

Development Review Committee
Staff Report
April 18, 2018



Case No:	17DEVPLAN1052
Project Name:	Airspace III
Location:	9205 National Turnpike
Owner(s):	Airspace III, LLC.
Applicant:	CBRE
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- Waiver of Land Development Code section 10.3.7 to allow a vehicular maneuvering area to encroach into the required 50' Gene Snyder Freeway Landscape Buffer Area.
- Revised Detailed District Development Plan

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 65,000 SF warehouse with 2,000 SF of associated office space. The site was rezoned to M-3 industrial under docket 9-89-97. A 210,000 SF warehouse currently exists on the site, and the proposed waiver is to allow an existing portion of vehicle maneuvering area associated with that building to remain within the required Gene Snyder Freeway Landscape Buffer Area. There is no further encroachment proposed with the waiver.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The subject site falls within the area of the Fairdale neighborhood plan. Land use recommendations of that plan for this site are for it to remain industrial in nature, so this proposal is in conformance with the recommendations of the Fairdale Neighborhood Plan.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this request.

INTERESTED PARTY COMMENTS

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF 10.3.7 TO ALLOW A VEHICULAR MANEUVERING AREA TO ENCROACH INTO THE 50' GENE SNYDER FREEWAY 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 planting materials 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 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 site was previously developed when the required buffer was less than current regulations, and is an existing condition that is legally nonconforming. All required plantings will still be provided on site.

- 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 no further encroachment is being proposed beyond the existing condition.

- 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 it is a legally nonconforming pre-existing condition. Strict application would cause the applicant to have to tear out pavement and rework the vehicular circulation patterns around the subject site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP 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: The site is located within the 100 year flood plain. Compensation per MSD requirements will be provided on 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: The required amenity is being provided onsite per Land Development Code requirements.

- 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, with the exception of the requested waiver.

REQUIRED ACTIONS:

