

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

Request: Change in zoning from C-1 and C-2 to PEC with a waiver and RDDP
Project Name: Durrett Lane
Location: 1231 & 1241 Durrett Lane
Owner: Durrett LLC
Applicant: Poe Durrett LLC
Representative: Land Design and Development; Frost Brown Todd
Jurisdiction: Louisville Metro
Council District: 21-Nicole George
Case Manager: Joel P. Dock, AICP, Planner II

Notice of this public hearing appeared in The Courier-Journal,

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:38:44 Joel Dock presented the case and showed a Power Point slide show (see staff report and recording for detailed presentation). Mr. Dock detailed the case summary, site photos, and staff findings. He noted the convenient access points to the site which meets comprehensive plan goals for mobility.

The following spoke in support of this request:

Glenn Price, 400 W. Market Street, Suite 3200, Louisville, Kentucky, 40202

Summary of testimony of those in support:

02:44:41 Glenn Price, representing Durrett LLC and Poe Durrett LLC, presented a Power Point slide show (see recording for detailed presentation). Mr. Price detailed the existing buildings, the development plan, and access points from Durrett Lane and Preston Hwy.

The following spoke in opposition to this request:

No one spoke.

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

Commissioner Deliberation:

02:50:10 Commissioner Deliberation (see recording for detailed presentation).

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.

02:51:32 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Plan 2040 Staff Analysis, testimony heard today, and the Applicant's Demonstration of Appropriateness, was adopted:

Applicant's Demonstration of Appropriateness

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Community Form Goal 1** because The Proposal conforms to Community Form Goal 1 and all applicable Objectives and Policies adopted thereunder, including Policies 6, 7, 8, 15, 16, 17, 18 and 21. The site is presently used as a commercial call center and has been used historically for large-scale office uses. Hence, the proposed zone change would not constitute a non-residential expansion into a residential area. Located on a major arterial roadway and transit corridor (i.e., Preston Highway), the Proposal would allow for higher density and intensity uses. Preston Highway is a Kentucky state highway (State Highway Route 61). Although the site lies within a Suburban Marketplace Form District, as opposed to a Workplace Form District, the proposal is nevertheless located near adequate infrastructure and transportation facilities. All air and noise ordinances will be complied with. Lighting provisions of the Land Development Code will be complied with. Uses on the subject site will conform to all air quality regulations promulgated by the Louisville Air Pollution Control District. The development and all uses on the subject site will conform to water quality regulations promulgated by the Metropolitan Sewer District. The proposed zoning district will not result in the displacement of residents or the loss of affordable housing units, nor will it create a strain on parking facilities in the area. Durrett Lane is not proposed to handle truck traffic to be generated by the development. Employee vehicles will utilize Durrett Lane, and it is not anticipated that the employee traffic will adversely impact the traffic-carrying capacity of Durrett Lane; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Community Form Goal 2** because the proposal conforms to Community Form Goal 2 and all applicable Objectives and Policies adopted thereunder, including Policies 1, 5, 6,

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

7, 8, 9 and 10. The proposal results in the reuse of developed land. The development has the potential for future outlot development along a commercial corridor with adequate connectivity. The site has no apparent natural features thereon. The proposed PEC Planned Employment Center District will allow for commercial development and light and medium intensity industrial development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Community Form Goal 3** because the Proposal conforms to Community Form Goal 3 and all applicable Objectives and Policies adopted thereunder, including Policies 9, 10, 11 and 12. There are no natural features or natural systems on the site that should be respected. No wet or highly permeable soils or severe, steep or unstable slopes are present on-site. The site is not located within the Ohio River corridor. All comments from the Metropolitan Sewer District must be addressed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Community Form Goal 4** because the Proposal conforms to Community Form Goal 4 and all applicable Objectives and Policies adopted thereunder, including Policies 1 and 2. No historic assets or assets of architectural value are located on site. No distinctive cultural features are evident on site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Mobility Goal 1** because the Proposal conforms to Mobility Goal 1 and all applicable Objectives and Policies adopted thereunder, including Policy 4. The Proposal will allow for higher density and intensity uses in an area served by public transit service provided by the Transit Authority of River City via TARC Route 18.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Mobility Goal 3** because the Proposal conforms to Mobility Goal 3 and all applicable Objectives and Policies adopted thereunder, including Policies 2, 3, 4, 5, 6, 9 and 10. The proposed zone change to PEC Planned Employment Center District would permit both medium and light intensity industrial uses, commercial and office uses. The proposed warehouse facility will be open 24 hours per day to allow for trans-shipment of goods when necessary. Preston Highway is a transit route. Truck traffic will utilize the Preston Highway entrance to the site, rather than Durrett Lane; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Community Facilities Goal 2** because the Proposal conforms to Community Facilities Goal 2 and all applicable Objectives and Policies adopted thereunder, including Policies 1, 2 and 3. The development site is served by all existing necessary utilities. The Louisville Water Company has approved the Proposal, which indicates that the development has an adequate supply of potable water and water for fire-fighting

