

Development Review Committee

Staff Report

September 19, 2018



Case No:	18DEVPLAN1128
Project Name:	New Level Construction
Location:	11515 Commonwealth Drive
Owner(s):	New Level Holdings LLC
Applicant:	New Level Holdings LLC
Jurisdiction:	City of Jeffersontown
Council District:	20 – Stuart Benson
Case Manager:	Dante St. Germain, Planner II

REQUESTS

- **Waivers:**
 1. **Waiver** from City of Jeffersontown Land Development Code section 10.2.4.B to allow a vehicular use area to encroach into the required property perimeter Landscape Buffer Area (LBA) along the north and west property lines.
 2. **Waiver** from City of Jeffersontown Land Development Code section 10.2.4.B to allow a utility easement to overlap the property perimeter LBA by more than 50% along the east property line.
 3. **Waiver** from City of Jeffersontown Land Development Code section 10.2.4.B to allow a retaining wall to encroach into the property perimeter LBA along the south property line, and a dumpster to encroach into the property perimeter LBA along the north property line.
- **Revised Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The subject property is located in the City of Jeffersontown and is currently developed with a one-story industrial structure. The applicant proposes to construct a new two-story addition onto the existing structure, and to construct a new dumpster pad and enclosure at the rear of the property near the northern property line. The applicant also proposes to slightly expand the existing parking lot. The applicant therefore requests three waivers from the City of Jeffersontown Land Development Code to allow encroachment into the property perimeter LBAs along the north, south, east and west property lines by vehicular use areas, the proposed dumpster, and a retaining wall. The applicant also requests a waiver to allow a utility easement to overlap the eastern property perimeter LBA, and approval of the RDDDP. The Development Review Committee will make recommendations on these requests to the City of Jeffersontown for final action.

The property was re-zoned in 1979 by the City of Jeffersontown, against Planning Commission recommendation of denial, under docket number 9-41-78, from R-4 Single Family Residential to what is now PEC Planned Employment Center. The detailed district development plan for this property was reviewed and approved under docket number 20-8-92 in 1992. City of Jeffersontown Public Works is accepting fee-in-lieu of sidewalks along Commonwealth Drive.

STAFF FINDING

Staff finds that the proposal generally meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. The applicant requests three waivers, and staff finds

that the waivers are adequately justified and meets the standard of review due to the location of the property and the fact that it is surrounded by commercial and industrial properties on all sides.

TECHNICAL REVIEW

Land Development Code (2017) City of Jeffersontown.

The plan has received preliminary approval from all applicable agencies.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B (1)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as sufficient LBA is being maintained to adequately buffer the adjoining properties, with relatively small encroachments.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment is relatively small and is the minimum encroachment necessary to allow access to the proposed dumpster and to allow adequate maneuvering space in the front of the property.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by reducing the amount of parking on the property below the amount required by the Land Development Code.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B (2)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the LBA is being maintained at an adequate width, with the overlap unlikely to be noticed by the adjacent property owners.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the utility easement is existing and the overlap is required to allow adequate parking and maneuvering on the lot.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by reducing the amount of maneuvering space below what is needed for safe access and circulation on the lot.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B (3)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as sufficient LBA is being maintained to adequately buffer the adjoining properties, with relatively small encroachments.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the encroachment is relatively small and is the minimum encroachment necessary to allow access to the proposed dumpster.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation may deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the dumpster to be located elsewhere on the property, which may reduce the amount of parking on the property below the amount required by the Land Development Code.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP

- 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. The site is fully developed and no natural resources appear to exist on the 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. Louisville Metro Public Works has provided preliminary approval of the plan. City of Jeffersontown Public Works will provide final review of the 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. The development will provide landscaping in compliance with the City of Jeffersontown 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, with the exception of the requested waivers.

REQUIRED ACTIONS:

- **RECOMMEND APPROVAL or DENIAL of the Waivers to the City of Jeffersontown**
- **RECOMMEND APPROVAL or DENIAL of the Revised Detailed District Development Plan and Proposed Binding Elements to the City of Jeffersontown**

