

Case 9-58-89 & 15424
Binding Element Citation Hearing
9201 Blue Lick Rd



October 20, 2016

John Carroll, Assistant County Attorney
Enforcement Case No. 15PM2886

Rezoning Request

- November 28, 1989
- Change in zoning from R-4 Residential and C-1 Commercial to C-2 Commercial in Docket No. 9-58-89
- January 15, 2010
- Approved plan expired before being fully implemented - initial Binding Element NOV issued.

BE Citation Hearing Case 9-58-89

- **MAY 17, 2012**
- Violating the approved Planting/Buffer Plan by not establishing the approved landscaping per L-46-91.
- Violating the approved RDDDP by not providing a hard and durable surface with striping in the boat storage area.
- The Commission determined after the hearing to assess a \$1,000 fine for violations of the original Development Plan dated April 12, 1990 as stated in the Citation and ordered the property owners to implement and complete by November 30, 2012 a RDDDP with landscaping and hard surface if required.

Revised Plan

- December 19, 2012
- RDDDP submitted for the previously approved/expired development plan -- **Case No. 15424.**
- Landscape Waivers (3)
- BE Amendments - remove #3 / revise #5
- ~~3. The property shall be used exclusively for the sales and service of boats and their accessories and related items.~~
- 5. The only permitted freestanding sign shall be located as shown on the approved district development plan. The sign shall not exceed ~~73.7~~ 63.5 square feet in area and ~~20~~ 16.42 feet in height.

Case No: 15424

J & R Outboard Boat Sales & Service

- A Revised Detailed District Development Plan to allow the previously approved, but expired plan (9-58-89) to be implemented with changes.
- Landscape waiver to omit the required 6-foot screen and associated tree plantings along the east property line.
- Landscape waiver to allow the existing parking lot to be located within the required 15-foot Landscape buffer Area along South Park Road. Parking lot is approximately 10 feet from the property line.
- Landscape waiver to allow the existing MSD detention basin easement to overlap the 35-foot LBA by more than 50% along a portion of the rear Landscape Buffer Area. The overlay is 100%.
- Landscape waiver to omit the required screen adjacent to portions of the loading and unloading, truck maneuvering and storage areas.
- Binding Element amendments to remove binding element number 3 and revise binding element number 5.

BE Notices of Violations/Citations

- **BE NOV - March 25, 2015**
- 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.

- YOU ARE ALLOWING A NON-PERMITTED MANUFACTURING USE TO EXIST ON THE ABOVE REFERENCED COMMERCIAL PROPERTY. SPECIFICALLY, YOU ARE INSTALLING WINDOWS AND OTHER MANUFACTURING ELEMENTS TO CONTAINERIZED FREIGHT BOXES, TO BE USED AS A MODIFIED CAMPING CABIN ON THIS C-2 ZONED PROPERTY.

BE Notices of Violations/Citations

- **BE Citation Issued - October 28, 2015**
BE Citation Reissued - February 9, 2016
- 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.
- The site remains in violation of Binding Element #1.

On **March 25, 2015**, a *Notice of Violation* was issued to Richard & Betty Engle wherein it was ordered that the specific violation identified in the Notice cease, and that a remedy be provided by **April 24, 2015**.

