

Planning Commission Staff Report

December 19, 2019



Case No:	19-DDP-0041
Project Name:	Dafco Expansion
Location:	6851 Cane Run Road
Owner(s):	Jeff Milucky, Dameron Alloy Foundries
Applicant:	Todd Magner, Koetter Construction
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Waiver** of Land Development Code section 5.8.1.B to not provide the sidewalk along Cane Run Road (19-WAIVER-0060)
2. **Waiver** of Land Development Code section 5.9.2.A.1 to not provide the pedestrian access from Cane Run Road to the building entrance (19-WAIVER-0060)
3. **District Development Plan**

CASE SUMMARY/BACKGROUND

The subject site is zoned EZ-1 Enterprise Zone in the Suburban Workplace form district. It is located on the east side of Cane Run Road, equidistant between the intersections with Intermodal Drive and Distribution Drive. The subject site is surrounded on the same side of the street by other EZ-1 zoned properties, and on the opposite side of the street by M-3 Industrial zoned properties. The subject site is located in Riverport Section 3.

The subject site is currently developed with a 40,120 square foot industrial building. The applicant is proposing to construct a 35,607 square foot addition and 62 additional parking spaces.

The waiver requests (19-WAIVER-0060) were denied at the November 20, 2019 Development Review Committee meeting. The applicant is appealing the denial of the waiver. According to the applicant, TARC is no longer requesting the concrete boarding pad.

Previous cases:

- 9-72-75: Riverport development area wide zoning change.

Previously, TARC was requesting the following binding element be added to the plan, and provided a sketch illustrating the request:

- The Developer / Property Owner shall install a concrete boarding pad (5X10), with a 5' wide connector to a bench pad (3X12) and then notify TARC when the construction is complete. TARC will then install a standard bench. In addition, the Developer / Property Owner shall clean the stop as needed.

STAFF FINDINGS

The district development plan and the waiver requests are adequately justified and meet the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

INTERESTED PARTY COMMENTS

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.8.1.B TO NOT PROVIDE THE SIDEWALK ALONG CANE RUN ROAD

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

STAFF: The waiver will not adversely affect adjacent property owners, as there are no sidewalks in the vicinity of the subject site, and the subject site is interior to the Riverport development.

- (b) Granting of the waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and

STAFF: Land Use & Development Goal 1, Policy 1.3 promotes sidewalks along the streets of all developments. Land Use & Development Goal 1, Policy 1 states that in order for promote healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Land Use & Development Goal 3, Policy 5 states that developments should be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.

There are no existing sidewalks on either side of this portion of Cane Run Road, and the site is located interior to the Riverport development. A sidewalk on this property would not be utilized by pedestrians and does not seem appropriate. The closest TARC stop appears to be at the intersection of Intermodal Drive and Cane Run Road, over 1,100 feet north of the subject site.

- (c) The applicant cannot reasonably comply with one of the listed methods of compliance (section 6.2.6.C); and

STAFF: The applicant has been offered a fee-in-lieu option for 505 feet of frontage on the subject site of \$18,236.

- (d) Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as a sidewalk on this property would not be utilized by pedestrians and does not seem appropriate as there are currently no other sidewalks in the vicinity of the subject site.

- (e) There are site constraints that make sidewalk construction impractical or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction.

STAFF: Sidewalks do not exist in the area and do not appear to have existed since the Riverport development was established.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.9.2.A.1 TO NOT PROVIDE THE PEDESTRIAN ACCESS FROM CANE RUN ROAD TO THE BUILDING ENTRANCE

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

STAFF: The waiver will not adversely affect adjacent property owners, as there are no existing sidewalks in the area so none of the parcels in the vicinity of the subject site are providing pedestrian access from Cane Run Road.

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

STAFF: Land Use & Development Goal 1, Policy 1.3 promotes sidewalks along the streets of all developments. Land Use & Development Goal 1, Policy 1 states that in order for promote healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. Land Use & Development Goal 3, Policy 5 states that developments should be evaluated for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.

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- (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 regulation is the minimum necessary to afford relief to the applicant, as there are no sidewalks along Cane Run Road in the vicinity of the subject site so there is no opportunity to connect to pedestrian access in the right-of-way.

- (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 this regulation as would create an unnecessary hardship on the applicant, as they would have to incur the costs of sidewalk construction that would likely never link to any other section of sidewalk or serve pedestrians in a meaningful way.

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. Kentucky Transportation Cabinet approval is required prior to MSD construction plan approval.

