

Land Development and Transportation Committee

Staff Report

June 28, 2018



Case No:	18DEVPLAN1071
Project Name:	Golf Entertainment
Location:	3050 Terra Crossing Blvd
Owner(s):	JDG 1849, LLC.
Applicant:	JDG 1849, LLC.
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- **Waiver** of Land Development Code section 5.7.1.B.3.a to encroach into the required 35 foot form district transition zone landscape buffer area.
- **Waiver** of Land Development Code section 10.2.4.B.3 to allow a utility easement to overlap a landscape buffer area by more than 50% without meeting screening and planting requirements.
- **Waiver** of Land Development Code section 10.3.7 to not provide required trees within the Gene Snyder Freeway Landscape Buffer Area.
- **Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a three story driving range and golf entertainment facility on a 12.35 acre parcel in northeastern Jefferson County. The site was rezoned to C-2 under docket 16ZONE1019, as part of the much larger development known as the St. Joseph's property.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The applicant has agreed to provide all required plantings for the Gene Snyder Freeway landscape buffer area elsewhere on site when they are not allowed by existing utility easement.

TECHNICAL REVIEW

The Board of Zoning Adjustment will consider a Conditional Use Permit for a driving range and a variance for netting height associated with this request at the June 16, 2018 meeting.

INTERESTED PARTY COMMENTS

Staff has received a letter from an area resident expressing concerns about traffic concerns associated with development in the area.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LDC 5.7.1.B.3 TO ENCROACH INTO THE REQUIRED 35 FOOT FORM DISTRICT TRANSITION LBA

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

STAFF: The waiver will not adversely affect adjacent property owners since all required screening and plantings will still be provided within the buffer area.

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

STAFF: Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call 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 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. All required screening and planting will still be provided in the buffer area, which is proposed to be 20 feet instead of the required 35 feet.

- (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 the applicant is still proposing to provide 20 feet of buffering including all required 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 cause an unnecessary hardship on the applicant, as the rest of the site is needed to provide adequate parking and for the use, and to provide all other required buffers on site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LDC SECTION 10.2.4.B.3 TO ALLOW A UTILITY EASEMENT TO OVERLAP A LANDSCAPE BUFFER AREA BY MORE THAN 50% WITHOUT MEETING SCREENING AND PLANTING REQUIREMENTS

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

STAFF: The waiver will not adversely affect adjacent property owners since the buffer in question faces the Gene Snyder Freeway, and is not adjacent to any other property.

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

STAFF: Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call 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 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. The area of the proposed buffer already has existing overhead wires, and the electric company that holds the easement will likely not allow the applicant to install the plantings required by the Land Development Code.

- (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 the applicant will still provide the full 50' buffer. The applicant will install whatever plantings LG&E will allow, and provide other required trees elsewhere on 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: The strict application of the provisions of this part would deprive the applicant of the reasonable use of the land, as they would be forced to create the 50 foot buffer outside of the existing electrical transmission easement, and that would consume a large portion of the site and make it difficult to provide appropriate parking for the proposed use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.3.7 TO NOT PROVIDE THE REQUIRED TREES WITHIN THE GENE SNYDER FREEWAY LANDSCAPE BUFFER AREA

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

STAFF: The waiver will not adversely affect adjacent property owners since the applicant has agreed to provide the required trees elsewhere on the subject site.

- (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 area of the proposed buffer has existing overhead power transmission equipment and an associated easement that will limit the plantings allowed in the area. The applicant has agreed to plant the required trees elsewhere on site, and the development will meet or exceed the tree canopy requirements of the Land Development Code.

- (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 the applicant is willing to plant all required trees, but the easement holder has strict regulations against plantings under its equipment. The applicant intends to plant whatever trees the easement holder will allow in the buffer area, and the remainder of the required trees elsewhere on 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: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land, as the existing electrical equipment and easement preclude the plantings required by the Land Development Code. The applicant will provide the required trees elsewhere on 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. 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.

