

PLANNING COMMISSION MINUTES

April 21, 2022

PUBLIC HEARING

CASE NO. 21-ZONE-0078

Request: Change in form from Neighborhood to Suburban Workplace, change in zoning from R-4 to EZ-1 and a landscape waiver
Project Name: Ladd Avenue Warehouse
Location: 6451 Ladd Avenue
Owner: LJCC Trust Inc.
Applicant: Concord Equity Group LLC
Representative: Dinsmore and Shohl PLLC. & Mindel Scott and Assoc.
Jurisdiction: Louisville Metro
Council District: 1- Angela Bowens
Case Manager: Julia Williams, AICP, Planning Supervisor

NOTE: Commissioners Brown and Lewis left at ~4:30 p.m. and did not vote on this case.

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:06:15 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, PLLC, 101 South 5th Street, Louisville, Ky. 40202
Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

Cliff Ashburner gave a power point presentation and stated this proposal complies with the Comprehensive Plan. Most of the property is already zoned EZ-1 so only a small portion needs to be rezoned to allow access to the public section of Ladd Ave. (see recording for detailed presentation).

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Kent Gootee discussed the following: detention; access road; parking; and dumpsters (see recording for detailed presentation).

The following spoke in opposition to this request:

Aaron Toll, 6316 Eureka Avenue, Louisville, Ky. 40216
Erica Phillips, 5400 Wyatt Avenue, Louisville, Ky. 40216

Summary of testimony of those in opposition:

Aaron Toll stated he is concerned about the trees being taken out which may affect privacy (see recording for detailed presentation).

Erica Phillips stated she has the following concerns: width of roads and trucks; Wyatt Ave. being a narrow road; and the amount of trucks coming and going (see recording for detailed presentation).

Rebuttal

Cliff Ashburner said they can provide signage at the end of Eureka if it's all right with Public Works. Also, the applicant exceeds the required buffering along the property lines (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in form district from Neighborhood to Suburban Workplace

On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the Plan 2040 Staff Analysis and the applicant's testimony was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is proposed in the Suburban Workplace form district in a primarily industrial area. A residential community is present in the area of development. The Suburban Workplace

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is a form characterized by predominately industrial and office uses. An existing residential community shares a property boundary. All landscaping to provide appropriate transition at this industrial location will be provided as required; the proposal is an expansion of an existing EZ-1 property located at the terminus of a local level road, Ladd Ave. While the proposal is not located near transit or transportation corridor it is located adjacent to other EZ-1 property that use Ladd Ave for access. A sufficient population is present in nearby communities and the Metro area to support industrial growth at this location; the proposed district is in the Suburban Workplace form district in a primarily industrial area; the proposed industrial district is situated to take advantage of a concentration of industrial uses in the workplace form district. The expansion of EZ-1 on approximately a quarter of an acre ensures that the existing population is not further impacted; the form district in which the site is proposed is intended to concentrate industrial and offices uses. Truck traffic and emissions should be expected in this form as it commonly serves warehousing and distribution centers; no adverse impacts of traffic are expected on nearby communities as the roadway already accommodates truck traffic; no further adverse impacts of noise are expected on nearby communities as the road and area already serves truck traffic; the proposed district is segregated from population centers. Where residential is present appropriate transitions will be put in place; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal has been appropriately located in a proposed SW form district which is characterized by predominately industrial and office uses; the proposed district allows for the large-scale agglomeration of multiple uses of varying intensities in an industrial area; the proposed district allows for the large-scale agglomeration of multiple uses in varying intensities. Trips will be determined by employment which is supported by nearby populations; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, there are no natural features evident on the site; the Proposal is not located in the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, it would not appear that the site contains features of historic and landscape significance; it would not appear that the site contains features of historic, landscape, or cultural significance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is in an area that supports a wide range of employment opportunities that, in-turn, supports fewer trips and efficient transportation; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the area includes a concentration of compatible uses that allow for industrial uses to be located near each other. All improvements to the street and sidewalk network required of the development will be provisioned; the area includes a concentration of compatible uses that allow for industrial uses to be located near each other. All improvements to the street and sidewalk network required of the development will be provisioned; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal will be served by existing utilities or capable of being served by public or private utility extensions; the proposal will have an adequate supply of potable water and water for fire-fighting purposes; the proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality as approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal will support existing and future uses within the workplace form and it is compatible with the scale and intensity of those uses; the proposal is in an industrial area within the bounds of the workplace form to take advantage of special infrastructure needs. The area includes a concentration of compatible uses that allow for industrial uses to be located near each other; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the proposal does not present a hazard to the groundwater; the proposal is not located within the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the suburban workplace form district is intended as district to serve a concentration of industrial and offices use. The area concentrates industrial uses as it continues to grow.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in form district from Neighborhood to Suburban Workplace on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Seitz and Lewis

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Zoning Change from R-4 to EZ-1

