

Development Review Committee

Staff Report

March 29, 2023



Case No:	23-DDP-0004
Project Name:	Louisville Exchanger and Vessel Expansion
Location:	3315 Gilmore Industrial Boulevard
Owner(s):	Boldin Enterprise, LLC
Applicant:	Ashley Bartley
Jurisdiction:	Louisville Metro
Council District:	21 – Betsy Ruhe
Case Manager:	John Michael Lawler, Planner I

REQUEST(S)

- Waivers:
 1. Waiver from Land Development Code Section 4.4.8.C.2.c to Allow Outdoor Storage to Not Be Screened from Abutting Properties (23-WAIVER-0041)
 2. Waiver from Land Development Code Section 10.2.4.B.3 to Allow a Utility Easement to Overlap More Than 50% into a Required Landscape Buffer Area
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND

The applicant is proposing a 6,000 square foot building, 900 square foot outdoor storage area, pavement expansion, and new vehicle and pedestrian connections on 2.427 acres in the M-2 Zoning District and the Suburban Work Place Form District. Access to the site is from a curb cut on the North of the site on Gilmore Industrial Boulevard. The new vehicle and pedestrian connections would grant cross access between the subject site and 3319 Gilmore Industrial Boulevard, the middle of 3 properties that abut the Southern property line of the subject site. The proposed building would be located to the West of the existing structure, with the proposed outdoor storage area located behind the proposed structure. A Waiver is being requested that would allow this outdoor storage area to not be screened from abutting properties. Another Waiver is being requested to allow a utility easement to overlap more than 50% into a required LBA on either side of the access point. Previously, this site was rezoned from R-5 to M-2 under Docket # 9-116-86, and had a Detailed District Development Plan approved under the same docket number.

STAFF FINDING

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The proposed addition will not adversely affect the surrounding properties or existing parkway. Staff also finds that the Waivers are justified.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

None received.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 4.4.8.C.2.c to Allow Outdoor Storage to Not Be Screened from Abutting Properties (23-WAIVER-0041):

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

STAFF: The waiver will not adversely affect adjacent property owners since all adjacent land uses are industrial in nature. The use will be no more odious or offensive than what is existing in the general vicinity.

- (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. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. The proposed outdoor storage area will take place in an entirely industrial area with no residential uses present in the general vicinity. The use is compatible with adjacent properties.

- (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 not the minimum necessary to afford relief to the applicant since the buffering could be provided. However, the adjacent uses are all industrial and will not be adversely affected by the use being unscreened.

- (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 not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant. The outdoor storage will be completely screened from the right-of-way and will not adversely affect the abutting property owners since the surrounding area is entirely industrial.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER of Section 10.2.4.B.3 to Allow a Utility Easement to Encroach More Than 50% into the 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 required landscape buffer area will be provided.

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

STAFF: Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The required landscape buffer area will be provided, screening the site's parking from the right-of-way.

- (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 they cannot modify their access point or location of existing utilities, and are providing the landscape buffer area within the easement area to help screen their parking.

- (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 due to both the access/parking and utility easement already being in place. The applicant is also providing the required landscape buffer area.

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 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, or relevant waivers will be requested. 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 **Revised Detailed District Development Plan**