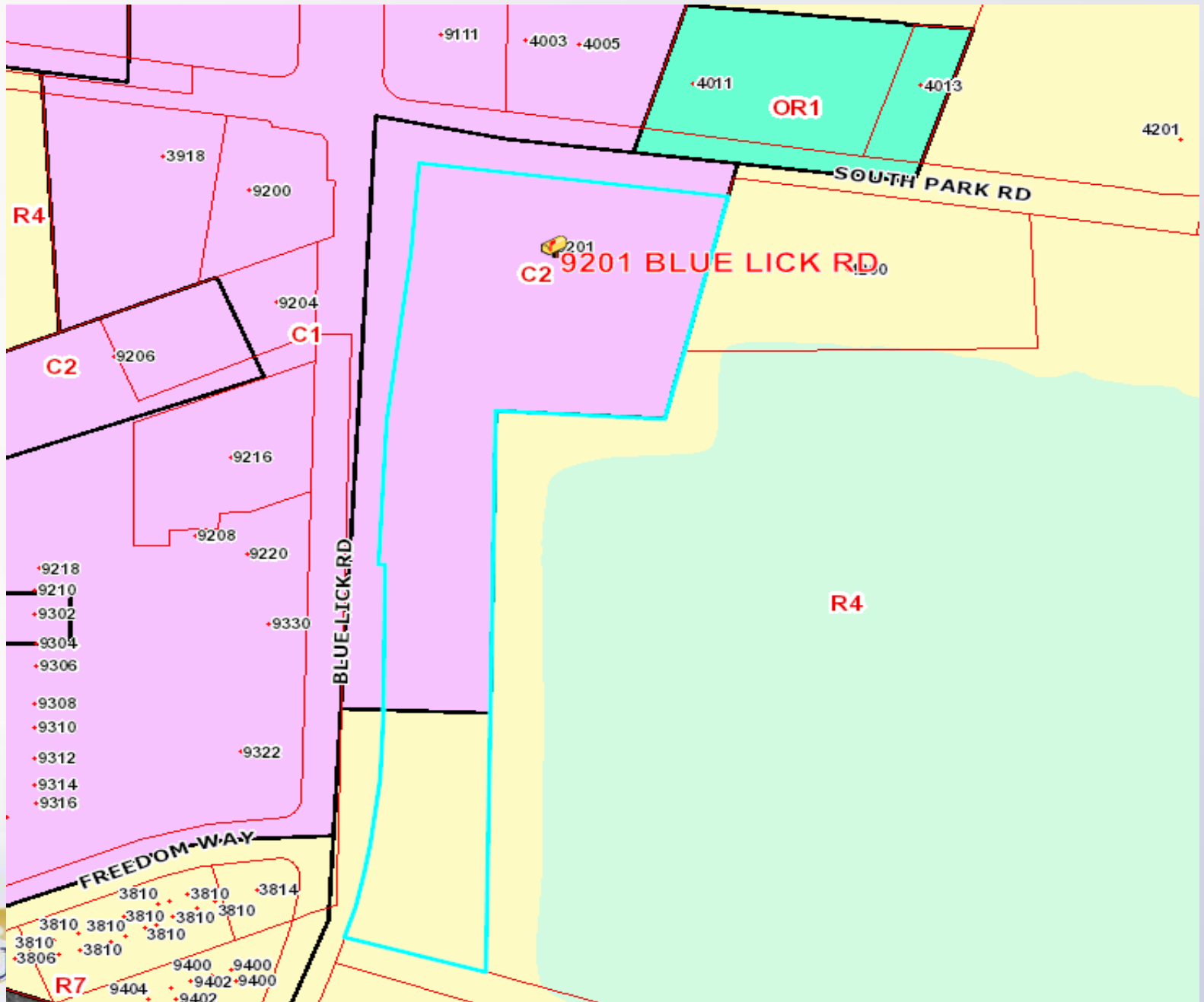
THE SUBJECT SITE REMAINS IN VIOLATION OF THE APPROVED DISTRICT DEVELOPMENT PLAN.

- PC Hearing **May 17, 2012**
- BE NOV 3 issued **MARCH 25, 2015**
- BE Citation 2 issued **OCTOBER 28, 2015**
- BE Citation 2 reissued **FEBRUARY 9, 2016**

Zoning/Form Districts

- Subject Property:
 - Zoning District: C-2 & R-4
 - Form District: Neighborhood

- Adjacent Properties:
 - North: C-1 & OR-1/Neighborhood
 - South: R-4/Neighborhood
 - East: R-4/Neighborhood
 - West: C-1 & CN/Neighborhood





