

Planning Commission

Staff Report

July 30, 2015



Case No:	15MOD1008
Request:	Binding Element Amendment to allow the replacement of the four-board horse fence and relocation of mature trees at the northeast corner of the Aldi property
Project Name:	Aldi
Location:	10620 Westport Rd.
Owner:	Aldi Indiana, LP
Applicant:	Aldi, Inc.
Representative:	Sabak, Wilson & Lingo, Inc.
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	David B. Wagner – Planner II

REQUEST

- Binding Element Amendment to allow the replacement of the four-board horse fence and relocation of mature trees at the northeast corner of the Aldi property

CASE SUMMARY/BACKGROUND/SITE CONTEXT

The applicant received a notice of violation for Binding Elements #17 and #18 which read as follows:

17. The existing four-board fence and the stone entrance walls along Indian Lake Drive and Westport Road shall be preserved.
18. The mature trees and vegetation at the southwest corner of Westport Road and Indian Lake Drive shall be preserved.

The original four-board fence and mature trees were removed and the applicant has proposed the replacement of the four-board horse fence and relocation of two Norway Spruce trees as shown on the revised landscape plan. In order to effect these changes, the applicant wishes to amend the previously mentioned binding elements as follows to accurately describe the proposed changes:

17. The existing four-board fence and the stone entrance walls along Indian Lake Drive and Westport Road shall be preserved. Replacement of portions of the wall and/or fence due to damage or disrepair shall not constitute a violation of these binding elements.
18. The mature trees and vegetation at the southwest corner of Westport Road and Indian Lake Drive shall be preserved. Two 10' tall spruce trees will be planted near the entrance from Indian Lake Drive to the site per the exhibit presented by the applicant at the Public Hearing on July 30, 2015.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
Subject Property			
Existing	Retail	C-1	N
Proposed	Retail	C-1	N
Surrounding Properties			
North	Restaurant	C-2	RC
South	Open Space, Clubhouse	R-4	N
East	Vacant	OTF	N
West	Vacant	C-1	N

PREVIOUS CASES ON SITE

- Docket 9-74-92/10-42-92: Re-Zoning from R-4 and R-7 to R-4, R-6, & R-7, General District Development Plan, and Preliminary Major Subdivision to create the Indian Springs Golf Community
- Plat Book 39, Page 93: Record Plat for Indian Springs Golf Community
- Case 14627: Re-Zoning from R-4 to C-1, Variances, Revised General/Preliminary Major Subdivision, and Detailed District Development Plan to allow a grocery store and retail development
- Case 13DEVPLAN1064: Revised Detailed District Development Plan to revise the entrance on Indian Lake Drive to correspond with the proposed hotel entrance across the street

INTERESTED PARTY COMMENTS

- Staff has received concerns from Steve Porter who is the attorney representing the Indian Springs Community Association. The association desires Aldi to replace the four-board fence, revise the approved landscape plan with the removed vegetation replanted, and for all trucks to cease using Indian Lake Drive to access the site with appropriate signage to warn drivers of such restrictions.

APPLICABLE PLANS AND POLICIES

- Cornerstone 2020
- Land Development Code

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP AND 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: The only natural resource that could have been preserved is the living vegetation on site. Since that is precisely why the citation was issued, the applicant has proposed language in the binding element to effect the necessary mitigation measures. New trees will be planted to replace the removed trees.

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

STAFF: This proposal does not affect transportation planning.

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

STAFF: This proposal does not affect open space.

- 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: This proposal does not affect drainage.

- 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 proposed actions will comply with the proposed binding elements and maintain the existing signature entrance as desired by the Indian Springs subdivision. The four board fence will match what is on the east side of Indian Lake Drive and the previous vegetation will be more appropriately located on 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 applicable guidelines and policies of the Comprehensive Plan as the signature entrance will be maintained on both sides of Indian Lake Drive and conform to the existing fence style along the Westport Road street frontage. The removed vegetation will be replaced elsewhere on the site with new plantings to mitigate the tree loss.

TECHNICAL REVIEW

- The proposal complies with the requirements of the LDC.
- The applicant has proposed how they will correct the binding element violations on the site.

STAFF CONCLUSIONS

Amendment to Binding Elements

Staff analysis in the standard of review section of the staff report indicates the proposed Amendment to Binding Elements is justified.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Planning Commission must determine if the proposal meets the standards for granting an Amendment to Binding Elements established in the Land Development Code.

