

**Land Development and Transportation
Staff Report**
May 14th, 2015



Case No:	15DEVPLAN1017
Request:	Revised Detailed District Development Plan; Landscape Waivers
Project Name:	Old Henry Court Condominiums
Location:	14319 Old Henry Road
Owner:	14319 Old Henry Road LLC
Applicant:	Terry R. Hagerman Builder Inc.
Representative:	Blue Stone Engineers PLLC
Jurisdiction:	Louisville
Council District:	19 – Julie Denton
Case Manager:	Christopher Brown, Planner II

REQUEST

- Waiver #1: Waiver from Chapter 10.3.5.A.1 of the Land Development Code to allow residence and roadway to encroach into the required 75' parkway setback along Old Henry Road
- Waiver #2: Waiver from Chapter 10.3.5.A.1 of the Land Development Code to allow residence and roadway to encroach into the required 50' parkway buffer along Old Henry Road
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-5A
Existing Form District: Neighborhood
Existing Use: Vacant
Proposed Use: Condominiums
Plan Certain Docket #: 9102

The applicant is requesting to construct five condominium residential structures on the site with a cul-de-sac extension from the existing Sycamore Falls Drive. The pavement of the proposed drive as well as a portion of building #1 will encroach into the required 75' parkway setback and 50' parkway buffer from Old Henry Road. The parkway planting and berming will be provided along the street frontage with the existing drive to be removed in the area. The building and pavement encroachments allow for the cul-de-sac extension from the existing Sycamore Falls Drive as well as minimized encroachments into the stream buffer along the north and eastern portions of the site. All other Land Development Code requirements are met with the exception of the approved variance for the encroachment into the required supplemental front yard.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	R-5A	N
Proposed	Condominiums	R-5A	N
Surrounding Properties			
North	Condominiums	R-5A	N
South	Condominiums	R-5A	N
East	Condominiums	R-5A	N
West	Single Family Residential	R-4	N

PREVIOUS CASES ON SITE

9102: A change in zoning from R-4 to R-5A was approved to allow a multi-family residential use on the subject site.

15VARIANCE1017: Variance approved by Board of Zoning Adjustment for the building encroachment into the supplemental front yard.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Land Development Code
Cornerstone 2020

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS

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

STAFF: The waiver will not adversely affect adjacent property owners since the planting materials and berm will be provided sufficiently along the Old Henry Road street frontage.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The intent of parkway development standards is to protect existing scenic and aesthetic qualities, to ensure a quality visual experience on developing

corridors and to protect and improve the visual experience on established corridors. The planting materials and berm to be provided on the site will meet the intent of these guidelines; therefore, the waiver will not violate specific guidelines of Cornerstone 2020.

- (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 to allow the needed extension from the existing Sycamore Falls Drive and minimize the encroachment into the surrounding stream buffer.

- (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 or would create an unnecessary hardship on the applicant by requiring relocation of the roadway and limiting the viable circulation on the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP 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 development plan minimizes the encroachment into the stream buffer on the property and compensates for the encroachments. 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: Sufficient open space will be maintained to meet the needs of the proposed development.

- 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 provisions 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 with the exception of the relief requested that meets the standards of review.

TECHNICAL REVIEW

- There are no outstanding technical review issues that need to be addressed.

STAFF CONCLUSIONS

The standard of review for the requested waivers has been met. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Land Development and Transportation Committee must determine if the proposal meets the standards for granting Land Development Code waivers and a revised detailed district development plan as established in the Land Development Code.

