

**Planning Commission Minutes
May 19, 2016**

Public Hearing

Case No. 16ZONE1010

Request: Change in zoning from R-4 to PEC on approximately 4.46 acres with a Waiver and a Revised District Development Plan.

Project Name: Air Hydro Power Expansion

Location: 2550 Blankenbaker Parkway

Owner/Applicant: MOB Investments LLC
Matt Ott, Member
2550 Blankenbaker Parkway
Louisville, KY

Representative: Clifford Ashburner
Dinsmore & Shohl, LLP
101 South 5th Street Suite 2500
Louisville, KY 40202

Kevin Young
Land Design & Development, Inc.
503 Washburn Avenue Suite 101
Louisville, KY 40222

Jurisdiction: Louisville Metro AND City of Jeffersontown

Council District: 20 – Stuart Benson

Case Manager: **Julia Williams, RLA, AICP, Planner II**

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.)

An audio/visual recording of the Land Development and Transportation Committee meeting related to this case is available on the Planning &

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Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Agency Testimony:

01:10:00 Julia Williams presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

01:15:48 Ms. Williams said there had been some discussion about crafting a binding element regarding Blankenbaker Road and its access.

The following spoke in favor of the proposal:

Clifford Ashburner, Dinsmore & Shohl, LLP, 101 South 5th Street Suite 2500, Louisville, KY 40202

Kevin Young, Land Design & Development, Inc., 503 Washburn Avenue Suite 101, Louisville, KY 40222

Summary of testimony of those in favor of the proposal:

01:16:51 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:19:36 Mr. Ashburner discussed a resolution passed by the City of Jeffersontown regarding the intent to annex property/s, which bears on this case.

01:23:15 Mr. Ashburner read a proposed binding element into the record:

01:25:04 Commissioner Brown discussed prohibiting direct tractor-trailer and/or construction truck traffic access onto Blankenbaker Road until roadwork is complete. Road width and issues with construction traffic were discussed.

The Commission recessed for 10 minutes

01:30:25 Mr. Ashburner read the revised binding element into the record.

Per the approved plan dated April 4, 2016 and Transportation Planning requirements and standards, the applicant shall provide the following: a contribution of up to 13% of the construction costs (labor and materials) of improving Blankenbaker Road to provide 24' of total pavement width (minimum 1ft. widening) with 6-8 foot shoulders from Electron Drive to Plantside Drive. The contribution shall be made to Louisville Metro Public

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Works upon presentment of final costs incurred by Louisville Metro in the construction of the road improvements. There shall be no direct access from the subject property to Blankenbaker Road until the earlier of the above improvements being made or the granting of an encroachment permit by the appropriate permitting authority.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal ("Other"):

No one spoke.

Rebuttal:

There was no rebuttal, since no one spoke in opposition.

Deliberation:

01:32:12 Commissioners' deliberation.

Zoning

01:33:59 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1- Suburban Workplace Form District**. The proposed development complies with the intent and applicable Policies of this Guideline. The proposed expansion will allow for MOB businesses to remain on Blankenbaker Parkway where it is in a planned industrial development. The subject property will be added to two other MOB Investments properties to create a unified development including the existing building on Blankenbaker Parkway, a new warehouse building and an office building; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The proposed development complies with the intent and applicable Policies of this Guideline. The proposed development represents a slight extension of the existing major activity center within and around the Bluegrass Industrial Park and Blankenbaker Parkway area. Most of the area is already zoned and/or used for industrial and office development, with the few remaining residential parcels now becoming outliers. MOB will