Required Actions

- Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Planning Commission must **APPROVE** or **DENY** the Amendment to Binding Elements listed in the staff report.

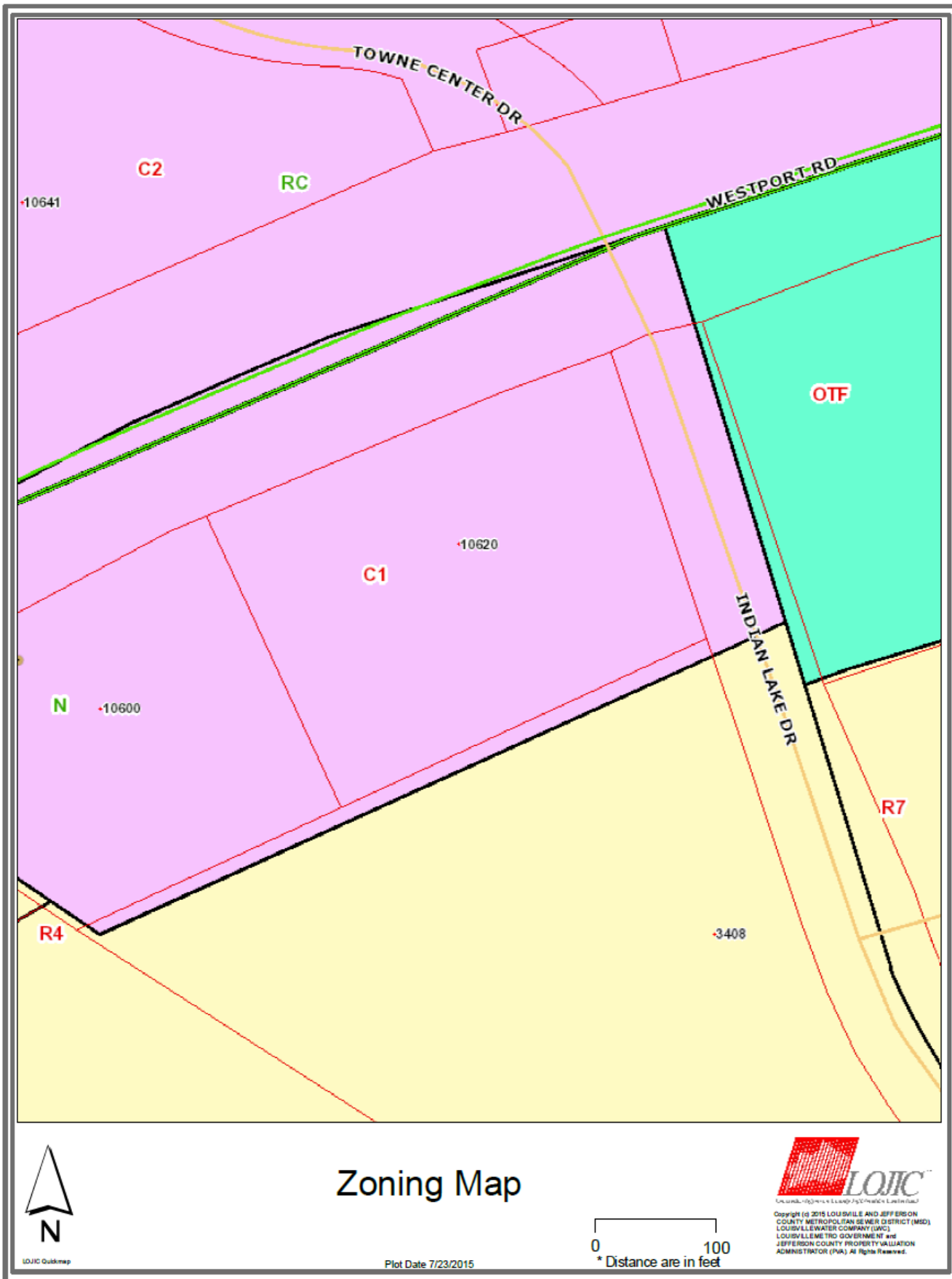
NOTIFICATION

Date	Purpose of Notice	Recipients
7/16/15	Meeting before PC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Subscribers to Council District 17 Notification of Development Proposals

