

Development Review Committee

Staff Report

November 16, 2022



Case No:	22-DDP-0094
Project Name:	Baptist Health Freestanding Emergency Room
Location:	7702 Bardstown Road
Owner(s):	Will Realty, LLC
Applicant:	Land Design and Development
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Molly Clark, Planner II

REQUEST(S)

- Waivers:
 1. Waiver from 5.6.1.C.1. to allow proposed buildings to not have 50% clear windows and doors facing the public right of way. (22-WAIVER-0182)
 2. Waiver from 10.1.4.A to not preserve 20% of the existing tree canopy for a site containing greater than 50% of existing tree canopy (22-WAIVER-0200).
- Revised Detailed District Development Plan with amendment to binding elements

CASE SUMMARY/BACKGROUND

This site is zoned C1 in the Neighborhood Form District. The applicant is proposing a 11,350 sf free standing emergency room on 1.44 acres. The site is currently vacant.

This case is related to a rezoning from R-4 to C-1 under case number 12734. This site is also related to a conditional use permit from 4.2.29 under 22-CUP-0227 for a hospital/medical clinics. This CUP is docketed for December 19th, 2022 Board of Zoning Adjustment.

STAFF FINDING

The Revised Detailed District Development Plan is in order and the building design waiver is adequately justified and meet the standards of review.

The waiver to not preserve 20% tree canopy is not adequately justified and does not meet the standard of review because the applicant has not provided any information on how this waiver will be mitigated.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

Staff received a phone call from Councilperson Robin Engel's office in support of this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 5.6.1.C.1 to waive the required 50% clear windows and doors on facades facing the public right of way (22-WAIVER-0182):

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

STAFF: The requested waiver will not adversely affect adjacent property owners since the applicant is proposing to plant all the required plantings along all the landscape buffers along Bardstown Road that will create screening from the road.

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

STAFF: Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. Community Form Goal 2, Policy 11 calls for ensuring appropriate placement, design and scale of centers in Traditional Neighborhood, Neighborhood and Village Form Districts to ensure compatibility with nearby residences. Community Form Goal 2, Policy 15 calls for parking in activity centers should reflect the area's associated Form District standards to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the applicant is proposing to plant all the required plantings along all the landscape buffers Bardstown Road that will create screening from the road.

- (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 because the applicant is proposing to plant all the required plantings along all the landscape buffers along Bardstown Road that will create screening from the road.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of section 10.1.4.A to not preserve 20% of the existing tree canopy for a site containing greater than 50% of existing tree canopy (22-WAIVER-0200):

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

STAFF: This waiver *will violate* the guidelines of Plan 2040 because the applicant is not providing any mitigation for the waiver. Economic Development goal 2 policy 3 calls to encourage design elements that address the urban heat island effect and energy efficiency, such as the planting and preservation of trees, cool roofs and green infrastructure, for new development. Livability Goal 1 Goal 5 calls to encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro. Livability Goal 1 Goal 6 calls to encourage the natural process of landscape succession by adding to and connecting a system of natural corridors that can provide habitat areas and allow for migration.

- (b) The applicant has made a good faith effort to provide as many trees as possible on the site, on the adjacent right of way, or another alternative method of compliance as specified in 10.1.3; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant since the applicant is not providing any mitigation for the waiver request.

- (c) There are other mitigating circumstances affecting this site which do not generally apply to sites developed for the same use and in the same form district.

STAFF: There are other mitigating circumstances affecting the site which do not generally apply to sites developed for the same use and the same form district because the site does have to provide access on 3 of the 4 property lines which does not give enough area to preserve trees on an already small site.

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 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.

- 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 and the Kentucky Transportation Cabinet have 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. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements.

- 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:

1. **APPROVE** or **DENY** the **Waiver** from 5.6.1.C.1.to allow proposed buildings to not have 50% clear windows and doors facing the public right of way (22-WAIVER-0182).
2. **APPROVE** or **DENY** the **Waiver** from 10.1.4.A to not preserve 20% of the existing tree canopy for a site containing greater than 50% of existing tree canopy (22-WAIVER-0200).
3. **APPROVED** or **DENY** the **Revised Detailed District Development Plan**

