

# Development Review Committee

## Staff Report

August 3, 2022



<b>Case No:</b>	21-DDP-0033/21-WAIVER-0115/21-WAIVER-0116
<b>Project Name:</b>	7727 St Andrews Church Rd
<b>Location:</b>	7727 St Andrews Church Rd
<b>Owner(s):</b>	Montez Malone
<b>Applicant:</b>	Vitality Development LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	25 – Amy Holton Stewart
<b>Case Manager:</b>	Jay Lockett, AICP, Planner II

### REQUEST(S)

- **Waivers**
  1. (21-WAIVER-0115) of Land Development Code section 10.2.4.A to reduce the 25-foot and 15-foot buffers along the western property line to 9.5 feet.
  2. (21-WAIVER-0116) of Land Development Code section 10.2.4.B to permit a required property perimeter buffer to overlap a drainage easement and detention basin by more than 50%.
- **Revised Detailed District Development Plan** with revisions to Binding Elements

### CASE SUMMARY/BACKGROUND

The applicant is proposing to construct 18 multifamily dwelling units on approximately 1.08 acres. The subject site is in the Neighborhood form district near the Pleasure Ridge Park area of Louisville Metro and is currently vacant. It was rezoned to R-6 with an approved development plan for 17 dwelling units under docket 19ZONE1036. A revised plan that proposed 12 units was approved by Planning and Design Services staff under docket 20-DDP-0049.

### STAFF FINDING

The requests are adequately justified and meet the standards of review. The development is consistent and compatible with other development in the area. The requested waivers are similar to requests previously approved and are the minimum necessary to provide relief to the applicant.

### TECHNICAL REVIEW

There are no outstanding technical issues associated with this request. MSD and Transportation Planning have approved the preliminary development plan.

### INTERESTED PARTY COMMENTS

Staff has received emails from a nearby resident Michelle Hussey expressing concerns regarding the proposed development.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1**

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

STAFF: The waiver will not adversely affect adjacent property owners as the applicant will provide all required plantings and screening within the buffer 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 the applicant will provide adequate screening and 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 the encroachment is minimal and all required screening and planting will be provided.

- (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 is an institutional use and does not have residential dwellings.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2**

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

STAFF: The waiver will not adversely affect adjacent property owners as the applicant will provide all required plantings and screening within the buffer 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 the applicant will provide adequate screening and 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 the encroachment is minimal and all required screening and planting will be provided.

- (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 drainage easement is existing and the detention basin is needed to insure proper drainage and runoff control onsite, and ensure that additional runoff is not placed onto adjacent properties.

### **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 are no significant natural features 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 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: Open space requirements of the Land Development Code, including recreational open space requirements, are being met on the subject site.

- (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.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with revisions to binding elements.

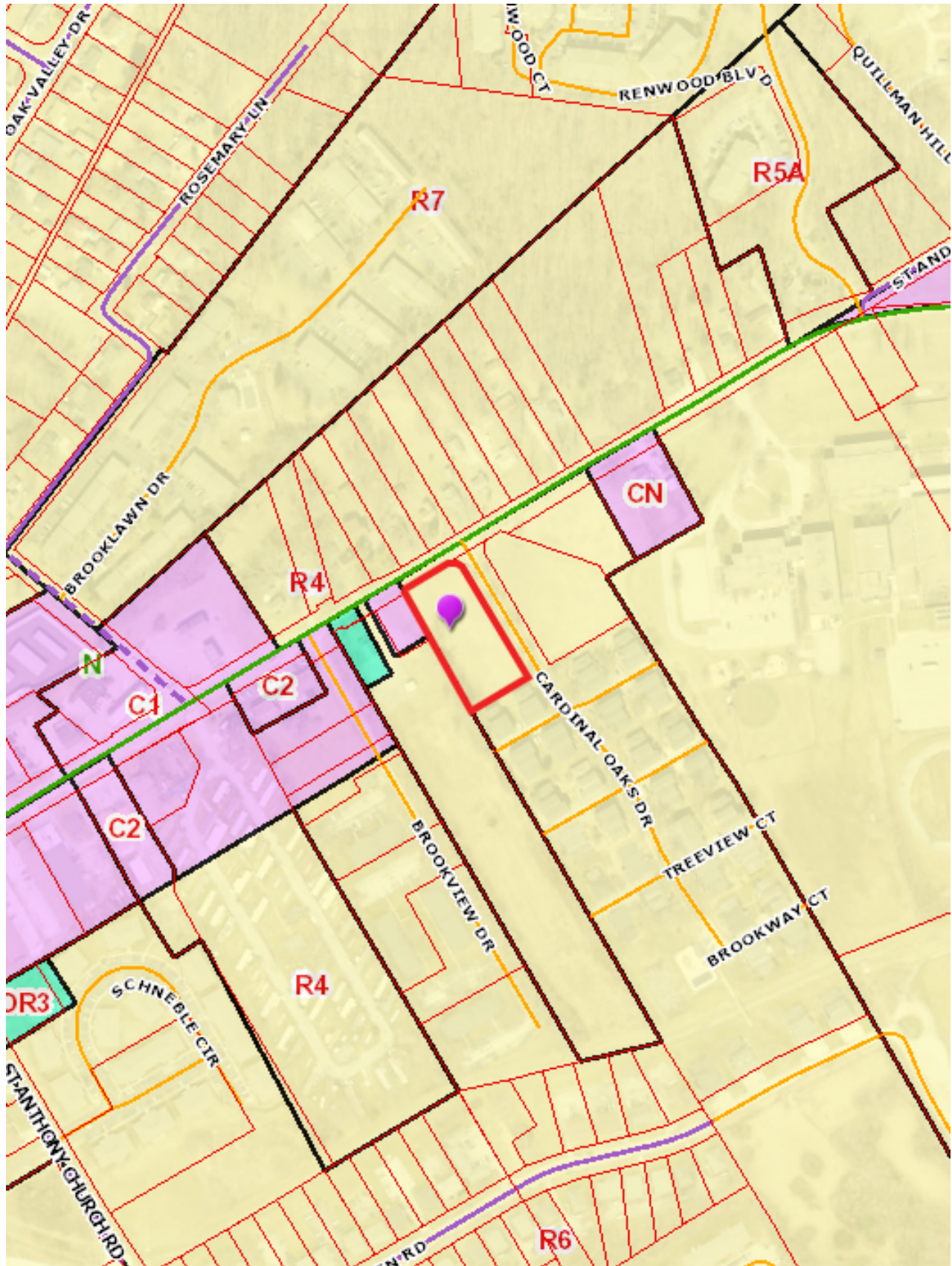
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>7-22-22</b>	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners and residents Registered Neighborhood Groups in Council District 25

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with proposed changes
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. **Existing Binding Elements with proposed changes**

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. 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 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. ~~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.~~
  - e. An access easement shall be secured to serve the development from Cardinal Oaks Drive. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering **elevation** as presented at the ~~6/20/19 Planning Commission~~ **August 3, 2022 Development Review Committee** meeting. A copy of the approved rendering **elevation** is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. 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.
4. 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.

5. 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. **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. 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 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. An access easement shall be secured to serve the development from Cardinal Oaks Drive. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - e. The materials and design of proposed structures shall be substantially the same as depicted in the elevation as presented at the August 3, 2022 Development Review Committee meeting. A copy of the approved elevation is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. 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.
4. 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.



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