

Development Review Committee

Staff Report

January 18, 2023



Case No:	22-DDP-0086/22-WAIVER-0197
Project Name:	Friess Fitness Center
Location:	7804 Beulah Church Rd
Owner(s):	Daniel Friess
Applicant:	Daniel Friess
Jurisdiction:	Louisville Metro
Council District:	23 – Jeff Hudson
Case Manager:	Jay Lockett, AICP, Planner II

REQUEST(S)

- **Waiver** of Land Development Code section 5.5.2.B.1.a to not provide vehicular and pedestrian connection to the north.
- **Revised Detailed District Development Plan** with revisions to Binding Elements

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a fitness center on approximately .42 acres. The subject site is zoned C-1 in the Neighborhood form district near the Highview area of Louisville Metro. The site is currently vacant and was previously rezoned under docket 9-45-85 for a retail use.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The development is of appropriate intensity and scale comparable to other uses in the area.

TECHNICAL REVIEW

The applicant has requested a waiver to not dedicate the full width of right-of-way as required by the Land Development Code and Public Works, which has not yet been approved. MSD has approved the preliminary development plan.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners the affected properties will maintain their existing access.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as safe vehicular and pedestrian circulation have been provided for in and around the site. The waiver would facilitate the redevelopment of a previously developed commercial site in an area with adequate population to support a variety of uses.

- (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. Other aspects of the Land Development Code have been met.

- (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 create an unnecessary hardship on the applicant, as the adjacent site to the north is a religious institutional use that is unlikely to redevelop for a commercial use in the near future.

REQUIRED ACTIONS:

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

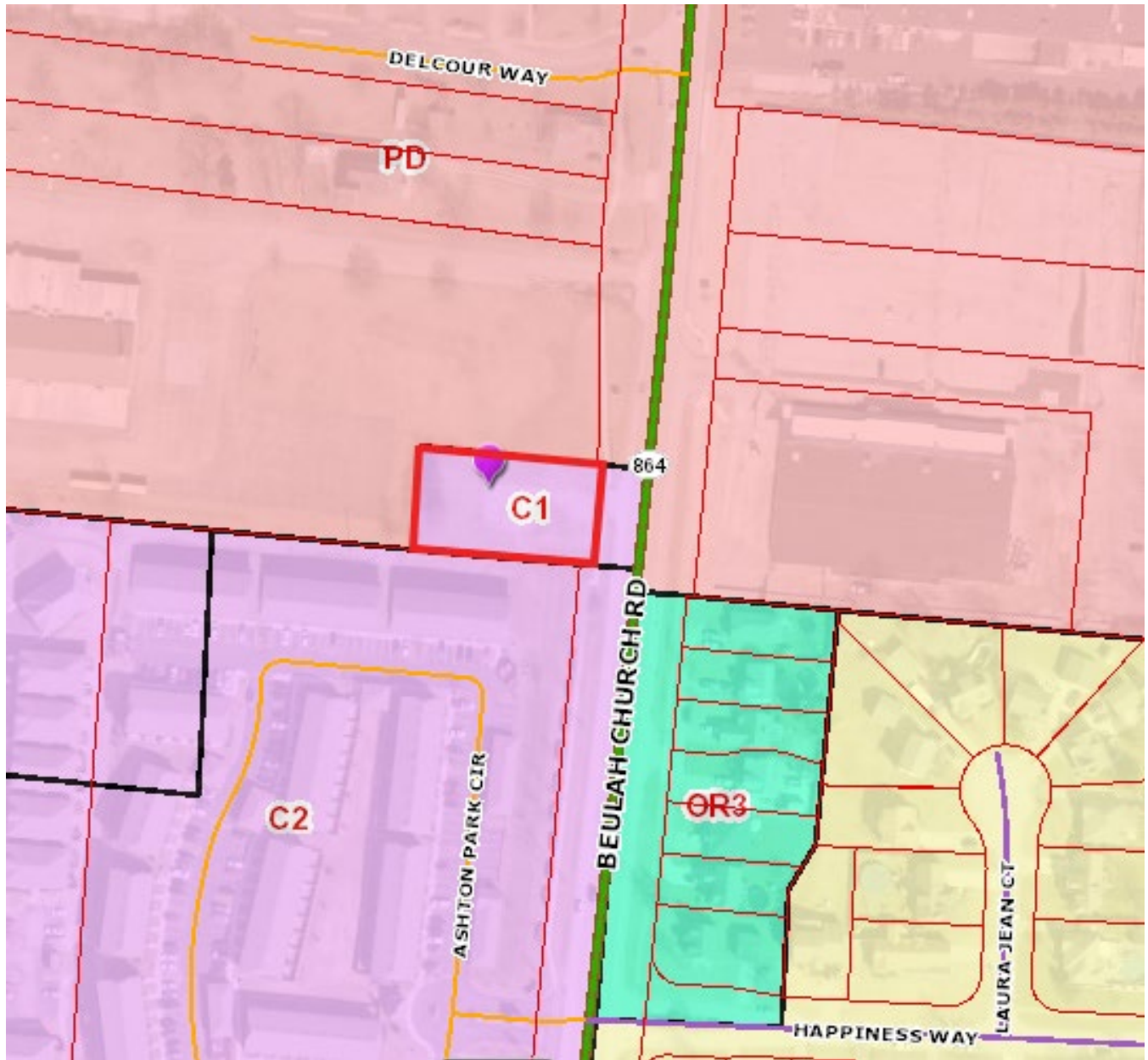
NOTIFICATION

Date	Purpose of Notice	Recipients
1-5-23	Hearing before DRC	1 st tier adjoining property owners and residents Registered Neighborhood Groups in Council District 23

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements to be replaced

- ~~1. The development shall be in accordance with the approved district development plan. No further development will occur.~~
- ~~2. The development shall not exceed 990 square feet of gross floor area.~~
- ~~3. Before certificates of occupancy are issued:
 - ~~a) The development plan must be reapproved by Transportation Engineering, Water Management and Fire Safety sections of Jefferson County Public Works and Transportation Cabinet.~~
 - ~~b) The only permitted sign shall be attached to the structure as shown on the approved district development plan. The signs shall not exceed the total of 37.28 square feet in area.~~
 - ~~c) The propertyowner must obtain approval of a plan for screening and buffering along the south and east (Beulah Church Rd property line) property lines. Such plan shall be implemented prior to occupancy and maintained thereafter.~~
 - ~~d) Encroachment permits must be obtained from the Kentucky Department of Transportation Bureau of Highways.~~~~
- ~~4. If a certificate of occupancy 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.~~
- ~~5. A certificate of occupancy must be received from the appropriate code enforcement office prior to occupancy of the structure or land for the proposed use and all binding elements must be implemented prior to requesting the issuance of the certificate.~~
- ~~6. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

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, 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. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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. Prior to requesting a certificate of occupancy, an easement in a form acceptable to Planning Commission legal counsel shall be recorded to permit the pedestrian connection to the south as shown on the development plan.