

**BE Citation Appeal – 13165 Plantside Drive
Docket No. 9-67-05 & 19ZONE0044
Enforcement Case - ENF-ZON-22-001479**



**Louisville Metro Planning Commission
Laura Ferguson, Assistant County Attorney**

September 7, 2023

Zoning History

- A change in zoning from R-4 to PEC with a Detailed District Development Plan was approved for the subject site by the Planning Commission on June 18, 2020.

PLANNING COMMISSION MINUTES June 18, 2020

BUSINESS SESSION

CASE NO. 19-ZONE-0044

Planning Commission recessed at 3:34 p.m.

Planning Commission resumed at 3:40 p.m.

Request:	Change in zoning from R-4 to PEC, with Detailed District Development Plan and Binding Elements
Project Name:	Powerscreen Crushing and Screening
Location:	13207 Rehl Road
Owner:	Thomas & Rebecca Garrity
Applicant:	Powerscreen Crushing and Screening
Representative:	Dinsmore & Shohl LLC
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Dante St. Germain, AICP, Planner II

Enforcement History

- A Binding Element Notice of Violation was issued on 12/8/2022 for BE #1, #4 b/c & #8

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.

4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

- 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 certificate of occupancy. 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.

8. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.

Enforcement History

- A Binding Element Citation was issued on 6/21/2023 for BE#1, #4 b/c & #8

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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - 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 certificate of occupancy. 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.
8. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.

Appeal Request



POWERSCREEN Crushing & Screening, LLC

13145 Plantside Drive
Louisville, Kentucky 40299
502-326-9300 • 800-227-0534
Fax: 502-326-9305
www.powerscreensales.com

July 17, 2023

Office of Planning & Design Services
Metro Development Center
444 South 5th Street, Suite 300
Louisville, Kentucky 40202

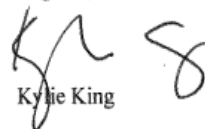
Appeal of Citation ENF-ZON-22-001479-3

To Whom it May Concern:

Powerscreen Crushing & Screening was recently mailed Citation ENF-ZON-22-001479-3 for the amount of one thousand dollars (\$1,000.00). It was received on July 11, 2023. Citation ENF-ZON-22-001479-3 contains allegations of non-compliance with a binding element or condition of approval.

Powerscreen Crushing & Screening denies any allegations of a violation of a binding element or condition of approval. **Powerscreen Crushing & Screening requests a hearing before the Planning Commission to contest Citation ENF-ZON-22-001479-3 pursuant to KRS Section 100.409.**

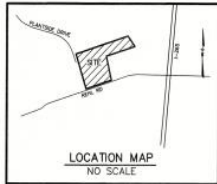
Regards,



Kylie King

In-House Counsel
Powerscreen Crushing & Screening

District Development Plan



GENERAL NOTES:

