

Board of Zoning Adjustment Staff Report

November 2, 2015



| | |
|----------------------------------|---|
| Case No(s): | 15CUP1034 |
| Project Name: | Oxbow Fertilizer |
| Location: | 8252 Port Road |
| Owner(s): | Louisville and Jefferson County Riverport Authority |
| Applicant(s): | Oxbow Fertilizer, LLC |
| Representative(s): | Qk4 - Ashley Bartley |
| Project Area/Size: | 5.11 acres |
| Existing Zoning District: | M-3, Industrial |
| Existing Form District: | SW, Suburban Workplace |
| Jurisdiction: | Louisville Metro |
| Council District: | 12 – Rick Blackwell |
| Case Manager: | Jon E. Crumbie, Planner II |

REQUEST

- Conditional Use Permit to allow a potentially hazardous or nuisance use in an M-3 zoning district.

CASE SUMMARY/BACKGROUND

The site has an existing 6,378 square feet of building footprint. The applicant proposes construction of two buildings, a 49,820 square feet fertilizer storage barn and a 4,000 square feet shop/office. They will be set back over 600 feet from Cane Run Road. Initially, the storage capacity of the barn will be 29,000 tons. An additional capacity of 10,000 tons is planned in the future.

The following fertilizer compounds would be stored and handled at the facility: Potassium Chloride, Urea, Ammonium Sulfate, Monoammonium Phosphate, Diammonium Phosphate, and Potassium Sulfate. They will be imported to the facility by river barge and then taken to the barn via trucks or rail car. They will then be exported via trucks or rail cars.

SITE CONTEXT

- The site consists of three parcels and is in the Riverport Industrial Park adjacent to the Ohio River.
- The parcels have frontage on Cane Run Road, but are accessed via a private access easement off of Port Road.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

| | Land Use | Zoning | Form District |
|-------------------------------|-------------------------------------|---------------|----------------------|
| Subject Property | | | |
| Existing | Vacant industrial land | M-3 | SW |
| Proposed | Fertilizer storage and distribution | M-3 | SW |
| Surrounding Properties | | | |
| North | Mineral processing plant | M-3 | SW |
| South | Industrial | M-3 | SW |
| East | Steel and aluminum foundry | EZ-1 | SW |
| West | Vacant land next to Ohio River | M-3 | SW |

PREVIOUS CASES ON SITE

There are no previous cases on the site.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS
FOR CONDITIONAL USE PERMITS**

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: Staff analysis indicates that the proposed CUP complies with the applicable guidelines of the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with surrounding land uses and the general character of the area as it is located in an industrial area with other existing industrial zoning districts and uses.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: Adequate public facilities exist to serve the proposed use as it is located adjacent to existing industrially zoned and used properties to take advantage of special infrastructure needs.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

STAFF: The proposal appears to comply with the specific standards required in section 4.2.42 of the Land Development Code.

Potentially Hazardous or Nuisance Uses

The following uses (manufacture, processing, treatment, or storage unless otherwise specified), having accompanying hazards such as fire, explosion, noise, vibration, dust, or the emission of smoke, odor, or toxic gases may, if not in conflict with other laws or ordinances, be located in industrial zones as indicated below by Conditional Use Permit after the location and nature of such use shall have been approved by the Board of Zoning Adjustment. In reviewing an application for a CUP, the Board of Zoning Adjustment shall review the plan and statements of the applicant and the following:

A. The Comprehensive Plan;

B. Environmental and health related concerns raised by the operation and the applicant's proposal to mitigate any adverse effects to the public's health, safety and general welfare;

C. The applicant's site design, buffering, and security measures and their adequacy to mitigate any adverse effects to the public's health, safety and general welfare;

D. Any other evidence submitted by the applicant and any other party addressing the issues. A Conditional Use Permit under this section shall be issued only if the evidence shows the applicant's operation and associated nuisances will be properly managed and the public's health, safety and general welfare will be protected. The Board of Zoning Adjustment may impose additional conditions to protect surrounding properties. All Conditional Use Permits under this section shall be issued subject to the applicant also receiving all necessary permits from local, state and federal regulatory agencies.