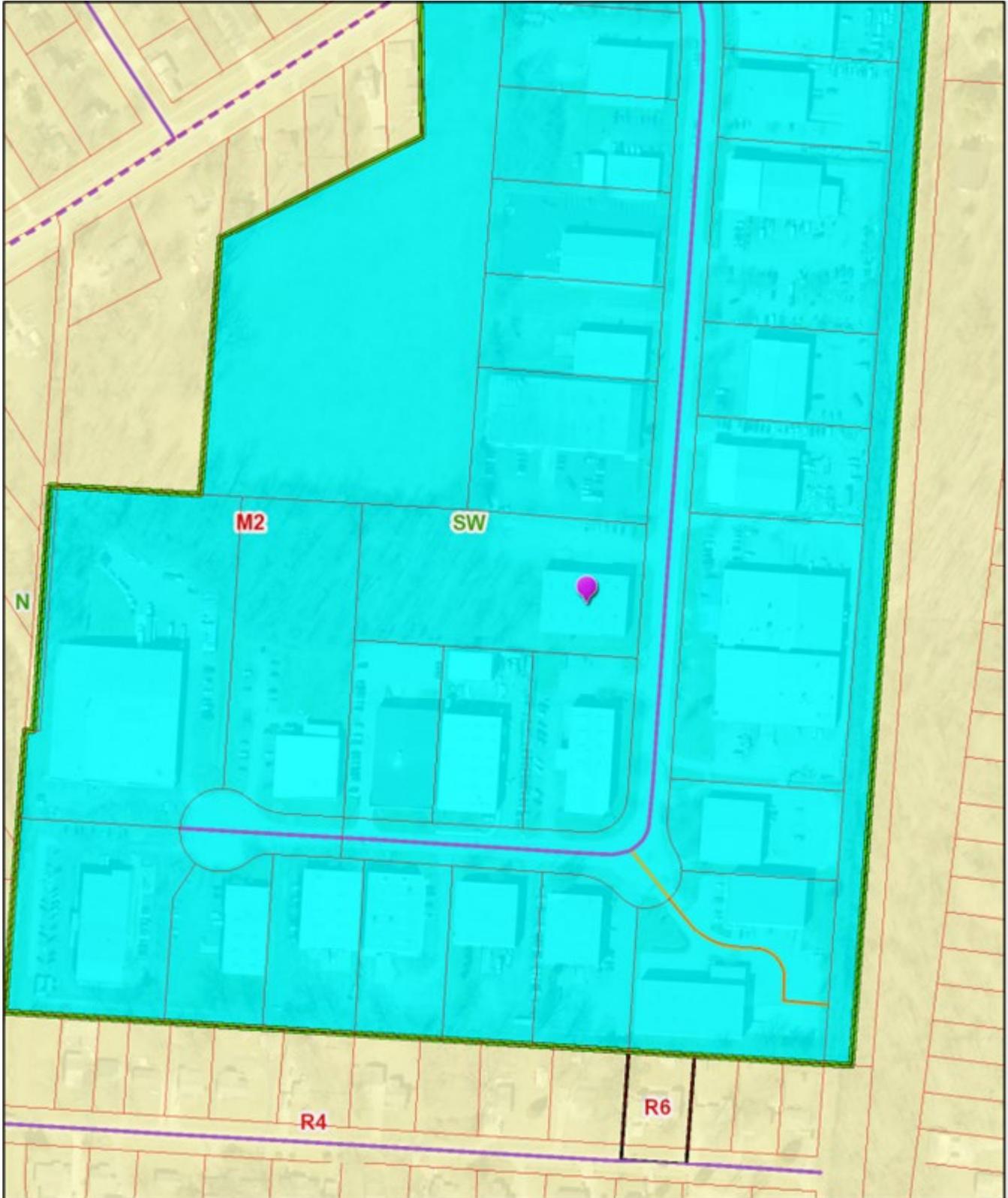
NOTIFICATION

Date	Purpose of Notice	Recipients
3/17/2023	Hearing Before DRC on 3/29/2023	1 st Tier Adjoining Property Owners Speakers at Planning Commission Public Hearing Registered Neighborhood Groups in Council District 21

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing and/or Proposed Binding Elements

- ~~1. The development will be in accordance with the approved district development plan. No further development will occur without a prior approval from the Planning Commission.~~
- ~~2. The office space shall not exceed 8,000 square feet of gross floor area and the warehouse shall not exceed 10,000 square feet of gross floor area.~~
- ~~3. Before a building permit is requested:
 - ~~a. The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~
 - ~~b. The size and location of any proposed sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.~~
 - ~~c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12. Such plan shall be implemented prior to requesting a certificate of occupancy and maintained thereafter.~~
 - ~~d. All necessary recording fees shall be paid.~~~~
- ~~4. Height limitations shall be 22 feet from the first floor elevation to the bottom of ceiling joists. The structure (to peak of roof) shall not exceed two stories or 35 feet.~~
- ~~5. 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 revised detailed district development plan is granted by the Planning Commission.~~
- ~~6. A certificate of occupancy must be received from the appropriate code enforcement office prior to the occupancy of the structure or land for the proposed use. All binding elements must be implemented prior to requesting issuance of the certificate.~~
- ~~7. The above binding elements may be amended as provided for in the Zoning District Regulations.~~

4. Proposed 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 (and to the City of Lyndon, St. Matthews, Hurstbourne, or Middletown etc) 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. 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. (Note: if no new construction, time frame for compliance to be negotiated with applicant and inserted here).
 - c. 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; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument OR A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - 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. (NOTE: only to be used when there are offsite trees that may be affected or if the plan shows TCCAs or WPAs)
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 29, 2023 DRC meeting. 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.

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.