

Development Review Committee

Staff Report

November 3, 2021



Case No:	21-DDP-0097/21-WAIVER-0137
Project Name:	Eclipse Bank
Location:	13905 Promenade Green Way
Owner(s):	OREO 4, LLC.
Applicant:	Mindel, Scott and Associates
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Jay Lockett, AICP, Planner I

REQUEST(S)

- **Waiver** of Land Development Code section 10.3.5 and table 10.3.1 to allow parking to encroach up to about 5 feet into the required 30-foot Parkway Buffer as shown on the development plan.
- **Revised Detailed District Development plan** with revisions to binding elements.

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 17,184 SF bank and office building on approximately 1.34 acres. The subject site is zoned C-1 in the Neighborhood form district. The subject site is a portion of the lot shown as Lot 14 of the larger Old Henry Crossing general development plan approved under docket 9-99-98. The subject site was most recently approved as an office and retail development under docket 17DEVPLAN1128 which included a height variance to allow a maximum height of up to 45 feet.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The waiver is the smallest encroachment possible to afford relief to the applicant. All required screening and planting will be provided. The proposed development is in keeping with the general development plan as well as compatible with other development in the area.

TECHNICAL REVIEW

No outstanding technical issues are associated with this proposal.

INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners as the development will be in keeping with other development in the area. All required screening and planting will be provided.

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

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district. Adequate screening and planting shall be provided.

- (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 since all other aspects of the Land Development Code are being met for the subject site, including all required planting and screening.

- (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. The Old Henry Road right-of-way is up to 270 feet wide adjacent to the subject site, and all required screening and planting will be provided around the subject 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.

- 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 have been provided. The proposed development plan allows for continued public access around the subject site.

- 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.

- 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.

- 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 the Comprehensive Plan. The proposed uses are in keeping with other development and the general character of the area. The proposed development is similar to the types and scale of uses as shown on the approved general development plan. Adequate screening and buffering will be provided around the subject site. Provisions have been made for safe vehicular and pedestrian maneuvering around the subject site. Tree canopy provisions shall be met on the subject site.

REQUIRED ACTIONS:

