

# Planning Commission

## Staff Report

October 6, 2022



<b>Case No:</b>	22-DDP-0075/22-WAIVER-0165
<b>Project Name:</b>	Jagers – Villages of English Station
<b>Location:</b>	13712 and 13801 English Villa Dr
<b>Owner(s):</b>	Hogan Holdings 15 LLC
<b>Applicant:</b>	Hogan Holdings 15 LLC
<b>Jurisdiction:</b>	Louisville Metro and Middletown
<b>Council District:</b>	11 - Kevin Kramer and 19 – Anthony Piagentini
<b>Case Manager:</b>	Jay Lockett, AICP, Planner II

### REQUEST(S)

- **Waivers**
  1. **Waiver** of Land Development Code section 10.3.5 to allow the existing drive lane to encroach into the Parkway Buffer.
- **Revised Detailed District Development Plan**

### CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a restaurant with a drive-thru on approximately 1.3 acres. The subject site is zoned C-1 in the Neighborhood form district. The building is within Louisville Metro, while most of the parking area is within the City of Middletown. The addition of a drive-thru for this site requires Metro Council approval per existing binding element 26.

### STAFF FINDING

The requests are adequately justified and meet the standards of review.

### TECHNICAL REVIEW

The applicant has submitted a signage packet in compliance with Binding Element 9. The applicant will still need to submit sign permits prior to the installation of any proposed signage.

### INTERESTED PARTY COMMENTS

The office of Metro Council District 11 has expressed concerns that certain landscape islands within the larger Villages of English Station development have recently not been properly maintained with grass cutting.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

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

STAFF: The waiver will not affect adjacent property owners as all required plantings and screening will still be provided.

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

STAFF: The waiver will allow for development within an established activity center. All required plantings will be provided on the subject site and any potential impacts of the development on the surrounding community will be mitigated appropriately.

- (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, as all required planting and screening will be provided on 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 strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would necessitate the removal and new location of the existing drive lane that provides cross connectivity with the adjacent site to the east.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or 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. The applicant will provide all required plantings within the Parkway Buffer.

- (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 has 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.

- (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, except where relief is requested.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** that Louisville Metro Council **APPROVE** or **DENY** the **Revised District Development Plan**
- **RECOMMEND** that the City of Middletown **APPROVE** or **DENY** the **Revised District Development Plan**