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

purposes. The site will be served by the sewage treatment facilities of the Metropolitan Sewer District ("MSD"). It is anticipated that the Metropolitan Sewer District (MSD) will approve the Proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Economic Development Goal 1** because the Proposal conforms to Economic Development Goal 1 and all applicable Objectives and Policies adopted thereunder, including Policies 1, 2, 3, 4 and 5. The proposed zone allows for commercial uses and is located on a major arterial. Durrett Lane will not be utilized for heavy truck traffic, which would increase potential hazards on a local roadway serving residences and commercial uses. The proposed zone is located within close proximity to the airport and has ready access to the airport. The proposal provides adequate infrastructure and transportation facilities along a major arterial roadway with access to an interstate highway; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Livability Goal 1** because the Proposal conforms to Livability Goal 1 and all applicable Objectives and Policies adopted thereunder, including Policies 17, 21 and 24. The site is not located within the regulatory floodplain and does not appear to be susceptible to erosion; and

REZONING

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 1: Community Form** because the proposed rezoning is located on an existing development site of a non-residential use and zoning district. The proposed zoning district will not result in the displacement of residents or loss of affordable housing units. The proposal will not create a strain on parking in the area as the current development provides a sufficient number of existing parking spaces to serve a wide variety of potential commercial, industrial, and office users. The site is predominantly adjoining nonresidential uses or the interstate; The proposed higher intensity use is located along a major arterial roadway near transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists. The proposal is conveniently accessible from Interstate-264 and Interstate-65, as well the International Airport and related industry; the proposal is not located in a workplace form district. The proposal is, however, located near adequate infrastructure and transportation facilities, including the international airport and the interstate; the proposal has been reviewed for its impact on air, noise and light emissions to ensure disadvantaged populations are not disproportionately impacted. The proposed zoning district does not allow for the most

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

noxious industrial uses as the district does not allow for M-3 industrial uses. The proposed district is intended to “provide opportunities for employment close to residential areas, and thus to reduce travel time from home to work and the burden on the streets and transit system.” It allows for limited commercial activities and offices in combination with industrial parks. The future use and development of the property should be cognizant of the residential populations along Durrett Lane with respect to the movement of heavy-trucks. Preston Highway provides sufficient access to necessarily transportation infrastructure; the impact on human health, quality of life and the environment has been considered. The proposed zoning district does not allow for the most noxious industrial uses as the district does not allow for M-3 industrial uses. The proposed district is intended to “provide opportunities for employment close to residential areas, and thus to reduce travel time from home to work and the burden on the streets and transit system.” It allows for limited commercial activities and offices in combination with industrial parks. The future use and development of the property should be cognizant of the residential populations along Durrett Lane with respect to the movement of heavy-trucks. Preston Highway provides sufficient access to necessarily transportation infrastructure; Adverse impacts of traffic are minimized as the site has access to a major arterial roadway and an adequate transportation network; the adverse impacts of noise have been considered and it would not appear that the proposed district would have a considerable negative impact beyond the current condition present, including the international airport and the interstate; the proposed district minimizes the impact of hazardous or potentially nuisance uses as uses permitted within the highest intensity industrial category (M-3) are not permitted; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 2: Community Form** because the SMC calls for a pattern of development distinguished by a mixture of medium to high intensity uses. While the form is not being expanded, it should be considered relevant for this expanded intensity the following factors: (a) use or reuse of land within existing corridors; (b) potential for disruption of established residential neighborhoods; and (c) compliance with the site and community design standards of the Land Development Code. The prior use and current layout of the property are not necessarily the desire of the suburban marketplace corridor. The current form at this location is disconnected and out of place from the commercial corridor that begins further to the south and north of the site. The site lies at the crossroad of the interstate and the international airport and appears to be better served by providing support and to take advantage of those facilities; the proposed district allows low-intensity commercial services to serve the community in conjunction with office and industrial uses. For instance, a manufacturer may produce a product as permitted by the district and sell those products directly to the consumer; the proposal results in the reuse of developed land or future redevelopment in the context of the proposed district; the proposed district encourages compatible uses that