On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the Plan 2040 Staff Analysis and the applicant's testimony was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed district is proposed in the Suburban Workplace form district in a primarily industrial area. A residential community is present in the area of development. The Suburban Workplace is a form characterized by predominately industrial and office uses. An existing residential community shares a property boundary. All landscaping to provide appropriate transition at this industrial location will be provided as required; the proposal is an expansion of an existing EZ-1 property located at the terminus of a local level road, Ladd Ave. While the proposal is not located near transit or transportation corridor it is located adjacent to other EZ-1 property that use Ladd Ave for access. A sufficient population is present in nearby communities and the Metro area to support industrial growth at this location; the proposed district is in the Suburban Workplace form district in a primarily industrial area; the proposed industrial district is situated to take advantage of a concentration of industrial uses in the workplace form district. The expansion of EZ-1 on approximately a quarter of an acre ensures that the existing population is not further impacted; the form district in which the site is proposed is intended to concentrate industrial and offices uses. Truck traffic and emissions should be expected in this form as it commonly serves warehousing and distribution centers; no adverse impacts of traffic are expected on nearby communities as the roadway already accommodates truck traffic; no further adverse impacts of noise are expected on nearby communities as the road and area already serves truck traffic; the proposed district is segregated from population centers. Where residential is present appropriate transitions will be put in place; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal has been appropriately located in a proposed SW form district which is characterized by predominately industrial and office uses; the proposed district allows for the large-scale agglomeration of multiple uses of varying intensities in an industrial area; the proposed district allows for the large-scale agglomeration of multiple uses in varying intensities. Trips will be determined by employment which is supported by nearby populations; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, there are no natural features evident on the site; the Proposal is not located in the floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, it would not appear that the site contains features of historic and landscape significance; it would not appear that the site contains features of historic, landscape, or cultural significance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is in an area that supports a wide range of employment opportunities that, in-turn, supports fewer trips and efficient transportation; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the area includes a concentration of compatible uses that allow for industrial uses to be located near each other. All improvements to the street and sidewalk network required of the development will be provisioned; the area includes a concentration of compatible uses that allow for industrial uses to be located near each other. All improvements to the street and sidewalk network required of the development will be provisioned; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal will be served by existing utilities or capable of being served by public or private utility extensions; the proposal will have an adequate supply of potable water and water for fire-fighting purposes; the proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality as approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal will support existing and future uses within the workplace form and it is compatible with the scale and intensity of those uses; the proposal is in an industrial area within the bounds of the workplace form to take advantage of special infrastructure needs. The area includes a concentration of compatible uses that allow for industrial uses to be located near each other; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the proposal does not present a hazard to the groundwater; the proposal is not located within the floodplain; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the suburban workplace form district is intended as district to serve a concentration of industrial and offices use. The area concentrates industrial uses as it continues to grow.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to EZ-1, Enterprise Zone on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Seitz and Lewis

Waiver from Chapter 10.2.10 to not provide the 15' VUA LBA along Ladd Avenue (22-WAIVER- 0017)

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Standard of Review and Staff Analysis and the applicant's testimony was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners since the adjacent property in the area of encroachment is a roadway that serves one property. Both properties are zoned the same and a buffer is not needed to screen anything out of the ordinary for the area; and

WHEREAS, 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 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. Encourage the placement of parking lots and garage doors behind or beside the building rather than facing the street. The use of alleys for access to parking lots is encouraged, especially in Downtown Louisville, Urban Center

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Neighborhoods, Traditional Neighborhoods and Traditional Marketplace Corridors. Encourage elimination or reduction of parking minimums in areas readily accessible to transit routes. 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 adjacent property in the area of encroachment is a roadway that serves one property. Both properties are zoned the same and a buffer is not needed to screen anything out of the ordinary for the area; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the adjacent property in the area of encroachment is a roadway that serves one property. Both properties are zoned the same and a buffer is not needed to screen anything out of the ordinary for the area; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 since the adjacent property in the area of encroachment is a roadway that serves one property. Both properties are zoned the same and a buffer is not needed to screen anything out of the ordinary for the area.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from Chapter 10.2.10 to not provide the 15' VUA LBA along Ladd Avenue (22-WAIVER- 0017).

The vote was as follows:

YES: Commissioners Carlson, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Seitz and Lewis

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, 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; and

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WHEREAS, 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; and

WHEREAS, there are no open space requirements pertinent to the current proposal; and

WHEREAS, 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; and

WHEREAS, the Louisville Metro Planning Commission finds, 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. Buildings and parking lots will meet all required setbacks; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following 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. Use of the subject site shall be limited to C-2 and M-1 uses. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The LD&T Committee may require a public hearing on the request to amend this binding element.
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.

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4. Before any permit (including but not limited to building, parking lot, change of use, 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.
 - 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.
 - d. 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 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. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
8. The applicant shall coordinate with Louisville Metro Public Works to determine if what type and where traffic signs can be placed to deter truck traffic from accessing Eureka Ave. Furthermore, the applicant shall be responsible for incurring the cost for installation of that approved sign plan.

The vote was as follows:

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YES: Commissioners Carlson, Daniels, Mims, Price, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Seitz and Lewis