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provide buffers and screening as needed. Adjacent properties are part of an area-wide annexation and rezoning effort by the City of Jeffersontown; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The proposed development complies with the intent and applicable Policies of this Guideline. The proposed development will be constructed of materials similar to those used in the main building. Lighting will be provided in accordance with the LDC. The proposed development includes significant landscape buffer areas ("LBA") and will include significant screening within the LBA's adjacent to the residential properties to the North and West of the subject property; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4 – Open Space**. The proposed development complies with the intent and applicable Policies of this Guideline. The Applicant proposes to include picnic areas as an outdoor amenity area for MOB employees. There are also large LBA's and detention areas, providing significant open space; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5-Natural Areas and Scenic and Historic Resources**. The proposed development complies with the intent and applicable Policies of this Guideline. There are no identified natural resources, nor are there any identified historic resources on the subject property; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6-Economic Growth and Sustainability**. The proposed development complies with the intent and applicable Policies of this Guideline. The Bluegrass Industrial Park/Blankenbaker Parkway area is a very large and densely developed office/industrial park. Allowing the proposed development will keep a long-time business in the community and in an appropriate area of the community. Access will be through existing entrances and drive areas on the MOB property on Blankenbaker Parkway and via a new entrance on Blankenbaker Road; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7-Circulation and Guideline a-Transportation Facility Design**. The proposed development complies with the intent and applicable Policies of these Guidelines. The proposed development will contain an addition to the existing MOB headquarters, a new warehouse and a new office building. Access will be provided from both Blankenbaker Parkway and Blankenbaker Road. The truck loading and maneuvering will all take place in areas of the

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subject property that are near to where these operations take place now. MOB will also dedicate right of way to Blankenbaker Road as necessary; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9-Bicycle, Pedestrian and Transit**. The proposed development complies with the intent and applicable Policies of this Guideline. The proposed development includes the addition of a pedestrian connection to the main entrance of the MOB headquarters building from Blankenbaker Parkway; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10-Flooding and Stormwater** and **Guideline 11-Water Quality**. The proposed development complies with the intent and applicable Policies of these Guidelines. The proposed development will include significant open space and detention areas, and will use new features and existing downstream infrastructure to handle stormwater and to ensure water quality; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 12-Air Quality**. The proposed development complies with the intent and applicable Policies of this Guideline. The proposed development is an expansion of an existing business in an area already served by adequate roads with access to I-64. The proposal will allow for the use of existing infrastructure, reducing the impact of the project; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13-Landscape Character**. The proposed development complies with the intent and applicable Policies of this Guideline. The proposed development includes significant LBA's and the Applicant will comply with screening and tree canopy requirements and will provide significant buffers along the residential property lines it shares with surrounding owners; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from Change in zoning from R-4 to PEC on approximately 4.46 acres on property described in the attached legal description, be **APPROVED**.

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The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White and Howard.

ABSTAINING: No one.

Waiver from 5.5.4.B.1 to reduce the required LBA from 50' to 15' and eliminate the 6' berm along the south property line.

01:34:44 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since a buffer, trees and screening will be provided; and

WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Cornerstone 2020. 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 3, policies 21 and 22 calls 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 the 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 air borne and water borne pollutants. A buffer, trees and screening will still be provided; and

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WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since a buffer, trees and screening will be provided; and

WHEREAS, the Commission further finds that 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 a buffer, trees and screening will be provided; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 5.5.4.B.1 to reduce the required LBA from 50' to 15' and eliminate the 6' berm along the south property line.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White and Howard.

ABSTAINING: No one.

Detailed District Development Plan and Binding Elements for Metro Louisville portion of the site

01:36:02 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that 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

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and

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the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 that the overall site design and land uses are compatible with the existing and future development of the area. The building will meet the setback requirements of the form district; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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 and to the City Jeffersontown for review and approval dependent upon the jurisdiction for portions of the site; any changes/additions/alterations not so referred shall not be valid.
2. Signs shall be in accordance with Chapter 8. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan/sign plan. The sign shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides.
3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banner shall be permitted on the site.

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4. 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.
5. 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 Louisville Metro Department of Develop Louisville Construction Permit Review, Transportation Planning Review 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. The Conditional Use Permit granted under case number 8499 shall be abandoned by the Board of Zoning Adjustment.
6. If a building permit, parking lot permit, or site disturbance permit is not issued within two years of the date of approval of the plan, the proposed expansion shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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.

