

# Planning Commission

## Staff Report

May 23, 2019



<b>Case No:</b>	19DEVPLAN1003
<b>Project Name:</b>	Avalon Springs Phase III
<b>Location:</b>	7504, 7506 and 7508 Beulah Church Rd and 7650 Avalon Garden Dr
<b>Owner(s):</b>	St James Crossings LLC
<b>Applicant:</b>	St James Crossings LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	Jay Lockett, AICP, Planner I

### REQUEST(S)

- **Revised Detailed District Development plan**

### CASE SUMMARY/BACKGROUND

The applicant is proposing to add an additional 40 multifamily units in 5 new buildings to the existing 104 on the subject site. The site is zoned R-5A in the Neighborhood form district and is located in the Highview area of Louisville Metro. The area of proposed expansion includes areas delineated as wetlands and referred to as undevelopable on previous plans. The site has been the subject of several previous plans detailed below. The site is subject to the Highview Neighborhood Plan.

#### Case History

14ZONE1057: The original plan rezoned a portion of the site closer to Beulah Church Rd to R-5A for multifamily, while showing a portion in the rear towards Appletree Way as R-4 single-family residential. The development plan included public street connections through the development, including connectivity to existing stubs and an additional stub for future connection.

15DEVPLAN1102: The single-family section of the previous development plan was removed. The public street network and associated connectivity were removed and replaced with a private street to serve the multi-family development. The stated reason for this change that was adopted in the findings of fact indicated that large portions of the previously proposed single-family section were undevelopable due to the presence of wetlands on the site.

16ZONE1048: The area previously shown as single-family was rezoned to R-5A for additional multi-family units. The applicant agreed to connect Appletree Way to Applevue Ln at the northwest corner of the subject site. This compromise allowed for some improvement to circulation around the subject site; however it was noted by the Planning Commission that the connectivity was significantly less than the original plans for the site, which would have been preferred. Portions of the site were delineated as wetlands, and general avoidance of disturbing those wetlands was cited as a justification for approving the revised development plan for the site.

## **STAFF FINDING**

The request is not adequately justified and does not meet the standards of review. The development would impact environmentally sensitive wetlands areas on the subject site, while not providing any additional connectivity. Previous plans justified a lack of connectivity by citing the undevelopable nature of the wetlands area.

## **TECHNICAL REVIEW**

There are no outstanding technical issues associated with this request.

## **INTERESTED PARTY COMMENTS**

Staff has received calls from adjacent property owners concerned with drainage issues that might be exacerbated by the development in the wetlands area. The office of Louisville Metro Council District 23 has expressed concerns about the process by which this site has been developed, as well as concerns that it does not comply with the Comprehensive Plan or the Highview Neighborhood plan.

## **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: The plan would not provide for the preservation of environmentally sensitive areas on the subject site. The proposed plan would eliminate wetlands on the site, potentially exacerbating flooding problems on and around 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 around and through the development are inadequate. While the previous plan completed the street network around the development, there is no connectivity to the public street network beyond the main entrance in and out of the development from Beulah Church Rd.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Sufficient open space has been provided for the proposed development, including recreational open space.

- 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: MSD has approved the preliminary plan, but development in the wetlands area could potentially cause drainage problems within the community. Further approvals from the US Army Corps of Engineers and the Kentucky Division of Water would be necessary prior to development.

- 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: Buildings meet all required setbacks and all required buffers have been provided.

- 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 proposal complies with the Land Development Code but violates the comprehensive plan and the previous justifications of the zoning change. The findings of fact for the previous Revised Detailed District Development Plan approved under docket 16ZONE1048 noted that the transportation network around the development site was compromised by the lack of connectivity, but that was offset by the preservation of the environmentally sensitive areas of the site. The proposal will result in degradation of environmentally sensitive areas on the subject site, will increase vehicle miles traveled and congestion due to a lack of connectivity, and create isolated multi-family housing that is not integrated with the surrounding neighborhood. The Highview Neighborhood Plan community form recommendations for multi-family developments says that new development should connect to surrounding neighborhoods via an integrated car, bike and pedestrian network. The development does not provide for this integration.