- (S) DEPICTS DIRECTION OF STORM WATER FLOW FOR SCHEMATIC PURPOSES ONLY.
- ALL WASTE WATER FLOW WILL BE TREATED AT THE FLOODS FORK WOTC.
- SANITARY SEWER SERVICE TO BE PROVIDED BY LATERAL EXTENSION AS APPROVED BY MSD.
- FINAL DESIGN OF THIS PROJECT MUST MEET ALL MS4 WATER QUALITY REGULATIONS ESTABLISHED BY MSD. SITE LAYOUT MAY CHANGE AT THE DESIGN PHASE DUE TO PROPER SIZING OF THE GREEN MGMT. PRACTICES.
- CONSTRUCTION PLANS AND DOCUMENTS SHALL COMPLY WITH LOUISVILLE AND JEFFERSON COUNTY METROPOLITAN SEWER DISTRICTS DESIGN MANUAL AND STANDARD SPECIFICATIONS AND OTHER LOCAL, STATE AND FEDERAL ORDINANCES.
- MSD DRAINAGE BOND REQUIRED PRIOR TO CONSTRUCTION PLAN APPROVAL.
- ON-SITE DETENTION WILL BE PROVIDED. POST-DEVELOPED PEAK FLOWS WILL BE LIMITED TO PRE-DEVELOPED PEAK FLOWS FOR THE 2, 10, 25 AND 100 YEAR STORMS OR TO THE CAPACITY OF THE DOWNSTEAM SYSTEM, WHICHEVER IS MORE RESTRICTIVE.
- IF SITE HAS THRU DRAINAGE AN EASEMENT PLAT WILL BE REQUIRED PRIOR TO MSD GRANTING CONSTRUCTION PLAN APPROVAL.
- ALL LUMINAIRES SHALL BE AIMED, DIRECTED, OR FOCUSED SUCH AS TO NOT CAUSE DIRECT LIGHT FROM LUMINAIRES TO BE DIRECTED TOWARDS RESIDENTIAL USES OR PROTECTED OPEN SPACES (E. CONSERVATION EASEMENTS, GREENWAYS, PARKWAYS) ON ADJACENT OR NEARBY PARCELS OR CREATE GLARE PERCEPTIBLE TO PERSONS OPERATING MOTOR VEHICLES ON PUBLIC STREETS AND RIGHT-OF-WAYS. IF IT DOES, IT SHALL BE RE-AIMED, SHIELDED OR TURNED OFF.
- ALL DUMPSTERS, SERVICES STRUCTURES AND OUTDOOR STORAGE AREAS SHALL BE SCREENED IN ACCORDANCE WITH CHAPTER 10 OF THE LAND DEVELOPMENT CODE.
- SUBJECT SITE SHALL HAVE INTERIOR DUMPSTERS PROVIDED WITHIN THE BUILDING.
- CONSTRUCTION PLANS, BOND AND ENCROACHMENT PERMIT ARE REQUIRED BY MTC AND/OR METRO PUBLIC WORKS PRIOR TO CONSTRUCTION APPROVAL, OR ANY WORK BEING PERFORMED IN THE LOUISVILLE METRO RIGHT-OF-WAY.
- THERE SHALL BE NO COMMERCIAL SIGNS IN THE RIGHT-OF-WAY.
- THERE SHALL BE NO LANDSCAPING IN THE RIGHT-OF-WAY WITHOUT AN ENCROACHMENT PERMIT.
- ANY SITE LIGHTING SHALL COMPLY WITH THE LOUISVILLE METRO LDC.
- MOSQUITO CONTROL IN ACCORDANCE WITH CHAPTER 96 OF THE LOUISVILLE JEFFERSON COUNTY METRO ORDINANCE.
- ALL CONSTRUCTION AND SALES TRAILERS MUST BE PERMITTED BY THE DEPARTMENT OF PUBLIC HEALTH AND WELFARE IN ACCORDANCE WITH CHAPTER 115 OF LOUISVILLE JEFFERSON COUNTY METRO ORDINANCES.
- MITIGATION MEASURES SHALL BE IN PLACE DURING CONSTRUCTION TO PREVENT FUGITIVE PARTICULATE EMISSIONS FROM REACHING EXISTING ROADS AND NEIGHBORING PROPERTIES.

- UPON DEVELOPMENT OR REDEVELOPMENT OF ADJACENT PROPERTIES A LIMITED ACCESS AND CIRCULATION SYSTEM SHALL BE DEVELOPED TO ELIMINATE PREEVENTING CURB CUTS AND PROVIDE FOR VEHICULAR MOVEMENT THROUGH THE ADJACENT SITES AS DETERMINED APPROPRIATE BY THE DEPARTMENT OF PUBLIC WORKS. A CROSS ACCESS AGREEMENT TO RUN WITH THE LAND AND IN A FORM ACCEPTABLE TO THE PLANNING COMMISSION LEGAL COUNSEL SHALL BE OBTAINED PRIOR TO THE TIME OF CONSTRUCTION APPROVAL FOR THE ADJACENT PROPERTY TO BE DEVELOPED.
- OWNER MUST PROVIDE DOCUMENTATION OF CONNECTION TO SANITARY SEWER, PSC WITH A MINIMUM 6 INCH SANITARY SEWER.
- ALL FOOD SERVICE ESTABLISHMENTS MUST BE IN ACCORDANCE WITH 902 KAR 45.009 REGULATIONS.
- EACH PROPOSED LOT/BUILDING MUST CONNECT TO ITS OWN SANITARY SEWER PSC WITH A MINIMUM 6 INCH SANITARY SEWER.
- WHEEL STOPS AND PROTECTIVE CURBING SHALL BE PROVIDED AS SHOWN ON PLAN PER METRO LDC 9.1.12.
- AN ACCESS AGREEMENT BETWEEN TRACTS 1 AND 2 SHALL BE RECORDED PRIOR TO CONSTRUCTION PLAN APPROVAL.

EROSION PREVENTION AND SEDIMENT CONTROL NOTES

THE APPROVED EROSION PREVENTION AND SEDIMENT CONTROL (EPC) PLAN SHALL BE IMPLEMENTED PRIOR TO ANY LAND-DISTURBING ACTIVITY ON THE CONSTRUCTION SITE. ANY MODIFICATIONS TO THE APPROVED EPC PLAN MUST BE REVIEWED AND APPROVED BY METRO'S PRIVATE DEVELOPMENT REVIEW OFFICE. EPC BMP'S SHALL BE INSTALLED PER THE PLAN AND MSD STANDARDS.

THE DETENTION BASINS, IF APPLICABLE, SHALL BE CONSTRUCTED FIRST AND SHALL PERFORM AS SEDIMENT BASINS DURING CONSTRUCTION UNTIL THE CONTRIBUTING DRAINAGE AREAS ARE SEGGED AND STABILIZED.

