

**Land Development and Transportation  
Committee  
Staff Report  
September 14, 2023**



<b>Case No:</b>	23-DDP-0064
<b>Project Name:</b>	Bohannon Commerce Center
<b>Location:</b>	6574 Lewis Lane
<b>Owner(s):</b>	LDG Bohannon Industrial 1
<b>Applicant:</b>	LDG Bohannon Industrial 1
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	14 – Cindi Fowler
<b>Case Manager:</b>	John Michael Lawler, Planner I

**REQUEST(S)**

- **Waiver** of LDC Section 10.2.4 to allow encroachment into the 50' property perimeter landscape buffer area along the southern portions of the eastern property line
- **Revised Detailed District Development Plan**

**CASE SUMMARY**

The applicant is proposing a 945,750 square foot warehouse development across five separate buildings. Vehicular access is from Lewis Lane. New sidewalks will be connected to the existing sidewalk network on Lewis Lane. Pedestrian connections are provided throughout the site. A substantially similar plan was previously approved under Docket # 21-DDP-0125. The current plan addresses concerns LG&E raised in the construction phase after confirming the age of pipes located under some proposed loading docks. The site's zoning was originally changed under Docket # 20-ZONE-0069. The site previously had a variance (20-VARIANCE-0098) and modified variance (22-VARIANCE-0035) approved to allow encroachments into the stream buffer for Weavers Run.

**STAFF FINDING**

Staff finds that the proposal meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. Staff finds that the requested waiver meets the standards of review of the Land Development Code and is adequately justified for approval.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**

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

STAFF: The waiver will not adversely affect adjacent property owners as all required plantings and screening will be required and the use of the encroachment will be for passenger vehicles.

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

STAFF: Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should 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. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. Community Form Goal 1, Policy 20 calls to mitigate adverse visual intrusions when there are impacts to residential areas, roadway corridors, and public spaces. The proposed development will provide all required planting materials to protect the residence from visual intrusions.

- (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 since LG&E is requiring them to relocate their previously approved facilities out of an existing easement they were originally allowed to build in.

- (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 deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as all required planting and screening will be provided and the area is limited to passenger vehicles.

#### **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. 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: The applicant is providing amenity areas the meet the needs of the proposed development as required by the Land Development Code.

- 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 conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver** of LDC Section 10.2.4 to allow encroachment into the 50' property perimeter landscape buffer area along the southern portions of the eastern property line
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

