

Land Development & Transportation Committee Staff Report

September 24, 2015



Case No:	15MOD1015
Project Name:	Foster Hydraulics
Location:	7800 Johnsonstown Road
Owners:	Timothy B. Foster
Applicant:	Timothy B. Foster
Representative:	Bardenwerper, Talbott & Roberts PLLC
Existing Zoning District:	EZ-1
Existing Form District:	Neighborhood
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Brian Davis, AICP, Planning Supervisor

REQUEST

- Amendment to Binding Elements

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The subject site is plan certain under Docket 9-15-96. The applicant currently operates a hydraulics business on the property. The property has been used by Foster Hydraulics for manufacturing, rebuilding, and repairing hydraulic equipment before the rezoning change, operating as a legal non-conforming use which it continues to this day. The request for zoning change was related to the effort by the owners to construct a new building on the property to combine all existing operations and storage under one roof. The rezoning was approved by the Planning Commission with 13 binding elements. The applicant is now requesting to eliminate Binding Elements 1, 2 and 4 which read as follows:

1. The development plan shall be in accordance with the approved district development plan and the agreed upon binding elements. No further development shall occur without prior approval from the Planning Commission. Further, in the event the County at any time implements its Ohio River Corridor Master Plan and obtains funding for acquisition of the adjoining property Tax Block 1047 Lot 0664 (Valley Sanitation), the new building which is allowed by this zoning shall be removed by the owners of the subject property at their cost and at no cost to County government within six months from the date of the agreement by the County to acquire Tax Block 1047 Lot 0664 or six months from the filing by County government of a condemnation action with respect to Tax Block 1047 Lot 0664, whichever is sooner.
2. The only use permitted on the site without prior review and approval by the Planning Commission shall be rebuilding and repairing hydraulic cylinders or a similar machine shop operation.
4. No tractor-trailer trucks shall be permitted on the site.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Industrial	EZ-1	Neighborhood
Proposed	Industrial	EZ-1	Neighborhood
Surrounding Properties			
North	Vacant	R-1	Neighborhood
South	Industrial	R-1	Neighborhood
East	Industrial	R-1	Neighborhood
West	Vacant	R-1/R-4	Neighborhood

PREVIOUS CASES ON SITE

9-15-96: The original zoning map amendment was a change from R-1 Residential to EZ-1 Enterprise Zone. On June 6, 1996 the Planning Commission recommended denial of the proposed rezoning, but the case was remanded back to the Planning Commission by Fiscal Court. The Planning Commission then recommended approval of the proposed rezoning on March 5, 1998.

INTERESTED PARTY COMMENTS

N/A

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR
AN AMENDMENT TO BINDING ELEMENT**

- 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 site is already developed, so the proposed amendments to the binding elements do not interfere with any natural features on the site.

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

STAFF: The development has a single access point on Johnstontown Road, which is a local level roadway. The proposed amendments to the binding elements will not affect the safe and efficient vehicular and pedestrian transportation within the area.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Not applicable

- 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: The proposed amendments will not contribute to nor interfere with drainage on 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 site is already developed and appears to have well established buffering along the property perimeter. The applicant is not proposing any changes to this perimeter at this time.

- 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: The existing use is a permitted use in the EZ-1 zoning district. Any change to the use or the site will be evaluated as part of the revised district development plan review process

TECHNICAL REVIEW

On April 9, 2015, David Johnson from MSD concluded that the issues regarding the MSD has no regulatory authority related to this matter.

It is no longer common for the Planning Commission to exclude permitted uses in a zone unless it is agreed upon by the applicant. Any change in the use of the property would be subject to the revised district development plan review process.

Johnsontown Road is a local level roadway with 24 feet of pavement. The site is located approximately 450 feet from Cane Run Road. The property is located on the west side of the Ohio River Levee.

All other binding elements from Docket Number 9-15-96 are to remain.

STAFF CONCLUSIONS

- The proposed amendment appears to be adequately justified based on staff analysis in the staff report and the justification statements provided by the applicant.

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 established in the LDC for approving the Amendments to Binding Elements.

REQUIRED ACTION

- **APPROVE** or **DENY** the Amendments to Binding Elements.

