

Board of Zoning Adjustment

Staff Report

October 3, 2016



Case No:	16VARIANCE1035
Request:	Proposed Vehicle Use Area to encroach into streamside buffer
Project Name:	Algood Manufacturing
Location:	10611 Freeport Drive
Owner:	Cecil C Barnette Family, LLC
Applicant:	Cecil C Barnette Family, LLC
Representative:	Ashley Bartley, QK4
Jurisdiction:	Louisville Metro
Council District:	12 – Rick Blackwell
Case Manager:	Laura Mattingly, Planner I

REQUEST

- Variance from the Land Development Code 4.8.6 to allow vehicle use area in the required 100' streamside buffer.

Location	Requirement	Request	Variance
Eastern side- Length of Stream	100 ft.	Maximum 54.5 ft.	Maximum 45.5 ft.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

This case was continued from the September 12, 2016 BOZA hearing in order for MSD to respond to questions from the Board.

The applicant is proposing a 210,000 square foot warehouse on a vacant parcel within the Riverport Industrial subdivision, located in southwest Louisville. The proposal includes the 25 parking spaces and a truck maneuvering and docking area. Black Pond Creek runs along the eastern property line of the site. The truck maneuvering area on the east side of the site encroaches into the required 100 foot required stream side buffer 45.5 feet at the farthest point, down to about 10 feet at the smallest point. A variance is required to allow the impervious surface to encroach into this protected area.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Vacant	EZ-1	SW
Proposed	Warehouse	EZ-1	SW
Surrounding Properties			
North	Vacant	EZ-1	SW

South	Warehouse	EZ-1	SW
East	Single Family Residential	R-5A	N
West	Warehouse	EZ-1	SW

PREVIOUS CASES ON SITE

- 9-58-96- Rezoning from R-1 to EZ-1 for warehouse and commercial uses and detailed development plan approved December 22, 1999.
- 10-20-96- Preliminary subdivision plan for Riverport Phase III.

INTERESTED PARTY COMMENTS

Liz Kennedy, Legislative Assistant for Councilman Rick Blackwell’s office, did have a neutral inquiry about the nature of the variance.

APPLICABLE PLANS AND POLICIES

Land Development Code
Comprehensive Plan

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE from Section 4.8.6

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the encroachment will be mitigated with a bioswale and additional plantings to add to the streamside buffer, as well as the Landscape Buffer Area along the eastern property line, increasing the overall plantings within the buffer.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the variance request is located behind the proposed warehouse and will not affect views from Freeport Drive.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as mitigation measures are being put in place to compensate for the increased runoff and potential negative effects on the stream and neighboring properties.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the applicant has agreed to mitigate with plantings beyond the minimum requirements, as well as a bioswale which meets the intent of the buffer.

ADDITIONAL CONSIDERATIONS:

- 1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as this industrially zoned lot is very narrow for a typical large warehouse.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or 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 as the building would not be able to be built large enough to meet the needs of the applicant.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as this is a new proposal, although the constraints of the size of the property and stream have existed prior to the current regulations.

TECHNICAL REVIEW

- The applicant has agreed to work with the Planning & Design Landscape Architect at the landscape plan approval stage to add new plantings within the streamside buffer for further mitigation of the encroachment, as well as a bioswale.
- The proposed development plan, 16DEVPLAN1110, was approved at Development Review Committee on August 31st, 2016.
- A portion of this site lies in the 100 year floodplain.

STAFF CONCLUSIONS

Due to the mitigation measures proposed, the variance appears to be adequately justified and meets the standard of review. Staff recommends an **APPROVAL ON CONDITION** that the applicant, in addition to the required Landscape Buffer Area plantings along the eastern property line, provides a mix of deciduous and evergreen trees along the western side of the stream in the areas of sparse vegetation for a total of two times the amount of LBA trees required.

- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code from section 4.8.6 to allow vehicle use area in the required 100' streamside buffer.

REQUIRED ACTIONS

APPROVE or DENY

- Variance from the Land Development Code 4.8.6 to allow vehicle use area in the required 100' streamside buffer.

