

Development Review Committee
Staff Report
April 15, 2015



Case No:	15DEVPLAN1023
Request:	Revised Detailed District Development Plan, Binding Elements, and Waivers
Project Name:	Derby Dental Expansion
Location:	3332 Gilmore Industrial Blvd.
Owner:	Nunnally & Nunnally, LLC
Applicant:	Nunnally & Nunnally, LLC
Representative:	BlueStone Engineers, PLLC
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	David B. Wagner – Planner II

REQUEST

- Waiver #1 to not provide the required 50' LBA, 6' berm and canopy trees along the west property line (LDC Section 5.5.4.B.1)
- Waiver #2 to not provide the required 50' LBA, 6' berm and canopy trees along the south property line (LDC Section 5.5.4.B.1)
- Revised Detailed District Development Plan
- Binding Elements

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This request is to expand the existing 2-story building with a footprint of 12,322 SF. The expansion is at the rear of the building and includes an additional 1-story, 2,220 SF of footprint for the industrial use. There are drainage ditches and MSD easements along the west and south property lines. These site characteristics are driving the requests for the Waivers as the requirements are unique to the Suburban Workplace Form District when an industrial use abuts a residential use. There are existing tree plantings along the south property line as well within the current 30' landscaping easement.

Existing Zoning District: M-2, Industrial
Proposed Zoning District: N/A
Form District: Suburban Workplace
Existing Use: Industrial
Proposed Use: Industrial
Minimum Parking Spaces Required: 47
Maximum Parking Spaces Allowed: 70
Parking Spaces Proposed: 57

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Industrial	M-2	SW
Proposed	Industrial	N/A	N/A
Surrounding Properties			
North	Industrial	M-2	SW
South	Single Family Residential	R-4	N
East	Industrial	M-2	SW
West	Single Family Residential	R-4	N

PREVIOUS CASES ON SITE

- 9-116-86: Re-zoning from R-4, R-5 and R-6, Single and Multi-Family Residential to M-2 Industrial, General District Development Plan, Detailed District Development Plan and then a Revised Detailed District Development Plan
- 10-26-86: Gilmore Industrial Park Preliminary Subdivision Plan
- Plat Book 38, Page 41: Gilmore Industrial Park, Section 2

INTERESTED PARTY COMMENTS

- Staff has not received any inquiries from interested parties.

APPLICABLE PLANS AND POLICIES

- Cornerstone 2020
- Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #1 to not provide the required 50' LBA, 6' berm and canopy trees along the west property line (LDC Section 5.5.4.B.1)

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

STAFF: The waiver will not adversely affect adjacent property because the adjacent residential property owner is over 100' away from the area of the expansion. Tree cover already exists on the adjoining property and the proposed expansion results in no increase in the intensity of the use on the site.

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

STAFF: The waiver will not violate the Comprehensive Plan because of all that is set forth in staff's analysis of the RDDP in regards to applicable Guidelines and Policies of Cornerstone 2020.

- (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 because the site was developed many years ago with the existing site layout without adversely affecting the adjoining property owner.

- (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: Strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the site was developed before the LDC was adopted which has added regulations not required at the time this building was originally constructed. The expansion of the building does not increase adverse impacts upon the adjoining property owner.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER #2
to not provide the required 50' LBA, 6' berm and canopy trees
along the south property line (LDC Section 5.5.4.B.1)**

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

STAFF: The waiver will not adversely affect adjacent property because the existing landscape buffer and existing trees will be maintained along the south property line.

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

STAFF: The waiver will not violate the Comprehensive Plan because of all that is set forth in staff's analysis of the RDDP in regards to applicable Guidelines and Policies of Cornerstone 2020.

- (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 because the applicant will maintain the existing trees and landscape buffer area along the south property line.

- (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: Strict application of the provisions of the regulation will deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the site was developed before the LDC was adopted which has added regulations not required at the time this building was originally constructed. The expansion of the building does not increase adverse impacts upon the adjoining property owner.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND 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 proposal conserves as many natural resources as possible that currently exist on the site while still allowing the development.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Safe and efficient vehicular and pedestrian transportation is provided by the sidewalks and vehicular access to the public road network through the entrances provided on the site.

- 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 this proposal.

- 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: MSD has approved the drainage facilities for the site.

- 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 proposal is compatible with existing industrial development in this area. The only change is the expansion of the building at the rear of the site which has existed for some time. The existing drive aisle that the expansion is within will be slightly altered and the existing landscape buffer and trees will be maintained along the residential use to the south.

- 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: This development conforms to the intent of the Suburban Workplace Form District and the Comprehensive Plan as it would continue the pattern of industrial uses in a previously built industrial subdivision. The existing landscaping along the south side of the site will be maintained to prevent adverse impacts on surrounding properties. Adequate vehicular, pedestrian, and bicycle access is provided through the public right-of-way network and existing infrastructure will be utilized for this development.

TECHNICAL REVIEW

- The proposal complies with the requirements of the LDC with the exception of the Waivers.
- MSD and Transportation Review have given preliminary approval for the plan.

STAFF CONCLUSIONS

Waivers, Revised Detailed District Development Plan and Binding Elements

Staff analysis in the standard of review section of the staff report indicates the proposed Waivers, RDDDP, and Binding Elements are justified.

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 for granting Waivers, a RDDDP, and Binding Elements established in the Land Development Code.

Required Actions

- Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must **APPROVE** or **DENY** Waivers #1 and #2, the Revised Detailed District Development Plan and Binding Elements listed in the staff report.