ACTIONS MUST BE TAKEN TO MANAGE THE TRACKING OF MUD AND SOIL FROM CONSTRUCTION AREAS ONTO PUBLIC ROADWAYS. SOIL TRACKED ONTO THE ROADWAY SHALL BE REMOVED ONLY.

SOIL STOCKPILES SHALL BE LOCATED AWAY FROM STREAMS, PONDS, SWALES, AND CATCH BASINS. STOCKPILES SHALL BE SEGGED, MULCHED, AND ADEQUATELY CONTAINED THROUGH THE USE OF SALT FENCE.

ALL STREAM CROSSINGS MUST UTILIZE LOW-WATER CROSSING STRUCTURES PER MSD STANDARD DRAWING ER-02.

WHERE CONSTRUCTION OR LAND DISTURBANCE ACTIVITY WILL OR HAS TEMPORARILY CEASED ON ANY PORTION OF A SITE, TEMPORARY SITE STABILIZATION MEASURES SHALL BE REQUIRED AS SOON AS PRACTICAL, BUT NO LATER THAN 14 CALENDAR DAYS AFTER THE ACTIVITY HAS CEASED.

SEDIMENT-LADEN GROUNDWATER ENCOUNTERED DURING TRENCHING, BORING OR OTHER EXCAVATION ACTIVITIES SHALL BE PUMPED TO A SEDIMENT TRAPPING DEVICE PRIOR TO BEING DISCHARGED INTO A STREAM, POND, SWALE OR CATCH BASIN.

TREE CANOPY CALCULATIONS (TCCA)

CLASS: C
 PROPOSED TREE CANOPY: 129,350 SF (17%)
 SITE AREA: 17,614 AC (767,384 SFA)
 PRESERVED TREE CANOPY AREA: 0 SF (0%)
 NEW TREE CANOPY COVERAGE AREA: 153,477 SF (20%)
 TOTAL TREE CANOPY AREA REQUIRED: 153,477 SF (20%)

PROJECT SUMMARY

EXISTING ZONING: R4
 PROPOSED ZONING: PFC
 FORM DISTRICT: SMD2
 EXISTING USE: SINGLE FAMILY RES.
 SITE ACRAGE: 17.61 AC. (767,384 S.F.)

TRACT 1

PROPOSED USE: INDUSTRIAL EQUIPMENT SALES/STORAGE/RENTAL 40,000 S.F.
 PROPOSED BUILDING S.F.: 46' (50' MAX.)
 FAR: 0.07
 VUA: 16,745 S.F.
 ILA REQUIRED (7.5%): 1,256 S.F.
 ILA PROVIDED: 3,697 S.F.

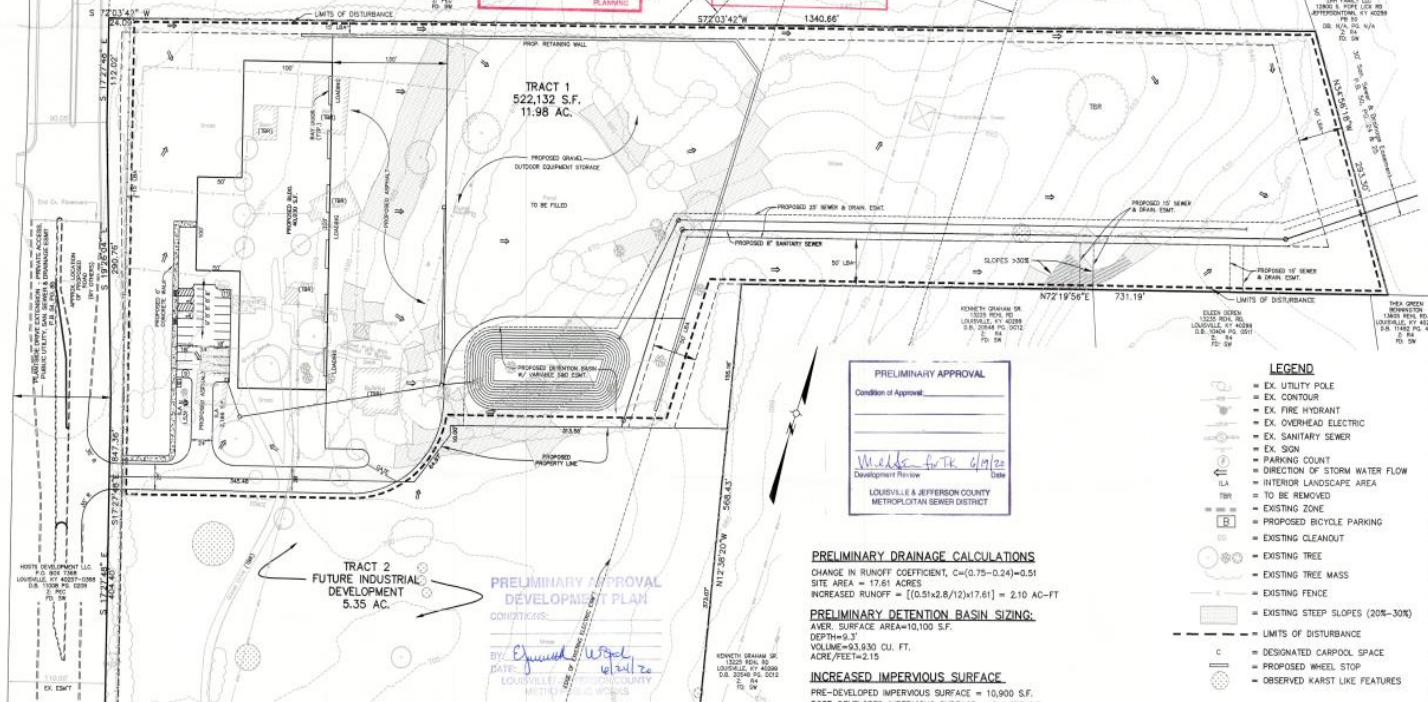
PARKING PROVIDED (ON-SITE):
 EMPLOYEES: 20
 MIN. (1.5 SPACE/2 EMPLOY.)
 MAX. (1 SPACE/1 EMPLOY.): 20 SPACES