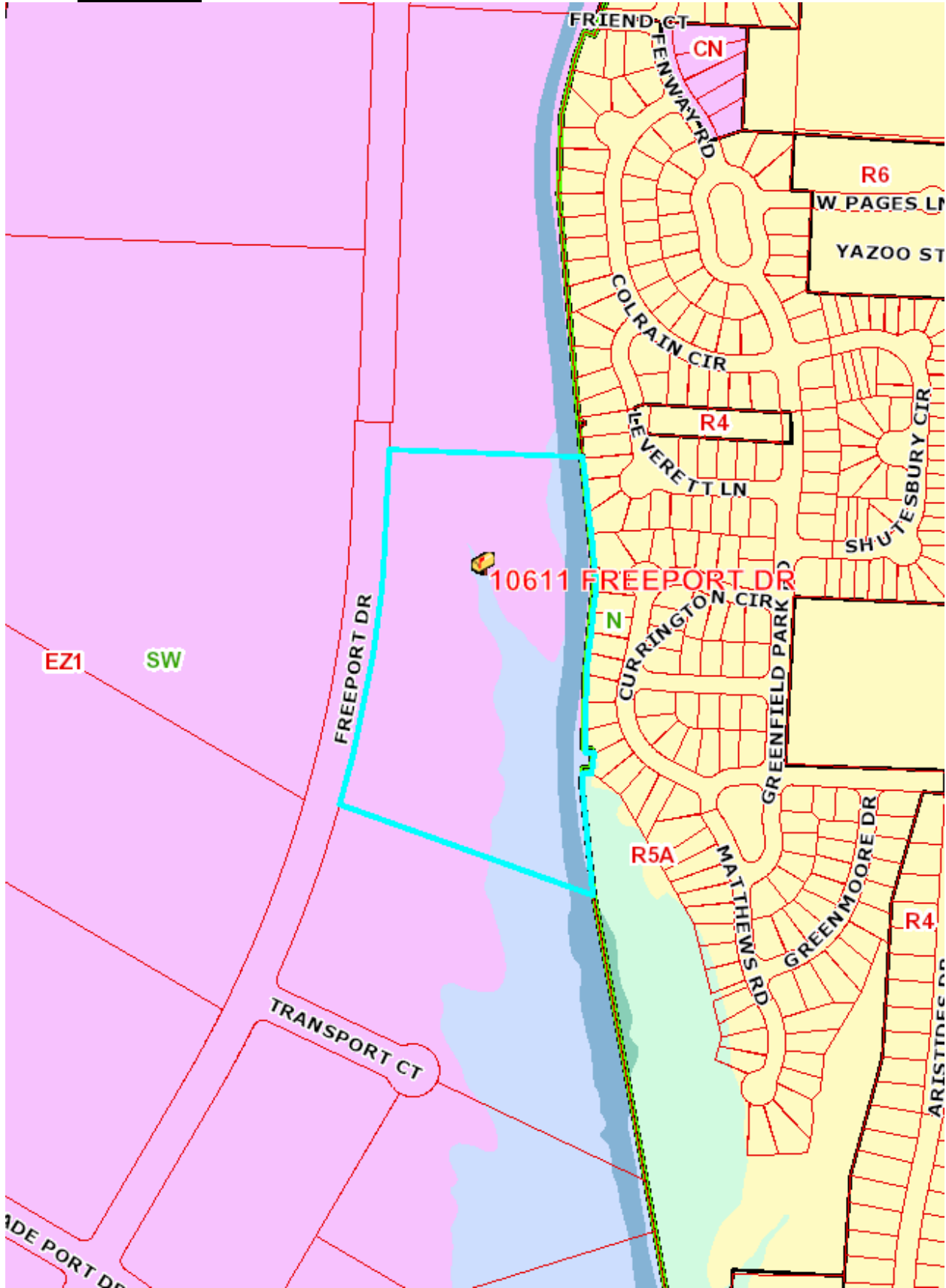
NOTIFICATION

Date	Purpose of Notice	Recipients
August 26, 2016	Hearing before BOZA	1 st tier adjoining property owners
August 24, 2016	Hearing before BOZA	Subscribers of Council District 20 Notification of Development Proposals
August 26, 2016	Sign Posting for BOZA	Sign Posting on property

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

