# Development Review Committee

Staff Report

May 24, 2023

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| **Case No:** | 23-DDP-0009/23-WAIVER-0067/23-WAIVER-0068 |
| **Project Name:** | Terex, Inc. |
| **Location:** | 2909 Blankenbaker Rd |
| **Owner(s):** | Lichtefeld Development Trust |
| **Applicant:** | Lichtefeld Inc. |
| **Jurisdiction:** | Jeffersontown |
| **Council District:** | 11 – Kevin Kramer |
| **Case Manager:** | Jay Luckett, AICP, Planner II |

## REQUEST(S)

- **Waivers**
  1. **Of Jeffersontown Land Development Code** section 5.8.1.B to not provide sidewalks in the Blankenbaker Rd right-of-way.
  2. **Of Jeffersontown Land Development Code** sections 5.5.4.B.1 and 10.2.4 to reduce the required 50-foot landscape buffer area to 15 feet along the eastern property line.
- **Revised Detailed District Development Plan**

## CASE SUMMARY/BACKGROUND

The applicant is proposing to construct a 126,750 SF warehouse/office. The subject site contains approximately 10.5 acres and is zoned PEC within the Suburban Workplace form district. The site was originally rezoned under docket 11275 for a mix of warehouse development. A plan for a warehouse was approved in 2014 and 2016 but the site remains vacant.

## STAFF FINDING

The waiver to reduce the buffer is adequately justified and meets the standards of review. The sidewalk waiver is not adequately justified and does not meet the standards of review. The Revised Detailed District Development Plan is not adequately justified and does not meet the standards of review, due to not meeting the sidewalk requirement of the Jeffersontown Land Development Code. The proposed development is consistent with other development in the area and the form district.

## TECHNICAL REVIEW

Transportation Planning and MSD have approved the preliminary development plan, although it has been indicated that Transportation Planning would prefer sidewalk construction along the site frontage.

## INTERESTED PARTY COMMENTS

Staff has received no comments from interested parties concerning this request.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 1

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

STAFF: The waiver will adversely affect adjacent property owners, as future development would have a less complete sidewalk network in the area to support safe pedestrian circulation for employees and customers.

(b) Granting of the waiver will result in a development in compliance with the Comprehensive Plan and the overall intent of this Land Development Code; and

STAFF: The waiver will violate specific guidelines of Plan 2040 and the intent of the Jeffersontown Land Development Code. The development is not adequately sharing costs on infrastructure impacts created by the development. The site can and should provide sidewalks in order to support multiple transportation options for employees and customers of businesses in the area.

(c) The applicant cannot reasonably comply with one of the listed methods of compliance (section 6.2.6.C); and

STAFF: The applicant can reasonably comply with multiple listed compliance methods. The sidewalk can be constructed on-site, off-site or a fee-in-lieu could be paid.

(d) Strict application of the provision of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land, as sidewalks can be constructed.

(e) There are site constraints that make sidewalk construction impracticable or sidewalks do not exist in the area and there is not a likelihood for sidewalks to be constructed in the future, except for areas where sidewalks are recommended within a Planning Commission or legislatively adopted plan recommending sidewalk construction

STAFF: The site does not have constraints that would prevent sidewalk construction. Sidewalks are available along Electron Dr and Blankenbaker Pkwy, and additional sidewalks are needed in the area to support alternative modes of transportation for customers and employees.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER 2

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

STAFF: The waiver will not adversely affect adjacent property owners, as all required planting and screening will still be provided.

(b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as adequate screening and buffering will still be provided around the subject site.

(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.

(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 would create an unnecessary hardship on the applicant, as the adjacent residentially zoned site is a parking lot for commercial uses and is not residentially used.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR (R)DDDP and/or 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. All required screening and tree canopy will be required around 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 pedestrian transportation within and around the development and the community has not been provided. The lack of sidewalks will create a negative impact on the overall development area.

(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.

(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 does not conform to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, as sidewalks are required and should be provided.

