

# Development Review Committee

## Staff Report

November 4, 2015



<b>Case No:</b>	15MISC1008
<b>Project Name:</b>	J & J Tool Company
<b>Location:</b>	3306 Linda Lane
<b>Owner(s):</b>	Kent Barger, J & J Tool Co
<b>Applicant:</b>	Owner
<b>Representative:</b>	James Griffin, Evans/Griffin
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	1 – Jessica Green
<b>Case Manager:</b>	Sherie' Long, Landscape Architect

### REQUESTS

- Waiver #1:** Waiver of the Land Development Code Sections 5.8.1.B and 5.9.2.A.1.b.i, to not provide a sidewalk along the frontage of Linda Lane; and not to provide the pedestrian connection from the building entrance to the right-of-way.
- Waiver #2:** Waiver of the Land Development Code Section 10.2.7, to eliminate planting and screening requirements within the 15' expressway buffer adjacent to I-264.
- Waiver #3:** Waiver of the Land Development Code Section 10.2.4, to reduce the rear property perimeter LBA from 25' to 15' along the southern boundary.
- Waiver #4:** Waiver of the Land Development Code Sections 10.2.4, to eliminate the required 25' property perimeter LBA along the eastern boundary.

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

This is a Category 2B Development Plan. The applicant is proposing a new 4,980sf addition to be constructed at the rear of the existing building on property located on the south side of Linda Lane which is west of Cane Run Road and east of I-264 (Shawnee Expressway). The proposal is to provide the required tree canopy plantings along with the rear perimeter plantings and screening. However, the applicant is requesting the elimination of the expressway perimeter and the eastern perimeter buffer and planting. The applicant is also requesting to not provide the sidewalks along the street perimeter. The elimination of the sidewalk request is similar to a request previously granted for the development at 3305 Linda Lane, which is across the street.

### BACKGROUND/ PREVIOUS CASES

**15MISC1008:** Category 2B Development Plan – pending approval.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

	Land Use	Zoning	Form District
<b>Subject Property</b>			
<b>Existing</b>	Manufacturing	M-2	TW
<b>Proposed</b>	NA		
<b>Surrounding Properties</b>			
<b>North</b>	Church/ I-264 ROW	M-2/C-2	TW
<b>East</b>	Church/ Commercial Retail/ Commercial Warehouse/ Single Family Residential	M-2/C-2/R-4	TW
<b>South</b>	Commercial Warehouse/ Commercial Retail	C-2/R-4	TW
<b>West</b>	Single Family Residential/ I-264 ROW	R-4	TW

**INTERESTED PARTY COMMENTS**

No inquiries have been received.

**APPLICABLE PLANS AND POLICIES**

Land Development Code  
Cornerstone 2020

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR SIDEWALK WAIVER**

**Waiver #1:** Waiver of the Land Development Code Sections 5.8.1.B and 5.9.2.A.1.b.i, to not provide a sidewalk along the frontage of Linda Lane; and not to provide the pedestrian connection from the building entrance to the right-of-way.

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

STAFF: The waiver will not adversely affect adjacent property owners since there are no sidewalks located in the vicinity. However, a transit route does serve the area with a stop located within a short walk from the development. Sidewalks and the pedestrian connection to the right-of-way would allow an alternative safe path.

(b) The waiver will not violate specific guidelines of Cornerstone 2020.

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The waiver request does violate the comprehensive plan since there is a transit stop in the vicinity. However, there are no sidewalks located within the vicinity of this site either along Linda Lane or Cane Run Road.

(c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant

STAFF: The extent of waiver of the regulation is not the minimum necessary to afford relief to the applicant since the existing site condition allows for the construction of the sidewalks and the pedestrian connection. There are no site features restricting the construction of sidewalks and the pedestrian connection.

(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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER**

**Waiver #2:** Waiver of the Land Development Code Section 10.2.7, to eliminate planting and screening requirements within the 15' expressway buffer adjacent to I-264.