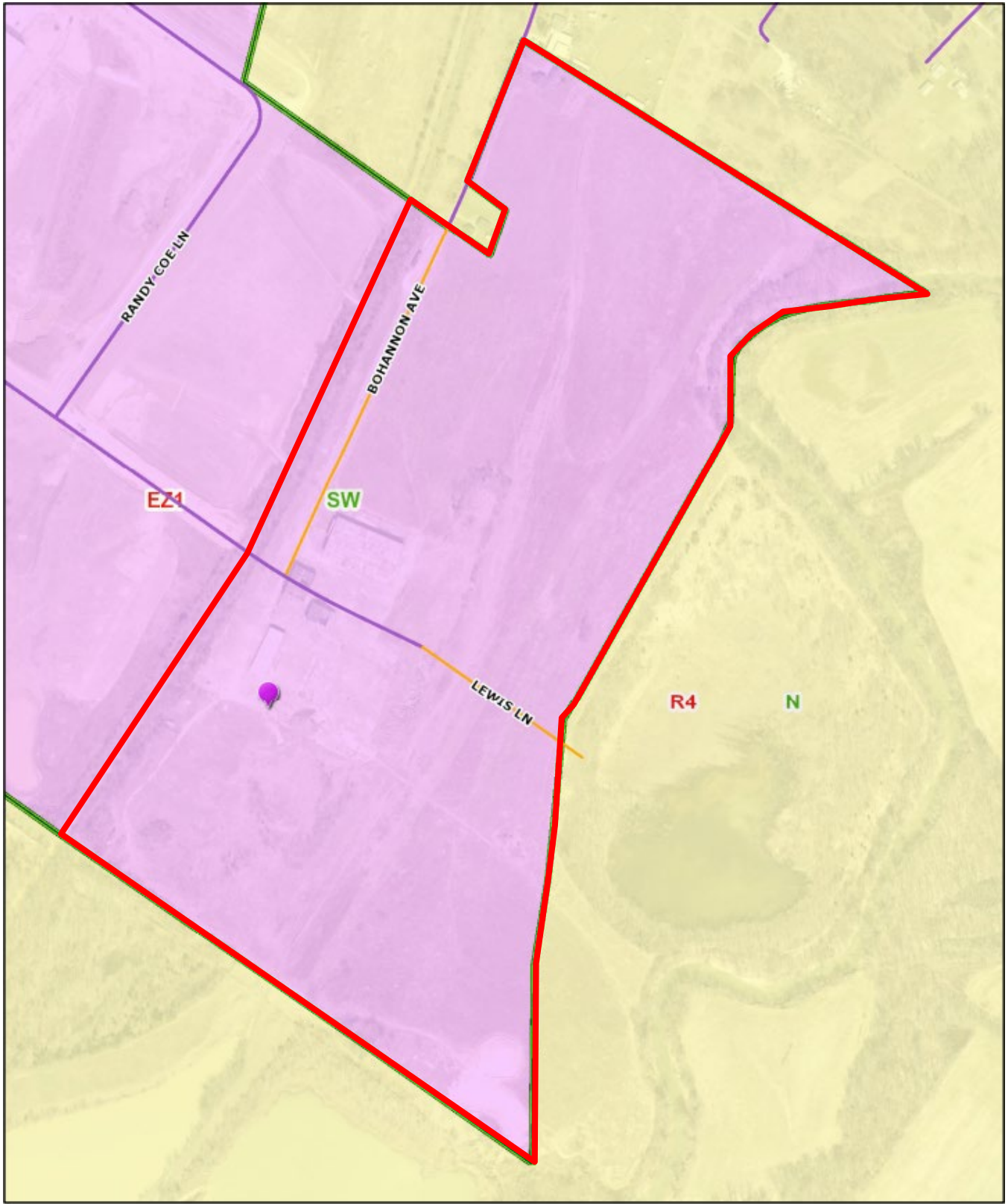
**NOTIFICATION**

Date	Purpose of Notice	Recipients
8/25/2023	Hearing before LD&T on September 14, 2023	1 <sup>st</sup> tier adjoining property owners and current residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 14

## **ATTACHMENTS**

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

1. Zoning Map





2. Aerial Photograph



### **3. Existing Binding Elements**

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Amendment of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any amendments not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted.
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 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.
  - 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 a plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. 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.
  - f. An easement providing public access to the easement labeled on the plan as 55' Access & Utility Easement containing the Louisville Loop extension down Lewis Lane, for the purpose of providing public access to the Loop, in a form acceptable to Planning Commission legal counsel shall be created and recorded.
  - g. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 21, 2022 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 a copy of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise all parties of their content. 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.

7. No overnight idling within 200 ft. of residential property lines.
8. No access shall be permitted to Bohannon Avenue, except for emergency vehicles and pedestrians.
9. At the time of development, the following restoration standards shall be met:
  - a. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
  - b. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless MSD determines such vegetation would be inadequate to re-stabilize the bank. In instances where the MSD determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the MSD shall be utilized.
  - c. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.
10. Tree and Vegetation Removal.
  - a. Existing, healthy trees and vegetation within the Buffer Area shall be preserved, except for those areas designated by the Limits of Disturbance on the approved district development plan. Trees and vegetation shall be restored in accordance with Binding Element #9 for all areas within the buffer that lie between impervious surfaces and the limits of Disturbance.
  - b. This provision shall not prohibit any of the following: Removal of dead or diseased trees/vegetation (provided a live root system stays intact); removal of noxious weeds; Removal of non-native trees/vegetation that threaten native species growth or reintroduction; removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or removal of any other tree/vegetation that is a threat to the public health or safety; Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project.
11. Before development of Tracts #3 and #4, or the buildings nearest the home in the northeast corner of the site, a landscape plan will be reviewed and approved by the Louisville Metro Planning Commission or a Committee thereof. This requirement for Tract #3 shall be null and void should the property to the west of Tract #3 cease being used as a residence.
12. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
13. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath



the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.