STANDARD SPACES: 18 SPACES
 HANDICAP SPACES: 2 SPACES
 TOTAL PARKING PROVIDED: 20 SPACES

BICYCLE PARKING

REQUIRED SPACES:
 LONG TERM (2 OR 1/50 EMPLOY.): 1 SPACES
 SHORT TERM: N/A

PROVIDED SPACES:
 LONG TERM: 1 SPACES
 SHORT TERM: N/A
 TOTAL: 1 SPACES



PRELIMINARY APPROVAL
 Condition of Approval:
 Metrolife for the City of Louisville
 Developer/Review
 DATE: 4/24/20
 LOUISVILLE & JEFFERSON COUNTY METROPOLITAN SEWER DISTRICT

PRELIMINARY DRAINAGE CALCULATIONS
 CHANGE IN RUNOFF COEFFICIENT, C=(0.75-0.24)=0.51
 SITE AREA = 17.61 ACRES
 INCREASED RUNOFF = [(0.51x2.8/12)+7.61] = 2.10 AC-FT

PRELIMINARY DETENTION BASIN SIZING:
 AVER. SURFACE AREA=10,100 S.F.
 DEPTH=9.3'
 VOLUME=93,930 CU. FT.
 ACRF/PREC=2.10

INCREASED IMPERVIOUS SURFACE:
 PRE-DEVELOPED IMPERVIOUS SURFACE = 10,900 S.F.
 POST-DEVELOPED IMPERVIOUS SURFACE = 214,973 S.F.

- ### LEGEND
- EX UTILITY POLE
 - EX CONTOUR
 - EX FIRE HYDRANT
 - EX OVERHEAD ELECTRIC
 - EX SANITARY SEWER
 - EX SIGN
 - PARKING COUNT
 - DIRECTION OF STORM WATER FLOW
 - INTERIOR LANDSCAPE AREA
 - TO BE REMOVED
 - EXISTING ZONE
 - PROPOSED BICYCLE PARKING
 - EXISTING CLEANOUT
 - EXISTING TREE
 - EXISTING TREE MASS
 - EXISTING FENCE
 - EXISTING STEEP SLOPES (20%-30%)
 - LIMITS OF DISTURBANCE
 - DESIGNATED CARPOOL SPACE
 - PROPOSED WHEEL STOP
 - OBSERVED KARST LIKE FEATURES

Milestone design group
 100 Duverney Lane, Suite 300 Louisville, KY 40223
 502.527.7075 www.milestonedesign.com

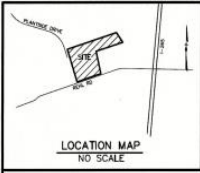
POWERSCREEN CRUSHING & SCREENING

DATE: 4/29/19
 DRAWN BY: S.G.Z.
 CHECKED BY: J.M.M.
 SCALE: 1"=60' (HORIZ)
 SCALE: N/A. (VERT)

REVISIONS:
 8/22/19 PRE-APP. COMMENTS
 10/04/19 AGENCY COMMENTS
 11/4/19 AGENCY COMMENTS
 3/5/2020 AGENCY COMMENTS
 5/17/2020 AGENCY COMMENTS
 6/9/2020



Landscape/Tree Preservation Plan



BICYCLE PARKING

REQUIRED SPACES	
LONG TERM (2 OR 1/50 EMPLOY.)	1 SPACES
SHORT TERM	N/A
PROVIDED SPACES	
LONG TERM	1 SPACES
SHORT TERM	N/A
TOTAL	1 SPACES

BUILDING SETBACKS:

BUILDING SETBACKS SHALL BE A MINIMUM 8' FROM THE PUBLIC ROADWAY ON WHICH THE BUILDING FRONTS, 50 FEET FROM PUBLIC ROADWAYS ON THE SIDE OF BUILDING AND 33 FEET FROM SIDE AND REAR LOT LINES.

