

Development Review Committee

Staff Report

February 1, 2017



Case No:	16DEVPLAN1247
Project Name:	Ground Effects
Location:	12201 Westport Road
Owner(s):	TDA Properties Inc.
Applicant:	Omer Gursoy – Ground Effects
Representative(s):	Ann Richard – Land Design & Development
Project Area/Size:	6.87 acres
Existing Zoning District:	PEC, R6 & R4
Existing Form District:	Suburban Workplace & Neighborhood
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Dante St. Germain, Planner I

REQUEST

- **Revised Detailed District Development Plan** for proposed 5,075 square foot expansion of existing building
- **Landscape Waiver** of Land Development Code section 5.5.4.B.1 to waive the 50' industrial-to-residential landscape buffer area and omit the 6 foot berm and canopy trees
- **Waiver** of Land Development Code section 5.5.2.A.1 to not orient the principle structure toward the abutting public street or focal point
- **Waiver** of Land Development Code section 5.6.1.B to not provide an articulated façade
- **Sidewalk Waiver** of Land Development Code section 5.8.1.B to provide only a partial sidewalk along Westport Road

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant is proposing to expand a 61,680 square foot manufacturing facility by 5,075 square feet, for a total proposed building area of 66,755 square feet. This represents an 8% increase in building area. The increase in impervious surface is less than 20%, and so the only landscaping requirement is the form district specific compatibility standard for the Suburban Workplace Form District, section 5.5.4.B.1:

Industrial uses, including structures, loading and truck parking areas, and outdoor storage located within 200 feet of and having a common lot line with residentially used or zoned parcels shall include a 50 foot landscape buffer area with a 6 foot berm and canopy trees as required by Chapter 10, Part 2.

The applicant requests a waiver from this requirement. The area where the landscape buffer area would otherwise be located is a vehicle maneuvering area under a Conditional Use Permit, docket number B-53-85, which was granted in 1985. The area has been used for vehicle maneuvering since that time, and so existing conditions prevent the installation of a landscape buffer area. The boundary line between the site and the abutting single-family residential lots is currently buffered with fencing and with mature white pine trees.

The applicant also requests waivers from Land Development Code sections 5.5.2.A.1 and 5.6.1.B. Section 5.5.2.A.1 requires that the site be designed such that principal buildings and building entrances shall be oriented toward the abutting public street or, in the alternative, toward a focal point. Section 5.6.1.B requires that there shall be no blank walls facing public streets, and that ground floor façades shall be articulated to provide visual interest and a human scale that are representative of the form district. The existing building on

the site is already oriented away from the abutting street, and the existing façade that faces Westport Road lacks articulation. These conditions have been in effect since 1985 when the building was expanded to its current footprint.

Finally, the applicant requests a waiver from section 5.8.1.B, which requires that all developments shall provide sidewalks in the abutting right-of-way to serve the development site. The applicant requests a partial waiver, proposing to provide a reduced sidewalk along the Westport Road frontage. In lieu of a complete sidewalk, the applicant proposes to build a partial sidewalk “apron” at the corner of Westport Road and the site’s driveway to assist pedestrians in safely reaching the traffic signal button and in safely crossing the driveway and the street at the crosswalks. This waiver is requested in accordance with Land Development Code section 6.2.6.B.2.c.iv which permits the Planning Commission or designee to grant a waiver to allow a reduced sidewalk requirement where less than 50% of the street frontage is being developed. If granted, this reduction waiver shall not exempt future development on the parcel from the construction of the remainder of the sidewalk.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Industrial	PEC, R6, R4	SW, N
Proposed	Industrial	PEC, R6, R4	SW, N
Surrounding Properties			
North	Single-Family Residential	R6	Neighborhood
South	Industrial	PEC	Suburban Workplace
East	Industrial & Commercial	M2, C2	Suburban Workplace
West	Industrial	PEC	Suburban Workplace

PREVIOUS CASES ON SITE

- 09-193-68: Planning Commission approved a rezoning from R-4 to C-2.
- 09-17-76: Planning Commission approved a rezoning from C-2 to M-P-2 (now PEC).
- B-53-85: Board of Zoning Adjustment approved a CUP for off-street vehicle maneuvering in a residentially-zoned district.

