

Land Development and Transportation Committee

Staff Report

August 10, 2017



Case No:	17DEVPLAN1093
Project Name:	HOS Properties
Location:	8727 Old Bardstown Rd
Owner(s):	HOS Properties, LLC
Applicant:	HOS Properties, LLC
Jurisdiction:	Louisville Metro
Council District:	22 - Robin Engel
Case Manager:	Jay Lockett, Planner I

REQUESTS

- **Waiver of 5.8.1.B to not provide sidewalks in the Bardstown Rd ROW.**
- **Waiver of 5.9.2.A.1.b.ii to not provide connections to adjacent sites.**
- **Detailed District Development Plan for a 15,000 SF commercial center.**

CASE SUMMARY/BACKGROUND

The applicant is proposing a 15,000 SF commercial center with a gym and other retail/commercial uses. The property is zoned C-1 in the Neighborhood form district. The site area is approximately 1.64 acres in total and is currently vacant.

STAFF FINDING

This property was rezoned from R-4 to C-1 under docket 9-67-88 as part of a neighborhood scale commercial strip to serve a much larger residential development. The other commercial parcels from this rezoning have been developed with a mix of office and commercial uses, with this site being the final parcel to develop under this rezoning. This is the first Detailed Development Plan proposal for this site subsequent to the rezoning.

The waiver requests are adequately justified and meet the standard of review.

The Detailed Development Plan is in compliance with the Comprehensive Plan and the Fern Creek Small Area Plan. The development plan complies with the Land Development Code with the exception of the waiver request and a variance request that was considered by the Board of Zoning Adjustment on August 7, 2017.

TECHNICAL REVIEW

The plan has received preliminary approval from Transportation Planning and the Metropolitan Sewer District.

In order for the plan to be built as proposed, a Variance must be granted by the Board of Zoning Adjustment.

INTERESTED PARTY COMMENTS

A neighboring property owner has inquired about public hearing processes and notice but has not expressed any explicit opposition or support for this project.

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, 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: Open space requirements are not part of this request.

- 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.

- 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, with the exception of the waiver requests under consideration today and the variance considered by the Board of Zoning adjustment.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LDC SECTION 5.8.1.B

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

STAFF: The waiver will not adversely affect adjacent property owners since adequate screening and buffering will still be provided onsite.

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

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate.

- (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 since sidewalks will still be provided within the Old Bardstown Rd ROW.

- (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 regulation would deprive the applicant of the reasonable use of the land, as the grade of the Bardstown Rd ROW is unsuitable for sidewalks in this location.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LDC SECTION 5.9.2.A.1.b.ii

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

STAFF: The waiver will not adversely affect adjacent property owners since safe access between sites can still be achieved through sidewalks and roadways.

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

STAFF: Guideline 2, Policy 13 encourages adjacent development sites to share entrance and parking facilities in order to reduce the number of curb cuts and the amount of surface parking. Guideline 7, Policy 13 requires joint and cross access easements according to standards set forth in the Land Development Code to reduce traffic on major thoroughfares and to reduce safety hazards. Guideline 7, Policy 16 calls for the promotion of joint access and circulation systems for development sites comprised of more than one building site or lot. The purpose of the requirements to be waived are to allow similar, compatible non-residential and multi-family

uses to access adjacent sites without use of the main road to reduce curb cuts, the amount of surface parking, and traffic on the main thoroughfare.

- (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 since there are only two adjacent sites.

- (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 regulation would deprive the applicant of the reasonable use of the land, as the grade difference between the subject site and adjacent sites make direct connections between parking lots infeasible.