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

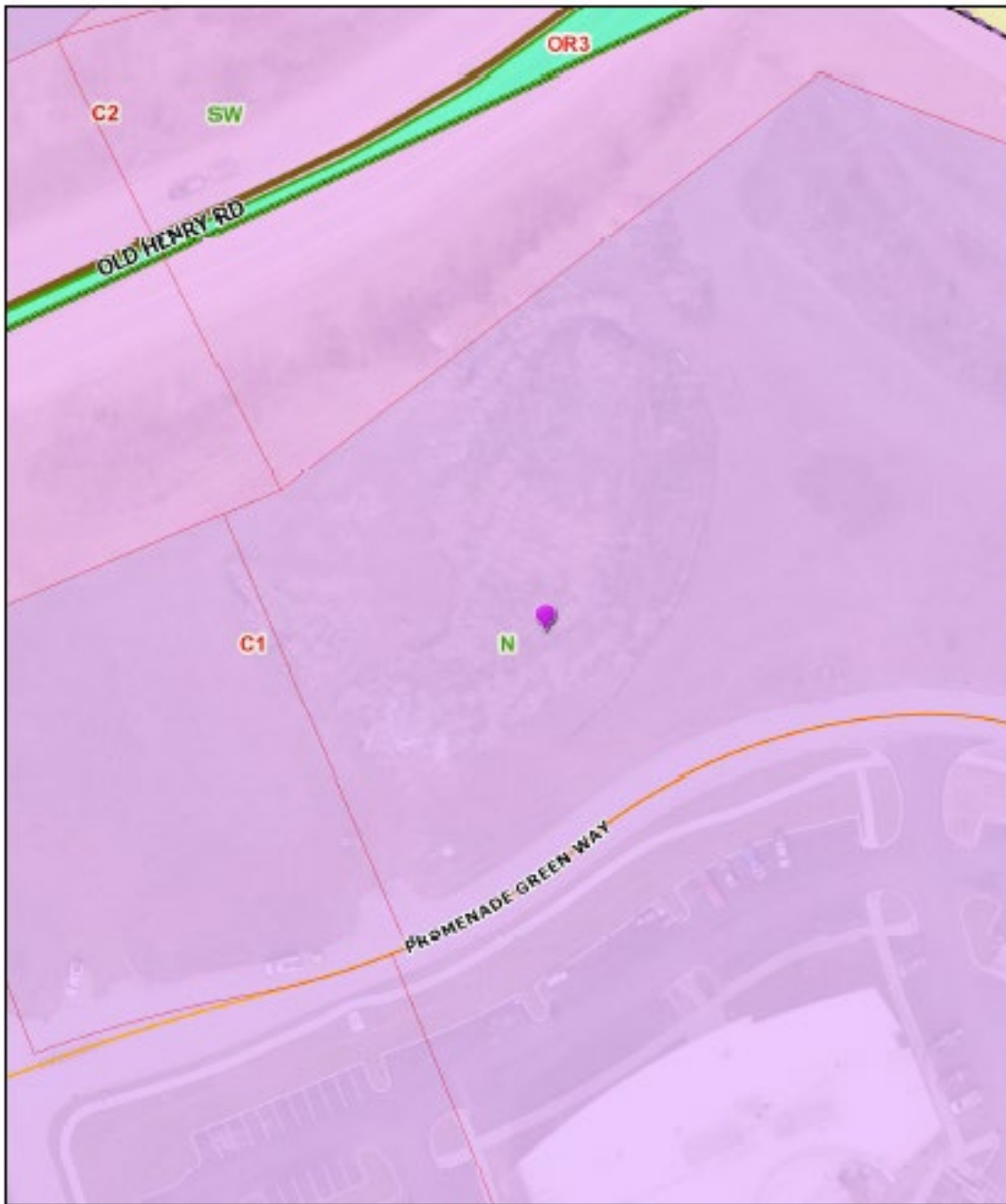
NOTIFICATION

Date	Purpose of Notice	Recipients
11-19-21	Hearing before DRC	1 st tier adjoining property owners and residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19

