

Development Review Committee

Staff Report

May 19th, 2021



Case No:	21-DDP-0010
Project Name:	Elite Drive Proposed Office Building
Location:	1800 Elite Drive
Owner(s):	HJI Solutions
Applicant:	Mike Hill, LD&D
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Molly Clark, Planner I

REQUEST(S)

- Waiver from section 10.2.4.B.8 from the Land Development Code to reduce the required 15 ft side and rear landscape buffer area between PEC zoned properties.
- Revised Detailed District Development plan with Amendment to Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is zoned PEC in the Suburban Workplace Form District. The applicant is proposing to build a 2 story 10,657 SF office building that will access Elite Drive. The proposed plan also shows the new office being subdivided off from the existing tennis facility. The applicant is requesting a waiver to not provide the 15 ft wide landscape buffer area required for property lines between PEC zoning.

Related Cases:

- 09-83-99 – Rezoning from R-4 to PEC (with a small portion along N English Station Road left as R-4).
- 14825 – Revised Detailed District Development Plan for Top Gun Tennis Academy tennis facility expansion.

STAFF FINDING

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

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

Fee in Lieu has been approved for N English Station Road frontage

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.2.4.B.8 to allow proposed parking lot and existing tennis courts to encroach into the required 15 ft side and rear yard LBA:

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

STAFF: The waiver will not adversely affect adjacent property owners since there is an existing 50 ft Woodland Protection Area in between the proposed office and existing single family residential that provides adequate screening.

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

STAFF: Plan 2040 calls for protection of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate, appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances, that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered and ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The applicant has indicated that all buffer and screening requirements will be met within the required 10 FT vehicular use area landscape buffer. The whole site already has a 50 FT Woodland Protection Area that gives the proposed office adequate screening for the adjacent single family residential. The applicant will also be providing the required interior landscap area 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 of the regulation is the minimum necessary to afford relief to the applicant since the site is limited in size and does not have enough area to provide the required 15 FT wide LBA. The proposed property line also causes the existing tennis courts to encroach in the required 15 FT LBA on the residual tract. The applicant would have to remove or relocate the existing tennis court. The site is constraint in area for proposed lots due to a recorded and existing 50 FT Woodland Protection Area to the West and a 50 FT wide water company easement to the South.

- (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 reasonable use of the land because the creation of a new lot in this development is constrained by an existing 50 FT Woodland Protection Area and a 50 FT wide water easement making different configurations of a proposed lot difficult. Screening and plantings are being provided through the required VUA/LBA and ILAs.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and 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: 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, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan.

- 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 pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- 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** from section 10.2.4.B.8 from the Land Development Code to reduce the required 15 ft side and rear landscape buffer area between PEC zoned properties.
- **APPROVED** or **DENY** the **Revised Detailed District Development Plan with Amendment to Binding Elements**.

