

**PLANNING COMMISSION MINUTES
MARCH 15, 2018**

PUBLIC HEARING

CASE NUMBER 16ZONE1072

Project:	Name Greenbelt Warehouse
Location:	7001 Greenbelt Highway
Owner:	Eagle Point CD LLC
Applicant:	Eagle Point CD LLC
Representative:	Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	1 – Jessica Green
Case Manager:	Laura Mattingly, AICP, Planner II

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

Agency Testimony:

05:01:55 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202
Kelli Jones, 608 S 3rd Street, Louisville, KY 40202

Summary of testimony of those in favor:

05:10:06 Clifford Ashburner summarized the applicant's proposal and showed a presentation. He responded to questions from the Commissioners.

05:25:40 Kelli Jones stated that tree planting depends on construction. Typically, they like to plant in spring or fall; summer plantings require more maintenance. Commissioner Carlson suggested planting as early as possible so that growth can begin sooner rather than later. Mr. Ashburner stated that they would like to plant trees when it's practical, which will be between the finishing of the swale and drive aisle and construction of the building.

The following spoke in opposition to this request:

James Chambers, 6012 Santa Fe Trail, Louisville, KY 40258
Betty Jarboe, 7306 Rutledge Road, Louisville, KY 40258

Summary of testimony of those in opposition:

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05:29:34 James Chambers owns property adjacent to the subject site. He stated that other companies along Greenbelt Hwy. use an access road, but the applicant wants to build and access directly on Greenbelt. He feels this will negatively impact traffic. He is concerned about noise coming from additional trucks travelling on Greenbelt.

05:39:26 Betty Jarboe owns property south of the proposed development. The Mill Creek ponding basin flows behind her property, and several flooding incidents have occurred in the area. Water often reaches into her backyard. Even though MSD has approved the proposal, she is concerned about the affect construction might have on the ponding basin. She agrees with Mr. Chambers regarding noise concerns from traffic on Greenbelt.

05:45:54 Mr. Chambers expressed concerns for road improvements along Greenbelt in front of the proposed development.

Rebuttal:

05:47:20 Mr. Ashburner spoke in rebuttal. The median on Greenbelt will be modified. Traffic heading south will enter on the south side of the site. The building was moved in order to create more of a buffer to the north.

05:49:24 Kelli Jones stated they have acknowledged that there are jurisdictional wetlands on the site, and they will deal with this upon construction. They are preserving all of the intermittent stream and are impacting some of the ephemeral stream. There is minimal floodplain on the site.

05:51:51 Tony Kelly with MSD addressed concerns about flooding mitigation.

06:02:07 Mr. Ashburner addressed concern about the sound barrier along Greenbelt. He stated that the wall was promised to the neighborhood by KYTC and is not something the applicant is required to provide for this development. He responded to questions from the Commissioners.

Deliberation:

06:15:50 Commissioner Carlson stated he is concerned with compatibility with the adjacent neighborhood and sound mitigation.

Commissioners Ferguson, Lindsey, Lewis, Smith, and Peterson concur that the proposal is justified.

Commissioner Brown stated he would not support the proposal if it was a 24 hour operation given the proximity to residential. Commissioner Peterson agrees that the site should not remain open 24 hours a day.

06:24:11 Ms. Mattingly and Mr. Ashburner discussed revisions to binding elements with the Commissioners.

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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 Zoning