Site Inspection Photos 10/19/16



Site Inspection Photos 10/19/16



Site Inspection Photos 8/3/16



Site Inspection Photos 6/1/16



Site Inspection Photos 6/1/16



Site Inspection Photos 6/1/16



Site Inspection Photos 5/18/16



Site Inspection Photos 5/18/16



Site Inspection Photos 4/6/16



Site Inspection Photos 4/6/16



Site Inspection Photos 4/6/16



04/05/2016 11:09:52 AM



04/05/2016 11:10:03 AM



04/05/2016 11:25:30 AM



04/05/2016 11:25:53 AM

Site Inspection Photos 4/6/16



Site Inspection Photos 3/17/16



Site Inspection Photos 3/17/16



Site Inspection Photos 3/17/16



Site Photos



Site Photos



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10/27/2015 09:05:31 AM



10/27/2015 09:05:24 AM



10/27/2015 09:05:41 AM

Site Photos



Site Photos



Site Photos



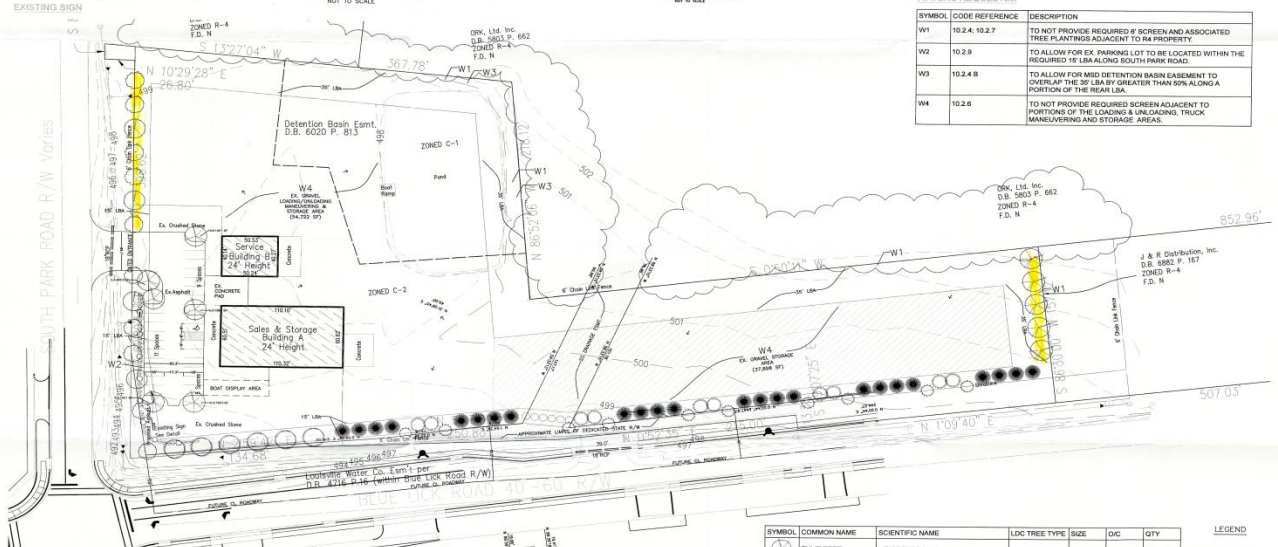
Site Photos



Development Plan

PRELIMINARY APPROVAL
 Condition of Approval:
 11-14-12
 Development Review
 LOUISVILLE & JEFFERSON COUNTY
 METROPOLITAN SEWER DISTRICT

TREE PLANTING DETAIL
 NOT TO SCALE



PRELIMINARY APPROVAL
DEVELOPMENT PLAN
 CONDITION:
 BY: *Tommy Nix*
 DATE: *11-14-12*
 LOUISVILLE & JEFFERSON COUNTY
 METRO PUBLIC WORKS

NOTICE
 PERMITS SHALL BE ISSUED
 ON / IN CONFORMANCE
 WITH THE BINDING ELEMENTS
 OF THIS DISTRICT
 DEVELOPMENT PLAN.

METRO Revised
 APPROVED DISTRICT
 DEVELOPMENT PLAN
 CALL: DP-15424-11
 APPROVAL DATE: Dec 17, 2012
 EXPIRATION DATE: Dec 17, 2017
 SIGNATURE OF PLANNING COMMISSION
Jan Trumb

SYMBOL	COMMON NAME	SCIENTIFIC NAME	LDC TREE TYPE	SIZE	DC	QTY
(Symbol)	TULIP TREE	LIRIODENDRON TULIPIFERA	A	1.34"	23	11
(Symbol)	WHITE PINE	PINUS STROBUS	A	1.34"	15	24
(Symbol)	VIRGINIA PINE	PINUS VIRGINIANA	A	1.34"	12	10
(Symbol)	YELLOWWOOD	CLADAPTESIS KENTUCKIA	B	1.34"	25	10
(Symbol)	CEDAR	JUNIPERUS VIRGINIANA	B	7/8"	12	10
(Symbol)	GOLDEN RAIN TREE	KOELREUTERIA PANICULATA	B	1.34"	25	4
(Symbol)	REDBUD	CERIS GANADENSIS	C	1.34"	25	8
(Symbol)	ARROWWOOD	VIBURNUM DENIATUM	B	18"	6	6
(Symbol)	DWARF FOTHERGILLA	FOTHERGILLA GARDENII	B	18"	6	8
(Symbol)	TAXUS	TAXUS X MEDIA "DENSIFORM"	B	18"	4	35

