

Development Review Committee

Staff Report

September 1, 2021



Case No:	21-WAIVER-0102
Project Name:	Jefferson Animal Hospital Waivers
Location:	4504 Outer Loop
Owner(s):	Capital Security Corp
Applicant:	Capital Security Corp
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Waivers**

- #1:** from 10.2.4.B.6 to omit a required Landscape Buffer Area (LBA) between the CUP area and the R-4 zoning area internal to the site
- #2:** from 10.2.4.A to omit a required LBA between the R-4 zoning area and the adjacent C-2 zoned parcel
- #3:** from 10.2.8.A to waive five required street trees along the already-developed frontage
- #4:** from 10.3.5.A to encroach into the required parkway buffer along the already-developed frontage of the site and omit the required parkway buffer plantings
- #5:** from 10.2.12 and 10.2.13 to omit required Vehicular Use Area (VUA) Interior Landscape Areas (ILAs) in the previously-developed parking lots and waive the required ILA plantings

CASE SUMMARY/BACKGROUND

The subject site is located along the southern side of Outer Loop near the intersection with Lambert Road. The site is comprised one parcel partially developed with an existing animal hospital and partially under development. The applicant requests the waivers in order to continue development of the remaining portion of the site with an expansion to the animal hospital.

Outer Loop is a designated parkway at this location. A commercial strip center is located to the west, and smaller commercial and office buildings are located to the east. Single family residential adjoins the property to the south. To the north, across Outer Loop, is the Festival at Jefferson Court retail center.

The site was partially rezoned from R-4 Single Family Residential to C-1 Commercial in 1978, under docket 9-11-78, to permit the use of that portion of the property as a veterinary office. A Conditional Use Permit to allow off-street parking in the R-4 zoning district was approved by the Board of Zoning Adjustment in 1996, under docket B-286-96. Variances for this off-street parking to encroach into required yards were approved under dockets B-287-96 and B-288-96. Harper Drive was closed in 1998.

The site was partially rezoned from R-4 to C-5 Professional Office (currently OR-1 Office Residential) in 1977, under docket 9-37-77, to permit the use of that portion of the property as a chiropractor's office. This portion of the site was rezoned again in 2020 under docket 19-ZONE-0073, to C-1, to permit the expansion of the animal hospital. At that time, the existing chiropractor's office was proposed to be

preserved and re-used in the animal hospital, with a connector building constructed between the animal hospital and the chiropractor's office building.

Because the chiropractor's office was being retained and repurposed, landscaping was not originally required on the already-developed portion of the site, but was required only on the portion being rezoned in 2020. However, later site investigation revealed that the existing building was not salvageable, and so it was demolished and proposed to be reconstructed with the connector building. This was approved under docket 21-DDP-0038. With the reconstruction, landscaping was required on the entire site, as the building footprint expansion is now in excess of 50%. This necessitates the waivers being requested now, for the portions of the site which were already previously developed.

STAFF FINDING

Staff finds that the requested waivers are adequately justified and meet the standard of review.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B.6

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

STAFF: The waiver will not adversely affect adjacent property owners as the conditions are generally existing and the required LBA is internal to the site.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends appropriate buffers between uses that are in different density categories. The CUP LBA is internal to the site and will have no effect on any user.

(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 the LBA is internal to the site and providing it would remove a portion of the parking approved under the CUP.

(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 as providing the required LBA would severely impact the available parking on the site, reducing it below what is needed.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.A

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

STAFF: The waiver will not adversely affect adjacent property owners as the conditions are generally existing and have had no known adverse effect.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends appropriate buffers between uses that are in different density categories. The C-2 site did not provide the LBA, and so the requirement falls onto the subject site, which would need to remove a structure to provide it. Existing vegetation provides adequate buffering.

- (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 provision of the LBA would require removal of an existing structure.

- (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 as providing the required LBA would require the removal of an existing structure which is being used.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.8.A

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

STAFF: The waiver will not adversely affect adjacent property owners as the developed portions of the site were built prior to the current LDC requirement for street trees, and there is no room on the site for the required trees along the developed area.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address street trees except in relation to general tree canopy guidelines. Tree canopy will be provided elsewhere on the site and street trees will be provided in the recently rezoned area.

- (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 there is no space on the front of the developed portions of the property to provide the required street trees. Street trees will be provided along the recently rezoned portion.

- (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 as providing the required street trees would require the removal of needed parking.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.3.5.A

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

STAFF: The waiver will not adversely affect adjacent property owners as the conditions are generally existing and have had no known adverse effect.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends the establishment and preservation of parkways to preserve important cultural resources, landscapes and scenic vistas. No cultural resources, landscapes or scenic vistas will be negatively impacted by the encroachment, which is an existing condition.

