

# Land Development & Transportation Committee

## Staff Report

July 24<sup>th</sup>, 2014



|                          |  |
|--------------------------|--|
| <b>Case No:</b>          | <b>14DEVPLAN1049</b>   |
| <b>Request:</b>          | <b>Landscape Waivers and Revised Detailed Development Plan</b> |
| <b>District</b>          |  |
| <b>Project Name:</b>     | <b>ICON Plaza</b>  |
| <b>Location:</b>         | <b>13801 Terra View Trail</b>                                  |
| <b>Owner:</b>            | <b>Ghasem Properties Inc.</b>                                  |
| <b>Applicant:</b>        | <b>Reza Ghasem</b>   |
| <b>Representative:</b>   | <b>Evans/Griffin Inc.</b>                                      |
| <b>Jurisdiction:</b>     | <b>Louisville Metro</b>  |
| <b>Council District:</b> | <b>19 – Jerry Miller</b>                                       |
| <b>Case Manager:</b>     | <b>Christopher Brown, Planner II</b>                           |

### REQUEST

- Waiver #1: Landscape waiver from Chapter 10.2.4.B of the Land Development Code to allow existing utility easements to overlap required landscape buffers by more than 50% along Old Henry Road and Terra View Trail
- Waiver #2: Landscape waiver from Chapter 10.3.5.A.1 of the Land Development Code to allow parking to encroach into a portion of the required 30' parkway buffer along Old Henry Road
- Waiver #3: Landscape waiver from Chapter 10.3.5.A.3 of the Land Development Code to allow parking to encroach into a portion of the 15' parkway buffer along Terra Crossing Boulevard
- Amendment to Binding Elements
- Revised Detailed District Development plan

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: C-1, Commercial  
Proposed Zoning District: C-1, Commercial  
Existing Form District: Suburban Workplace  
Existing Use: Vacant  
Proposed Use: Retail and Office  
Minimum Parking Spaces Required: 57  
Maximum Parking Spaces Allowed: 88  
Parking Spaces Proposed: 57  
Plan Certain Docket #: 9-99-98

The applicant is proposing a 17,463 SF retail and office building on the subject site. The building will contain 13,600 SF of retail on the first floor and 3,863 SF of office on the second floor. The site is located at the intersection of Old Henry Road and Terra Crossing Boulevard with additional frontage along the Terra View Trail private access easement along the rear of the site. All setback requirements for the building will be met. The building design will meet the requirements of the Land Development Code for the suburban form district. The minimum parking requirements will be met between the subject site and an additional two spaces at the adjacent site across Terra Crossing Boulevard under the same ownership. In order to meet the parking requirement, the applicant has requested waivers to allow parking spaces to encroach into the required parkway buffer along Old Henry Road and the 15' parkway buffer for the first 100' along Terra Crossing Boulevard. A total of 9 spaces encroach into portions of these required buffers. The required screening and planting materials will be provided as well as well as extra landscape material and compensation area to

mitigate the encroachments. There is an existing 70' verge strip between the edge of pavement and the property boundary as well along Old Henry Road. The applicant has also requested to allow the existing utility easements to overlap the required buffers by more than 50% along portions of the property perimeter. It will not affect the ability to provide the required planting and screening materials.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

|                               | <b>Land Use</b>                | <b>Zoning</b> | <b>Form District</b> |
|-------------------------------|--------------------------------|---------------|----------------------|
| <b>Subject Property</b>       |                                |               |                      |
| <b>Existing</b>               | Vacant                         | C-1           | SW                   |
| <b>Proposed</b>               | Retail/Office                  | C-1           | SW                   |
| <b>Surrounding Properties</b> |                                |               |                      |
| <b>North</b>                  | Jewish Hospital Medical Center | OR-3          | SW                   |
| <b>South</b>                  | Industrial                     | M-3           | SW                   |
| <b>East</b>                   | Vacant                         | C-2           | SW                   |
| <b>West</b>                   | Mixed Commercial               | C-1           | SW                   |

**PREVIOUS CASES ON SITE**

- 9-99-98: Rezoning for a mixed use development from R-4, single family residential, to R-5A, OR-3, OTF, C-1 and C-M along Old Henry Road in the area of the Old Henry Sub-area study. The Planning Commission approved the rezoning in 2001. The subject site was shown as Lot 7 on the general plan as a bank use.
- 10549: Development Review Committee approved a detailed district development with building design waiver to provide less than 50% clear windows and doors along Terra Crossing Boulevard for a 3,999 SF bank use on the subject site.