- (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 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, except in the area of the requested waivers. 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:

- **APPROVE** or **DENY** the **Waivers**
- **APPROVED** or **DENY** the **Detailed District Development Plan**

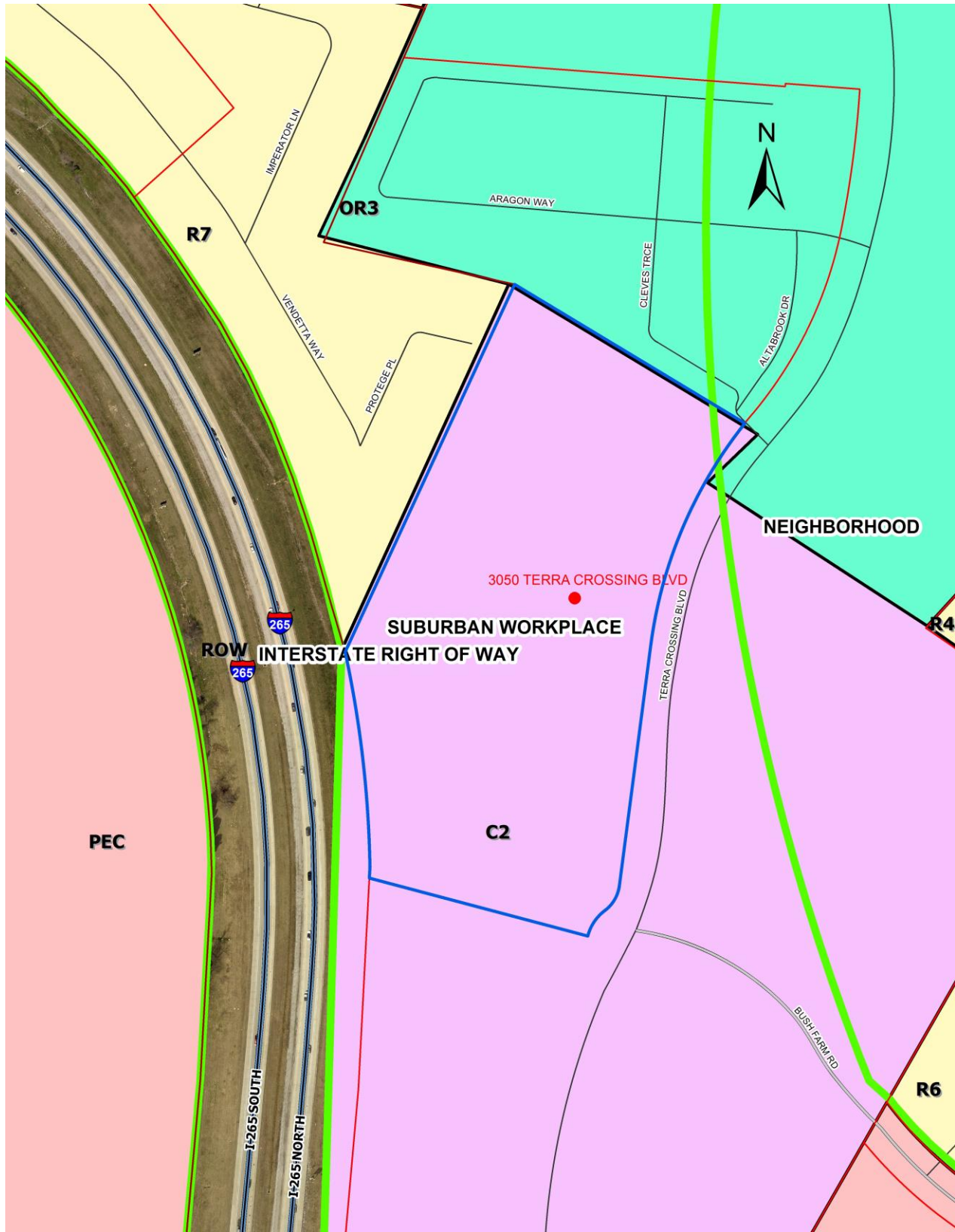
NOTIFICATION

Date	Purpose of Notice	Recipients
6-11-18	Hearing before LD&T	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Proposed Binding Elements

Site is subject to all General District Development Plan binding elements, 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 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 Develop Louisville, 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 building permit. \Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. The appropriate variances and 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 audible beyond the property line.
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 applicant will provide plantings within the 50' Gene Snyder Freeway landscape buffer area up to the extent allowed by the holder of electrical transmission easement. Any required plantings that cannot be planted within that buffer due to the requirements of the easement holder will be provided elsewhere on site.