EZ-1 and M-3

Aluminum powder

Brick, fireback, tile, clay products, including refractories: manufacturing, processing or treatment but not including storage

Cement, gypsum, lime, and plaster of paris (but not storage)

Charcoal, lampblack, carbon black, bone black, and fuel briquettes, including pulverizing

Chemicals, including acetylene, acids and derivatives, alcohol (industrial), ammonia, aniline dyes, carbide, caustic soda, cellulose and cellulose storage, chlorine, cleaning and polishing preparation (non-soap), dressings and blackings, creosote, dyestuffs, exterminating agents and poisons, hydrogen and oxygen, plastic materials, and synthetic resins, potash, pyroxylin, tar products, turpentine and resin, and solvent-extracting

Coal, coke, or tar products including fuel gas, and coke-oven products

Distillation, manufacture, or refinement of coal, tar, asphalt, or asphalt products

Metal and metal ores, reduction, refining, smelting, alloying, including blast furnaces, cupolas, and blooming mills (but not storage of metal products)

Minerals and earths (including sand-lime products), grinding, crushing, processing or storage

Paint manufacture, processing, or treatment (but not storage)

Petroleum or petroleum products, refining, bulk storage, including gasoline or other petroleum products

Plastic, manufacture, processing, treatment, or bulk storage

Radioactive materials

Steel works and rolling mills (ferrous) for steel, structural iron and steel fabrication, and structural products, including bars, cables, girders, rails, wire rope, or similar products

Waste paper and rag operations

Wood pulp or fiber, reduction or processing (including paper mill operations)

TECHNICAL REVIEW

There are no outstanding technical review items.

STAFF CONCLUSIONS

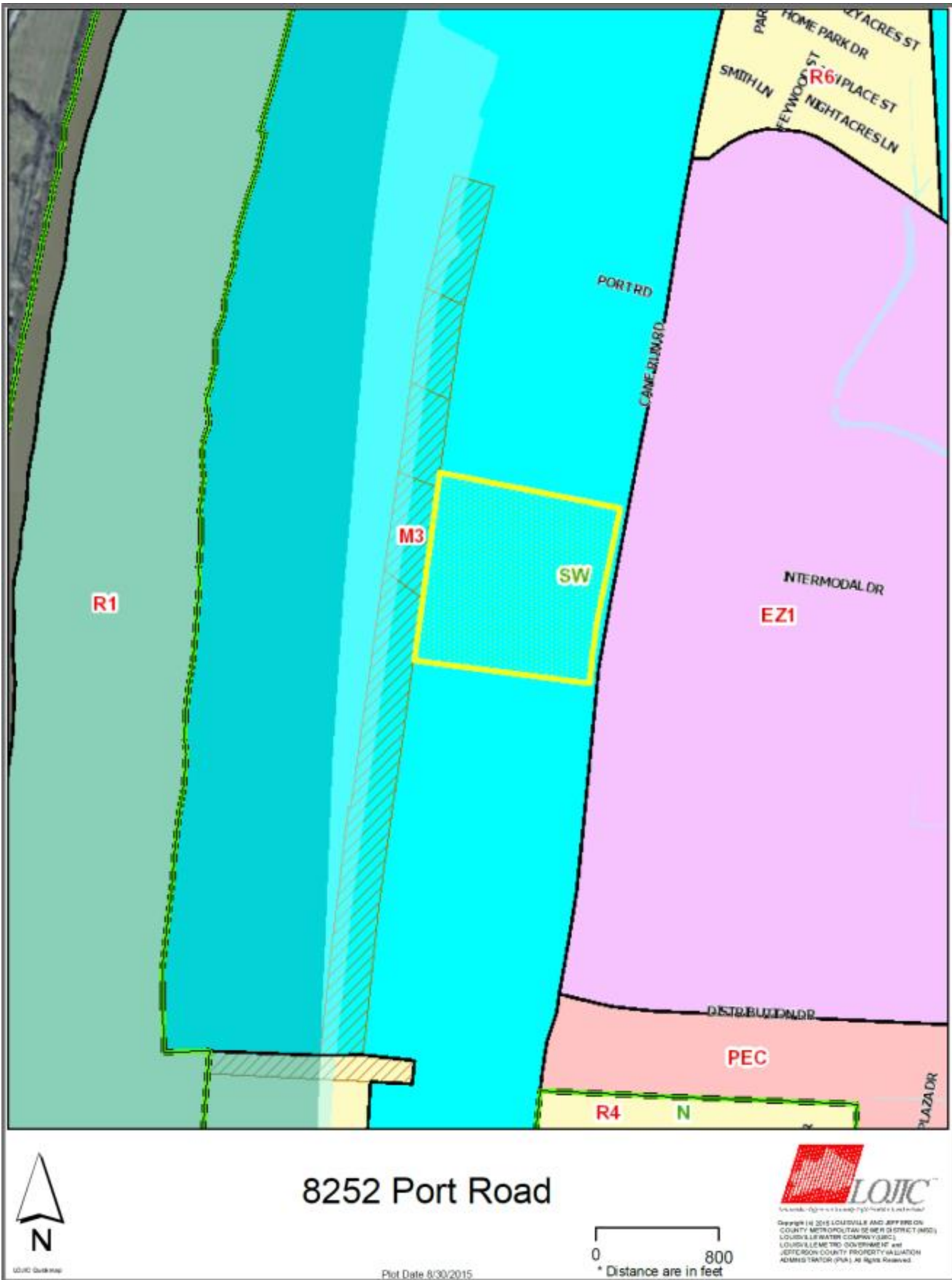
The proposal will be located in an area that is surrounded by M-3 uses to the north, south and east. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, BOZA must determine if the proposal meets the standards for granting the Conditional Use Permit as established in the LDC.