## REQUIRED ACTIONS

- **RECOMMEND** that the **City of Jeffersontown APPROVE** or **DENY** the **Waivers**
- **RECOMMEND** that the **City of Jeffersontown APPROVE** or **DENY** the **Revised Detailed District Development Plan**

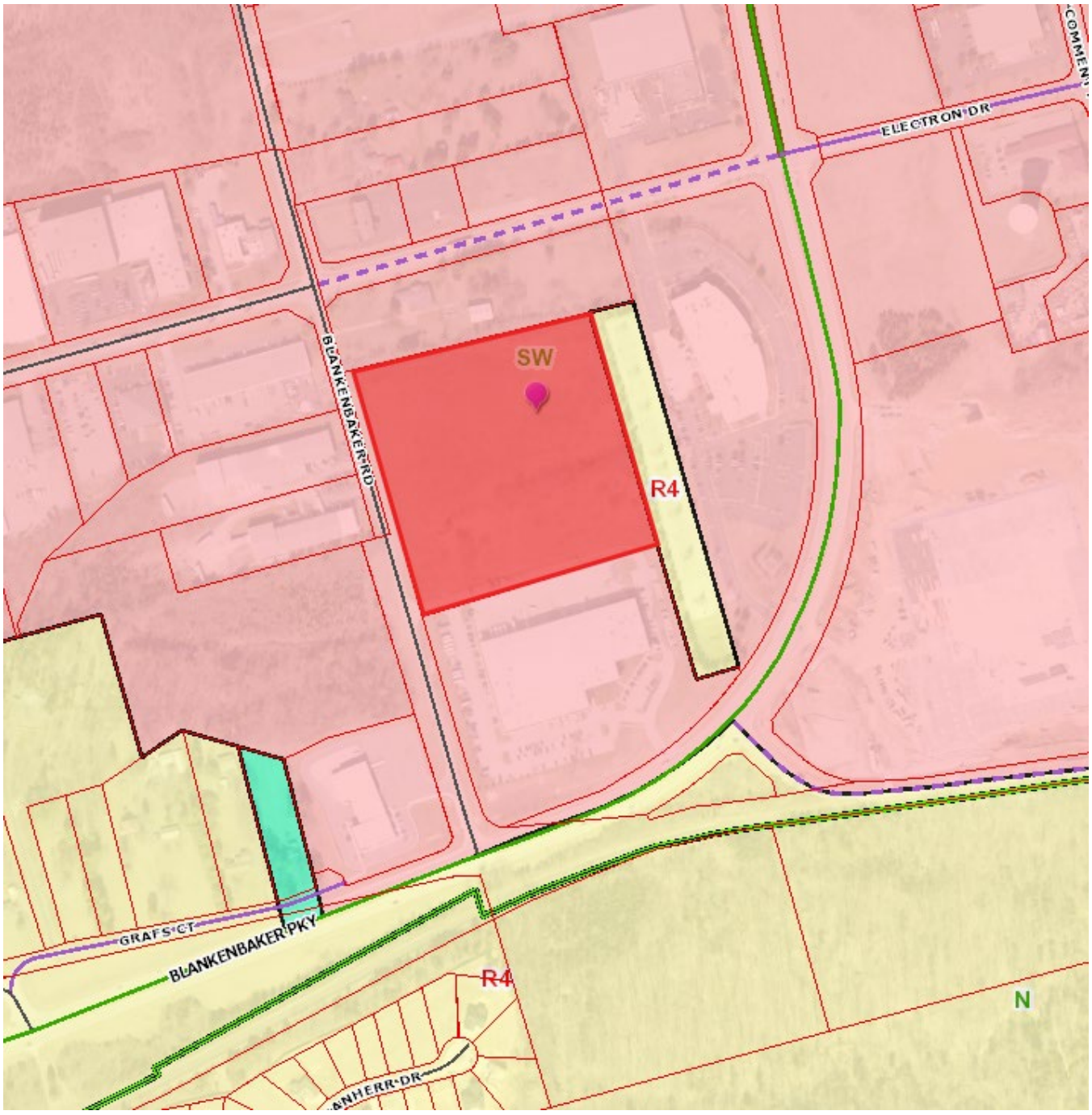
## NOTIFICATION

| Date | Purpose of Notice | Recipients |
|---|---|---|
| **5-9-23** | Hearing before DRC | 1st tier adjoining property owners and residents<br>Speakers at Planning Commission public hearing<br>Registered Neighborhood Groups in Council District 11 |

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements

## 1. Zoning Map


ELECTRON DR
BLANKENBAKER RD
SW
R4
GRAFS CT
BLANKENBAKER PKY
R4
N

## 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 square footage of the development shall not exceed 219,942 square feet of gross floor area.

3. Signs shall be in accordance with the Ch. 8 of the Land Development Code and all ordinances applicable within the City of Jeffersontown.

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

5. 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.

6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or demolition permit) is requested:

    a. The development plan must receive full construction approval from the Jeffersontown Department of Permitting, Planning, and Code Enforcement; Jeffersontown Department of 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

7. 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.

8. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

9. 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.