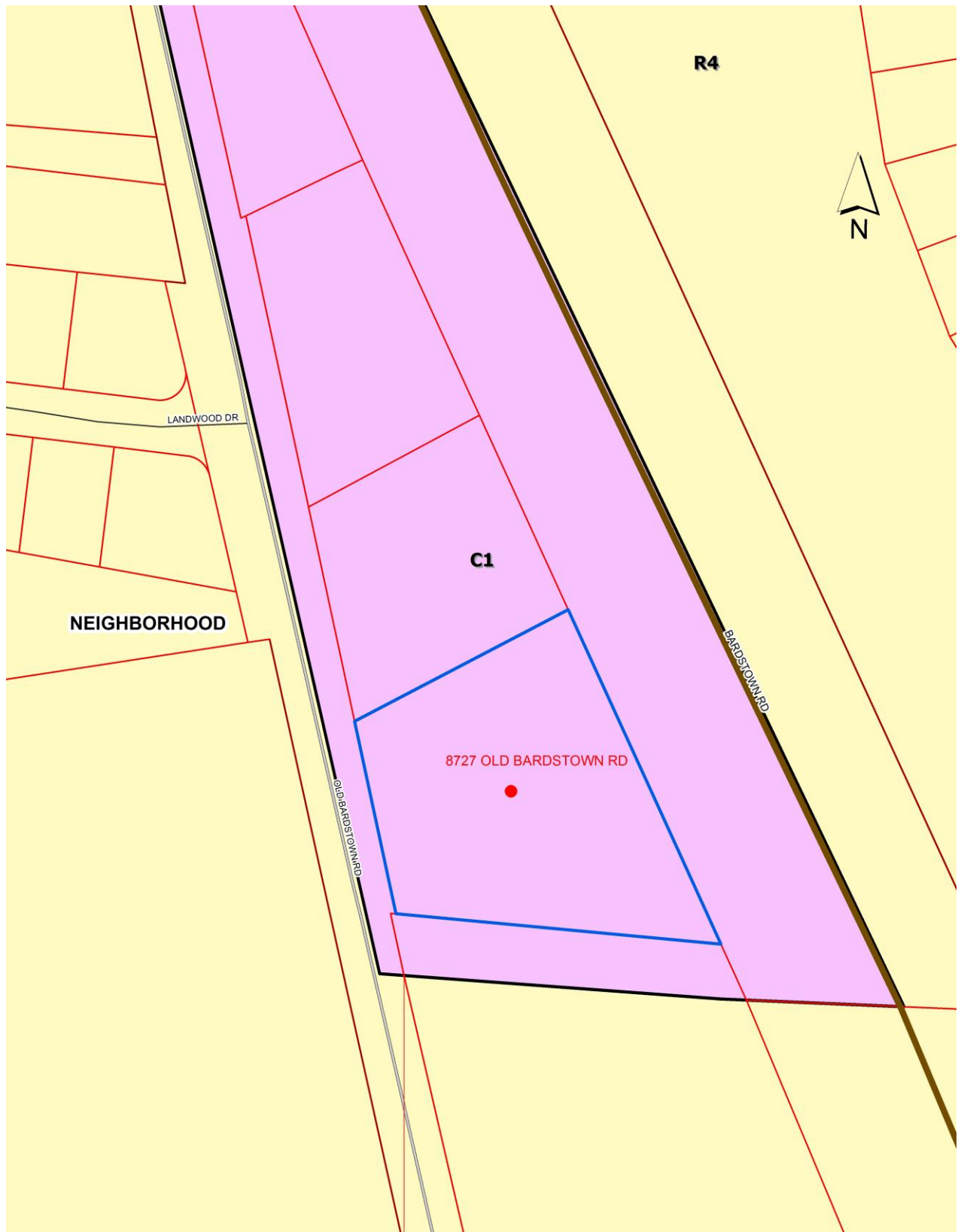
NOTIFICATION

Date	Purpose of Notice	Recipients
7-21-17	Hearing before Land Development and Transportation Committee	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 22

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Proposed Binding Elements

The site is subject to all general plan binding elements approved under docket 9-67-88, 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) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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.
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 audible beyond the property line.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 10, 2017 Land Development and Transportation Committee meeting.
9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.