LEGEND

- ANCHOR
- CABLE BOX
- CATCH BASIN
- ELECTRIC BOX
- ELECTRIC MANHOLE
- FIRE HYDRANT
- GAS METER
- GAS VALVE
- LIGHT STANDARD
- MAILBOX
- MANHOLE
- PAPER BOX
- POWER POLE
- SIGNAL BOX
- SIGNAL POLE
- SEWER MANHOLE
- SPRINKLER
- GAS VALVE
- TELEPHONE BOX
- TELEPHONE MANHOLE
- TRASH CAN
- WATER METER
- WATER VALVE



PARKING TABULATION

RETAIL:
 1 SPACE PER 250 S.F. INDOOR DISPLAY (MIN) 4295 S.F. @ 1.7250 S.F. = 17
 1 SPACE PER 100 S.F. INDOOR DISPLAY (MAX) 4295 S.F. @ 1.1500 S.F. = 29

SERVICE:
 3 EMPLOYEES @ 1 EACH = 3
 1 SPACE PER EMPLOYEE + 5 SPACES PER SERVICE BAY (MIN) LESS 2 BAYS = 2
 2 BAYS @ 2 BAY + 4 MIN. = 2 + 2 MIN
 2 BAYS @ 2 BAY + 10 MAX. = 2 + 2 MAX
 TOTAL NUMBER OF SPACES REQUIRED = 24 + 1 Handicapped = 25

TREE CANOPY DATA

NET SITE AREA 4.74 AC (205,662 SF)
 EX CANOPY COVERAGE 0%
 REQUIRED TREE CANOPY 41,338 SF (20% x 206,662 SF)

TYPE	QTY	SF	TOTAL SF
A	45	720	32,400 SF
B	24	432	10,368 SF
C	6	108	636 SF
TOTAL			43,404 SF

WAVERS REQUESTED

SYMBOL	CODE REFERENCE	DESCRIPTION
W1	10.2.4.10.2.7	TO NOT PROVIDE REQUIRED SCREEN AND ASSOCIATED TREE PLANTING ADJACENT TO THE PROPERTY
W2	10.2.9	TO ALLOW FOR EX. PARKING LOT TO BE LOCATED WITHIN THE REQUIRED 10' LANDING SOUTH PARK ROAD.
W3	10.2.4.8	TO ALLOW FOR LAND DETENTION BASIN CASSEMENT TO OVERLAP THE SW CORNER OF THE LOT TO OCCUPY A PORTION OF THE REAR LOT.
W4	10.2.2	TO NOT PROVIDE REQUIRED SCREEN ADJACENT TO PORTIONS OF THE LOADING & UNLOADING, TRUCK MANEUVERING AND STORAGE AREAS.

- LANDSCAPE NOTES**
- This is a compliance plan and no construction is proposed.
 - Grass or ground cover shall be planted on all portions of the landscape buffer area not occupied by other landscape material.
 - The ground plans of all interior landscape areas (LA) shall be planted using either shrubs, groundcover, or turf.
 - All plant material located within a utility easement that is damaged or removed due to work required by the utility company shall be immediately replaced by the owner in accordance with Chapter 10 requirements.
 - All service structures shall be screened in accordance with Chapter 10, Section 10.2.6 and 10.4.6. Service structures include but are not limited to propane tanks, dumpsters, HVAC units, electric transformers, and telecom boxes.
 - Existing trees and plants are being used to meet Landscape Code requirements. If any tree die or are without they will be replaced as per the Landscape Code requirements of applicable.
 - It will be the responsibility of the property owner to perpetually maintain all landscape areas and associated plant material required under Land Development Code regulations. The property owner shall also be responsible for maintaining the verge and associated trees within the verge unless the agency having jurisdiction over that verge assumes that responsibility.
 - All unhealthy or dead plant material shall be replaced within one year, or by the end of the planting period, whichever comes first, unless other alternative plant material shall be replaced or repaired within three (3) months.
 - Light poles, sidewalks, benches, etc. shall not occupy more than 25% of any interior Landscape Area (LA) or reduce the width of any planned area to less than 4 feet. Contractor to coordinate light pole locations with landscape plan. Light poles shall not be in conflict with proposed plantings.
 - Street trees shall be planted in a manner that does not affect public safety and maintains proper sight distance.
 - If applicable, irrigation will be provided as required where berms or outdoor mounds are proposed. This irrigation system will be designed to provide adequate watering for the proposed plant material and trees. The system will consist of several watering zones with pop-up and rotating irrigation heads controlled by a central timer. The proposed system shall be installed prior to planting.
 - The required landscape plan shall be shown and approved on this landscape plan are required to be installed by 11/15/2012 by owner or the planning commission on May 15, 2012.
 - Services structures must be screened as required by Chapter 10. Service structures include but are not limited to propane tanks, dumpsters, HVAC units, electric transformers, telecom boxes, etc.
 - VIA screen shrubs are to be planted no greater than 4' from edge of pavement measured to centerline of plants.

