

Development Review Committee

Staff Report

September 20, 2023



Case No:	23-DDP-0020
Project Name:	Stony Brook Daycare
Location:	5206 Stony Brook Drive
Owner(s):	Stony Brook Drive LLC
Applicant:	Stony Brook Drive LLC
Jurisdiction:	Louisville Metro
Council District:	26 – Brent Ackerson
Case Manager:	Ethan Lett, Planner I

REQUEST(S)

- **Waivers:**
 1. Waiver from LDC Section 10.3.5.A.7 to allow the proposed parking, retaining wall, playground, and dumpster to encroach into the 30' parkway buffer (**23-WAIVER-0095**)
 2. Waiver from LDC Section 10.2.4.B.3 to allow utility easements to overlap the landscape buffer area by more than 50% (**23-WAIVER-0117**)
- **Revised Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The proposal is for an 11,400 sq. ft. child care center with associated parking and a playground. The site fronts Hurstbourne Parkway with vehicular and pedestrian access proposed from Stony Brook Drive. The previously approved plan proposed a 9,600 sq. ft., 8-unit office building. The proposed site layout is relatively the same with the exception being a proposed vehicular connection to the existing development at the rear of the property.

Associated Cases:

23-VARIANCE-0097 – Variance to encroach into the infill street-side yard setback approved September 11, 2023

18ZONE1089 – Change in Zoning, Variance, Waiver, and Detailed District Development Plan approved August 20, 2020

STAFF FINDING

Staff finds that the proposal and requested waivers are adequately justified for approval based on the analysis contained in the standard of review.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR Waiver from LDC Section 10.3.5.A.7

The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners since this section of the parkway buffer does not abut any established developments. The abutting vacant lot serves as a corridor for overhead electric lines.

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

STAFF: Community Form Goal 1, Policy 12 calls for parking areas adjacent to residential areas to be convenient for motorists and designed to mitigate potential adverse impacts on nearby residents or pedestrians. The proposed layout of the parking lot and vehicular connection reduces potential impacts by placing them the farthest possible distance from adjacent residential properties, allowing for the building and appropriate screening and buffering to mitigate potential negative impacts.

- (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 majority of the 30' parkway buffer and all required plantings will still be provided.

- (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. The irregular dimensions of the lot, coupled with the required 30' buffer, severely constrains the developable area of this site. Adherence to one requirement would likely require a request to waive another.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER from LDC Section 10.2.4.B.3

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

STAFF: The waiver will not adversely affect adjacent property owners since appropriate buffering and screening will still be provided to screen adjacent properties and the roadway.

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

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. The waiver allows for the adequate provision of a landscape buffer to mitigate potential adverse impacts of the development on adjacent properties and allows the proposed development to be compatible with the character of the established neighborhood.

- (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 landscape buffer overlaps by more than 50% on only a portion of the easement and all required plantings will still be provided.

- (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. The irregular shape of the lot due to a previous right-of-way dedication forces the landscape buffer to overlap with a portion of the easement. Moving the buffer above the easement in this location would make development on this site impracticable.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- 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 requires grading of steep slopes along the northeastern portion of the subject site, but there do not appear to be any additional environmental constraints. The parkway buffer will preserve scenic views along Hurstbourne Parkway. Some existing tree canopy will be preserved, and new trees will be provided to meet the tree canopy requirements of the Land Development Code.