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

STAFF: The waiver will not adversely affect adjacent property owners since there is a difference of grade from the traveling lanes of the Expressway to the property perimeter of the site. Plus this ascending slope has existing vegetation beyond the property line

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate the comprehensive plan. There is a difference in grade from the traveling lanes of the expressway to the development site. This ascending slope contains existing trees and vegetation which create a natural buffer between the two uses. This natural buffer is however, located in the right-of-way of the expressway, therefore not guaranteed to not be removed in the future.

(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 not the minimum necessary to afford relief to the applicant since the required tree plantings can be provided

- (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 applicant has not incorporated other design measures that exceed the minimums of the district to compensate for non-compliance with the requirements to be waived. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant since the proposed development can be built on the site while complying with the requirements requested to be waived.

### STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER

**Waiver #3:** Waiver of the Land Development Code Section 10.2.4, to reduce the rear property perimeter LBA from 25' to 15' along the southern boundary.

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

STAFF: The waiver will not adversely affect adjacent property owners since the proposal is to provide the required perimeter screening and tree plantings in the reduced buffer area.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver request does not violate the comprehensive plan. The proposal is to provide the required screen and tree planting in the reduced landscape buffer area.

- (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 since the reduced buffer will be planted with the required trees and the required screen will also be provided in the reduce buffer 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 applicant is incorporating the required plantings and screening in the reduce buffer area. The strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land. If the applicant is required to provide the total 25' LBA that would reduce the available storage and maneuvering area; and not allow the new addition to be the necessary size to accommodate the operation of the facility.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR LANDSCAPE WAIVER

**Waiver #4:** Waiver of the Land Development Code Sections 10.2.4, to eliminate the required 25' property perimeter LBA along the eastern boundary.

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

STAFF: The waiver will not adversely affect adjacent property owners since a portion the adjacent abutting property is an access and contains accessory structures for the residential property to the south. Plus the use of the property beyond the access is a commercial warehouse which is a compatible use to the proposal, therefore no buffer is necessary.

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

STAFF: Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to 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. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver does not violate the comprehensive plan since the abutting property along this perimeter is access to the residential property to the south and the location of accessory structures. Plus the next property, east of the access, is a commercial warehouse which is compatible with the use of the subject development; therefore no buffer would be necessary.

(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 since the existing conditions do not warrant the need to provide a buffer along this perimeter.

(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 deprive the applicant of the reasonable use of the land and create an unnecessary hardship. Providing the required 25' LBA would require the applicant to remove a portion of the existing structure which is unreasonable and a hardship.

### TECHNICAL REVIEW

There are no technical review issues.

### STAFF CONCLUSIONS

There is a transit stop within a short walk of the subject property; and there are no physical restrictions not allowing the construction; therefore sidewalk construction would be possible. However there are no existing sidewalks along either Cane Run Road or Linda Lane. Plus a sidewalk waiver was granted last year for the property which is across the street at 3305 Linda Lane.

The three landscape waivers appear to be justified. The proposal is to provide a reduced buffer area with the required tree planting and screen along the perimeter abutting the residential property. However, the required buffering along the perimeter abutting the access/commercial warehouse and the expressway do not merit the necessary of additional buffering.

Therefore, the Land Development & Transportation Committee must determine if the proposal meets the standard for waivers established in the Development Code based on the testimony and evidence provided at the public hearing.

