

Planning Commission Staff Report

July 2, 2014



Case No:	14DEVPLAN1053
Request:	Revised Detailed District Development Plan, Binding Elements, and Waivers
Project Name:	4950 & 4924 Cane Run Rd.
Location:	4950 & 4924 Cane Run Rd.
Owner:	Walgreens Co.
Applicant:	Hogan Real Estate
Representative:	Bardenwerper, Talbott & Roberts Land Design & Development
Jurisdiction:	Louisville Metro
Council District:	1 – Attica Scott
Case Manager:	David B. Wagner – Planner II

REQUEST

- Waiver from Section 10.2.4.B of the Land Development Code (LDC) to allow the Landscape Buffer Area (LBA) and Parkway Buffer Area to encroach more than 50% into utility easements along the southwest and south property lines of Tract 1.
- Revised Detailed District Development Plan
- Binding Elements

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing a 119 unit multi-family residential development on Tract 1 consisting of seven 16 unit buildings and one seven unit building in place of the previously approved 54 unit condominium development. Tract 2 is still proposed as a 2,600 SF office building and the Walgreen's proposed on the currently approved plan has been built. Two detention basins are provided on Tract 1 and the required landscape buffers and setbacks are shown on the plan. The requested Waiver is to allow the required LBA and Parkway Buffer Areas to encroach more than 50% into utility easements along the southwest and south property lines of Tract 1. There is a floodwall that parallels the southwest property line that has a large floodwall easement, creating the need for the waiver. The berm that is created by the floodwall will provide required screening along these property lines and buffers have been increased to still provide the necessary plantings.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

Existing Zoning District: R-5A, OR-1
Proposed Zoning District: N/A
Existing Form District: Neighborhood
Existing Use: Vacant
Proposed Use: Multi-Family Residential, Office
Minimum Parking Spaces Required: 186
Maximum Parking Spaces Allowed: 370
Parking Spaces Proposed: 223

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	R-5A, OR-1	N
Proposed	Multi-Family Residential, Office	R-5A, OR-1	N
Surrounding Properties			
North	Single Family Residential, Vacant	R-1, R-4	N
South	Single Family Residential, Retail	R-4, C-1	N
East	Single Family Residential	R-4	N
West	Vacant	R-1	N

PREVIOUS CASES ON SITE

- B-56-04: Conditional Use Permit for a minor earth fill
- 8500: Re-zoning from R-1 & R-4 to C-1, R-5A, & OR-1 and Detailed District Development Plan
- Plat Book 53, Page 42: Terry Road Dedication
- 13847: Re-zoning from R-5A to PRD (Expired)

INTERESTED PARTY COMMENTS

Staff has not received any inquiries from interested parties.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER to allow the Landscape Buffer Area (LBA) and Parkway Buffer Area to encroach more than 50% into utility easements along the southwest and south property lines of Tract 1

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

STAFF: The waiver will not adversely affect adjacent property owners because the adjoining property is a floodwall owned and maintained by Louisville Metro and there is only a small portion along Cane Run Road.

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

STAFF: The waiver will not violate the Comprehensive Plan and compliance with the regulation is not appropriate due to the fact that the adjoining properties are used as a floodwall or a public street. The development is proposed to be setback far from adjoining property owners that could potentially be affected.

- (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 floodwall already functions as a buffer between the proposal and adjoining properties and

moving the buffer areas to be outside of the floodwall easement would significantly decrease the buildable area.

- (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 floodwall already functions as a buffer between the proposal and adjoining properties and moving the buffer areas to be outside of the floodwall easement would significantly decrease the buildable area.

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 the floodwall berm that currently exists on the site and adds detention basins. The applicant will have to obtain approval of a revised landscape plan as well which will explain how trees will be replaced on the site.

- 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 be provided by the addition of sidewalk connections from the right-of-way to the development and internally throughout the site. Appropriate vehicular access is provided as well.

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

STAFF: Adequate open space is provided 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 is compatible with the surrounding area as it will be developed as multi-family residential and an office which was approved by the Planning Commission. The surrounding area is developed for residential uses as well.

- 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 Land Development Code as it will be developed as multi-family residential and an office which was approved by the Planning Commission. The surrounding area is developed for residential uses as well. The Waiver request will not adversely affect any adjoining property owner.

TECHNICAL REVIEW

- Except for the Waiver proposed, the proposal complies with the requirements of the LDC.

STAFF CONCLUSIONS

The proposal allows the development to continue to be developed as multi-family residential and an office and was previously approved by the Planning Commission. Appropriate landscaping will be provided on site and it will not adversely affect any nearby residential uses.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Planning Commission must **APPROVE** or **DENY** the proposal for a Revised Detailed District Development Plan and Amendment to Binding Elements and a Waiver.

NOTIFICATION

Date	Purpose of Notice	Recipients
6/18/14	Meeting before PC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers to Council District 1 Notification of Development Proposals

ATTACHMENTS

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

2. Aerial Photograph



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 square footage of the development shall not exceed 14,820 square foot of retail space for the Walgreens, 54 dwelling units on 10.3 acres (5.24 DU/acre), and a 2,600 office building.
3. Signs shall be in accordance with Chapter 8, or as presented at the public hearing.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or demolition permit) is requested:
 - a. The development plan must receive full construction approval from 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.
7. 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.
8. 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.
9. 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.
10. 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.

11. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
12. A certificate of occupancy for any portion of the development shall not be requested until such time as a traffic signal is installed by the applicant at the intersection of the development access road with Cane Run Rd. and Terry Rd. in accordance with KTC standards and requirements.

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 demolition permit) is requested:
 - a. The development plan must receive full construction approval from 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.
4. 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.
5. 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.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 2, 2014 Planning Commission meeting.