BUILDING DATA

EX SALES AND SERVICE BUILDING 'A':
 BUILDING HEIGHT 24'
 1ST FLOOR AREA 6,874 SF
 GROSS FLOOR AREA 2,418 SF
 GROSS TOTAL AREA 9,292 SF

EX SERVICE BUILDING 'B':
 BUILDING HEIGHT 24'
 1ST FLOOR AREA 2,555 SF
 GROSS TOTAL AREA 2,555 SF

SITE DATA

OWNER/APPLICANTS:
 Richard J. and Betty Engle
 J&R Outboard - Boat Sales and Service
 8210 Blue Lick Road
 Louisville, KY 40229

TAX BLOCK & LOT NUMBER:
 D-2 & PARCEL NUMBER: 09600000000
 C-28 PG 0535
 ZONING & FORM DISTRICT: C-28
 GROSS SITE AREA: 5.34 ACRES (230,988 SF)
 DEDICATED RIGHT OF WAY: 0.266 ACRES (11,590 SF)
 NET ACRES: 4.15 ACRES (179,698 SF)
 EXISTING USE: Boat Sales and Repair
 PROPOSED USE: Boat Sales and Repair

VIA DATA

VIA REQUIREMENT: 8566.70 SF
 I.A. PROVIDED: 1,188.93 SF

- NOTE:**
- PARKING SPACES TO BE 5' BY 11'.
 - THERE ARE NO NEW OUTDOOR DISPLAY AREAS.
 - EXISTING SERVICE BLDG # 632 2 20 FT SERVICE BLDG = 2,028.3 SQ FT GROSS FLOOR AREA = 856.4 SQ FT.

