

Development Review Committee

Staff Report

September 14, 2022



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| Case No: | 21-DDP-0084 |
| Project Name: | N English Station Office/Warehouse |
| Location: | 211 N English Station Rd |
| Owner(s): | 211 N English LLC |
| Applicant: | 211 N English LLC |
| Jurisdiction: | Middletown |
| Council District: | 19 – Anthony Piagentini |
| Case Manager: | Jay Lockett, AICP, Planner II |

REQUEST(S)

- **Waivers**
 1. **Waiver** of Middletown Land Development Code section 5.5.4.B.1 to reduce the required 50 Landscape Buffer area to 6 feet and to not provide the required berm and trees along the northern property line.
 2. **Waiver** of Middletown Land Development Code section 10.2.4.B to eliminate the PEC property perimeter buffers to the north, east and west of the site.
 3. **Waiver** of Middletown Land Development Code section 5.8.1.B to not provide sidewalks along a portion of Data Vault Dr
- **Revised Detailed District Development Plan** with replacement of existing Binding Elements.

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 26,610 SF warehouse and office development on approximately 1.54 acres. The subject site is zoned PEC in the Suburban Workplace form district within the City of Middletown. The subject site is currently a vacant portion of a site containing a similar scale and type of development previously approved under dockets 9-54-05 and 18990. The proposal would share access, parking and loading areas with adjacent industrial uses.

STAFF FINDING

The requests are adequately justified and meet the standards of review.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this review.

INTERESTED PARTY COMMENTS

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1

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

STAFF: The waiver will not affect adjacent property owners as the adjacent residentially zoned site is actually a utility site owned by Texas Gas Company and is unlikely to be developed for residential use in the future.

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

STAFF: The waiver will allow for a compact development of additional industrial space within an established activity center. The adjacent residentially zoned site is a utility site and unlikely to be developed for residential use.

- (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, as the development will provide buffering similar to what has been previously approved and developed on the subject site and adjacent 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 create an unnecessary hardship on the applicant, as the site to the north is not a residential development site and does not need exceptional screening and buffering from the proposed use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2

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

STAFF: The waiver will not affect adjacent property owners as the development will share circulation, parking and loading areas with the adjacent properties to the east and west.

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

STAFF: The waiver will allow for infill and a compact development pattern within an established activity center. The site will share access with sites to the east and west. The site to the north is a utility site and unlikely to be developed for a residential use.

- (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.

- (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, as it would make it impossible to fit the development on the site and create a unified circulation and loading among the adjacent industrial sites.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 3

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

STAFF: The waiver will not affect adjacent property owners as the applicant will provide a sidewalk along N English Station Rd as well as a connection to the existing sidewalk on the south side of Data Vault Dr.

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

STAFF: The waiver will not violate the Comprehensive Plan, as the Data Vault Dr is a dead-end street that serves small-scale industrial uses and public utility sites with relatively small numbers of customers and employees. The applicant will construct a meaningful portion of sidewalk along N English Station Rd that will improve connectivity in the area.

- (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, as all required planting and screening will be provided on site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP 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: 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 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 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, except where relief is requested.

REQUIRED ACTIONS:

- **RECOMMEND the City of Middletown APPROVE or DENY the Waivers**
- **RECOMMEND the City of Middletown APPROVE or DENY the Revised District Development Plan with replacement of existing Binding Elements**