- 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: 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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots are appropriately placed to be compatible with the character 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 applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

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

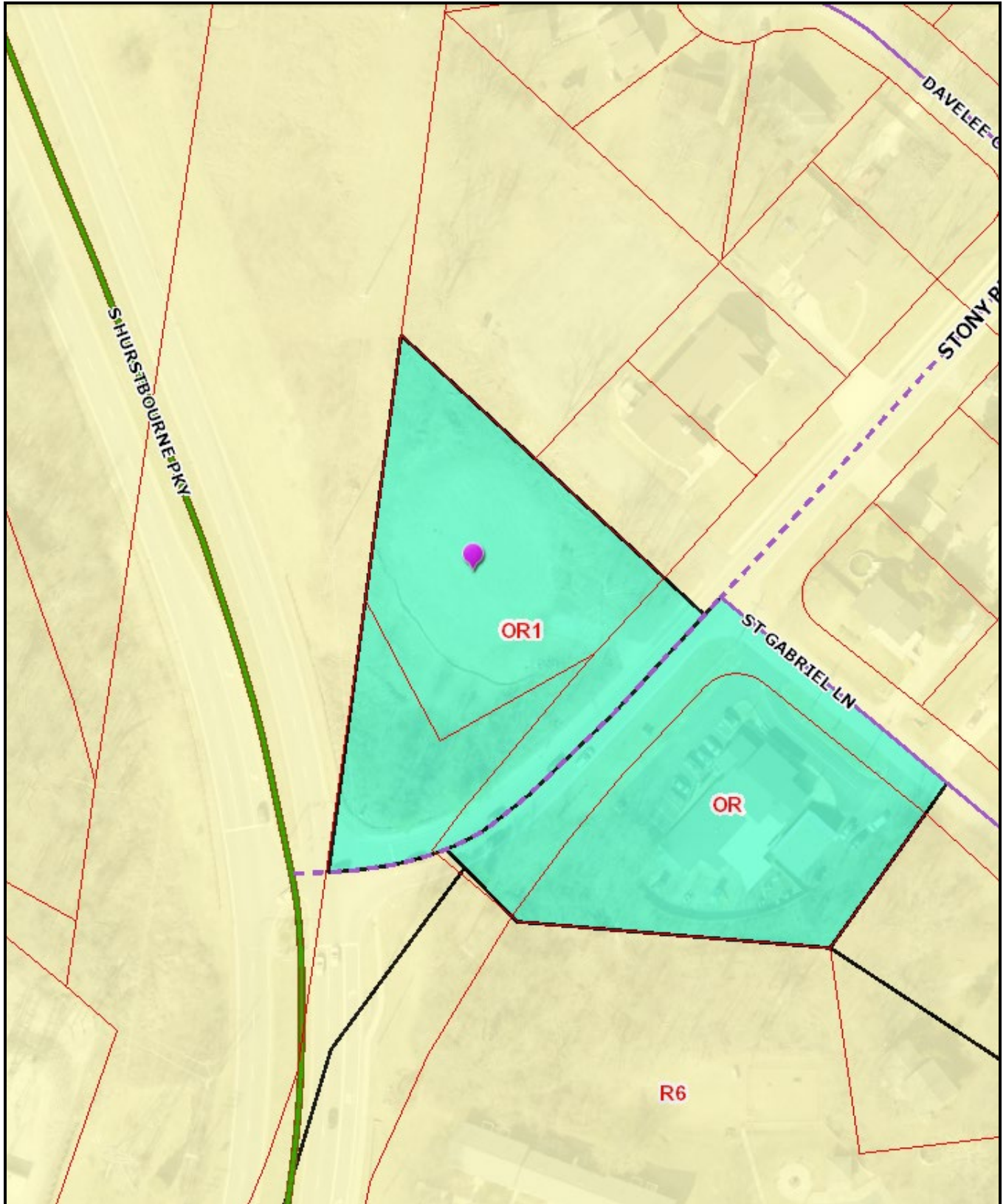
NOTIFICATION

Date	Purpose of Notice	Recipients
9/5/2023	Hearing before DRC	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 26

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements with Proposed Changes

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 Construction Review, Louisville Metro Public Works, and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for all work in the S. Hurstbourne Parkway right of way.
 - 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 certificate of occupancy. 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.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the ~~July 30, 2020 Planning Commission~~ **September 20, 2023 Development Review Committee** hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 on 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.