REVISED DISTRICT DEVELOPMENT PLAN & LANDSCAPE PLAN

General Notes

J&R Outboard
 9201 Blue Lick Road
 Louisville, Kentucky 40229

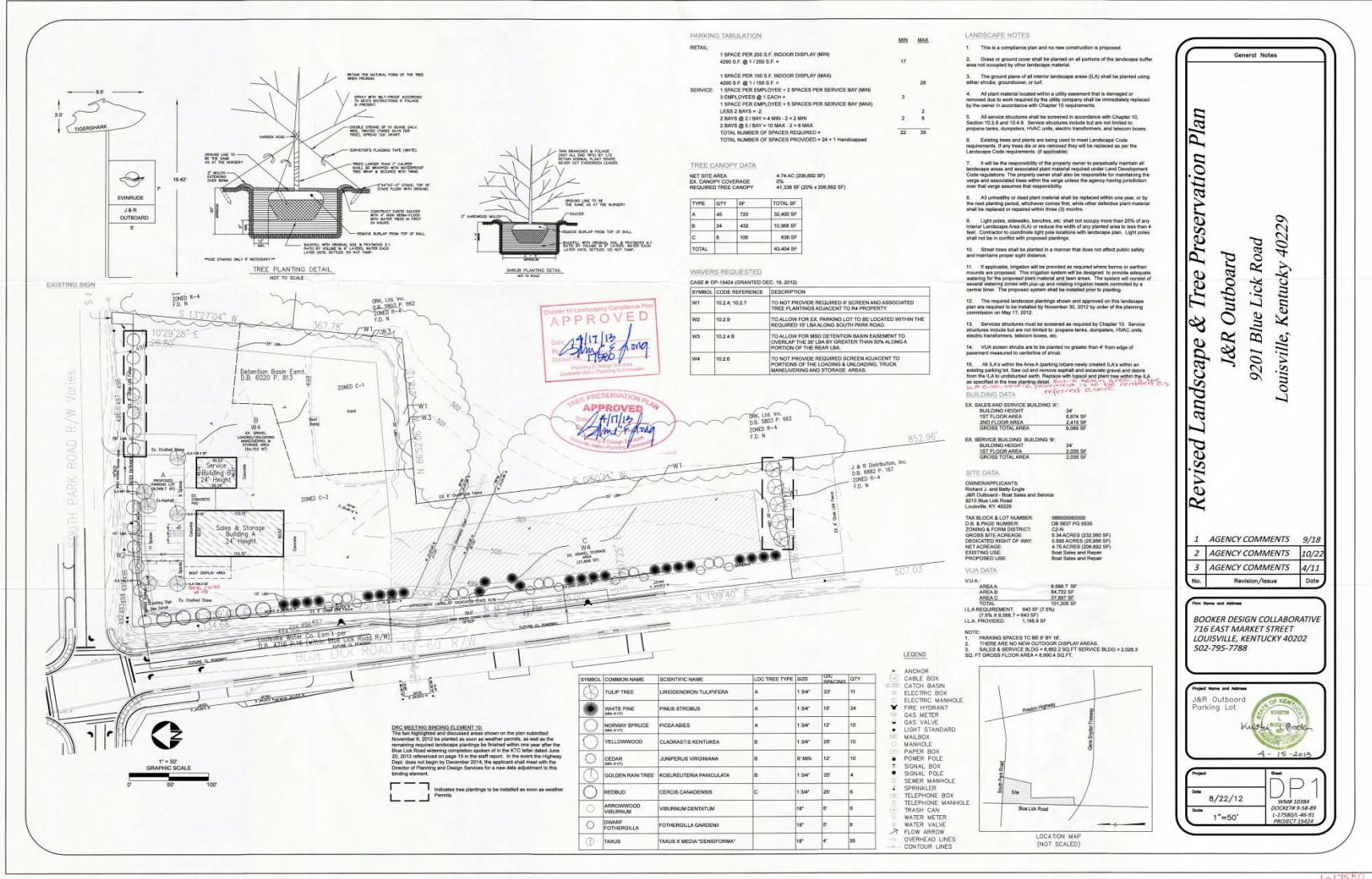
No.	AGENCY COMMENTS	Date
1	AGENCY COMMENTS	9/18
2	AGENCY COMMENTS	10/22
	Revision/Issue	Date

Project Name and Address:
 Booker Design Collaborative
 716 East Market Street
 Louisville, Kentucky 40202
 502-795-7788

Project Name and Address:
 J&R Outboard
 Parking Lot

Project: DP1
 Date: 8/22/12
 Scale: 1"=50'

Landscape Plan



PARKING TABULATION

RETAIL:	MIN	MAX
1 SPACE PER 250 S.F. INDOOR DISPLAY (MIN) 4200 S.F. @ 1 / 250 S.F. =	17	
1 SPACE PER 150 S.F. INDOOR DISPLAY (MAX) 4200 S.F. @ 1 / 150 S.F. =		28
1 SPACE PER EMPLOYEE + 2 SPACES PER SERVICE BAY (MIN)	3	
3 EMPLOYEES @ 1 EACH +		
1 SPACE PER EMPLOYEE + 5 SPACES PER SERVICE BAY (MAX)		8
LESS 2 BAYS = 2	2	
2 BAYS @ 2 BAY = 4 MIN. 2 + 2 MIN.		
2 BAYS @ 2 BAY = 10 MAX. 2 + 8 MAX.		
TOTAL NUMBER OF SPACES REQUIRED =	22	38
TOTAL NUMBER OF SPACES PROVIDED = 24 + 1 Handicapped		

TREE CANOPY DATA

NET SITE AREA	4.74 AC (206,932 SF)		
EX. CANOPY COVERAGE	0%		
REQUIRED TREE CANOPY	41,338 SF (20% x 206,932 SF)		
TYPE	QTY	SF	TOTAL SF
A	45	729	32,490 SF
B	24	432	10,368 SF
C	6	106	636 SF
TOTAL			43,494 SF

WAIVERS REQUESTED

CASE # DP-15424 (GRANTED DEC. 19, 2012)

SYMBOL	CODE REFERENCE	DESCRIPTION
W1	10.2.4, 10.2.7	TO NOT PROVIDE REQUIRED IF SCREEN AND ASSOCIATED TREE PLANTING ADJACENT TO THE PROPERTY.
W2	10.2.9	TO ALLOW FOR EX. PARKING LOT TO BE LOCATED WITHIN THE REQUIRED 10' BUFFER ALONG SOUTH PARK ROAD.
W3	10.2.4.9	TO ALLOW FOR MED DETENTION BASIN EXISTENCE TO OVERLAP THE 10' L.S.B.A BY GREATER THAN 50% ALONG A PORTION OF THE REAL L.S.A.
W4	10.2.6	TO NOT PROVIDE REQUIRED SCREEN ADJACENT TO PORTIONS OF THE LOADING & UNLOADING TRUCK MANEUVERING AND STORAGE AREAS.

