Planning Commission
Staff Report
November 3, 2022

Case No:	22-DDP-0098
Project Name:	Sunshine Concrete
Location:	13905 Aiken Rd
Owner(s):	Otte Family Limited Partnership
Applicant:	Damon Garrett – Sunshine Builders
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Jay Luckett, AICP, Planner II

REQUESTS:

- **Revised Detailed District Development Plan with Binding Elements**

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a concrete batch/mixing plant on approximately 5.4 acres within the M-3 zoning district. The subject site is located in the Suburban Workplace form district in eastern Louisville Metro. The proposed tract is a portion of a larger tract that is formerly a quarry site rezoned under 9-62-82. The quarry site has an existing Conditional Use Permit to permit filling of the quarry, most recently modified under dockets 15CUP1019 and 15DEVPLAN1051. This proposal does not impact the filling or quarry operations on site. A similar plan was approved under docket 21-DDP-0116. The applicant has proposed additional screening and planting and a reduced scale of operations from the previous plan.

STAFF FINDINGS

The district development plan is adequately justified and meets the standard of review. The proposed use is appropriate within an established industrial activity center. All required setbacks are met around the subject site and the applicant is proposing buffering and planting in excess of the minimums required by the Land Development Code.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary approval.

The original rezoning plan approved under docket 9-62-82 had a note indicating that “access to be through the existing quarry” for the expanded quarry area. There was no binding element adopted to limit general access to the site, although it was discussed at the Planning Commission and mentioned in the “whereas” statements justifying the map amendment that the expanded quarry would utilize existing access from the west. The quarry operations on site have followed this requirement throughout the life of that use. The existing access point on Aiken Rd remained to serve the landscaping and nursery business on the subject site. Public works has approved the proposed access to the subject site, including roadway improvements within the Aiken Rd right-of-way.

INTERESTED PARTY COMMENTS

Many residents in the surrounding area have expressed concerns with this proposal, including potential for pollution, truck access via Aiken Rd as well as other concerns.

Area residents submitted a petition for a night hearing at a convenient location on 10-14-22. The Planning Commission agreed to move the hearing to 6 PM Downtown with a virtual participation option and extended time for public comment.

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: There do not appear to be any environmental constraints or historic resources on the subject site. Portions of the parent tract is a former quarry that is in the process of being filled. Tree canopy requirements of the Land Development Code will be provided on the subject site.

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

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

(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 pertinent to the current proposal.

(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 Metropolitan Sewer District has approved the preliminary development plan and will ensure 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.

(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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks. The applicant has proposed screening and buffering in excess of the minimums of the Land Development Code.

(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 development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Revised Detailed Development Plan** with Revisions to Binding Elements