INTERESTED PARTY COMMENTS

No interested party comments were received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

STANDARD OF REVIEW FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN

- 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: LOJIC does not show any environmental constraints or historic resources on the subject site. The site is already developed and the existing vegetation will be maintained, or replaced if removed.

- 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. Connection to the partial sidewalk is being provided. The partial sidewalk being proposed will provide improved access to nearby TARC stops and supply a basis for later full sidewalk connections.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space is not required for the proposed development.

- 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 provisions 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 as the site is already developed and is surrounded on three sides by similar land uses. The residential area to the north was platted in 1991 after this site was already developed.

- 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 as Cornerstone 2020 defines the Suburban Workplace form as characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district. In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses. These guidelines are not violated because the development is existing and has been built out since 1985 with no conflict with neighboring uses or residents.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

of LDC, section 5.5.4.B.1 to waive the 50' industrial-to-residential landscape buffer area and omit the 6 foot berm and canopy trees

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

STAFF: The waiver will not adversely affect adjacent property owners as this site was developed prior to the development of the residential properties, and the applicant wishes to continue to use the area in the same manner that it has been used since the CUP was granted in 1985.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3 *Compatibility* Policy 4 states that appropriate transitions from non-residential to residential uses should depend on the pattern of development of the form district and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. This policy is not violated as the pattern of development along this transition is that of medium-intensity industrial use next to residential. The current buffering of privacy fencing and vegetation was acceptable to the residents who moved in after the current development was built out. Guideline 3 *Compatibility* Policy 22 states that buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. This policy is not violated as the boundary between uses is currently buffered with privacy fencing and vegetation that has existed for many years.

- (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 there is no other way to allow the applicant to continue the existing use of the area.

- (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 existing use of the area is proposed to be continued without change, and the imposition of the buffer area would deprive the applicant of the ability to maneuver vehicles into stacked parking adjacent to the CUP area, which was approved thirty-two years ago.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
of LDC, section 5.5.2.A.1 to not orient the principle structure
toward the abutting public street or focal point

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

STAFF: The waiver will not adversely affect adjacent property owners as the site has been built out since the 1980s and the conditions of the site are existing.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3 *Compatibility* Policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development in the form district. This guideline is not violated because the development is existing, and follows the pattern of nearby development.

- (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 site design is an existing condition and changing the orientation of the building would require extensive remodeling or redevelopment of the 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 requested waiver allows the subject site to continue in its existing condition.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
of LDC, section 5.6.1.B to not provide an articulated façade

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

STAFF: The waiver will not adversely affect adjacent property owners as the building has existed in its current state since 1985 and the new addition will match the current building design.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Objective G4.2 *Site and Building Characteristics* states to utilize performance standards and design guidelines for such characteristics and building height, setbacks, lot dimensions, parking and building design to establish a specific character for workplaces and to ensure compatibility of new development. This is not violated because the new development will match the existing building design, maintaining the existing character of the 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 as providing an façade articulation on the new addition would cause the new addition to not match the existing building.

- (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 requested waiver allows the subject site to continue in its existing condition.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER
of LDC, section 5.8.1.B to provide only a partial sidewalk along Westport Road

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

STAFF: The waiver will not adversely affect adjacent property owners as the applicant is providing a partial sidewalk to which new sidewalks can be connected in the future. The nearest existing sidewalk

is approximately 300 feet away. The partial sidewalk being provided will assist pedestrians with reaching a nearby TARC stop and utilizing the traffic signal at the corner.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 defines the Suburban Workplace form as characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district. In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. The applicant is providing a partial sidewalk in a location that will facilitate the use of nearby TARC stops and the traffic signal.

- (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 applicant is expanding the building by approximately 8%, and is providing a partial sidewalk at the corner. The Land Development Code provides that a reduction waiver shall not exempt future development on the parcel from the construction of the remainder of the sidewalk.