NOTIFICATION

| Date | Purpose of Notice | Recipients |
|------------|-------------------|--|
| 10/16/2015 | APO Notice | First tier adjoining property owners Neighborhood notification recipients |
| 10/16/2015 | Sign Posting | Subject Property Owner |

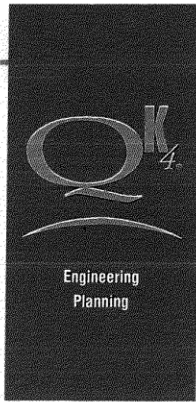
ATTACHMENTS

1. Zoning Map



2. Aerial Photograph





1046 East Chestnut Street
Louisville, Kentucky 40204
Ph 502-585-2222
Fx. 502-581-0406
www.qk4.com

October 5, 2015

Planning and Design Services
Louisville / Jefferson County Metro Government
444 South 5th Street
Suite 300
Louisville, Kentucky 40202

RECEIVED

OCT 05 2015

PLANNING &
DESIGN SERVICES

**Oxbow Fertilizer, LLC – Fertilizer Storage and Distribution Facility
Conditional Use Permit Plan
8252 Port Road 40258**

To Whom It May Concern,

This letter is to service as a follow up to the letter dated September 18, 2015.

The Oxbow Louisville Fertilizer Project proposes to lease a 5.11-acre area of land located on two parcels from the Port of Louisville, owned by Louisville and Jefferson County Riverport in Riverport Industrial Park. This project will operate a fertilizer storage and distribution facility on a currently vacant land. Because of the product storage on site (fertilizer), a conditional use permit is required.

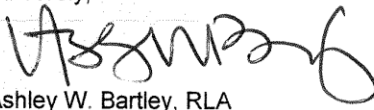
The initial storage capacity of the fertilizer storage building will be 29,000 tons with additional capacity of 10,000 tons to be added in the future. The following fertilizer compounds could be stored and handled at the facility: Potassium Chloride; Urea; Ammonium Sulphate; Mono Ammonium Phosphate; Di Ammonium Phosphate & Potassium Sulfate.

Fertilizer will be imported to the facility by river barge via trucks or by rail car into the storage barn and fertilizer will be exported from the storage barn via truck or rail cars. Nominal annual throughput is projected to be 125,000 tons per year and permitted operational capacity requested is 400,000 tons per year for Stage 1 of the project. Stage 1 is to bring in bulk fertilizer by barge, truck it to the fertilizer storage building and ship it out by truck or rail.

It is our opinion that the proposed plan meets all Metro Land Development Code requirements.

Please call if you have any further questions regarding this matter.

Sincerely,


Ashley W. Bartley, RLA



OXBOW SULPHUR INC.

