

Development Review Committee

Staff Report

October 5, 2022



Case No:	22-DDP-0033
Project Name:	Hogan Smyrna Village
Location:	8912 Smyrna Parkway
Owner(s):	Smyrna Multifamily Investment
Applicant:	Smyrna Multifamily Investment
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Waiver** from 10.3.5 to permit encroachment into the required 50' parkway buffer area and the required 75' parkway building setback by proposed structures (22-WAIVER-0087)
- **Revised Detailed District Development Plan** with revised Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located at the Smyrna Parkway interchange with I-265 and consists of one undeveloped parcel. The applicant proposes to construct a new 192-unit multi-family development on the site.

The site was rezoned in 2018 under docket 17ZONE1045, from R-4 to C-2 for a mixed restaurant, retail and mini-warehouse development. This proposal was not constructed.

STAFF FINDING

Staff finds that the proposed waiver is adequately justified and meets the standard of review. The site plan meets the requirements of the Land Development Code with the exception of the requested waiver, and generally complies with the Comprehensive Plan.

TECHNICAL REVIEW

MSD and Transportation Planning have provided preliminary approval of the proposal.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER FROM 10.3.5

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

STAFF: The waiver will not adversely affect adjacent property owners as the required parkway buffer does not impact any neighboring properties.

- (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 encourages the development, preservation and maintenance of an interconnected system of scenic corridors and parkways. Plan 2040 encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. The site plan as proposed would place two buildings within the required parkway building setback, and one building within the required parkway buffer area. However, the right-of-way in this vicinity is very wide due to the inclusion of KY-6320 within the parkway right-of-way, and the provision of the full parkway buffer would introduce unnecessary extension of the green space between the Smyrna Parkway edge of pavement and the buildings.

- (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 provision of the full required buffer would necessitate significantly rearranging the 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: 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 because the provision of the full required buffer would necessitate significantly rearranging the site.

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: The site is undeveloped and no natural resources are evident.

- (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 is being provided in compliance with the requirements of the Land Development Code.

- (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 is generally in compliance with existing and planned future development in the area. Multi-family development is generally appropriate for this location, and the site has adequate access to I-265.

- (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 requirements of the Land Development Code with the exception of the requested waiver, and generally conforms to the guidelines of the Comprehensive Plan.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan with Binding Elements**

NOTIFICATION

Date	Purpose of Notice	Recipients
09/22/2022	Hearing before DRC	1 st tier adjoining property owners and current residents Persons who spoke at the Planning Commission hearing Registered Neighborhood Groups in Council District 23

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (to be removed)
4. Proposed Binding Elements

3. Existing Binding Elements (to be removed)

- ~~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, alteration permit or demolition permit) 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.~~
 - ~~d. A legal instrument shall be recorded creating the property lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - ~~e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~~~
- ~~5. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.~~
- ~~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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.~~
- ~~8. 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.~~

~~9. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the March 15, 2018 Planning Commission meeting.~~

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. 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, alteration permit or demolition permit) 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.
 - 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.
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. 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.
7. The materials and design of proposed structures shall be substantially the same as depicted in the renderings as presented at the October 5, 2022 Development Review Committee meeting.