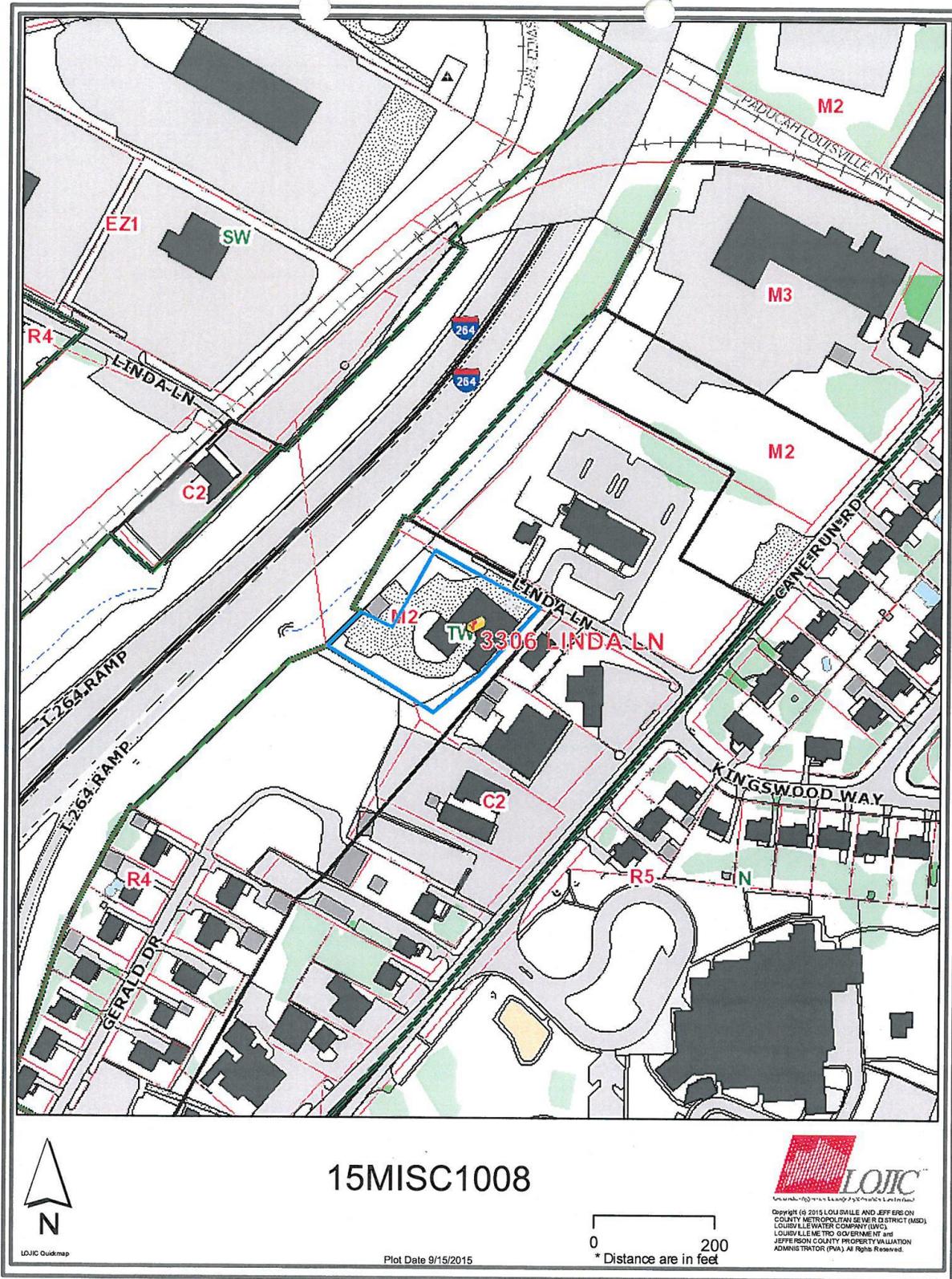
### NOTIFICATION

Date	Purpose of Notice	Recipients
10/16/2015	Public Hearing - DRC	Neighborhood notification recipients
10/19/2015	Public Hearing - DRC	1 <sup>st</sup> tier adjoining property owners