**NOTICE
NEIGHBORHOOD MEETING**

To: Two Tiers of Adjacent Properties to 8252 Port Road and Parcels 230700170000 and 230700140000 on Cane Run Road.

From: Oxbow Sulphur, Inc.

Re: Conditional Use Permit for Fertilizer Storage Facility

Today's Date: September 1, 2015

Meeting Date: Thursday, September 17, 2015, 6:00 p.m.

Meeting Location: Louisville Riverport Offices – 6900 Riverport Drive 40268

Oxbow Sulphur, Inc. is proposing a 49,820 square foot fertilizer barn and 4,000 square foot office/shop building with associated truck loading/unloading area, truck circulation, rail spur, and employee parking. Louisville Land Development Code requires a Conditional Use Permit for a fertilizer storage facility. In accordance with the procedures and Louisville Metro Planning and Design Services, we are hereby inviting adjoining property owners and neighborhood group representatives to discuss this proposal. This will be an informal meeting to give you the opportunity to review the proposed plan and discuss the proposal with the developer and its representatives. The purpose of this meeting is to increase your understanding of this case early in the process. We encourage you to attend this meeting and to share any concerns you may have.

1450 Lake Robbins Drive, Suite 500 • The Woodlands, TX 77380 USA
Tel 281 907-9500 • www.oxbowsulphur.com • Fax 281 907-9400

KSCM039



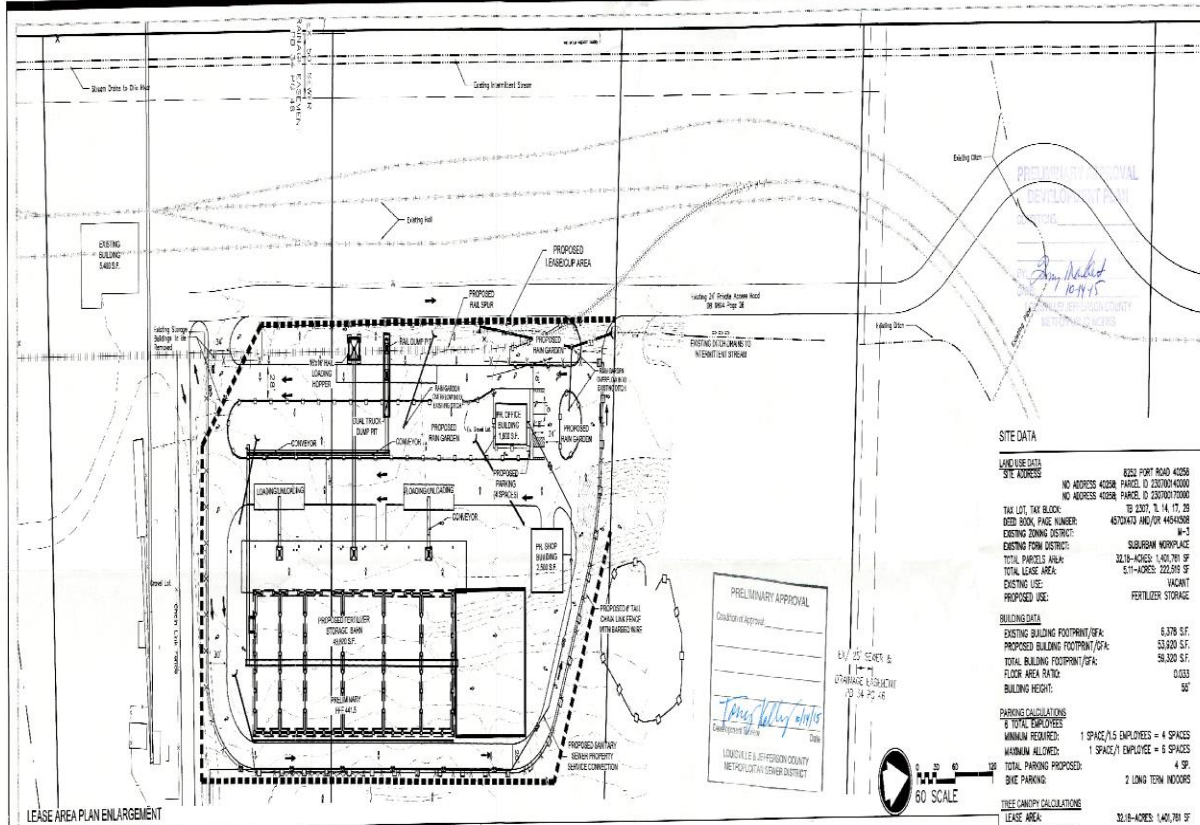
Groundbreaking by Design.