- (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 applicant is expanding the building by approximately 8%, and is providing a partial sidewalk. Providing a full sidewalk would represent a significant expense given the relatively small nature of the project.

TECHNICAL REVIEW

The site plan has received preliminary approval from MSD, Transportation Planning, and KYTC.

STAFF CONCLUSIONS

The Revised Detailed District Development Plan and Waivers appear to be adequately justified and meet the standard of review based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving a Detailed District Development Plan and Landscape Waivers.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the Landscape Waiver of LDC, section 5.5.4.B.1 to waive the 50' industrial-to-residential landscape buffer area and omit the 6 foot berm and canopy trees.
- **APPROVE** or **DENY** the Waiver of LDC, section 5.5.2.A.1 to not orient the principle structure toward the abutting public street or focal point.
- **APPROVE** or **DENY** the Waiver of LDC, section 5.6.1.B to not provide an articulated façade.
- **APPROVE** or **DENY** the Sidewalk Waiver of LDC, section 5.8.1.B to provide only a partial sidewalk along Westport Road.

- **APPROVE** or **DENY** the Revised Detailed District Development Plan subject to the proposed binding elements beginning on page 9 of the staff report.

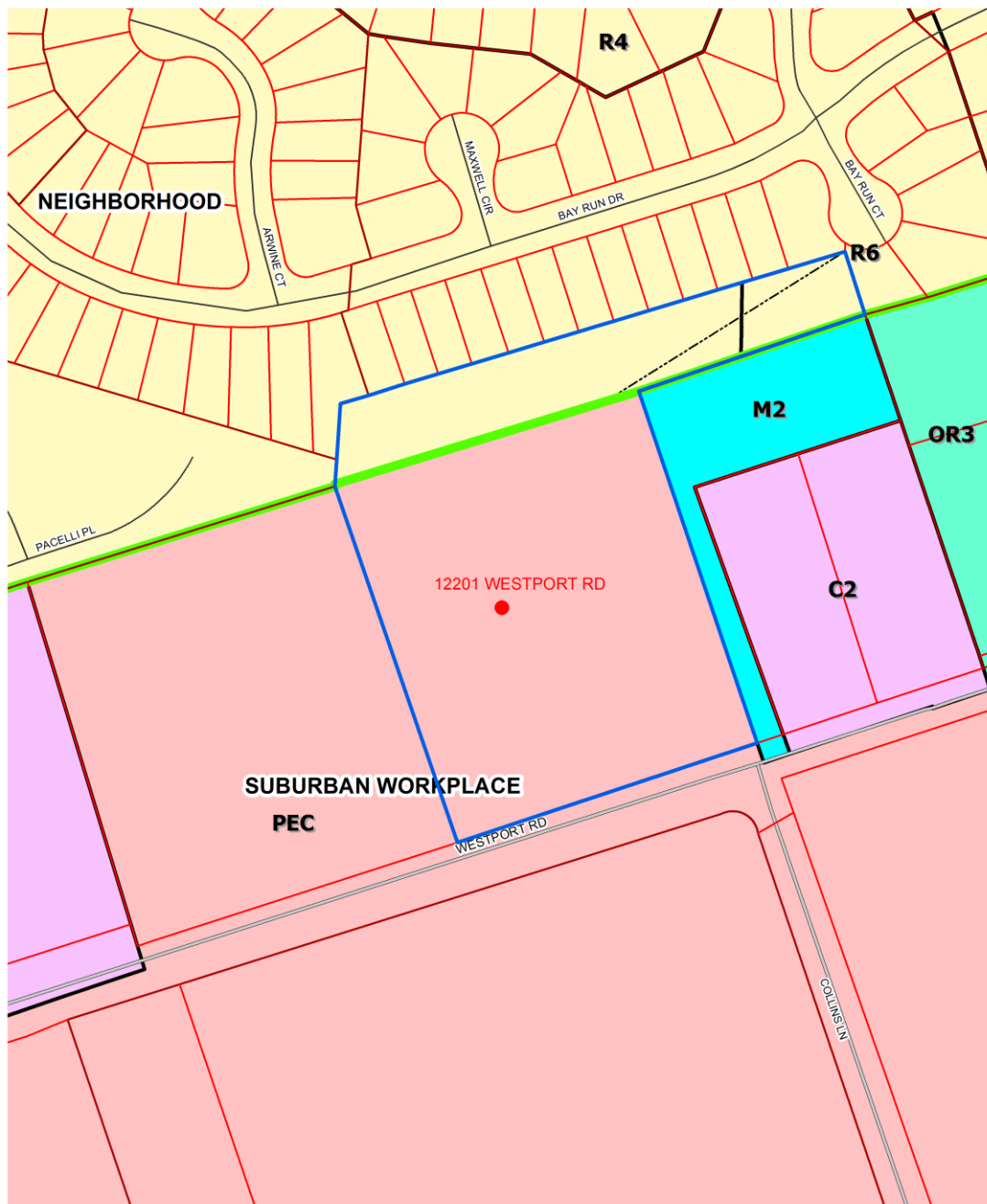
NOTIFICATION

Date	Purpose of Notice	Recipients
01/19/2017	DRC Public Meeting	1 st tier adjoining property owners

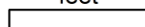
ATTACHMENTS

1. Zoning Map
2. Aerial
3. Existing Detailed District Development Plan Binding Elements
4. Proposed Revised Detailed District Development Plan Binding Elements

1. Zoning Map



12201 Westport Road
feet



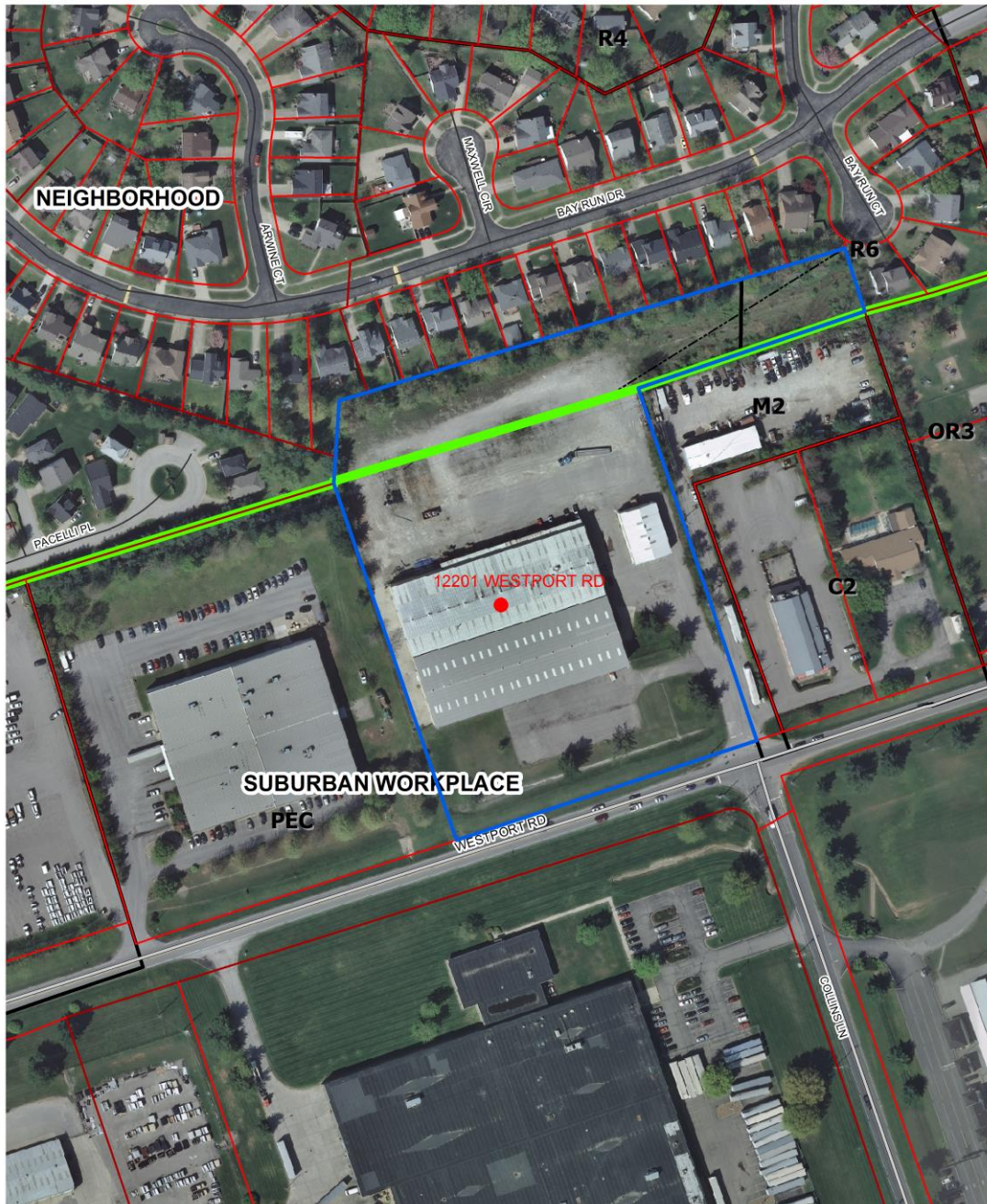
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Map Created: 1/24/2017