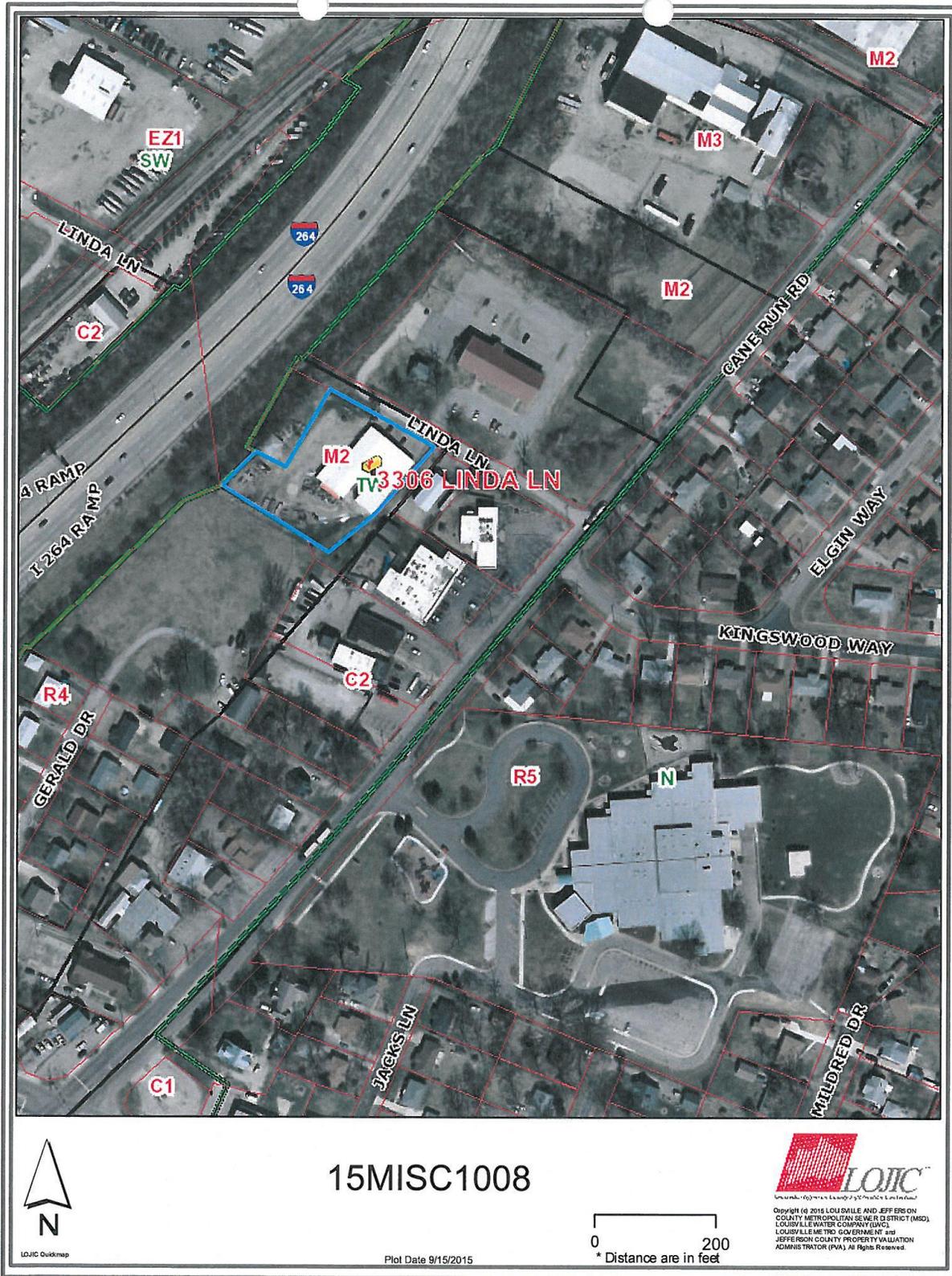
### ATTACHMENTS

1. Zoning Map
2. Aerial Photographs
3. Site Plan
4. Applicant's Justifications

Attachment 1: Zoning Map



Attachment 2: Aerial Photographs







**Attachment 4: Applicant's Justification**

**Sidewalk Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers the following criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

- 1. How does the proposed waiver conform to the Comprehensive Plan and the intent of the Land Development Code?**

THE LOCATION OF THE PROJECT IS IN AN INDUSTRIAL PARK SETTING AT THE END OF A STUB STREET. PEDESTRIAN MOVEMENT IS NOT ANTICIPATED. MOBILITY OF THE PUBLIC WOULD NOT BE FACILITATED IN THIS LOCATION.