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9. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
10. No overnight idling of trucks shall be permitted on site.
- ~~11. Per the approved plan dated April 4, 2016 and Transportation Planning requirements and standards, the applicant shall provide the following: widen Blankenbaker Road to provide 24' of total pavement width (minimum 2 ft. widening) with 6-8 foot shoulders from Electron Drive to meet the 23' section just north of Shining Water Dr. Existing driveways affected by the improvements, shall be modified or restored as required. Full width pavement overlay is required for all areas of widening.~~
11. Per the approved plan dated April 4, 2016 and Transportation Planning requirements and standards, the applicant shall provide the following: a contribution of up to 13% of the construction costs (labor and materials) of improving Blankenbaker Road to provide 24' of total pavement width (minimum 1ft. widening) with 6-8 foot shoulders from Electron Drive to Plantside Drive. The contribution shall be made to Louisville Metro Public Works upon presentment of final costs incurred by Louisville Metro in the construction of the road improvements. There shall be no direct access from the subject property to Blankenbaker Road until the earlier of the above improvements being made or the granting of an encroachment permit by the appropriate permitting authority.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White and Howard.

ABSTAINING: No one.

Detailed District Development Plan and Binding Elements for portion of the site located in the City of Jeffersontown

01:38:20 On a motion by Commissioner Tomes, seconded by Commissioner Peterson, the following resolution was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that 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

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 that the overall site design and land uses are compatible with the existing and future development of the area. The building will meet the setback requirements of the form district; and

WHEREAS, the Commission further finds that, based on the evidence and testimony presented, the applicant's justification, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown that the requested Detailed District Development Plan be **APPROVED**, 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 and to the City Jeffersontown for review and approval dependent upon the jurisdiction for portions of the site; any changes/additions/alterations not so referred shall not be valid.
2. Signs shall be in accordance with Chapter 8. The only permitted freestanding sign shall be a monument style sign, located as shown on the

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approved development plan/sign plan. The sign shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides.

3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banner shall be permitted on the site.
4. 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.
5. 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 Louisville Metro Department of Develop Louisville Construction Permit Review, Transportation Planning Review 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. The Conditional Use Permit granted under case number 8499 shall be abandoned by the Board of Zoning Adjustment.
6. If a building permit, parking lot permit, or site disturbance permit is not issued within two years of the date of approval of the plan, the proposed expansion shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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

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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.

9. The façade elevations shall be in accordance with applicable form district standards and shall be approved by PDS staff prior to construction permit approval.
10. No overnight idling of trucks shall be permitted on site.
- ~~11. Per the approved plan dated April 4, 2016 and Transportation Planning requirements and standards, the applicant shall provide the following: widen Blankenbaker Road to provide 24' of total pavement width (minimum 2 ft. widening) with 6-8 foot shoulders from Electron Drive to meet the 23' section just north of Shining Water Dr. Existing driveways affected by the improvements, shall be modified or restored as required. Full width pavement overlay is required for all areas of widening.~~
11. Per the approved plan dated April 4, 2016 and Transportation Planning requirements and standards, the applicant shall provide the following: a contribution of up to 13% of the construction costs (labor and materials) of improving Blankenbaker Road to provide 24' of total pavement width (minimum 1ft. widening) with 6-8 foot shoulders from Electron Drive to Plantside Drive. The contribution shall be made to Louisville Metro Public Works upon presentment of final costs incurred by Louisville Metro in the construction of the road improvements. There shall be no direct access from the subject property to Blankenbaker Road until the earlier of the above improvements being made or the granting of an encroachment permit by the appropriate permitting authority.

The vote was as follows:

YES: Commissioners Lewis, Brown, Turner, Blake, Kirchdorfer, Tomes, Jarboe, and Peterson.

NO: No one.

NOT PRESENT: Commissioners White and Howard.

ABSTAINING: No one.