TREE CANOPY CALCULATIONS (TCCA)

CLASS: C
 EXISTING TREE CANOPY: 128,350 S.F. (17%)
 SITE AREA: 17,618 AC (767,384 S.F.a)
 PRESERVED TREE CANOPY AREA: 123,300 S.F. (10%)
 NEW TREE CANOPY COVERAGE AREA: 0 S.F. (0%)
 TOTAL TREE CANOPY AREA REQUIRED: 115,108 S.F. (15%)

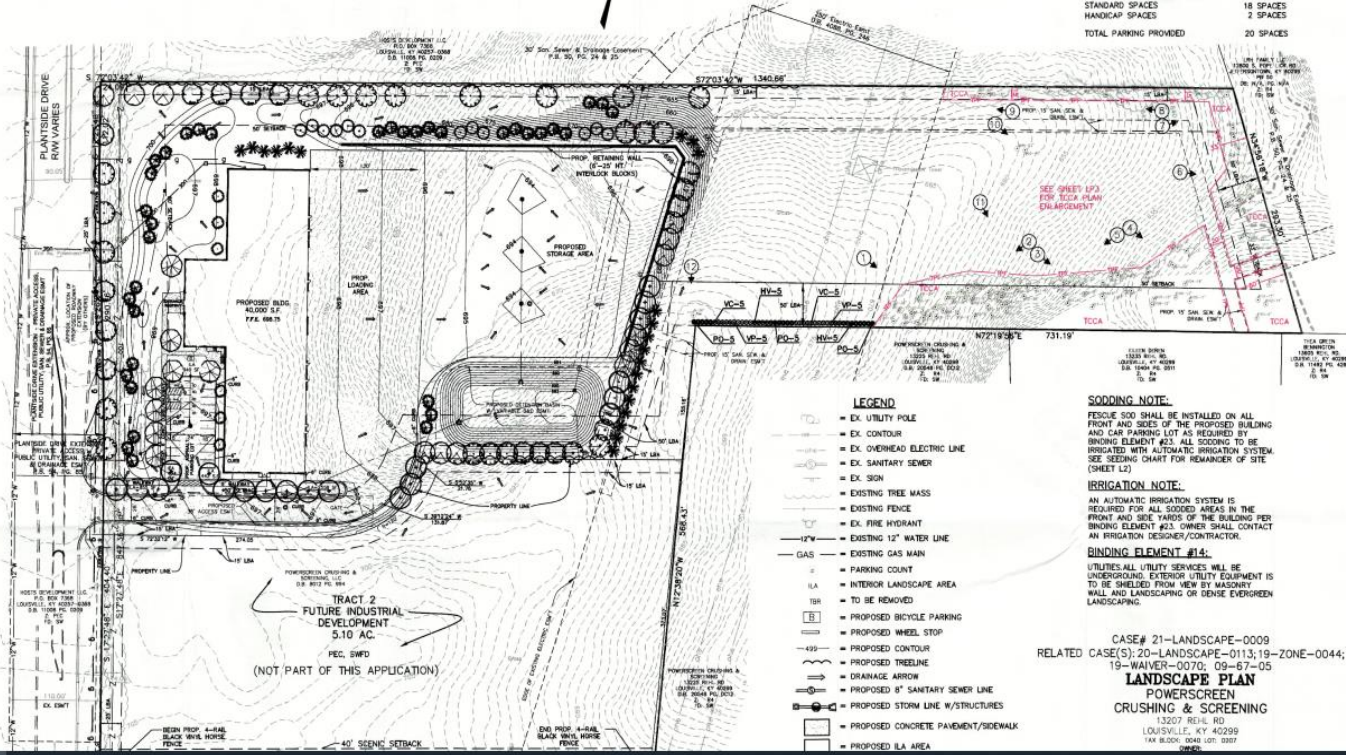
TOTAL TREE PLANTINGS PROVIDED:

- 115- DECIDUOUS, TYPE A TREE (1-3/4" CAL) @ 720 S.F. = 83,640 S.F.
- 33- EVERGREEN, TYPE A TREE (1-3/4" CAL) @ 424 S.F. = 13,992 S.F.
- 6- EVERGREEN, TYPE A TREE (1-3/4" CAL) @ 239 S.F. = 1,434 S.F.
- TOTAL = 99,066 S.F.