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

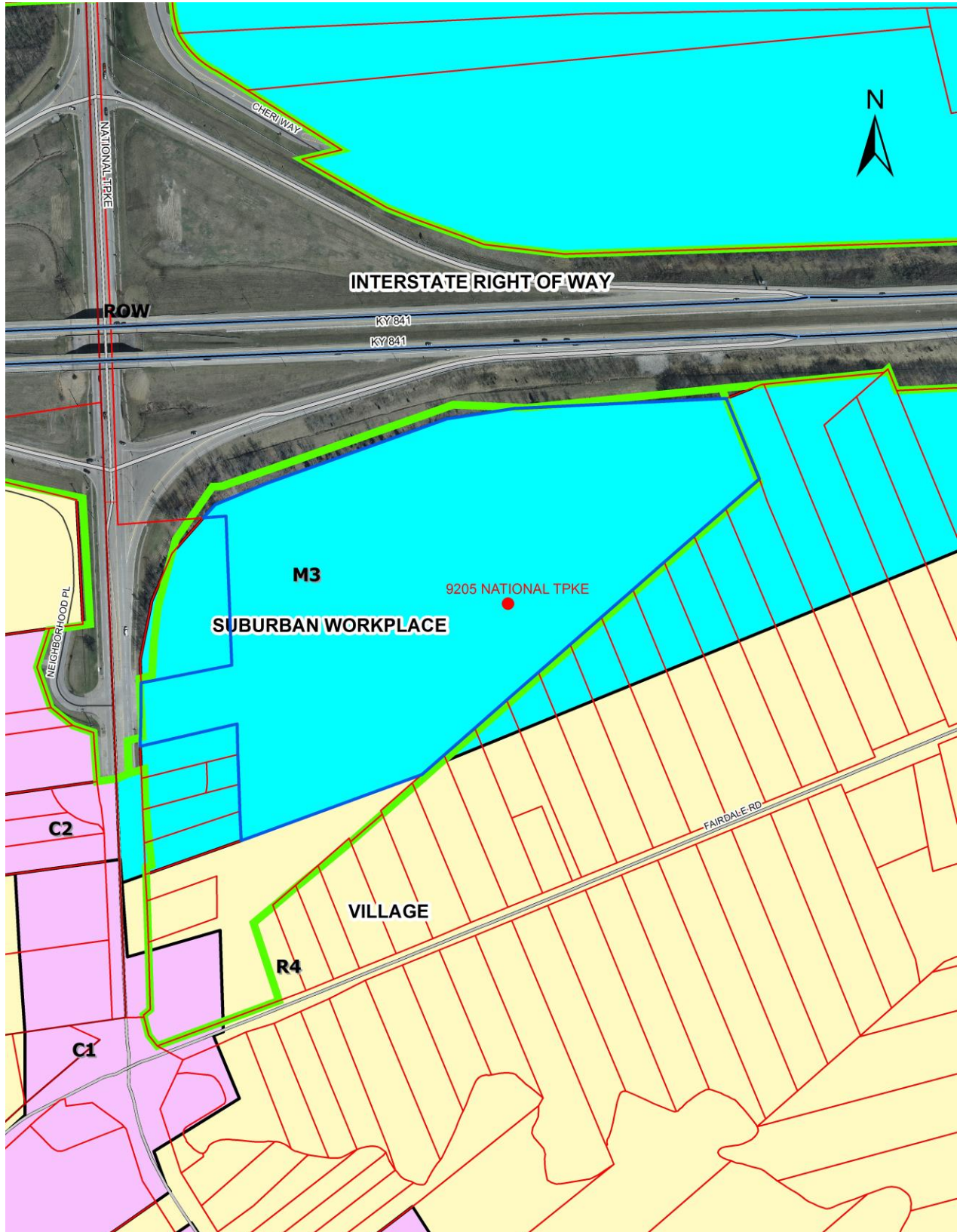
NOTIFICATION

Date	Purpose of Notice	Recipients
3-31-18	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 13

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing and/or Proposed Binding Elements

1. **Zoning Map**



2. **Aerial Photograph**



3. Existing Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
- ~~2. The development shall not exceed 10,000 square feet of gross floor area for office space and 200,000 square feet of gross floor area for warehouse space.~~
3. The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 15 feet to front property line. The sign shall not exceed 160 square feet in area per side and 8 feet in height. No sign shall have more than two sides.
4. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
5. There shall be no outdoor storage on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site. Lighting levels attributable to the fixtures located on the subject site shall not exceed two foot candles at the property line.
7. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
8. Construction fencing shall be erected at the edge of the area of development in accordance with the tree preservation plan prior to any grading or construction to protect the existing tree stands and their 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.
9. Before any permit (including but not limited to building, parking lot, change of use or alteration 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 detailed plan for screening and landscaping in compliance with the Parkway Policy and with Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter

10. A certificate of occupancy must be received from the appropriate code enforcement office 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.
11. There shall be no outdoor music (live, piped, radio or amplified), outdoor entertainment, or outdoor PA system permitted on the site.
- ~~12. The applicant shall request abandonment of the Special Use Permit (Conditional Use Permit) from the Jefferson County Board of Zoning Adjustment within 30 days of legislative approval of the rezoning request from Fiscal Court.~~
13. The applicant shall provide a wetlands determination letter from the US Army Corps of Engineers for this site prior to any clearing, grading or construction. If jurisdictional wetlands identified on the site are more extensive or in locations other than as shown on the 11.26.97 Miller/Wihry plan, the applicant shall submit a revised district development plan to LD&T showing mitigation of any impact on the wetlands.
14. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to grading and construction activities.
15. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.
- ~~16. Dumpsters shall be screened per Article 12.~~
17. The landscape buffer shown on the southeast property line shall be planted with evergreens, staggered 30 feet on center. The LBA width shall be an average of 40 feet, with 30 feet minimum.
- ~~18. The building shall be constructed of concrete panels; design shall be substantially similar to the photographs presented at the February 19, 1998 public hearing.~~
19. The site shall not be used for any type of auto salvage use or for the bulk storage or use of hazardous or explosive materials such as flammable liquids, gases, or corrosives (except the storage of paint will be permitted), or for any M-3 Industrial hazardous or noxious conditional uses. No manufacturing, processing, or treatment of the following uses shall be permitted:
 - Bag cleaning;
 - Boiler manufacture (other than welded);
 - Concrete, central mixing and proportioning plant;
 - Electric power and steam generating plants;
 - Foundries, ferrous or non-ferrous, brass, bronze;
 - Forge plants, drop hammer or pneumatic;
 - Hair, felt, feathers, shoddy, bulk processing, washing, curing and dyeing;
 - Ink manufacture from primary raw materials (including colors and pigments);
 - Race tracks for motor-powered vehicles;
 - Railroad yard, roundhouse, repair and overhaul shops, railroad equipment including locomotive and railroad car building and repair;
 - Storage of coal and gas, yards and pockets;
 - Sugar refining;

Wood or lumber processing, including sawmills, planning mills, cooperage stock mills, excelsior or packing materials, plywood veneer, wood-preserving treatment, or similar products or processes;
Wool pulling or scouring.

Modification of this binding element shall occur only after public hearing with notice provided to the adjacent property owners.

20. There shall be no idling of trucks overnight within 300 feet of the south and southeast property lines.
21. Noise from operation inside the building shall not be audible beyond any property line.
22. There shall be no lighting in the rear of the building, except for 150 watt bulbs over the emergency exit doors.

Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
2. The only permitted freestanding sign shall be located as shown on the approved development plan. No portion of the sign, including the leading edge of the sign frame, shall be closer than 15 feet to front property line. The sign shall not exceed 160 square feet in area per side and 8 feet in height. No sign shall have more than two sides.
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4. There shall be no outdoor storage on the site.
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6. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
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 - Storage of coal and gas, yards and pockets;
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