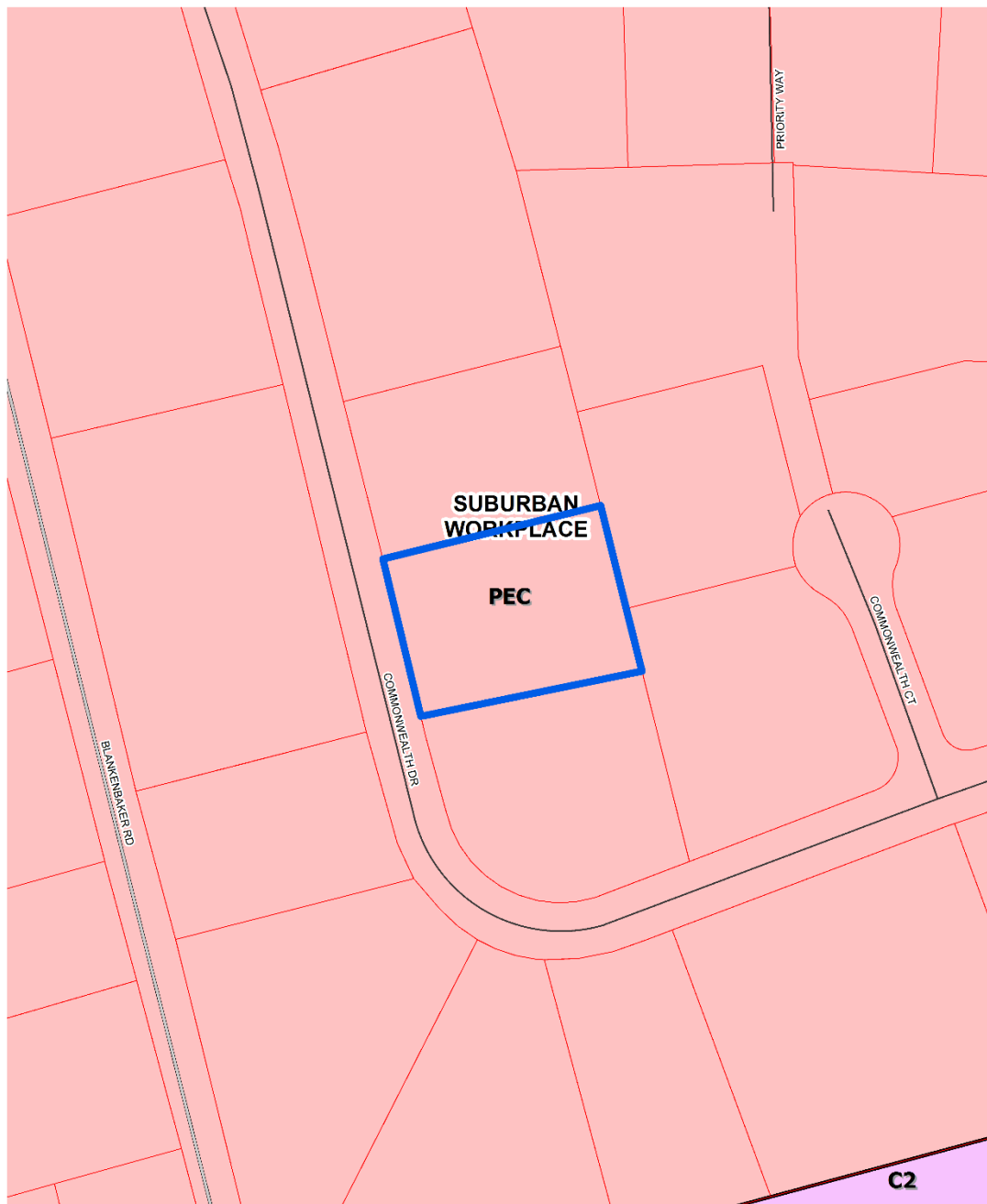
NOTIFICATION

Date	Purpose of Notice	Recipients
08/31/2018	DRC Public Meeting	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 20

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements
4. Proposed Detailed District Development Plan Binding Elements

1. **Zoning Map**



11515 Commonwealth Drive

feet



140

Map Created: 9/13/2018



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COUNTY METROPOLITAN SEWER DISTRICT (MSD),
LOUISVILLE WATER COMPANY (LWC),
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JEFFERSON COUNTY PROPERTY VALUATION
ADMINISTRATOR (PVA). All Rights Reserved.

2. Aerial Photograph



11515 Commonwealth Drive
feet

140

Map Created: 9/13/2018



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LOUISVILLE WATER COMPANY (LWC),
LOUISVILLE METRO GOVERNMENT and
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ADMINISTRATOR (PVA). All Rights Reserved.

3. Existing General Plan Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions or alterations of any binding element(s) shall be submitted to the Planning Commission and the City of Jeffersontown for review and approval; any changes/additions/alterations not so referred shall not be valid.
- 1a. Prior to development of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan from the Planning Commission. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
 - a. screening, buffering, landscaping, tree preservation
 - b. density, floor area, size, and height of buildings
 - c. points of access and site layout with respect to on-site circulation
 - d. land uses
 - e. signage
 - f. loading berths
 - g. parking
 - h. sidewalks
 - i. site design elements relating to alternative transportation modes
 - j. outdoor lighting
 - k. minor subdivision plat approval
 - l. air pollution
 - m. the timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
 - n. dumpsters
- 1b. The revised general district development plan shall serve as a revision to the preliminary subdivision plan for Commonwealth Industrial Park (Docket No. 10-12-78).
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line for Lots 4, 12B, and 13. 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.
3. 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.
4. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations for Lots 4, 12B, and 13. Documentation of the MSD's approval of the

plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.

5. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
6. There will be no direct vehicular access to Blankenbaker Road. With the exception of lots 10, 11, and 13, there shall be no direct access to Bluegrass Parkway. Direct access by these lots to Bluegrass Parkway and Tucker Station Road will be determined at the time of approval of respective Detailed District Development Plans.
7. All sites within this development for which development plan approval is requested subsequent to the approval of this binding element shall have sidewalks installed in accordance with the plan titled "Blankenbaker Crossings Sidewalk Plan approved March 9, 1995" (the "Plan"). Sidewalks shall be constructed prior to requesting a certificate of occupancy. In agreeing to this binding element, the developer acknowledges the Planning Commission's action on June 2, 1994 approving the Plan and agreeing to not require sidewalks along roadways in locations other than those shown on the Plan."
8. A Master Plan will be provided to the Planning Commission by NTS within 60 days of approval of the revised preliminary subdivision plan and revised general district development plan by the Planning Commission to be kept on file. The Master Plan will show: lots and streets that have been created, proposed street networks, and sidewalks. Proposed lot patterns are not to be shown, but are instead to be treated as areas for future development. The applicant will update the Master Plan on file with the Planning Commission as subsequent plats are recorded or as revisions to the general district development plan and preliminary subdivision plan are approved.

4. Proposed Detailed District Development Plan Binding Elements

All binding elements from the approved General Development Plan are applicable to this 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 and to the City of Jeffersontown 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 or site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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.
- 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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
- 7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 19, 2018 Development Review Committee meeting.
- 8. 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.