TOTAL TREE CANOPY PROVIDED: 219,426 S.F. (24%)

PROJECT SUMMARY

EXISTING ZONING	
FORM DISTRICT	REC
EXISTING USE	SHED
SITE ACREAGE	SINGLE FAMILY RES. 17.61 AC. (767,384 S.F.)
TRACT 1	
PROPOSED USE	INDUSTRIAL EQUIPMENT SALES/STORAGE/RENTAL
PROPOSED BUILDING S.F.	40,000 S.F.
PROPOSED BUILDING HT.	40' (50' MAX.)
FAR	0.07
LOADING AREA VIA PARKING LOT VIA	51,660 S.F.
TOTAL VIA:	18,225 S.F.
LA REQUIRED (7.5X #8,405 S.F.)	68,405 S.F.
LA PROVIDED:	5,130 S.F.
LA TREES 70%/PROVIDED	3,591 S.F.
LA TREES 0%/PROVIDED	17/17
PARKING REQUIRED:	
EMPLOYEES	20
MIN. (1.5 SPACE/2 EMPLOY.)	15 SPACES
MAX. (1 SPACE/71 EMPLOY.)	20 SPACES
PARKING PROVIDED (ON-SITE)	
STANDARD SPACES	18 SPACES
HANDICAP SPACES	2 SPACES
TOTAL PARKING PROVIDED	20 SPACES



POWERSCREEN
 CRUSHING & SCREENING

DATE: 10/2/20
 DRAWN BY: S.C.Z.
 CHECKED BY: D.L.E.
 SCALE: 1"=60' (HORZ)
 SCALE: N/A. (VERT)