**INTERESTED PARTY COMMENTS**

Staff was contacted by Greg Oakley and Darryl Schulte with the following concerns:

- 1) The building is under parked.
- 2) The design of the building is inconsistent with the surrounding buildings and other similar developments.
- 3) The parkway buffer encroachment is a bad precedent to set for the area and is a departure from the original public hearing exhibits.
- 4) A cross access agreement should be reached to allow access to the east from the lot.
- 5) Concerns about how the building will be serviced and its servicing access.
- 6) Serious concern not only about the design of the proposed structure, its parking, setbacks, etc. – but the view to the rear of the building from not only our property and others to the east and south – but from Old Henry Parkway. Please see attached photos from the existing building to the west – developed, owned and operated by the applicant of 14DEV1049. We are very concerned about not only the initial install of the infrastructure (service entrances, etc.), mechanical equipment, screening, etc. of the prominent wall we, our neighbors, and the Public will see from Old Henry. The exaggerated parapets, visible metal roofing, harsh wall pack lighting, rusted electrical chases, etc. all compound the concern. All this – coupled with the jamming the building up against the property line/easement without any ability to screen – further impacts our property. And – again – this is a byproduct of too much building on this proposed development. A solution for the utility services to the building would be a dedicated service room for electric meters, etc. We (and many other developers) utilize Service Rooms to clean up and eliminate visual impacts to our neighbors.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code  
Old Henry Sub Area Plan

### 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 does 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 with the current 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 provisions 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.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS  
(Parkway Buffers)**

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

STAFF: The waiver will not adversely affect adjacent property owners since an estimated 70' of verge exists between the edge of pavement along Old Henry and the subject site with the required planting and screening materials to be provided along both Old Henry Road and Terra Crossing Boulevard.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors. The intent of the parkway will be maintained with the preservation of the existing extensive verge, the use of all required planting and screening materials, additional plantings being provided above the required amount and an area of compensation along the eastern portion of the site to mitigate the impact; therefore, the waiver will not violate specific guidelines 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 to allow the minimum parking requirements for the proposed uses to be met on the 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 applicant needs to state how they will incorporate other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived along the required parkway buffer areas since the strict application of the provisions of the regulations would not deprive the applicant of reasonable use of the land or create an unnecessary hardship.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS  
(Utility Easement Overlaps)**

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

STAFF: The waiver will not adversely affect adjacent property owners since all required planting and screening materials will be provided.

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

STAFF: Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for 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 air borne and water borne pollutants. The landscape buffer intent will be fully provided with the required screening and planting materials to be provided on the site; therefore, the waiver will not violate specific guidelines 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 to allow the required landscape buffers to be provided on the site while meeting the need for adequate parking.

- (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 by requiring extensive removal of intended parking areas on the site to compensate for the existing utility easement overlaps.

**TECHNICAL REVIEW**

- No outstanding technical review issues need to be addressed.

## STAFF CONCLUSIONS

The applicant needs to demonstrate how they will incorporate other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived along the required parkway buffer areas. They show an area of compensation on the plan but need to discuss possible additional plantings or screening materials above the required minimum amount as mitigation to create a net benefit effect along the roadways. The applicant should also address the concerns raised by interested parties as listed within the staff report. The standard of review has been met for the utility easement overlap waiver as requested by the applicant. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Land Development & Transportation Committee must determine if the proposal meets the standards for granting landscape waivers and a revised detailed district development plan as established in the Land Development Code.