- ### LANDSCAPE NOTES
- This is a compliance plan and no new construction is proposed.
 - Grass or ground cover shall be planted on all portions of the landscape buffer area not occupied by other landscape materials.
 - The ground planes of all interior landscape areas (LAs) shall be planted using other shrubs, groundcover or turf.
 - All plant material located within a utility easement that is damaged or removed due to work required by the utility company shall be immediately replaced by the owner in accordance with Chapter 12 requirements.
 - All plant material located within a utility easement that is damaged or removed due to work required by the utility company shall be immediately replaced by the owner in accordance with Chapter 12 requirements.
 - All service structures shall be screened in accordance with Chapter 10, Section 10.2.6 and 10.4.6. Service structures include but are not limited to: program tanks, dumpsters, HVAC units, electric transformers, and telecom boxes.
 - Existing trees and plants are being used to meet Landscape Code requirements. If any trees are or are removed they will be replaced as per the Landscape Code requirements. (If applicable)
 - If applicable, irrigation will be provided as required where berms or curbs are proposed. This irrigation system will be designed to provide adequate watering for the proposed plant material and lawn areas. The system will consist of several mainlines with pop-ups and existing irrigation heads controlled by a central timer. The proposed system shall be installed prior to planting.
 - The required drainage shown and approved on this landscape plan are required to be installed by November 30, 2012 in order of the planning commission on May 1, 2012.
 - Service structures must be screened as required by Chapter 10, Section 10.2.6 and 10.4.6. Service structures include but are not limited to: program tanks, dumpsters, HVAC units, electric transformers, telecom boxes, etc.
 - VGA screen structures are to be planted no greater than 4' from edge of pavement structure to continue of drive.
 - All utility lines and easels (including those already installed) shall be within an existing parking lot. Same cut and remove asphalt and excavate gravel and stones from the lot to install utility lines. Furnish with typical grid plant tree within the L.A. as specified in the tree planting detail. *See notes on landscape plan for utility lines and easels.*

General Notes

Revised Landscape & Tree Preservation Plan
J&R Outboard
9201 Blue Lick Road
Louisville, Kentucky 40229

Complies with Landscape Compliance Plan
APPROVED
 Date: 12/11/12
 Planning & Zoning
 Louisville Metro Government

TREE PRESERVATION PLAN
APPROVED
 Date: 12/11/12
 Planning & Zoning
 Louisville Metro Government

BUILDING DATA

EX. SALES AND SERVICE BUILDING 'X'	SF
BUILDING HEIGHT	24'
NET FLOOR AREA	6,074 SF
GROSS FLOOR AREA	6,074 SF
EX. SERVICE BUILDING 'W'	SF
BUILDING HEIGHT	24'
NET FLOOR AREA	2,035 SF
GROSS FLOOR AREA	2,035 SF

SITE DATA

OWNERS/APPLICANTS:
 Richard J. and Betsy Cagle
 J&R Outboard - Boat Sales and Service
 9201 Blue Lick Road
 Louisville, KY 40229

TAX BLOCK & LOT NUMBER:
 D.B. & PAGE NUMBER:
 C.B.N.
 GROSS SITE ACRES: 5.34 ACRES (232,960 SF)
 GROSS EXIST. CB ACRES: 0.166 ACRES (7,266 SF)
 NET ACRES: 4.18 ACRES (182,694 SF)
 EXISTING USE:
 Boat Sales and Repair

PROPOSED USE:
 Boat Sales and Repair

VGA DATA

AREA 'A'	9,687 SF
AREA 'B'	65,722 SF
AREA 'C'	37,897 SF
TOTAL	111,306 SF

LLA REQUIREMENT: 845 SF (7.5%)
 (7.5% x 111,306 SF)
 LLA PROVIDED: 1,188 SF

No.	Revision/Issue	Date
1	AGENCY COMMENTS	9/18
2	AGENCY COMMENTS	10/22
3	AGENCY COMMENTS	4/11

