior landscaping.
12. Before the opening for business of retail space in the expanded development, the developer will modify the existing south central entrance (opposite Brownfield Square) to include a traffic signal, and to include interconnects and controller modifications for signals at the intersections of Outer Loop and Jefferson Boulevard and Outer Loop and Judge Boulevard. Sharing of costs with other developers and governmental agencies will be as documented in the records of the County Director of Works and Transportation.

13. The developer will provide improvements for widening McCawley Road at Preston Highway after the appropriate governmental authority has provided the required right-of-way. The maximum construction cost to the developer for these improvements shall be \$50,000.00. The developer will fund the design of the improvement (which will be approved by the Jefferson County Department of Public Works and Transportation).

14. There may be some overlap in the number of parking spaces required in the case of a regional shopping mall. Therefore, the initial requirement of parking spaces shall be 1921. Land shall be reserved to add up to 798 parking spaces when needed by the Developer or when required by the Jefferson County Director of Works and Transportation.

15. The above binding elements may be amended as provided for in the Zoning District Regulations.

#### **4. Proposed General Plan Binding Elements**

1. The development will be in accordance with the approved District Development Plan. No further development will occur until approved by the Planning Commission.

2. 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 Construction Review, 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 19, 2020 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

3. When funds are committed for the extension of Jefferson Boulevard to Fern Valley Road, the developer will dedicate and construct Jefferson Boulevard on its property. The location of the proposed 100' right-of-way will be immediately located and marked. It shall be reserved by the owner, free of structures or any obstruction, until needed for road construction.

4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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. Storm drainage retention facilities shown on the District Development Plan shall be built during the initial phase of the mall expansion. Developer shall facilitate drainage with its project design and construction process and will meet all requirements of the MSD.

7. Ronwood Lane, Barnes Drive and Dougy Lane will not be connected to the development.



8. The developer will construct a 7-foot high continuous solid wood fence along the south property line of residences on Ronwood Lane that are adjacent to the existing Jefferson Mall. This fence will also be constructed along the property line of the mall extension site where it borders developed residential tracts.

9. Landscaping will be distributed uniformly throughout the proposed and existing Jefferson Mall development to create a uniform design as a substitute for the literal terms of Chapter 10 requiring a maximum 120 foot separation between interior landscaping.

10. Before the opening for business of retail space in the expanded development, the developer will modify the existing south central entrance (opposite Brownfield Square) to include a traffic signal, and to include interconnects and controller modifications for signals at the intersections of Outer Loop and Jefferson Boulevard and Outer Loop and Judge Boulevard. Sharing of costs with other developers and governmental agencies will be as documented in the records of the County Director of Works and Transportation.

11. The developer will provide improvements for widening McCawley Road at Preston Highway after the appropriate governmental authority has provided the required right-of-way. The maximum construction cost to the developer for these improvements shall be \$50,000.00. The developer will fund the design of the improvement (which will be approved by the Jefferson County Department of Public Works and Transportation).

12. There may be some overlap in the number of parking spaces required in the case of a regional shopping mall. Therefore, the initial requirement of parking spaces shall be 1921. Land shall be reserved to add up to 798 parking spaces when needed by the Developer or when required by the Jefferson County Director of Works and Transportation.

13. The above binding elements may be amended as provided for in the Zoning District Regulations.

#### **4. Proposed Site Plan Binding Elements**

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

3. 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.

4. 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 Construction Review, 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 19, 2020 DRC meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.

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.