REVISIONS	
1-18-22	ISSUED PLAN TO PRESERVE
2	PRESERVE EX TREES IN REAR
3	
4	
5	

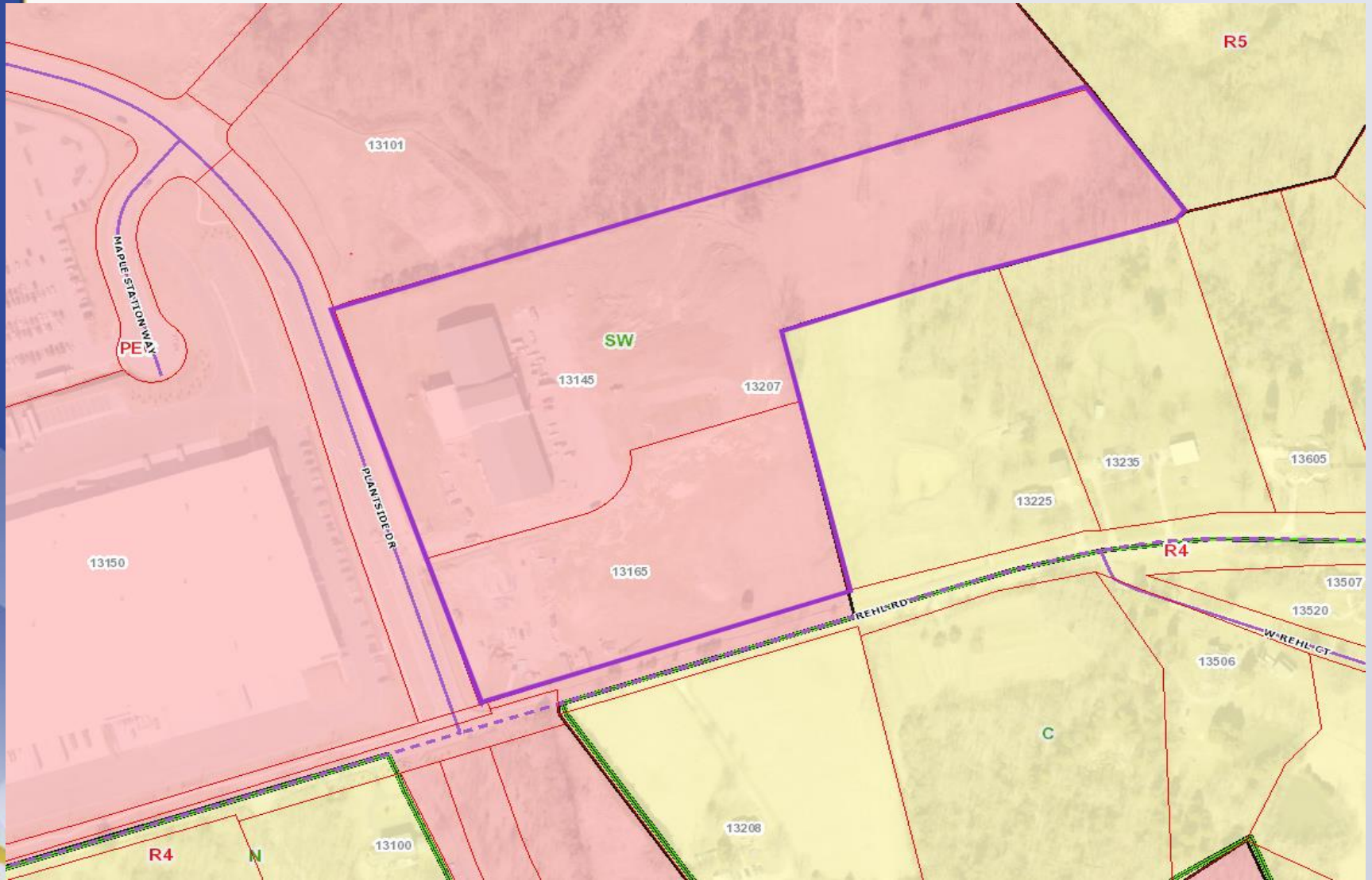


REVISED
 LANDSCAPE

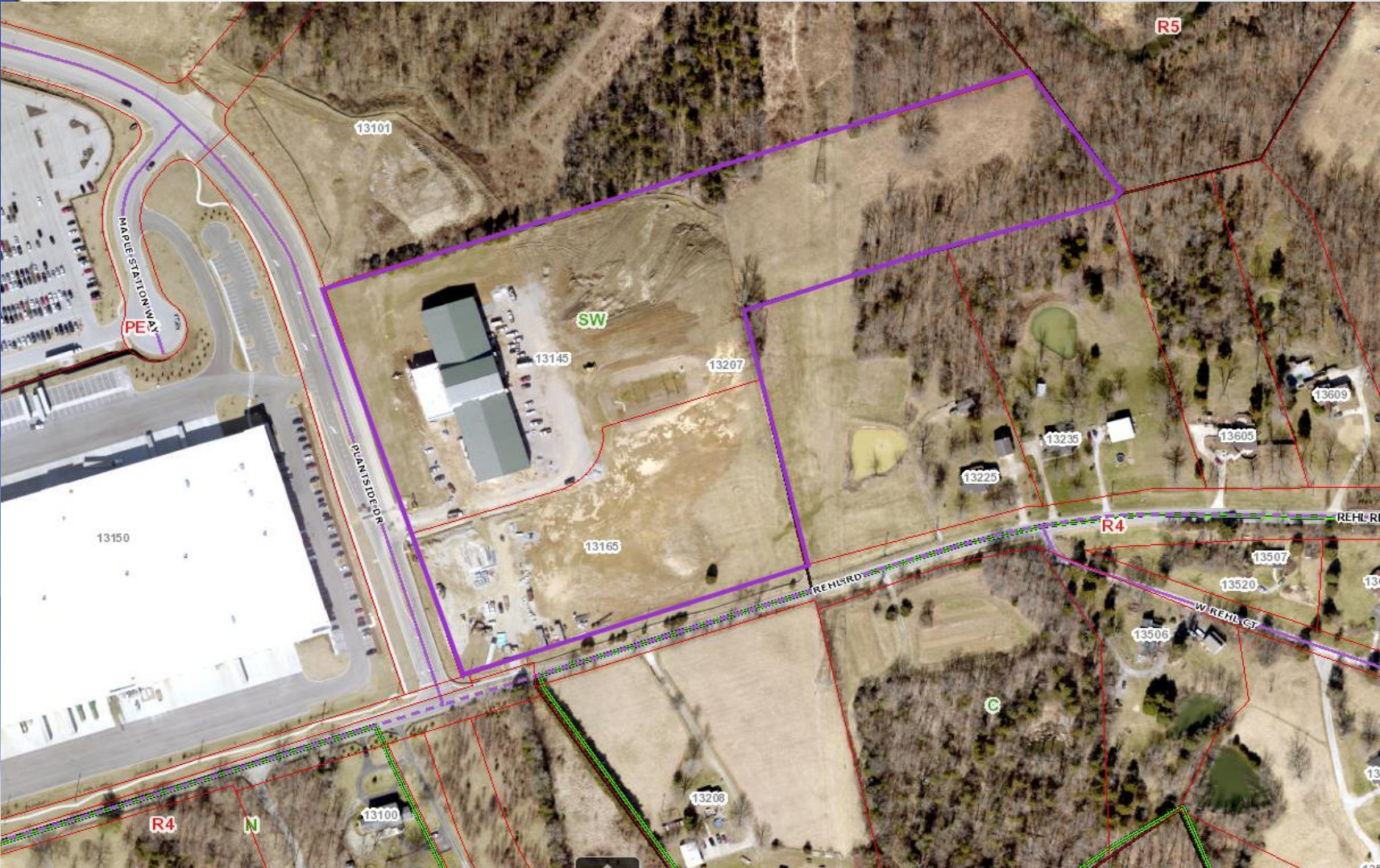
CASE # 21-LANDSCAPE-0009
 RELATED CASE(S): 20-LANDSCAPE-0113; 19-ZONE-0044;
 19-WAIVER-0070; 09-67-05
LANDSCAPE PLAN
POWERSCREEN
CRUSHING & SCREENING
 13207 RD. E. RD
 LOUISVILLE, KY 40299
 TAX BLOCK 0040 LOT: 0207