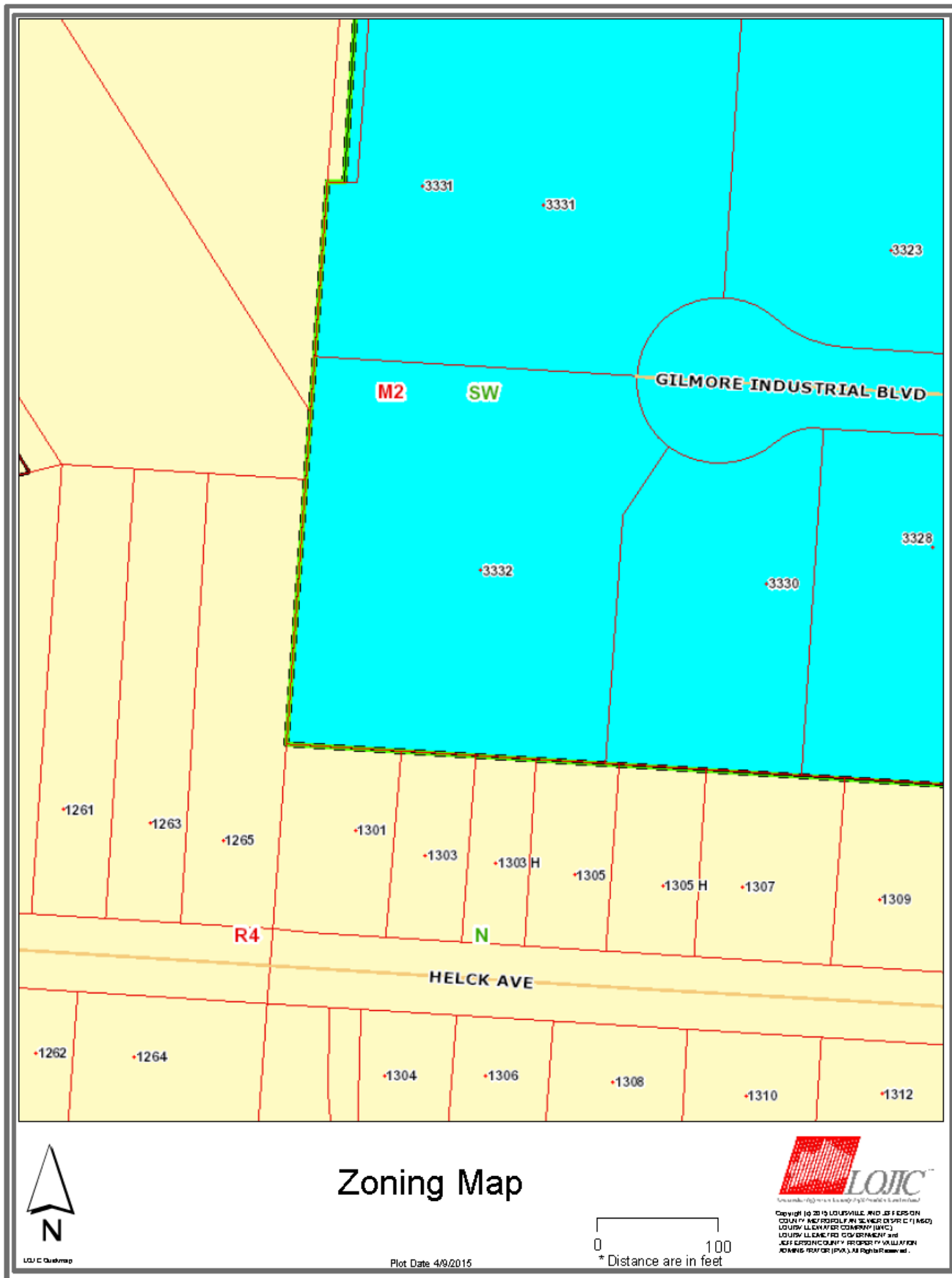
NOTIFICATION

Date	Purpose of Notice	Recipients
4/1/15	Meeting before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers to Council District 21 Notification of Development Proposals

ATTACHMENTS

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

1. Zoning Map



Aerial Photo

LOT 10 TO 20 IN LOUISVILLE, AND JOINT VENTURE CO. OF LOUISVILLE, KY, INC. (LVC) LOUISVILLE WATER COMPANY (LWC) JOINT VENTURE OF LOUISVILLE, KY, INC. (JOV) JOINT VENTURE OF LOUISVILLE, KY, INC. (JOV) JOINT VENTURE OF LOUISVILLE, KY, INC. (JOV)

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Plot Date: 4/9/2015

* Distance are in feet

3. Existing Binding Elements

1. The development will be in accordance with the approved district development plan. No further development will occur without prior approval from the Planning Commission.
2. The development shall not exceed 15,720 square feet of gross floor area.
3. Before a building permit is requested:
 - a. The development plan must be reapproved by the Jefferson County Department of Public Works and Transportation and the Metropolitan Sewer District.
 - b. 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.
 - c. All necessary recording fees shall be paid.
4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
5. The only permitted sign shall be located as shown on the approved district development plan. The sign shall not exceed 20 square feet in area and 4 feet in height.
6. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, 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 must be implemented prior to requesting issuance of the certificate.
8. The above binding elements may be amended as provided for in the Zoning District Regulations.

4. Proposed 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 designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.

- 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 building permit. 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.
- 4. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
- 5. The only permitted sign shall be located as shown on the approved district development plan. The sign shall not exceed 20 square feet in area and 4 feet in height.
- 6. 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.
- 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.
- 8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 15, 2015 Development Review Committee meeting.