MEMORANDUM

To: Planning and Design Services
From: Ashley Bartley
Subject: Oxbow Sulphur Neighborhood Meeting
Date: September 18, 2015

A neighborhood meeting was held at Louisville Riverport Offices on September 17, 2015 at 6:00 pm. Representatives from Riverport, Oxbow Sulphur, Port of Louisville, and Qk4 were available to discuss this project, but no one from the public attended the meeting so it was concluded at 7:00 pm. Therefore no sign in sheet or minutes are included with this Conditional Use Permit application.

End of Memorandum



SITE DATA

LAND USE DATA
 SITE ADDRESS: 6325 FORT MEAD AVENUE
 NO ADDRESS: 4228B PARKER, D 230700-43000
 NO ADDRESS: 4228B PARKER, D 230700-72000

TAX LOT, TAX BLOCK, BIDS BOOK, PAGE NUMBER, EXISTING ZONING DISTRICT, EXISTING FROM DISTRICT, EXISTING FROM SUBURBAN WORKPLACE
 15 2307, 7, 14, 17, 29
 4570470 AND/OR 4483528
 W-1
 SUBURBAN WORKPLACE

TOTAL PARCELS AREA, TOTAL LEASE AREA, EXISTING USE, PROPOSED USE
 32.18-ACRES: 1,401,781 SF
 220,225 SF
 VACANT
 FERTILIZER STORAGE

BUILDING DATA
 EXISTING BUILDING FOOTPRINT (GFA): 6,378 SF
 PROPOSED BUILDING FOOTPRINT (GFA): 53,920 SF
 TOTAL BUILDING FOOTPRINT (GFA): 60,298 SF
 FLOOR AREA RATIO: 0.033
 BUILDING HEIGHT: 5'

PARKING CALCULATIONS
 # TOTAL EMPLOYEES: 4 SPACES
 MINIMUM REQUIRED: 1 SPACE/1 EMPLOYEE = 4 SPACES
 MAXIMUM ALLOWED: 1 SPACE/1 EMPLOYEE = 4 SPACES
 TOTAL PARKING PROPOSED: 4 SP
 BIKE PARKING: 2 LONG TERM INDOORS