- (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. Future multi-family development proposed on the subject site will be required to meet 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.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Revised Development Plan** and **Binding Element Amendments**

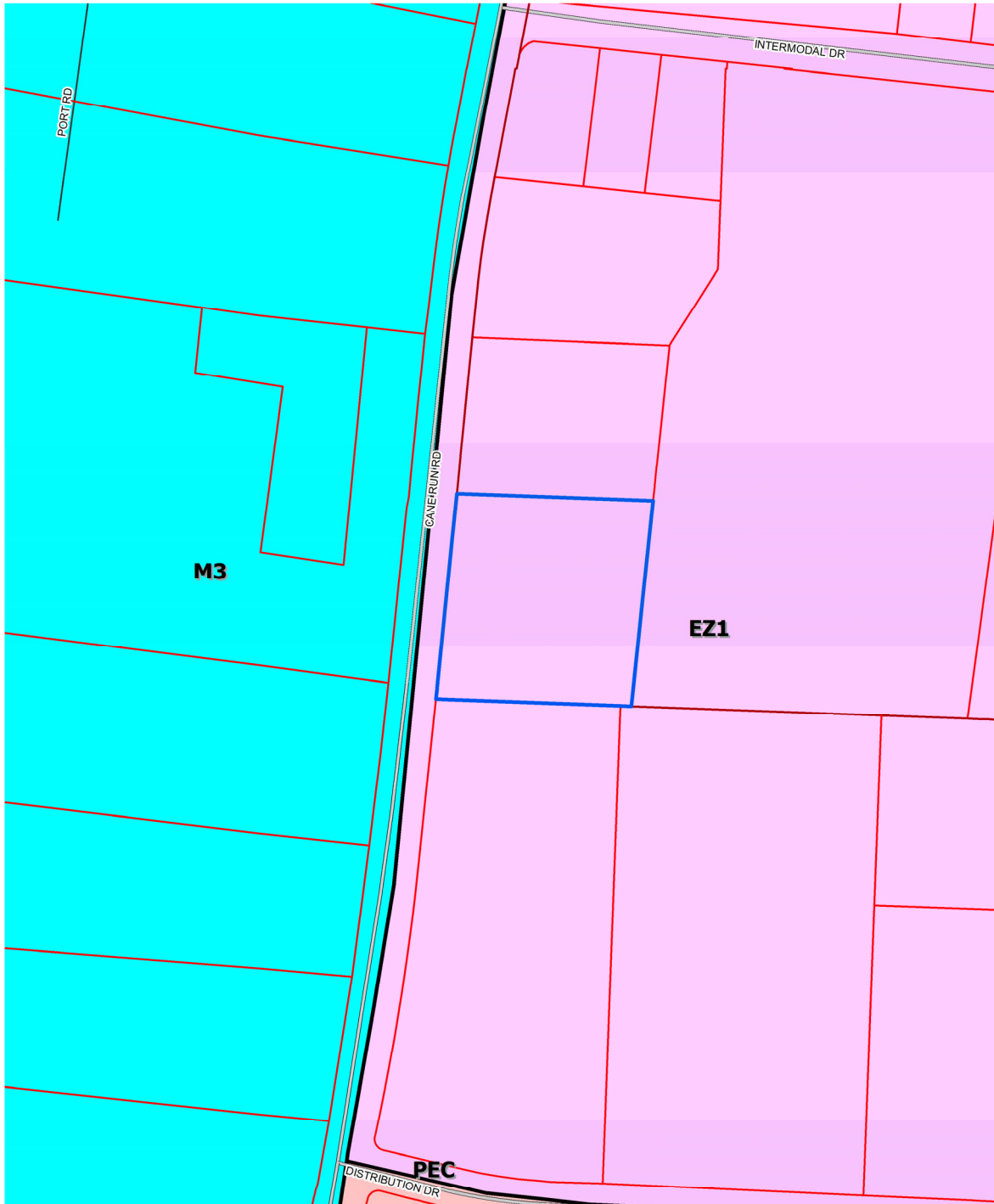
NOTIFICATION

Date	Purpose of Notice	Recipients
10-20-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 12
12-19-19	Hearing before Planning Commission	

ATTACHMENTS

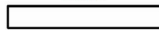
1. Zoning Map
2. Aerial Photograph
3. Proposed Binding Elements

1. **Zoning Map**



6851 CANE RUN ROAD

feet



320

Map Created: 8/21/2019



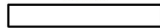
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2. Aerial Photograph



6751 CANE RUN ROAD

feet



320

Map Created: 8/21/2019



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3. Proposed Site 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 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, or site disturbance is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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. 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site).
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.