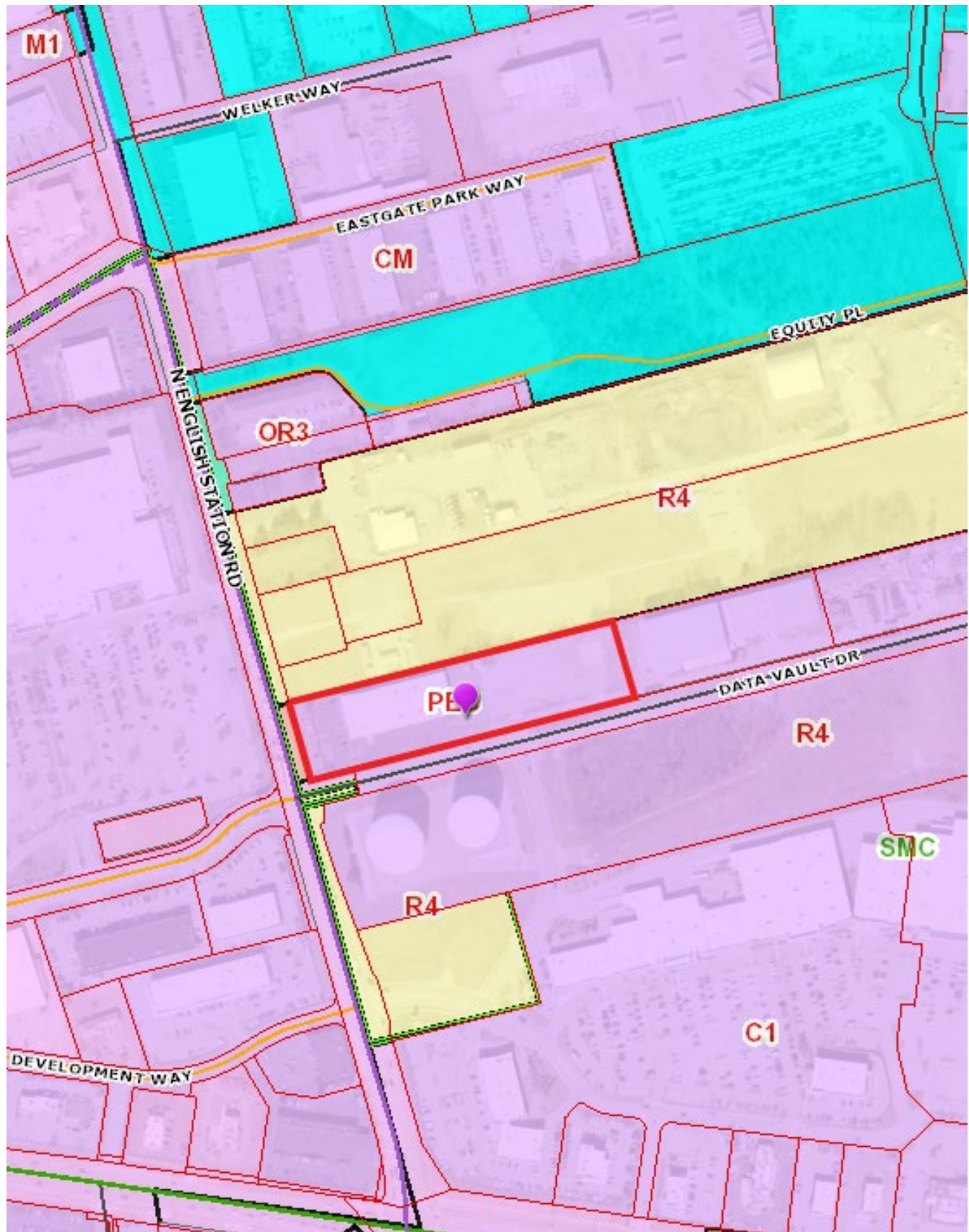
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|---------|--------------------|---|
| 8-31-22 | 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

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements to be replaced

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 and to the City of Middletown for review and approval; any changes/additions/alterations not so referred shall not be valid.~~
2. ~~The development shall not exceed 6,770 square feet of gross floor area for sales, showroom and office use, 9,000 square feet of gross floor area for warehouse area and 9,630 square feet residual building area for a total building area of 25,400 square feet.~~
3. ~~Signs shall be monument style in design, in accordance with Chapter 8, and as presented at the public hearing (100 square feet and 12 feet tall).~~
4. ~~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. ~~Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.~~
 - c. ~~The property owner/developer must obtain approval of a revised detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. 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 a certificate of occupancy.~~
 - e. ~~Right of Way for the Data Vault Drive entrance from North English Station Road into the Louisville Water Company property shall be dedicated prior to plan transmittal.~~
7. ~~If a certificate of occupancy is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved, or an extension is granted by the Planning Commission.~~
8. ~~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.~~
9. ~~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.~~

- ~~10. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.~~
- ~~11. 1 tree shall be planted every 50' within the 10' wide LBA between the access easement and the storage area, to be augmented with evergreen shrubs and ornamental trees, as shown on the landscape elevation presented at the October 27, 2005 LD&T meeting.~~
- ~~12. The above binding elements may be amended as provided for in the Zoning District Regulations, upon approval of the City of Middletown.~~

4. Proposed Binding Elements

Applicable to area of new development only

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 (and to the City of Middletown 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. A minor subdivision plat or legal instrument 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 prior to obtaining a building permit.
 - 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 building permit.

Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

- d. 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 prior to obtaining a building permit.
 - e. 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.
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. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
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.