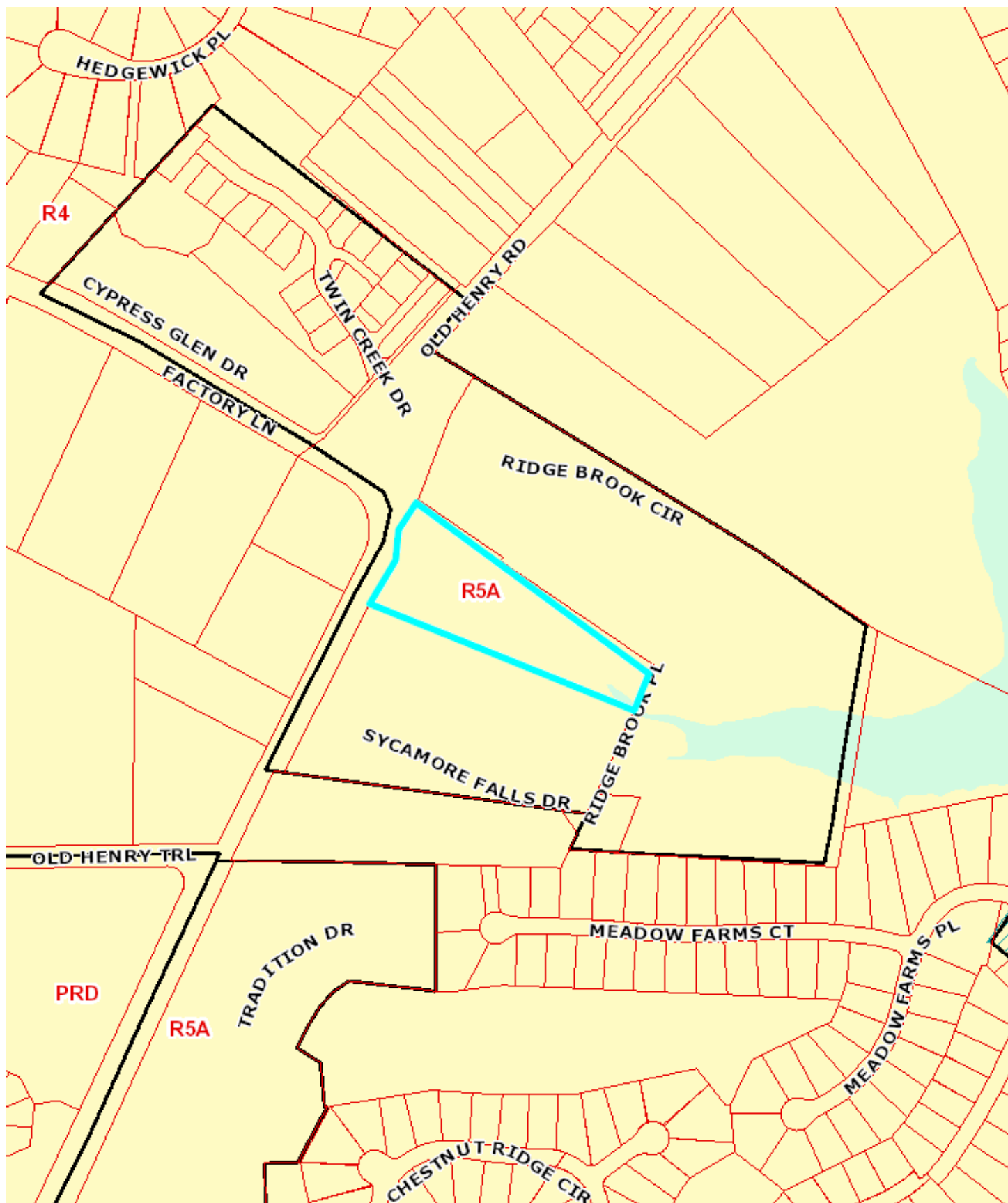
NOTIFICATION

Date	Purpose of Notice	Recipients
4/29/15	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Speakers at Planning Commission public hearing Subscribers of Council District 19 Notification of Development Proposals

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing 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. The density of the development shall not exceed 1.2 dwelling units per acre (6 units on 4.86 acres).
3. Signs shall be in accordance with Chapter 8.
4. Except for regulatory permitted for-sale and open house signs, no outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
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.
6. 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 Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works, and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in *Chapter 10* prior to requesting a site disturbance permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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 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 site shall be developed in accordance with the woodland protection areas delineated on the site plan, tree preservation plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

10. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of the deed restrictions shall be approved by Planning Commission counsel. Deed Restrictions must be recorded prior to tree preservation approval. All plans setting out woodland protection areas must contain the following notes:
 - A. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity, except as necessary to provide for utilities, shall take place within the designated WPAs beyond pruning to improve the general health of the tree or to remove any dead or declining trees that may pose a public health and safety threat. As trees are lost thru natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as shown on the approved Tree Canopy/Landscape Plan.
 - B. Dimension lines have been used on this plan to establish the general location of WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 7, 2008, Planning Commission Hearing.
12. Multi-family development of the property shall be limited to development under a horizontal property regime.
13. The site shall be developed in accordance with the tree preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

- a. Tree preservation areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Trees in these areas may be removed during construction of homes or buildings on individual lots.
- b. Dimension lines have been used on this plan to establish the general location of TPAs and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
- c. Tree protection fencing shall be erected around all TPAs prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TPA, the fence shall be relocated to protect all remaining trees within that TPA. When a tree mass contains both WPAs and TPAs, fencing shall only be required at the outer most perimeter of that tree mass.
- d. No parking, material storage, or construction activities are permitted within the TPAs beyond that allowed for preliminary site investigation work.
- e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval.

Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of four and one-half feet above ground level shall be removed without prior approval by DPDS.

4. Proposed Binding Elements

2. The density of the development shall not exceed ~~4.2~~ **1.11** dwelling units per acre (~~6 5~~ units on ~~4.86~~ **4.504** acres).
6. 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 Louisville Metro Department of ~~Inspections, Permits and Licenses, Louisville Metro Public Works,~~ **Develop Louisville Divisions of Transportation Planning and Construction Permit Review** and the Metropolitan Sewer District.
11. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~February 7, 2008, Planning Commission Hearing~~ **May 14, 2015 Land Development and Transportation Committee meeting.**