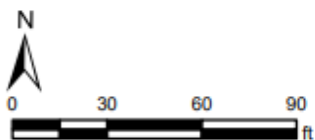
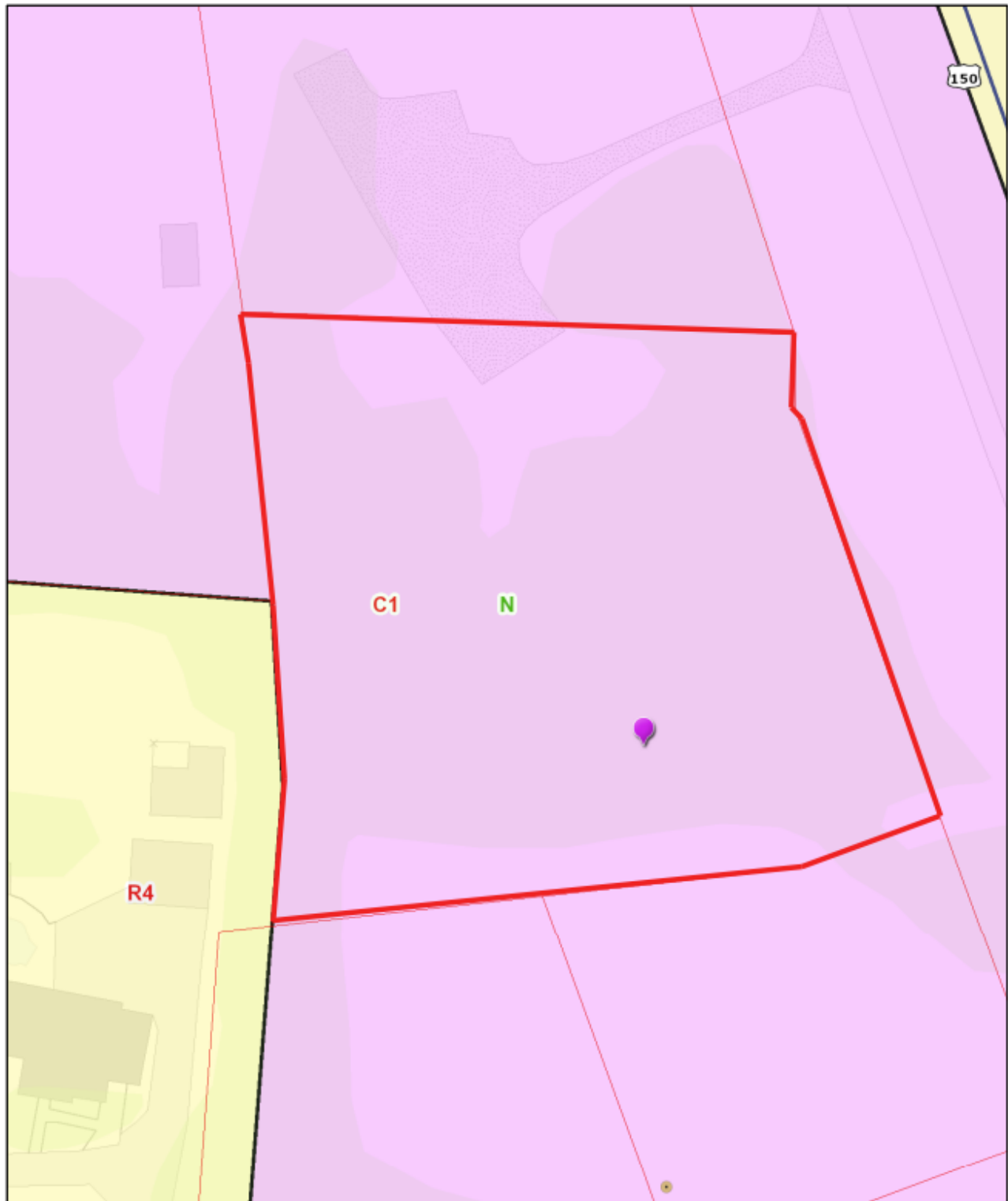
NOTIFICATION

Date	Purpose of Notice	Recipients
11/1/22	Hearing before DRC	1 st tier adjoining property owners and current residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

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

1. Zoning Map



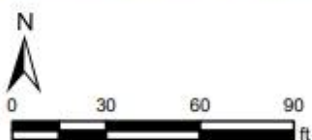
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2. Aerial Photograph



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3. Existing Binding Elements Case number 12734

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. The development shall not exceed 9,620 square feet of gross floor area for Tract 1. The development shall not exceed 9,230 square feet of gross floor area for Tract 2.~~
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) (NOTE: to be used for sites within an historic preservation district) 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. ~~A minor subdivision plat shall be recorded creating the lot 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 approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.~~
 - d. 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. 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. ~~A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.~~

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 permitted on the site.
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 property owner shall provide a cross over access easement if the properties to the north and west are ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~July 1, 2010~~ Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of ~~single-family~~ residences. No overnight idling of trucks shall be permitted on-site.

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) 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.
 - d. 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. 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 appropriate conditional use permit shall be obtained from the Board of Zoning Adjustment to allow the development as shown on the approved district development plan.**
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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.
8. The property owner shall provide a cross over access easement if the properties to the north and west are ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 14, 2022 Development Review Committee meeting.
10. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.