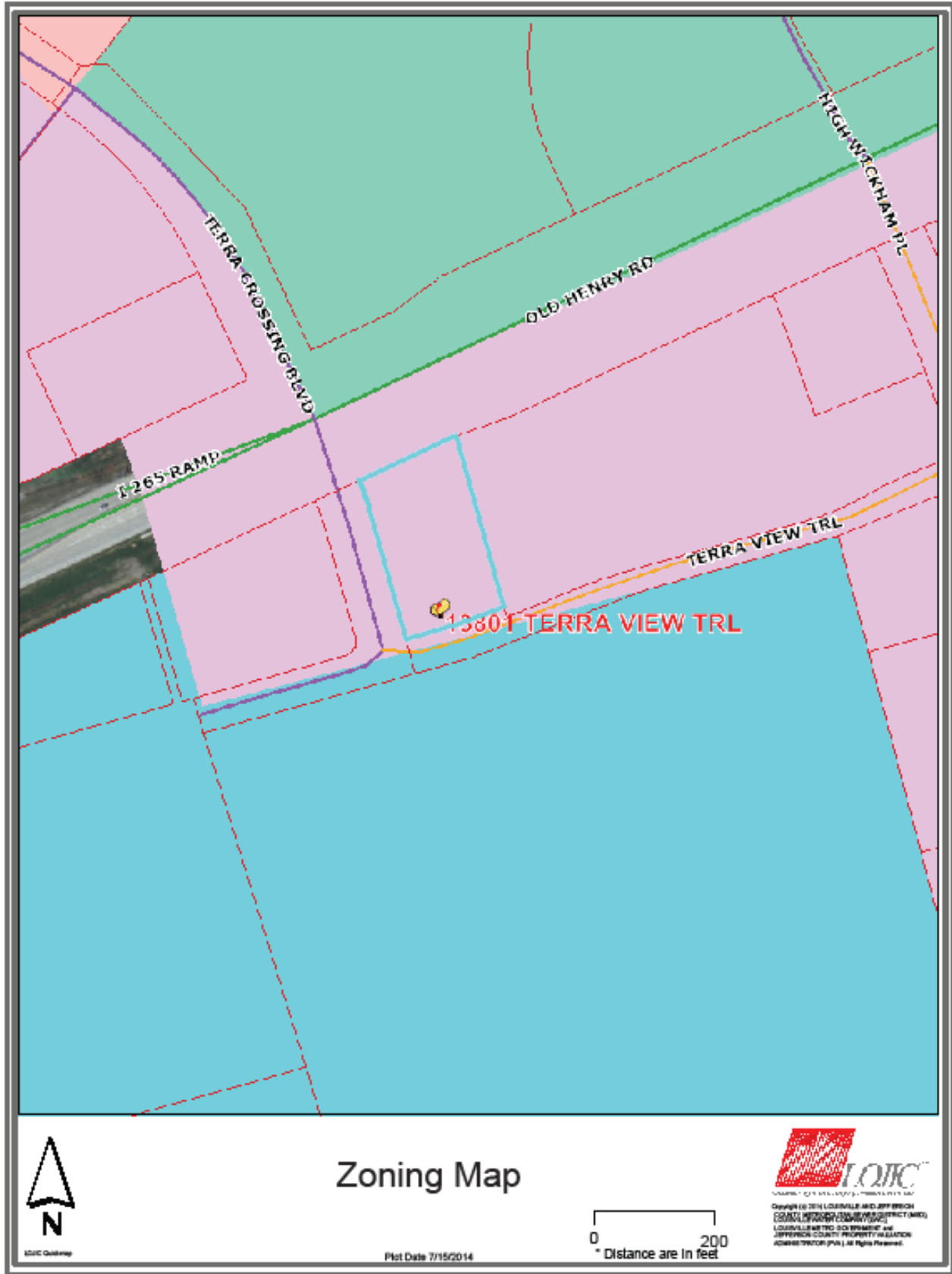
## NOTIFICATION

| Date   | Purpose of Notice   | Recipients   |
|--------|---------------------|--|
| 7/3/14 | Hearing before LD&T | 1 <sup>st</sup> tier adjoining property owners<br>Speakers at Planning Commission public hearing<br>Subscribers of Council District 19 Notification of Development Proposals |

## ATTACHMENTS

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

1. Zoning Map



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. 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, 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.
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 April 23, 2008 Development Review Committee meeting.
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 off-site.

### 4. Proposed Binding Elements

3. 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~~ **Construction Permit Review, Transportation Planning Review** and the Metropolitan Sewer District.
6. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~April 23, 2008 Development Review~~ **July 24, 2014 Land Development and Transportation** Committee meeting.