Zoning/Form Districts



Aerial Photo



Site Inspection Photos 12/8/2022



Site Inspection Photos 6/21/2023



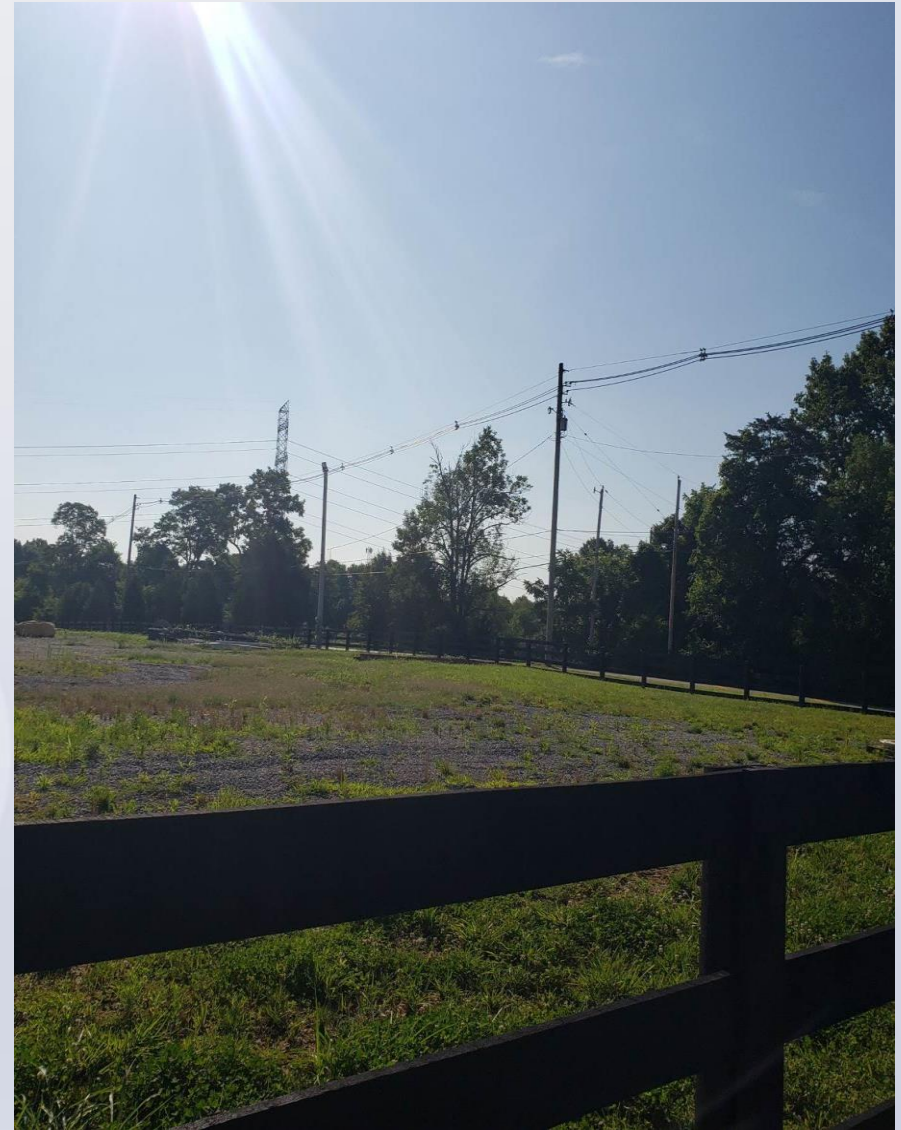
Louisville

Site Inspection Photos 6/21/2023



Louisville

Site Inspection Photos 7/21/2023



Site Inspection Photos 9/7/2023



Site Inspection Photos 9/7/2023



Required Actions

- The Planning Commission shall determine based on the evidence presented at this hearing, whether a violation of Binding Elements #1, #4 b/c & #8 occurred.
- If the Commission determines that a violation occurred, the Commission shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to \$1,000 per day of violation, or may issue a remedial order, or both.
- If the Commission determines that no violation occurred, an order dismissing the citation shall be entered.