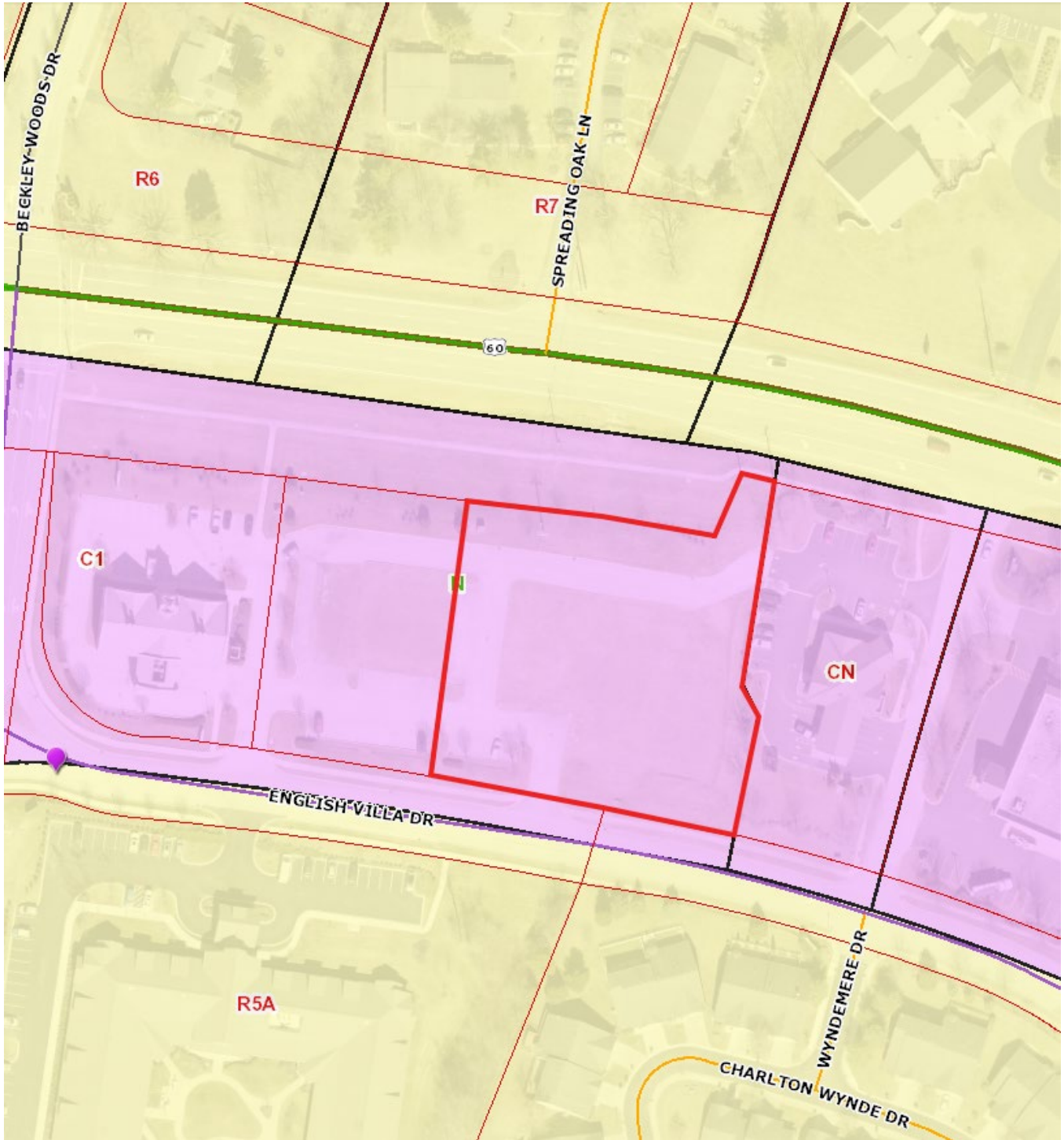
**NOTIFICATION**

Date	Purpose of Notice	Recipients
9-21-22	Hearing before PC	1 <sup>st</sup> tier adjoining property owners and residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council Districts 11 and 19

**ATTACHMENTS**

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

1. Zoning Map





2. Aerial Photograph



### **3. Existing Binding Elements**

1. The development shall be in accordance with approved general and detailed district development plans, 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 retail and restaurant detailed district development plan portions of the site shall not exceed 45,909 overall square feet and shall be limited to no more than 9,107.4 square feet of C-2, and the multi-family R-5A detailed district development plan portions of the site shall not exceed 6.5 dwelling units per acre (98 units on approximately 15.32 acres after right-of-way deductions).
3. Prior to development (including clearing and grading) of each commercial and office lot, the applicant, developer, or property owner shall obtain approval of the specific building design for conformance with the general design scheme and standards presented at the public hearing of January 5, 2006. Each plan shall be in adequate detail and may be subject to additional binding elements.
4. The materials and design of proposed residential condominium and office building structures shall be substantially the same as depicted in the renderings as presented at the January 5, 2006 Planning Commission meeting. In addition, the materials and design of the proposed banking facilities on Tracts 1 and 2, as well as the materials and design the of proposed retail structure on Tract 3 shall be substantially the same as depicted in the renderings as presented at the March 14, 2007 DRC Committee Meeting.
5. The facade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
6. A focal point in conformance with design materials presented at the January 5, 2006 public hearing shall be constructed in conjunction with residential patio home construction on the lot on which it exists.
7. Signs shall be in accordance with Chapter 8 of the Land Development Code or Middletown Sign Ordinance, as the case may be.
8. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
9. The sign package shall also be presented to LD&T for its approval, and signs located in Middletown shall require Middletown approval.
10. C-2 commercial uses shall be limited to C-1 uses, except as necessary to accommodate outdoor seating and sale of alcoholic beverages associated with restaurant uses.
11. Residential uses shall be limited to residential condominiums constructed under a horizontal property regime.
12. Landscaping, screening and buffering shall minimally be as shown on the colored site plan presented at the January 5, 2006 public hearing. All landscaped areas shall be irrigated.

13. 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.
14. 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. 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.
15. If a clearing and grading permit is not issued within one year or a building permit within 2 years 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.
16. 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.
17. Dumpster and trash compactor pickups/emptying shall be limited to the hours of 7:00 a.m. to 7:00 p.m.
18. 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, Section 3, of the Land Development Code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted and lighting shall be maintained at all times in accordance therewith.
19. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
20. 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.



21. Construction plans shall include shared points of access between all adjoining retail and office lots.
22. Construction plans shall delineate cross walks in logical locations in such manner and with such materials and/or striping as to make them clearly visible.
23. At the same time as construction plans are prepared for lots 6 and 7, construction plans shall also be prepared for the "east-west connector road" curved connection to South English Station Way, as generally shown on the approved district development plan, such plans to also include grade and drain conditions for the road and the referenced lots. The curved road connection does not need to be constructed by these applicants/developers, but construction plans for lots 6 and 7 shall not be approved until these road connections, grade and drain plans are also submitted and reviewed for approval.
24. A CORSIM analysis of the various U.S.60 intersections shall be completed and submitted to the Kentucky Transportation Cabinet District 5 Office prior to construction plan approval of any of the approved development.
25. A temporary fence to try to help control debris and dust from the Ray Barry property shall be installed during construction of the adjoining residential patio homes.
26. Changes to retail or restaurant uses, including the addition of drive-thrus not shown on the development plan for Villages of English Station II, shall require Metro Council approval.
27. The temporary intersection of English Station Way and existing English Station Way shall be a continuous roadway rather than a stop condition until such time as the "east-west connector road" curved to South English Station Way described in Binding Element no. 23 is constructed.
28. All binding elements, including the binding elements added by Metro Council in this ordinance, shall be applicable to the entire site covered by Docket No. 9-65-05.