ATTACHMENTS

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

1. Zoning Map



2. Aerial Photograph



3. Existing 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 Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed **25,583** square feet of gross floor area, including **9,775** square feet of gross floor area on Lot 1 and **15,808** square feet of gross floor area on Lot 2.
3. Signs shall be in accordance with Chapter 8 – business signs per lot with dimensions of (**80** square feet in area and **10** feet in height) are permitted.
4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants, balloons, or banners shall be permitted on the site.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from *Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works, and the Metropolitan Sewer District*.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A reciprocal access and crossover easement agreement in a form acceptable to Planning Commission legal counsel shall be secured from the adjoining property owner and recorded prior to construction approval. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - d. A minor subdivision plat shall be recorded creating the lot-lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. A contribution of \$46,000 shall be made to the Frey's Hill/Westport Road intersection improvement project at the time of its funding for construction. The contribution shall be paid within 60 days of request by Director of Metro Public Works or the Kentucky Transportation Cabinet.
6. 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.
7. The materials and design of existing/proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the January 31, 2012 Planning Commission public hearing.
8. The following uses shall be prohibited:
 - a. dry cleaning establishment, provided, the foregoing restriction shall not include an establishment for dry cleaning drop-off and pick-up only, with no cleaning services being performed at the subject property;
 - b. a pet store;
 - c. auto repair shop;
 - d. gasoline station;
 - e. adult book store;

- f. bingo parlor;
 - g. a school, academy or learning center having more than twenty students at any one time;
 - h. a video game parlor or amusement arcade;
 - i. a business which would emit or produce noxious fumes or gases or loud noises;
 - j. a mortuary;
 - k. an establishment selling or exhibiting pornographic materials;
 - l. a nightclub, discotheque or dance hall;
 - m. a lot for the sale of used motor vehicles;
 - n. a pool or billiard hall (unless operated as part of a large scale family recreation or entertainment facility);
 - o. a use or operation which is generally considered to be an environmental risk to any portion of the Property or surrounding properties;
 - p. a store dedicated to the sale of tobacco products;
 - q. Automobile rental agencies
 - r. Boarding and lodging houses
 - s. Bowling alleys
 - t. Car washes
 - u. Extended stay lodging
 - v. Funeral homes
 - w. Hotels and motels
 - x. Retail nurseries
 - y. Pawn shop
 - z. Tents, air structures and other temporary structures
 - aa. Establishments holding a retail malt beverage license, but that do not allow consumption on the premises;
9. Hours of operation for Lot 2 shall be limited to 9 AM to 9 PM.
 10. All exterior lighting shall comply with the lighting provisions as outlined in the Land Development Code.
 11. No trash pick-up, exterior construction, deliveries, loading or parking lot cleaning (except ice or snow removal) shall occur between 10 PM and 7 AM.
 12. No storage shall be allowed on exterior of site on ground or in containers after construction has been completed.
 13. No trucks or delivery vehicles shall be parked overnight on the site after construction has been completed.
 14. No truck or delivery access shall be allowed to or from Indian Lake Drive.
 15. No signage shall be allowed at the Indian Lake Drive intersection.
 16. No lighted attached signage shall be allowed on the south elevations of any building.
 17. The existing four-board fence and the stone entrance walls along Indian Lake Drive and Westport Road shall be preserved.
 18. The mature trees and vegetation at the southwest corner of Westport Road and Indian Lake Drive shall be preserved.
 19. No construction traffic shall be allowed to use Indian Lake Drive.

20. The applicant will prepare a detailed development plan and building elevation for Lot 1 for review and approval by the Planning Commission prior to issuance of a building permit.
21. No future changes to the Binding Elements shall occur without a Public Hearing before the Louisville Metro Planning Commission.
22. The final location of the golf cart crossing south of the access drive on Indian Lake Drive shall be subject to the approval of Metro Public Works and the local Fire Department. Signage and/or other traffic control devices (except flashing lights) shall be installed per the requirements of Metro Public Works, which shall receive input from the Indian Springs Community Association prior to construction approval.

4. Proposed Amendment to Binding Elements

17. The ~~existing~~ four-board fence and the stone entrance walls along Indian Lake Drive and Westport Road shall be ~~preserved~~ maintained. Replacement of portions of the wall and/or fence due to damage or disrepair shall not constitute a violation of these binding elements.
18. ~~The mature trees and vegetation at the southwest corner of Westport Road and Indian Lake Drive shall be preserved.~~ Two 10' tall spruce trees will be planted near the entrance from Indian Lake Drive to the site per the exhibit presented by the applicant at the Public Hearing on July 30, 2015.