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

will take advantage of their location in relation to transportation infrastructure; Residential uses are not permitted in the proposed district and would not necessarily be appropriate given the subject property's proximity to transportation infrastructure, including the airport and interstate; The proposed district allows for commercial and office uses; The proposed district allows for outlot development and encourages sufficient space in attractive, landscaped, and planned industrial parks for M-2 Industrial operations, which may include a multi-lot redevelopment; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 3: Community Form** because the development site is previously developed and it would not appear to affect sensitive natural feature; the site is previously developed and it would not appear to affect wet or highly permeable soils, severe, steep or unstable slopes; Preliminary approval has been received from MSD. The site is previously developed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 4: Community Form** because the site does not appear to contain buildings, sites, districts or landscapes that are recognized as having historic or architectural value; the site does not appear to contain buildings, sites, districts and landscapes that are recognized as having historic or architectural value; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 1: Mobility** because the proposed higher intensity use is located in an area that is connected to public transit and employment centers. It would facilitate the repurposing of a former employment center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 3: Mobility** because the proposed district is intended to "provide opportunities for employment close to residential areas, and thus to reduce travel time from home to work and the burden on the streets and transit system." It allows for limited commercial activities and offices in combination with industrial parks. Medium intensity industrial operations contained within buildings allow for employment opportunities while limiting potential for nuisances upon the community; the proposed higher intensity use is located in an area that is connected to public transit; The proposed higher intensity use is located in an area that is connected public transit, as well as an adequate network for multiple modes of transportation; the proposed development site consists of existing facilities that are imagined for repurposing at this time. The site is at a convenient location to provide for different transport and distribution while limiting nuisances upon multi-modal transit; the proposed district is strategically located to take advantage of existing transportation infrastructure; Required improvements to transportation facilities will be made as required; and

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 2: Community Facilities** because the proposal would appear to be located in areas served by existing utilities or capable of being served by public or private utility extensions; An adequate supply of potable water and water for fire-fighting purposes would appear to be available; Preliminary approval has been received by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 1: Economic Development** because while the proposed district is not located in an industrial subdivision, it is located to take advantage of adequate infrastructure and transportation facilities; the proposed district, which allows for commercial uses, is located on a major arterial. The future use and development of the property should be cognizant of the residential populations along Durrett Lane with respect to the movement of heavy-trucks. Preston Highway provides sufficient access to necessarily transportation infrastructure; the proposed district is located within close proximity to the airport and has ready access to the airport; The proposal provides adequate infrastructure and transportation facilities along a major arterial roadway with interstate access; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets **Land Use & Development Goal 1: Livability** because the site does not appear to be susceptible to erosion; Preliminary approval has been received by MSD; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council **Change in zoning** from C-1 & C-2, Commercial to PEC, Planned Employment Center be **APPROVED**

The vote was as follows:

YES: Commissioners Tomes, Howard, Peterson, Brown, Daniels, Carlson, Mims, Lewis, and Jarboe.

Waiver and Revised Detailed District Development Plan

02:52:28 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and testimony heard today was adopted:

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

Waiver

WHEREAS, the Louisville Metro Planning Commission finds the waiver will not adversely affect adjacent property owners as the request is the result of existing encroachments and all planting and screening required will be provided; and

WHEREAS, the Commission further finds Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The request is the result of existing encroachments and all planting and screening required will be provided. The current parking facilities are unmitigated from roadways and adjacent uses and the proposal will improve on the current conditions; and

WHEREAS, the Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as existing facilities will be repurposed and planting and screening as required will be provided; and

WHEREAS, the Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as the redevelopment of the site will result in improved conditions along the perimeter without causing the removal of a pavement and parking; and

Revised Detailed District Development Plan

WHEREAS, the Commission further finds 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 will be conserved as the site is previously developed and these items will not be impacted, or the development will receive appropriate approvals from relevant agencies to mitigate floodplain or water course; and

WHEREAS, the Commission further finds Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as pedestrian connectivity to public transit routes has been extended and public walks are being provided along Durrett Lane; and

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

WHEREAS, the Commission further finds the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided. Open space is not required at this time; and

WHEREAS, the Commission further finds 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 Commission further finds the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as parking facilities will be improved to provide interior landscape areas and planting and screening will be provided along the perimeter; and

WHEREAS, the Commission further finds the proposed development plan conforms to Plan 2040 as a minimal amount of redevelopment is occurring at this time. The proposal will provide sufficient plantings to increase tree canopy in Louisville Metro and decrease negative environmental impacts of large expanses of surface parking lots. Pedestrian connectivity to public transit is being provided and public walks will be improved and provided; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the **Waiver** of Land Development Code, section 10.2.7 & 10.2.10 to allow encroachments of existing pavement into the required 15' landscape buffer areas **AND** the **Revised Detailed District Development Plan** subject to the abandonment of existing binding elements and adoption of proposed 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

3. Before any permit, including but not limited to building, parking lot, change of use is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to occupying the building. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject site and the adjoining property owners at 1243 Durrett Lane and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
4. 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.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. A legal instrument providing for the long-term use of the off-site parking spaces for property at 1243 Durrett lane as shown on the approved district development plan and in accordance with Section 9.1.5 Off-Site Parking shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy.

PLANNING COMMISSION MINUTES
February 6, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0080

7. Compliance with parking minimum/maximum and/or non-conformance shall be determined at time of occupancy. The approved development plan and Planning Commission record shall be updated to reflect compliance.

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.

The vote was as follows:

YES: Commissioners Tomes, Howard, Peterson, Brown, Daniels, Carlson, Mims, Lewis, and Jarboe.