- 2. Why is compliance with the regulations not appropriate, and will granting of the waiver result in a development more in keeping with the Comprehensive Plan and the overall intent of the Land Development Code?**

THE SITE FACILITIES ARE BEING EXPANDED FOR INDUSTRIAL PURPOSES. THERE ARE NO RESIDENTIAL LOTS IN THE VICINITY TO GENERATE PEDESTRIAN TRAFFIC.

- 3. What impacts will granting of the waiver have on adjacent property owners?**

GRANTING OF THE WAIVER WILL HAVE NO IMPACT ON THE ADJACENT PROPERTY OWNER. THE ADJACENT PROPERTY IS BEING DEVELOPED FOR INDUSTRIAL USES.

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- 4. Why would strict application of the provision of the regulations deprive you of reasonable use of the land or create an unnecessary hardship for you?**

RE-GRADING OF THE EXISTING NARROW R/W WOULD BE REQUIRED TO ALLOW CONSTRUCTION OF THE SIDEWALKS. THE RE-GRADING WOULD POTENTIALLY HAVE A NEGATIVE IMPACT ON THE SITE DRAINAGE SYSTEM.

15MISC1008

LDC 10.2.7

**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. Will the waiver adversely affect adjacent property owners?**

10.2.7. – THE WAIVER WILL NOT ADVERSELY AFFECT THE ADJACENT PROPERTY SINCE THE TOTAL FRONTAGE IS THE WATTERSON EXPRESSWAY WHERE EXISTING CONDITIONS WILL REMAIN.

**2. Will the waiver violate the Comprehensive Plan?**

10.2.7. – WAIVER WILL NOT VIOLATE THE COMPREHENSIVE PLAN. ACCESS TO THE SITE WILL NOT CHANGE.

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

10.2.7. – THE EXTENT OF THE WAIVER OF THE REGULATIONS IS THE MINIMUM NECESSARY TO AFFORD RELIEF SINCE THERE IS AMPLE EXISTING VEGETATION IN THE WATTERSON EXPRESSWAY RIGHT OF WAY.

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**4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

10.2.7. – STRICT APPLICATION OF THE PROVISIONS OF THE REGULATIONS WOULD DEPRIVE THE APPLICANT USE OF THE LAND AND WOULD REQUIRE PLACEMENT OF PLANTINGS IN AN AREA WHERE AN AMPLE AMOUNT EXIST IN THE WATTERSON EXPRESSWAY RIGHT OF WAY.

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**General Waiver Justification:**

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

**1. Will the waiver adversely affect adjacent property owners?**

10.2.4. – THE WAIVER WILL NOT ADVERSELY AFFECT THE ADJACENT PROPERTY SINCE THE REQUIRED LANDSCAPE AND SCREENING MATERIALS WILL BE INSTALLED ALONG THE COMMON PROPERTY.

**2. Will the waiver violate the Comprehensive Plan?**

10.2.4. – WAIVER WILL NOT VIOLATE THE COMPREHENSIVE PLAN. TREE CANOPY REQUIREMENTS WILL BE MET. ACCESS. ACCESS TO THE SITE WILL NOT CHANGE.

**3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?**

10.2.4. – THERE WILL BE AMPLE LANDSCAPE AND SCREENING MATERIALS INSTALLED TO JUSTIFY THE WAIVER.

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**4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?**

10.2.4. – THE BUILDING SIZE AND SITE LAYOUT IS NECESSARY FOR A SUCCESSFUL EXPANSION. REDUCING THE BUFFER SIZE WILL CONTRIBE TO THE SITE.

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