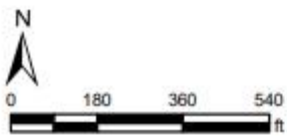
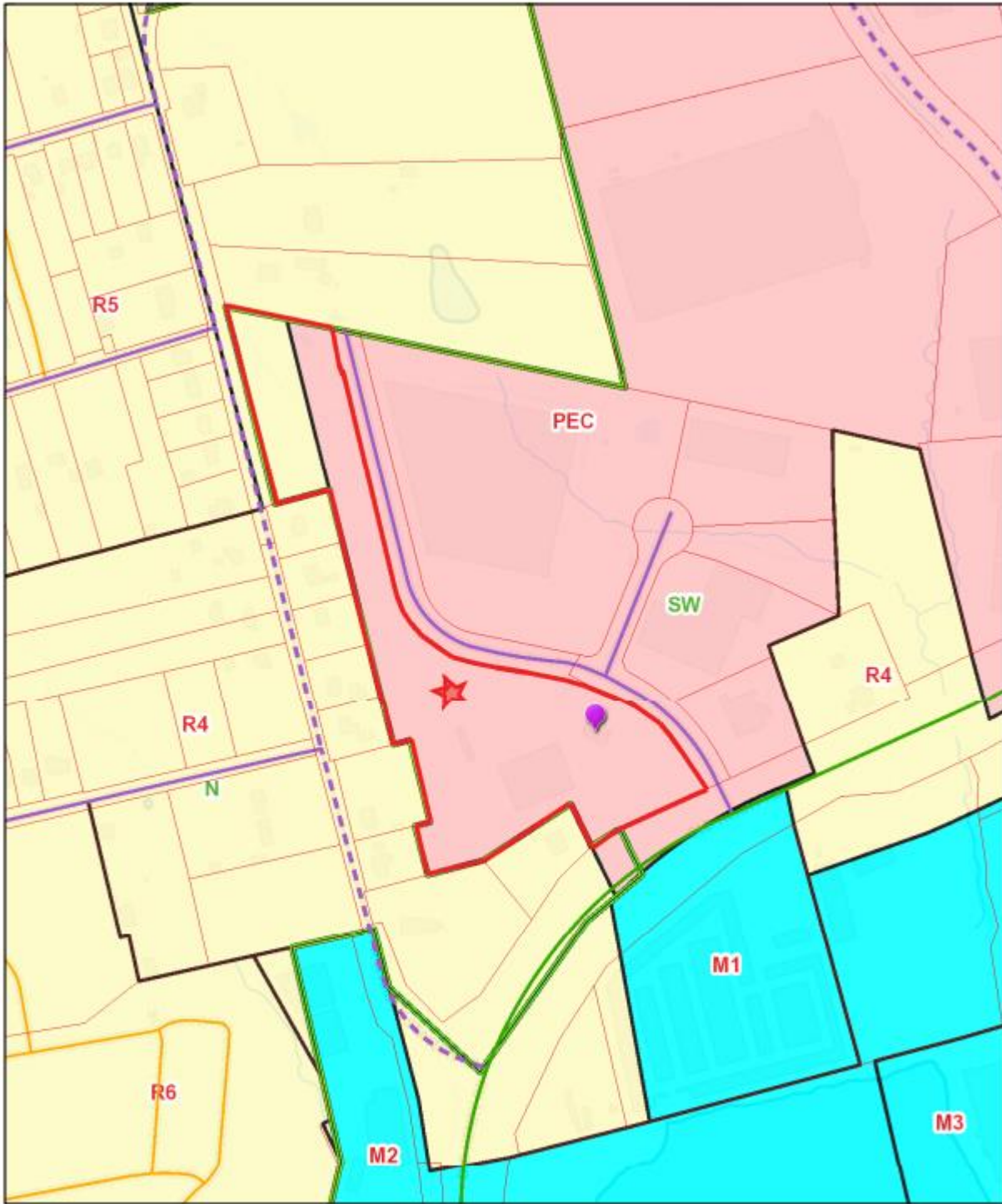
NOTIFICATION

Date	Purpose of Notice	Recipients
5-5-21	Hearing before May 19, 2021	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19

ATTACHMENTS

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

Zoning Map



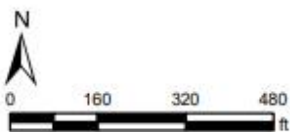
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This map is not a legal document and should only be used for general reference and identification

1. Aerial Photograph



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2. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan, all applicable sections of 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 not exceed 22,874 square feet of gross floor area.~~
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site tree canopy exists within 3' of the 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 or site disturbance permit requested):
 - a. The development plan must receive full construction approval from 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,
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 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.
8. The site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 10, 2010 Development Review Committee meeting.
10. No idling of trucks shall take place within 200 feet of the single-family residents. No overnight idling of trucks shall be permitted on-site.
11. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 part 1.3 of the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4, Part 1.3 of the Land Development Code.

12. Documentation was provided from the utility authority granting permission to plant small trees and shrubs within the easements, however, the applicant is restricted from planting large hardwood trees, changing the grades, or erecting permanent structures within the easements.
13. All plans setting out Tree Preservation Areas (TPAs), Tree Canopy Protection Areas (TCPAs) and/or Woodland Protection Areas (WPAs) must contain the following notes:
- a. Tree Canopy Protection Areas (TCPA's) identified on this plan represent individual trees and/or portions of the site designed to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
 - b. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. No further clearing, grading, construction or other land disturbing activity shall take place beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.
 - c. Dimension lines have been used on this plan to establish the general location of TPA's, TCPAs, and WPAs and represent minimum distances. The final boundary for each TPA, TCPA, and/or WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
 - d. Tree protection fencing shall be erected around all TPAs, TCPA and/or WPAs prior to site disturbance to protect the existing tree stands and their root systems. The encin shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remining trees within that TPA. When a tree mass contains both TCPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
 - e. No parking, material storage, or construction activities are permitted within the TPAs, TCPAs or WPAs beyond that allowed for preliminary site investigation work.
 - f. Clearing necessary to provide access for survey work, rock soundings o other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.
 - g. The site shall be developed in accordance with the Woodland Protection Areas (WPAs) delineated on the site plan and related notes. Any modification of the Woodland Protection Areas requires notification of adjoining property owners and LD&T action.
 - h. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with the binding elements/conditions of approval and/or the approved development plan. The form of such restrictions shall be approved by Planning Commission counsel.

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. 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.
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4. Before any permit (including but not limited to building, parking lot, change of use or site disturbance permit requested):
 - a. The development plan must receive full construction approval from 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,
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.
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