ATTACHMENTS

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

1. Zoning Map



21-DDP-0097

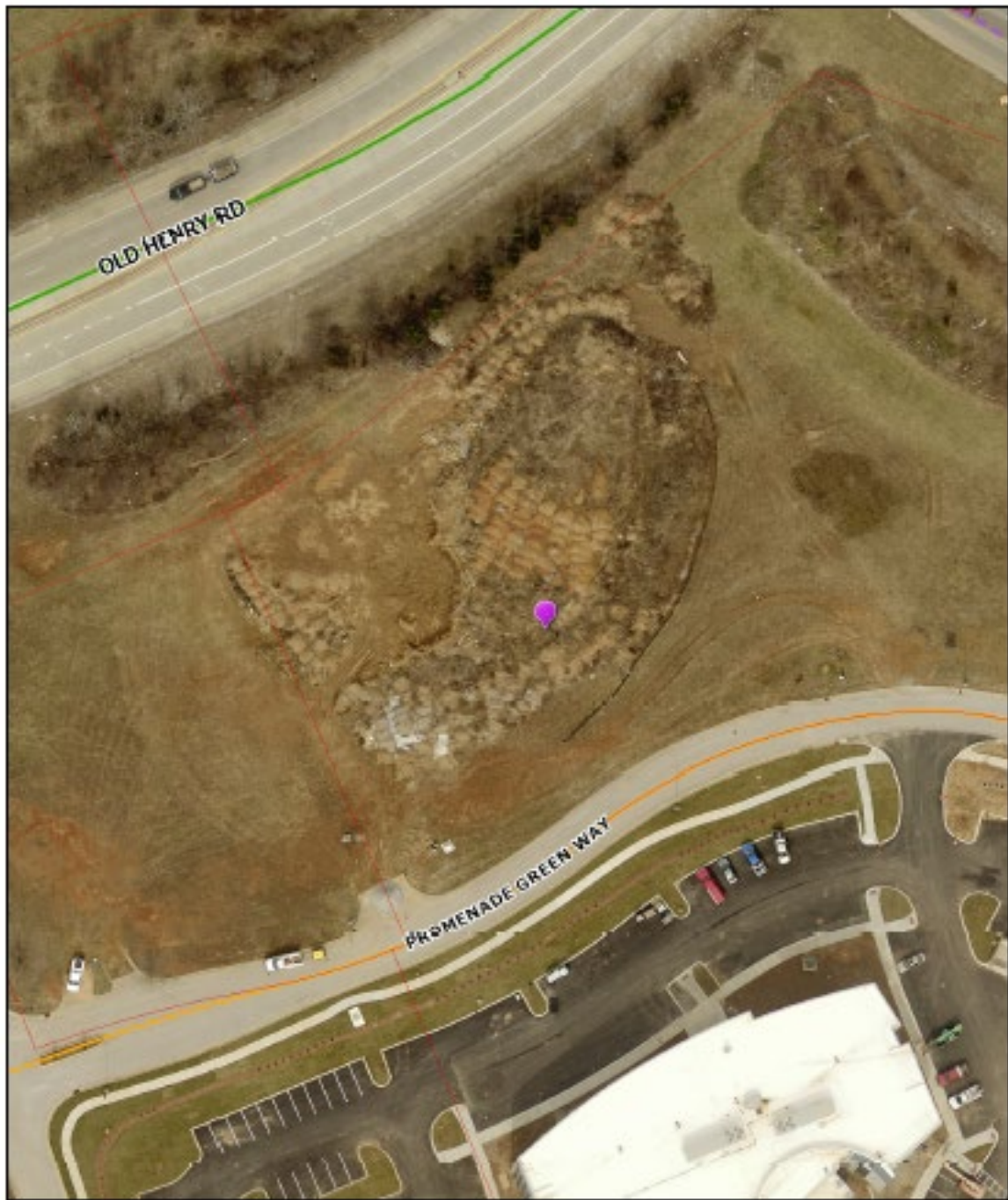
Tuesday, October 26, 2021 | 3:29:11 PM



LOJIC © 2021

This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



21-DDP-0097

Tuesday, October 26, 2021 | 3:28:11 PM



LOJIC © 2021

This map is not a legal document and should only be used for general reference and identification.

3. Existing Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Signs shall be in accordance with LDC Chapter 8.
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 feet of a common property line. Fencing shall be in place prior to any grading or construction, 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 activity is 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, is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A minor subdivision plat shall be recorded **creating the lot lines as shown** dedicating additional right-of-way as needed to provide a total of 40 feet from the centerline of Bush Farm Road. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services **prior to requesting a building permit** 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 and or landscaping as described in LDC 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 Tree Preservation Plan and a Tree Canopy Plan in accordance with LDC Chapter 10 shall be approved prior to obtaining approval for site disturbance.~~
 - e. A reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be created and recorded; a copy of the recorded instrument shall be submitted to the Planning and Design Services Department of Develop Louisville.
 - f. **Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.**
6. ~~If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a district development plan is approved or an extension is granted by the Planning Commission.~~

7. 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.
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 them. 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 rendering as presented at the LD&T meeting on October 12, 2017.~~
- ~~10. Facade design shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.~~
11. No idling of trucks shall take place within 200 feet of single-family residences.
12. The applicant shall provide documentation showing that the development complies with LDC 4.1.3 lighting regulations prior to issuance of a construction permit. These include regulations regarding mounting height limits, luminaire shielding, canopy lighting levels and light trespass.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

4. **Proposed Binding Elements**

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Signs shall be in accordance with LDC Chapter 8.
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 feet of a common property line. Fencing shall be in place prior to any grading or construction, 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 activity is 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, is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to requesting a building permit.
 - d. The property owner/developer must obtain approval of a detailed plan for screening, buffering and or landscaping as described in LDC 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 Planning Commission legal counsel shall be created and recorded; a copy of the recorded instrument shall be submitted to the Planning and Design Services Department of Develop Louisville.
 - f. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be 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 them. 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. No idling of trucks shall take place within 200 feet of single-family residences.
9. The applicant shall provide documentation showing that the development complies with LDC 4.1.3 lighting regulations prior to issuance of a construction permit. These include regulations regarding mounting height limits, luminaire shielding, canopy lighting levels and light trespass.
10. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.