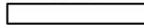
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2. Aerial



12201 Westport Road

feet



175

Map Created: 1/24/2017



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3. Existing Detailed District Development Plan Binding Elements

1. The development shall be in accordance with the approved district development plan, land use 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.
2. The development shall not exceed 48,155 square feet of gross floor area.
3. The property shall be used only for the following uses:
 - a) Leasing of mini-warehouses (the mini-warehouse operation will involve storage and incidental assembly of items stored in the mini-warehouse. All storage will be enclosed).
 - b) Warehouse storage (all enclosed).
 - c) Manufacture and assembly of automotive parts and accessories.
 - d) Moving of "household goods" as defined in Tariff No. 78 of the Movers and Warehousemen's Association of America, issued March 1, 1974, which is located in the file for the case.
 - e) Office buildings.
 - f) Accessory buildings and parking as shown on the development plan.
4. There shall be no outdoor storage on the site.
5. Before a building or alteration permit and/or a certificate of occupancy is requested:
 - a) The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b) The size and location of any proposed freestanding 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.
6. 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 district development plan is approved or an extension is granted by the Planning Commission.
7. 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.

4. Proposed Revised Detailed District Development Plan Binding Elements

- ~~1. The development shall be in accordance with the approved district development plan, land use 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.~~
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. The development shall not exceed ~~48,155~~ **66,755** square feet of gross floor area.
3. The property shall be used only for the following uses:
 - a) Leasing of mini-warehouses (the mini-warehouse operation will involve storage and incidental assembly of items stored in the mini-warehouse. All storage will be enclosed).
 - b) Warehouse storage (all enclosed).
 - c) Manufacture and assembly of automotive parts and accessories.
 - d) Moving of "household goods" as defined in Tariff No. 78 of the Movers and Warehousemen's Association of America, issued March 1, 1974, which is located in the file for the case.
 - e) Office buildings.
 - f) Accessory buildings and parking as shown on the development plan.
4. There shall be no outdoor storage on the site.
5. ~~Before a building or alteration permit and/or a certificate of occupancy is requested:~~ **Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or alteration permit) is requested:**
 - ~~a) The development plan must be re-approved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.~~ **The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.**
 - ~~b) The size and location of any proposed freestanding 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.~~
 - eb) The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ **Chapter 10 prior to requesting a building permit.** Such plan shall be implemented prior to requesting a certificate of occupancy ~~of the site~~ and maintained thereafter.
 - c) **A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to Westport Road to provide a total of 60 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; issuance of the certificate of occupancy by the office responsible for permit issuance will occur only after receipt of said instrument.**
- ~~6. 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 district development plan is approved or an extension is granted by the Planning Commission.~~
76. 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.
7. **No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.**

8. 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.
9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
11. When sidewalks are constructed along the portion of Westport Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off street parking to building entrances.
12. 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.