

Development Review Committee

Staff Report

May 5, 2021



Case No:	21-AMEND-0003
Project Name:	Jacobi Sales Inc. Binding Element Amendment
Location:	9205 Old Bardstown Road
Owner(s):	J&B Louisville
Applicant:	J&B Louisville
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Dante St. Germain, AICP, Planner II

REQUEST

- **Modification of Binding Elements**

CASE SUMMARY/BACKGROUND

The applicant proposes to amend the binding elements on the site in order to permit clearing and grading without an approved detailed district development plan. The site is located between Old Bardstown Road and Bardstown Road, and was rezoned in 2009 from R-4 to C-1 under docket 11946, for a mixed commercial center. A portion of the site (roughly the northern half) was subsequently rezoned from C-1 to M-2 in 2017, under docket 16ZONE1069, to permit heavy farm equipment sales and service. The southern portion of the site remained C-1 but was shown on the development plan as an undeveloped area. The site plan subsequently expired, and was re-approved under docket 19-DDP-0046 in 2020.

The binding element proposed to be revised is Binding Element #2 which reads:

Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer or property owner shall obtain approval of a detailed district development plan in accordance with LDC 11.6. Each plan shall be in adequate detail and subject to additional binding elements.

The applicant proposes to revise the language to read:

Prior to development of each site or phase of this project, except for clearing and grading of the C-1-zoned portion of the site, the applicant, developer or property owner shall obtain approval of a detailed district development plan in accordance with LDC 11.6. Each plan shall be in adequate detail and subject to additional binding elements. Clearing and grading of the C-1 portion of the site shall be limited to that shown on Exhibit 1 of 19-DDP-0046/21-AMEND-0003. All disturbed areas shall be seeded and strawed and shall be in compliance with all MSD and APCD regulations. All parkway plantings shall be installed within 6 months of disturbance or at the next planting season, whichever is later.

STAFF FINDING

The request is adequately justified and meets the standard of review. The southern portion of the site would still need to be shown on an approved development plan before a building permit is requested,

but the amendment allows limited grading on the southern portion of the site to move earth to the northern portion of the site and install infrastructure.

TECHNICAL REVIEW

The grading plan is currently under MSD construction review. The applicant will need to obtain MSD construction approval prior to issuance of any permits. The preliminary development plan was approved by MSD and Transportation Planning in 2019.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR AMENDMENT TO 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: No natural resources are evident on the southern portion of the site. An intermittent stream in the northern, M-2 portion of the site is being preserved.

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

STAFF: The requested grading plan would permit the applicant to install infrastructure necessary for safe and efficient vehicular and pedestrian transportation.

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

STAFF: There are no open space requirements associated with this request.

- 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: Adequate drainage facilities are being approved by MSD.

- 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 applicant proposes only to grade the C-1 portion of the site at this time. A full development plan will still need to be provided at a future date to develop the site.

- 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 proposal conforms to the Comprehensive Plan and the Land Development Code.

REQUIRED ACTIONS:

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

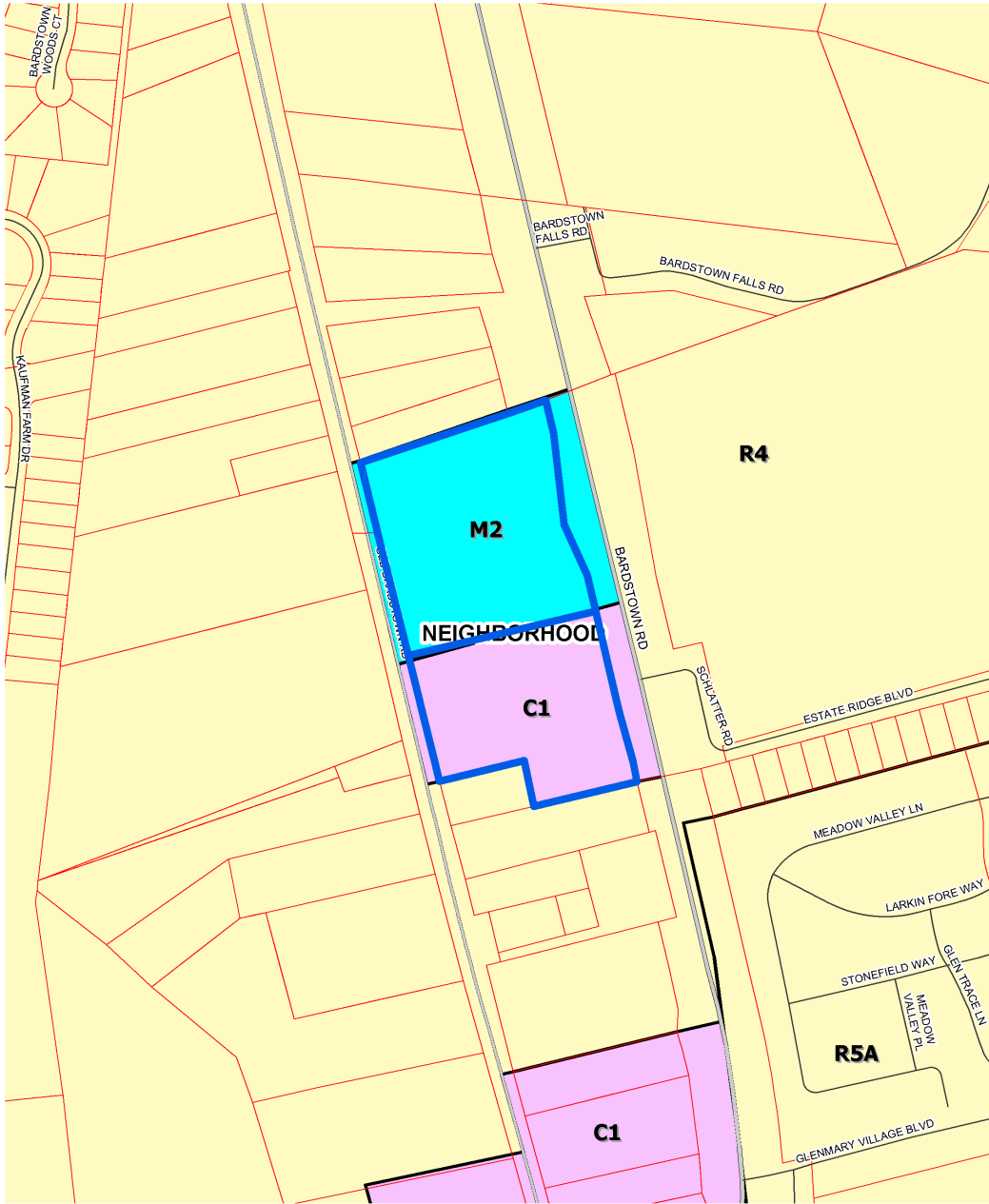
NOTIFICATION

Date	Purpose of Notice	Recipients
04-20-2021	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 22

ATTACHMENTS

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

1. Zoning Map



9205 Old Bardstown Road
feet



350

Map Created: 4/27/2021

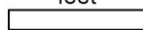


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2. Aerial Photograph



9205 Old Bardstown Road
feet



350

Map Created: 4/27/2021



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3. Existing Binding Elements with proposed changes

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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commissions' designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Prior to development (~~includes clearing and grading~~), **except for clearing and grading of the C-1-zoned portion of the site**, of each site or phase of this project, the applicant, developer or property owner shall obtain approval of a detailed district development plan in accordance with LDC 11.6. Each plan shall be in adequate detail and subject to additional binding elements. **Clearing and grading of the C-1 portion of the site shall be limited to that shown on Exhibit 1 of 19-DDP-0046/21-AMEND-0003. All disturbed areas shall be seeded and strawed and shall be in compliance with all MSD and APCD regulations. All parkway plantings shall be installed within 6 months of disturbance or at the next planting season, whichever is later.**
3. The subject site may not be developed for any manufacture, processing, treatment or storage use, nor as a truck or transfer terminal, freight and motor freight stations use, that is permitted by M-2 Industrial zoning. Notwithstanding the limitations above, this binding element shall not prohibit the repair, storage and light assembly of tractors, mower, loaders, utility vehicles, shredders, excavators, trenchers, backhoes or other equipment and implements for agriculture, construction or lawn and garden uses. This binding element shall not be modified, except after a full Planning Commission public hearing.
4. Signs shall be in accordance with LDC Chapter 8 or as presented at the public hearing.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
6. 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.
7. 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.
8. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
 - a. The development plan must receive full construction approval from Louisville Forward, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, and

- c. The property owner/developer must obtain approval of a detailed plan for screening/buffering/landscaping as described in LDC Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
9. 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.
10. 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.
11. The property owner shall provide a cross over access easement if the property to the south is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
12. No overnight idling of trucks shall be permitted on-site.
13. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with LDC 4.1.3 and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted.
14. The business at the development shall restrict the hours of operation from 6 AM to 9 PM.
15. If it is determined by KYTC that a traffic signal at the intersection of Thixton Lane and Bardstown Road is warranted in the future, the developer of this site for docket number 16ZONE1059 shall contribute up to \$7,500 of the total cost toward the installation of the traffic signal.
16. At such a time as sidewalks are constructed along the portion of Old Bardstown Road adjacent to this property, a clearly defined, safe pedestrian access will be provided by the owner of the property from the public sidewalk through off-street parking to building entrances.
17. Developer shall be responsible for any required utility relocations, final surface overlay, signage, and striping associated with required road improvements to Bardstown Road and Old Bardstown Road

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 LDC. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commissions' designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
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