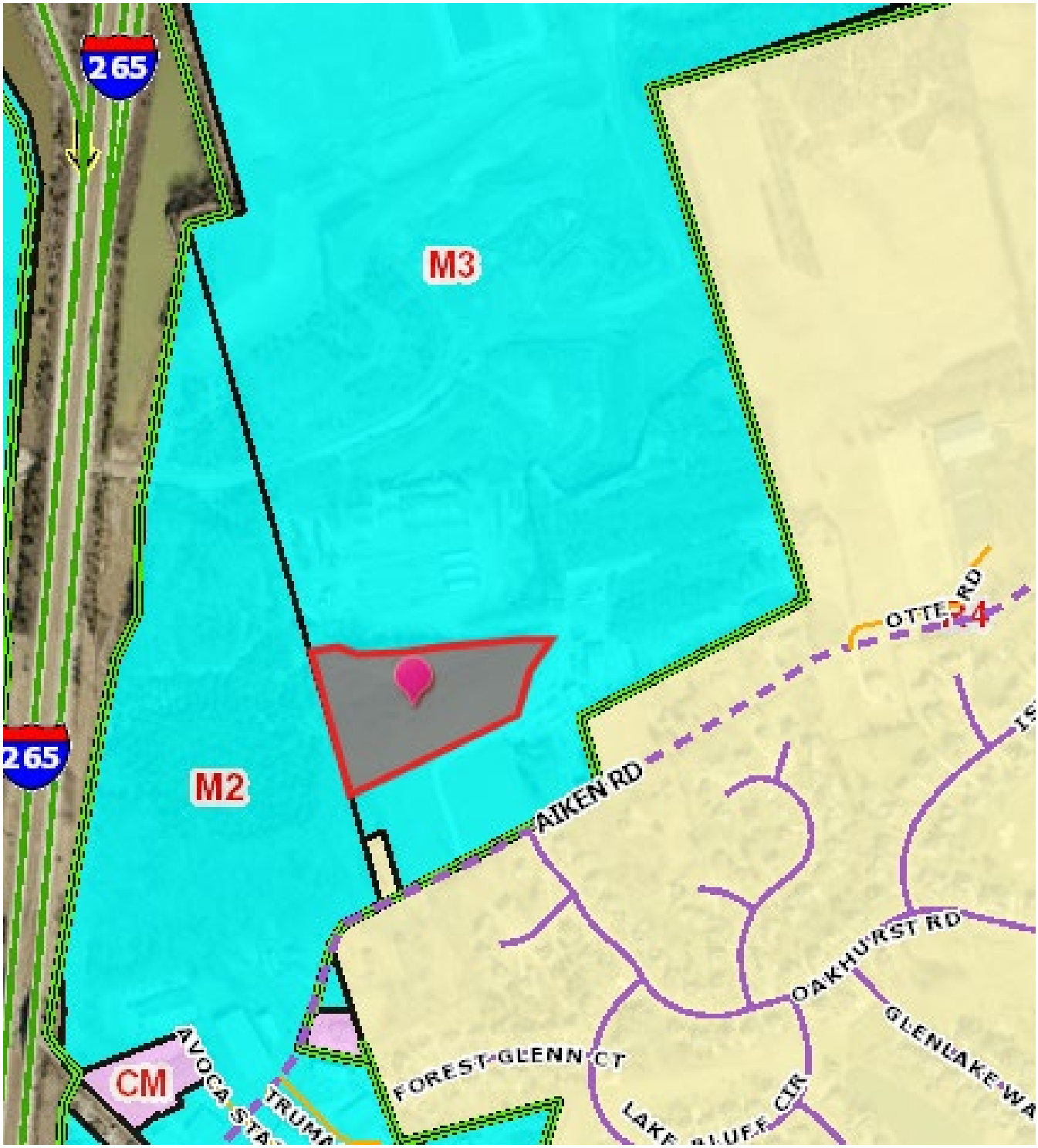
NOTIFICATION

Date	Purpose of Notice	Recipients
9-22-22	Hearing before PC	1st tier adjoining property owners and residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19
10-4-22	Courtesy Notice of case to be continued	Registered Neighborhood Groups in Council District 19
10-20-22	Notice of new hearing time	1st tier adjoining property owners and residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19

ATTACHMENTS

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

1. **Zoning Map**


265
M3
265
M2
AIKEN RD
OTTE RD
OAKHURST RD
GLENLAKE WA
FOREST GLENN CT
CM
AVOCA STA
TRUMA

2. Aerial Photograph

3. Existing Binding Elements with proposed changes

The Conditions of Approval per 15CUP1019 remain in effect for the quarry and filling operations on the residual site.

All General Plan binding elements approved under 9-62-82 are applicable to the site in addition to the following:

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

3. 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.

4. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
    b. A minor subdivision plat or legal instrument 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 prior to obtaining a building permit.
    c. 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.
    d. An access easement agreement in a form acceptable to the Planning Commission legal counsel shall be created to allow access to the site as shown. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

5. 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.

6. 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.

7. ~~The applicant will provide a row of Type A trees at a minimum of 1 tree per 30 linear feet along the proposed property line adjacent to the existing access drive.~~ **The applicant shall construct minimum 6-foot high berms along the front of the property as indicated on the approved development plan. The applicant will provide a row of Type A trees at a minimum of 1 tree per 30 linear feet along the length of the berm, of which at least 50% shall be evergreen trees. Final location and type of plantings and details of the berm construction shall be shown on the approved landscape plan in accordance with Land Development Code section 10.4.6.**

8. The applicant will pave the entrance drive and truck maneuvering areas of the site with a hard and durable surface to reduce potential dust associated with truck traffic in and out of the site.

9. Outdoor lighting shall be shielded and aimed towards the ground in accordance with the requirements of Section 4.1.3 of the Land Development Code.

4. Proposed Binding Elements

The Conditions of Approval per 15CUP1019 remain in effect for the quarry and filling operations on the residual site.

All General Plan binding elements approved under 9-62-82 are applicable to the site in addition to the following:

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

3. 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.

4. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
b. A minor subdivision plat or legal instrument 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 prior to obtaining a building permit.
c. 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.
d. An access easement agreement in a form acceptable to the Planning Commission legal counsel shall be created to allow access to the site as shown. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

5. 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.

6. 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.

7. The applicant shall construct minimum 6-foot high berms along the front of the property as indicated on the approved development plan. The applicant will provide a row of Type A trees at a minimum of 1 tree per 30 linear feet along the length of the berm, of which at least 50% shall be evergreen trees. Final location and type of plantings and details of the berm construction shall be shown on the approved landscape plan in accordance with Land Development Code section 10.4.6.

8. The applicant will pave the entrance drive and truck maneuvering areas of the site with a hard and durable surface to reduce potential dust associated with truck traffic in and out of the site.

9. Outdoor lighting shall be shielded and aimed towards the ground in accordance with the requirements of Section 4.1.3 of the Land Development Code.