BOOKER DESIGN COLLABORATIVE
 715 EAST MARKET STREET
 LOUISVILLE, KENTUCKY 40202
 502-795-7788

Project Name and Address
 J&R Outboard
 Parking Lot

City of Louisville
 Planning & Zoning
 15-2012

Project No: DP1
 Date: 8/22/12
 Scale: 1"=50'

Sheet: DP1
 DATE: 8/22/12
 DRAWN BY: J&R
 CHECKED BY: J&R
 PROJECT: 15424

LEGEND

ANCHOR	ANCHOR
CABLE BOX	CABLE BOX
CATCH BASIN	CATCH BASIN
ELECTRIC BOX	ELECTRIC BOX
ELECTRIC MANHOLE	ELECTRIC MANHOLE
FIRE HYDRANT	FIRE HYDRANT
GAS METER	GAS METER
GAS VALVE	GAS VALVE
LIGHT STANDARD	LIGHT STANDARD
MAILBOX	MAILBOX
MANHOLE	MANHOLE
PAPER BOX	PAPER BOX
POWER POLE	POWER POLE
SIGNAL BOX	SIGNAL BOX
SIGNAL POLE	SIGNAL POLE
SPRINKLER	SPRINKLER
SEWER MANHOLE	SEWER MANHOLE
TELEPHONE BOX	TELEPHONE BOX
TELEPHONE MANHOLE	TELEPHONE MANHOLE
TRASH CAN	TRASH CAN
WATER METER	WATER METER
WATER VALVE	WATER VALVE
FLOW ARROW	FLOW ARROW
OVERHEAD LINES	OVERHEAD LINES
CONTOUR LINES	CONTOUR LINES

SYMBOL	COMMON NAME	SCIENTIFIC NAME	LOG TREE TYPE	SIZE	QTY	QTY
●	FULP TREE	LIRIODENDRON TULIPIFERA	A	1 3/4"	23	11
●	WHITE PINE	PINUS STROBUS	A	1 3/4"	19	24
●	NORWAY SPRUCE	PICIA ABIES	A	1 3/4"	12	10
●	YELLOWWOOD	CLADRASTIS KENTUCKEA	B	1 3/4"	20	10
●	CEDAR	JUNIPERUS VIRGINIANA	B	6" MIN.	12	10
●	GOLDEN RAIN TREE	KOELREUTERIA PANICULATA	B	1 3/4"	20	4
●	REDBUD	CERIS CANADENSIS	C	1 3/4"	20	5
●	ARROWWOOD	VIBURNUM DENTATUM	18"	9	5	
●	DOGWOOD	VIBURNUM DENTATUM	18"	9	5	
●	FOTHERGILLA	FOTHERGILLA GARDENI	18"	9	5	
●	TAXUS	TAXUS X MEDIA "DENSIFORMA"	18"	4"	35	

DRG MEETING MINING ELEMENT 30
 The tree highlighted and circled areas shown on the plan submitted November 6, 2012 be planted as soon as weather permits, as well as the remaining required landscape openings be finished within one year after the Blue Lick Road widening completion opens in the KYC letter dated June 20, 2012 referenced on page 15 of the staff report. In the event the Highway Dept. does not begin by December 2014, the applicant shall meet with the Director of Planning and Zoning to discuss for a new date adjustment to the binding element.

Includes tree plantings to be installed as soon as weather permits.

Existing BE Violations

- Permitted items in outdoor storage areas on-site must be located on a hard and durable surface per LDC guidelines.
- The hard and durable surface must be installed as shown on the approved plan.
- Landscaping must be installed per the approved landscape plan.

Compliance

- Removal of all non-permitted items from site by October 6, 2016.
- Installation of all required parking spaces and ILA's by October 6, 2016.
- Installation of required landscaping during Fall 2016 Planting Season.

Commission Shall Take the Following Actions:

- The Planning Commission shall determine based on the evidence presented at this hearing, whether a violation of Binding Element # 1 occurred.
- If the Commission determines that a violation occurred, the Commission shall issue an order upholding the citation and may order the offender to pay a civil fine in an amount up to \$4,000 per day of violation, or may issue a remedial order, or both.
- If the Commission determines that no violation occurred, an order dismissing the citation shall be entered.