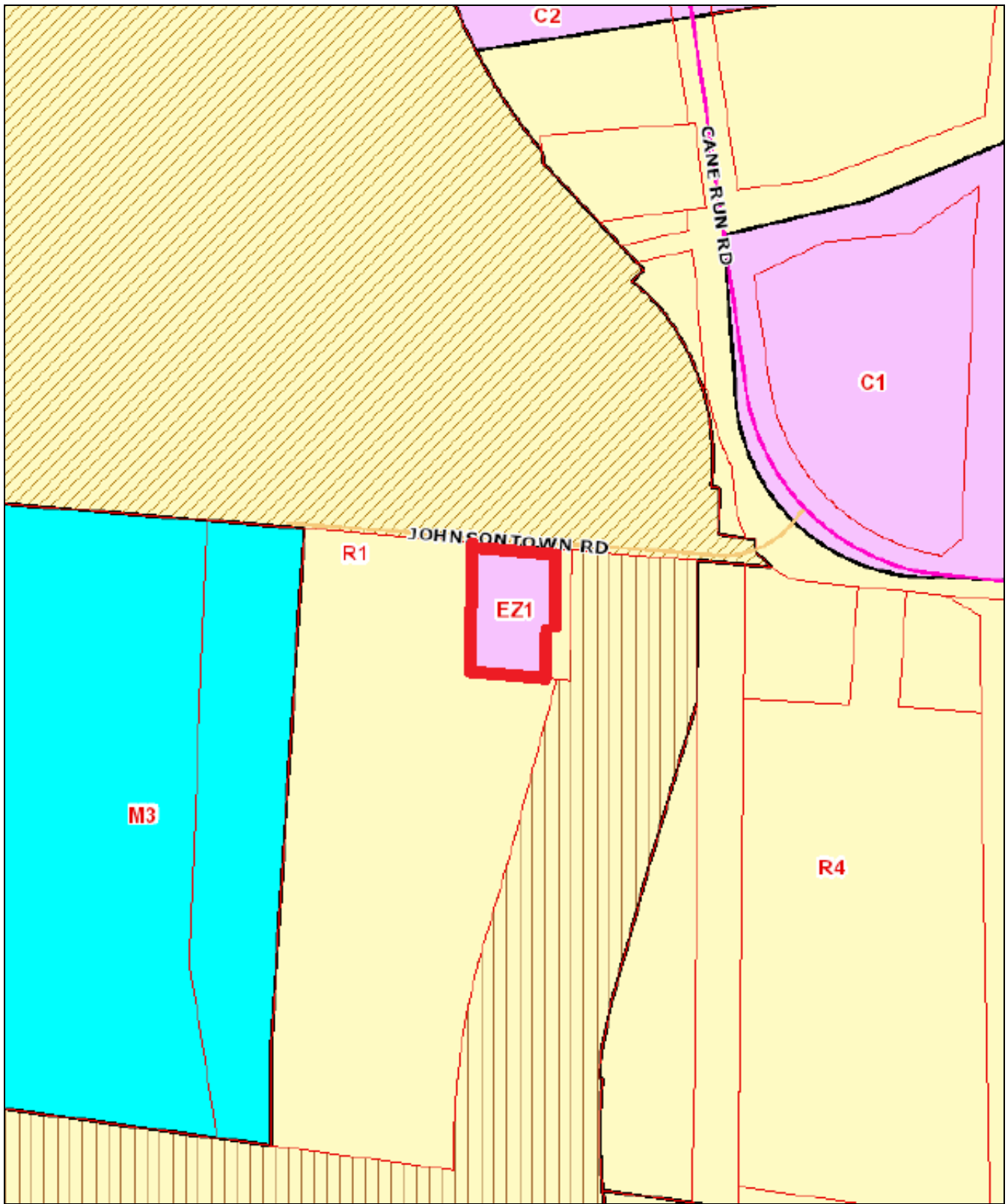
NOTIFICATION

Date	Purpose of Notice	Recipients
9/9/2015	Hearing before LD&T	1 st tier adjoining property owners Registered neighborhood groups – District 14

ATTACHMENTS

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

1. Zoning Map



2. Aerial



3. Existing Binding Elements

- 1) The development plan shall be in accordance with the approved district development plan and the agreed upon binding elements. No further development shall occur without prior approval from the Planning Commission. Further, in the event the County at any time implements its Ohio River Corridor Master Plan and obtains funding for acquisition of the adjoining property Tax Block 1047 Lot 0664 (Valley Sanitation), the new building which is allowed by this zoning shall be removed by the owners of the subject property at their cost and at no cost to County government within six months from the date of the agreement by the County to acquire Tax Block 1047 Lot 0664 or six months from the filing by County government of a condemnation action with respect to Tax Block 1047 Lot 0664, whichever is sooner.
- 2) The only use permitted on the site without prior review and approval by the Planning Commission shall be rebuilding and repairing hydraulic cylinders or a similar machine shop operation.
- 3) The development plan shall not exceed 6,500 square feet of gross floor area.
- 4) No tractor-trailer trucks shall be permitted on the site.
- 5) There shall be no freestanding sign permitted on the site.
- 6) No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants or banners shall be permitted on the site.
- 7) There shall be no outdoor storage on the site.
- 8) Outdoor lighting shall be directed down and away from nearby residential properties.
- 9) The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
- 10) Before any permit including but not limited to building, parking lot, change of use or alteration permit is requested:
 - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty Street).
 - b. A minor subdivision plat shall be recorded dedicating additional right-of-way to Johnsontown Road to provide a total of 30 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Development Services; transmittal of approved plans only after receipt of said instrument.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. Prior to requesting a certificate of occupancy the property owner/developer must obtain approval of a plan for securing flammable or toxic materials, as specified in the Jefferson County Floodplain Management Ordinance, (Sec. 157.03 C.4.c).

- 11) 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 reviewed district development plan is approved or an extension is granted by the Planning Commission.
- 12) 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 element requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy unless specifically waived by the Planning Commission.
- 13) The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in the development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

4. Proposed Change to Binding Elements

- 1) The development plan shall be in accordance with the approved district development plan and the agreed upon binding elements. No further development shall occur without prior approval from the Planning Commission. ~~Further, in the event the County at any time implements its Ohio River Corridor Master Plan and obtains funding for acquisition of the adjoining property Tax Block 1047 Lot 0664 (Valley Sanitation), the new building which is allowed by this zoning shall be removed by the owners of the subject property at their cost and at no cost to County government within six months from the date of the agreement by the County to acquire Tax Block 1047 Lot 0664 or six months from the filing by County government of a condemnation action with respect to Tax Block 1047 Lot 0664, whichever is sooner.~~
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