- (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 provision of the full parkway buffer would require the removal of necessary 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 as providing the required parkway buffer would require the removal of needed parking.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.12 & 10.2.13

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

STAFF: The waiver will not adversely affect adjacent property owners as the conditions are generally existing and have had no known adverse effect.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not specifically address ILA requirements, but does include recommendations related to the provision of tree canopy. Tree canopy will be provided elsewhere on the site.

- (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 provision of the ILAs would require the complete reconfiguration of an existing parking lot.

- (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 as providing the required ILAs would require the applicant to reconfigure an existing parking lot with the loss of needed parking.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Waivers**

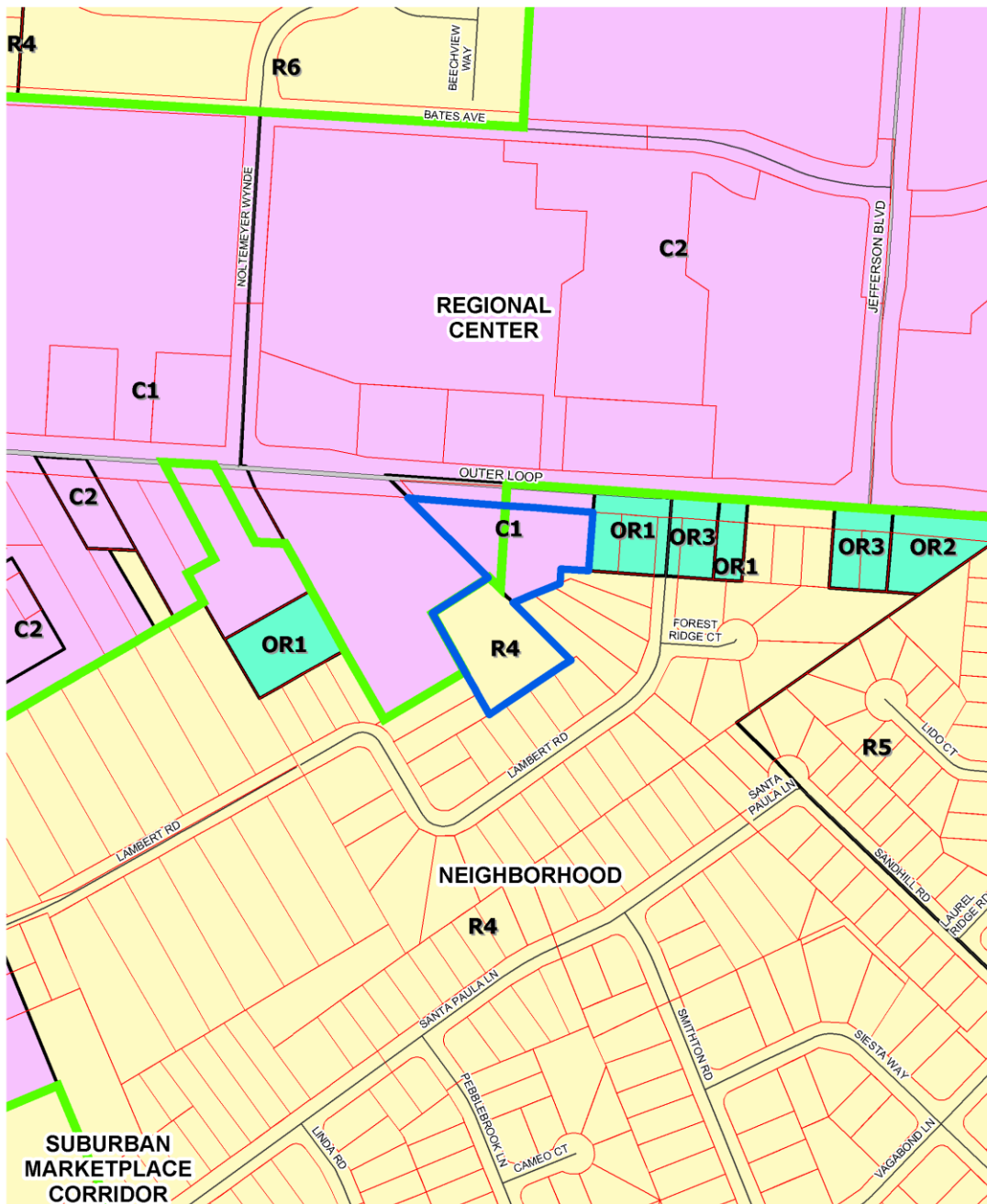
NOTIFICATION

Date	Purpose of Notice	Recipients
08/18/2021	Hearing before LD&T	1 st tier adjoining property owners and residents Registered Neighborhood Groups in Council District 24

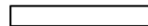
ATTACHMENTS

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

1. Zoning Map



4504 Outer Loop
feet



310

Map Created: 8/25/2021



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2. Aerial Photograph



4504 Outer Loop
feet

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Map Created: 8/25/2021



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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. No animals shall be boarded on the premises, except as required for ongoing veterinary treatment, and no animal pens or runs shall be located outside the structure.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 23, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. 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.
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.