**REQUIRED ACTIONS:**

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

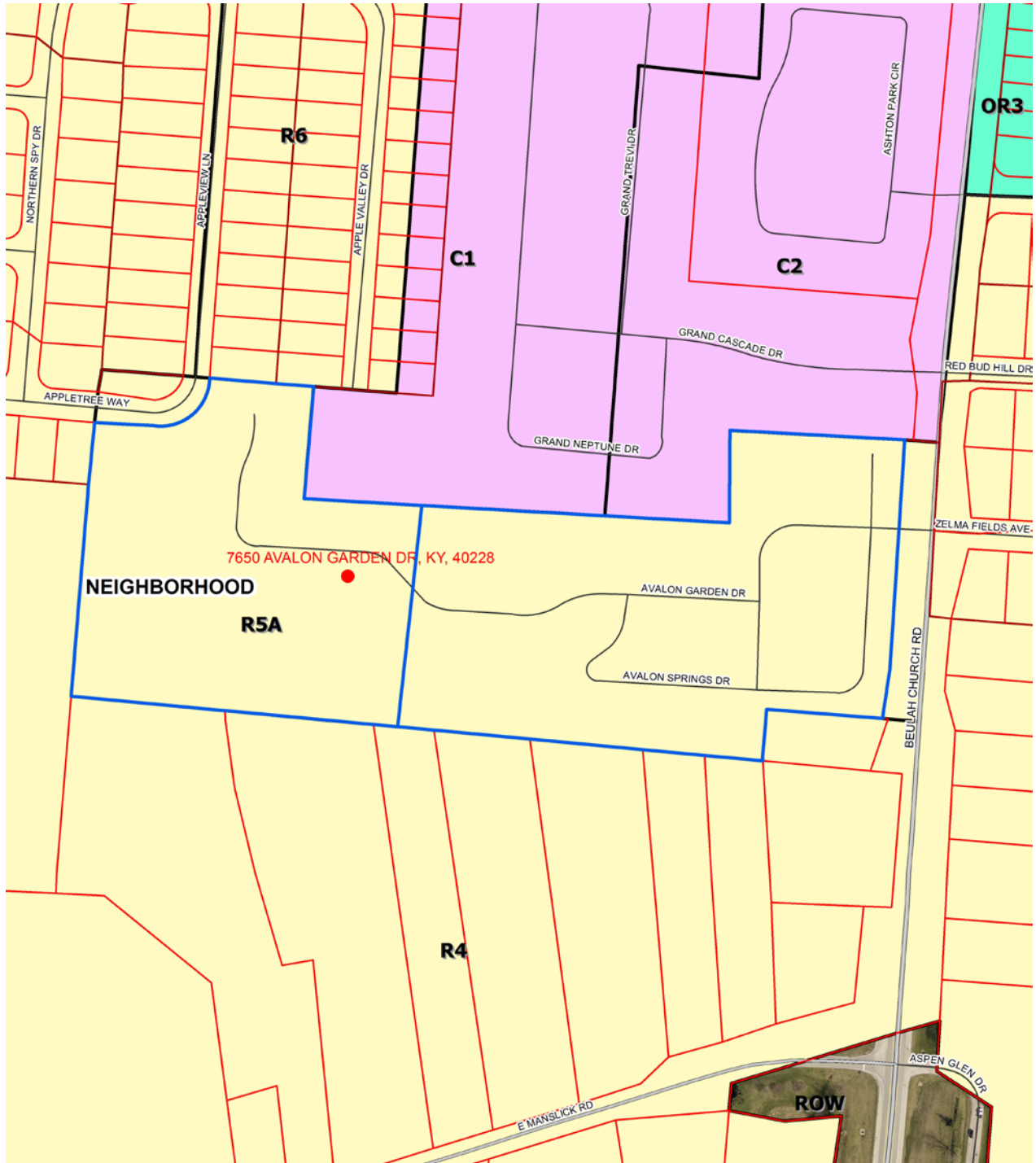
**NOTIFICATION**

Date	Purpose of Notice	Recipients
5-9-23	Hearing before PC	1 <sup>st</sup> tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 23

**ATTACHMENTS**

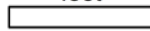
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements

1. Zoning Map



19DEVPLAN1003

feet



225

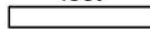
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2. Aerial Photograph



19DEVPLAN1003

feet



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

1. The development shall be in accordance with the approved revised 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 revised development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits, Transportation Planning Review 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.
  - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
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 the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.

- b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
  - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 2, 2017, Planning Commission meeting.
  8. A 6 ft. high solid wood shadow box fence shall be provided along the north property line between the multi-family portion of the Ashton Park 2 project adjoining the Fountains Condominiums. This new fence shall tie into the existing Fountains Condominiums fence and shall be stained the same color as the existing fence.
  9. The applicant shall install landscaping as shown on the proposed landscape plan presented at the February 2, 2017, public hearing.
  10. The connection from Appleview Lane to Appletree Way shall be labeled as "No Parking" on both sides.