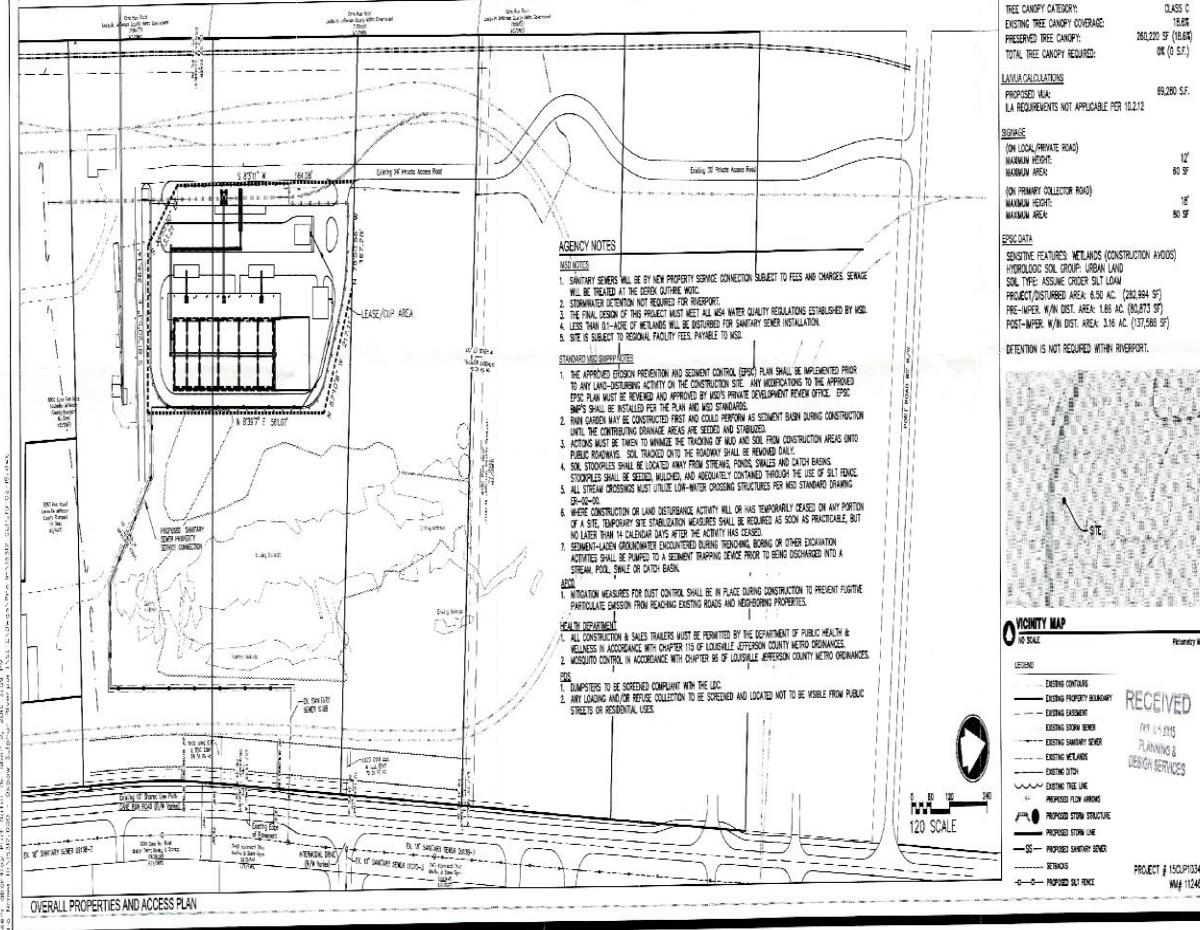
TREE CANOPY CALCULATIONS
 LEASE AREA: 32.18-ACRES: 1,401,781 SF
 TREE CANOPY CATEGORY: CLASS C
 EXISTING TREE CANOPY COVERAGE: 18.8%
 PRESERVED TREE CANOPY: 260,225 SF (18.6%)
 TOTAL TREE CANOPY REQUIRED: 0% (0 SF)

LANDSCAPE CALCULATIONS
 PROPOSED HAUL: 65,280 SF
 LA REQUIREMENTS NOT APPLICABLE PER 10.212

SETBACKS
 (ON LOCAL PRIVATE ROAD)
 MAXIMUM HEIGHT: 12'
 MAXIMUM AREA: 65 SF
 (ON PRIMARY COLLECTOR ROAD)
 MAXIMUM HEIGHT: 15'
 MAXIMUM AREA: 80 SF

ESSENTIAL DATA
 SENSITIVE FEATURES: METALWORK (CONSTRUCTION AVOIDS)
 HYDROLOGIC SOIL GROUP: URBAN LAND
 SOIL TYPE: ASSUMED CORDER SILT LOAM
 PROJECT/DISTURBED AREA: 8.50 AC. (263,894 SF)
 PRE-WORK W/IN DIST. AREA: 1.85 AC. (64,273 SF)
 POST-WORK W/IN DIST. AREA: 3.16 AC. (137,580 SF)

DEFENTION IS NOT REQUIRED WITHIN REPORT.



NEIGHBORHOOD MAP
 120 SCALE

LEGEND

- EXISTING CONTOURS
- EXISTING PROPERTY BOUNDARY
- EXISTING EASEMENT
- EXISTING STORM SEWER
- EXISTING SANITARY SEWER
- EXISTING METALWORK
- EXISTING DITCH
- EXISTING THIS USE
- PROPOSED THIS USE
- PROPOSED STORM STRUCTURE
- PROPOSED STORM LINE
- PROPOSED SANITARY SEWER
- SEWER
- PROPOSED DUTY RAIL

RECEIVED
 11/24/14
 PLANNING & DESIGN SERVICES

PROJECT # 150121034
 MAY 11/2014

15CUP1034

Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a potentially hazardous or nuisance use- without further review and approval by the Board.