06:34:56 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the Cornerstone 2020 Checklist and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal incorporates landscaping, buffering and adequate setbacks in order to integrate into the pattern of development in the area. The proposal is located just east of Greenbelt Parkway with a major industrial area just to the west. Public sidewalks and pedestrian connections are proposed with a transit stop near the development, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because building design standards will be met, with landscaping being provided along the frontage which will increase the compatibility of the structure itself. The proposal is expanding into a residential area but mitigates for such an expansion by providing more than the required buffers and screening (sound fence), preserving trees and gaining access from the adjacent major arterial road. The preservation of existing mature trees and new plantings within the buffer areas, the location of loading areas away from existing residential, as well as restrictions on the times of day trucks can idle adequately mitigates for potential odor or emissions. Access will be achieved from Greenbelt Highway, a major arterial, with truck traffic being directed to the south end of the site, away from the residential subdivision access to the north. Lighting will be directly downward and away from adjacent properties, as required in the Land Development Code. The proposal is located just east of a major industrial area and on a transit route. The buffers provided are wider than required in many areas of the site with existing and new trees providing screening from adjacent less intense uses. Setbacks and building height are appropriate. The proposed industrial use will be heavily screened from the adjacent residential area to the north with a 50' buffer, additional setback, and preserved mature trees. Setbacks are similar to those found in the industrial area to the west. Parking and loading areas are located away from the residential area to the north with adequate setbacks and buffers. Trucks will also be entering from the south end of the site to alleviate some truck traffic impacts on the residential area. The applicant has proposed the required 30' parkway buffer adjacent to Greenbelth Hwy. Signs will be in compliance with Land Development Code standards found in Chapter 8, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because a large tree canopy preservation area is proposed, as well as amenity areas for employees. Open space standards have been met for the use and the form district. The

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proposal will be preserving 22% of the existing tree canopy and leaving the stream area undisturbed, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the proposal will be preserving 22% of the existing tree canopy and leaving the stream area undisturbed. There are no historic buildings on site and this proposal is not in a historic area. The development is mostly avoiding the area of the site identified with hydric soils, and

WHEREAS, the Commission further finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed use will provide opportunities for employment. The proposal is located adjacent to an existing industrial subdivision. This use is not retail and Greenbelt Hwy, a major arterial, appears to have capacity to accommodate the traffic generated from the use. The proposed industrial use predicts more than 100 employees and is located on a major arterial, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because all KTYC and transportation requirements have been met, with improvements to Greenbelt Hwy including the removal of the median and right turn lane at the southern entrance to the site. Sidewalks are provided and a transit stop is located within walking distance on Greenbelt Hwy. Transportation facilities are adequate and cross access is proposed to the property to the south at the time that the property is developed for non-residential use. Dedication of right of way was not required for this proposal. Parking requirements found in the LDC Section 9.2 have been met. Future cross access is proposed on the south side of the site to Riverport Drive, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because access will be achieved from the adjacent major arterial road. The existing street network is not affected by this proposal, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks and pedestrian connections are provided and increase connectivity to the existing transit stops on Greenbelt Hwy, and

WHEREAS, the Commission further finds that the proposal meets the Flooding and Stormwater guideline because MSD has approved the proposal and floodplain compensation has been provided at a 1:1 ratio, and

WHEREAS, the Commission further finds that the proposal meets the Air Quality guideline because APCD did not have any issues with the proposal, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because the preservation area on the east side of site appears to provide for habitat and migration, and

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WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because this area is fully developed and has adequate existing infrastructure for the proposal. There is existing infrastructure in place for potable water and fire-fighting purposes. MSD has approved the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in Zoning from R-4 Single-Family Residential to EZ-1 Enterprise Zone on 27.21 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Change in Form District

06:35:40 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is located on along Greenbelt Hwy, just to the east of a large industrial area. The site design includes the required 30' parkway buffer which provides buffering of the parking area and proposed building. A public sidewalk is proposed along the site frontage with pedestrian access to the building, which will increase pedestrian connectivity and transit access. Buffering adjacent to residential uses is as adequate to aide in transitions to the lower intensity use; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in Form District from Neighborhood to Suburban Workplace be **APPROVED**.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes

Waiver and Detailed District Development Plan

06:36:10 On a motion by Commissioner Brown, seconded by Commissioner Smith, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted:

Waiver

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WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as buffer widths are provided with preserved mature trees as well as new plantings that will provided screening, and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of 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 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 airborne and waterborne pollutants. These guidelines are not violated as buffer widths have been provided and the preservation of existing trees with the additional new plantings will screen the use from adjacent residential and provide adequate transitions between incompatible uses, meeting the intent of the Comprehensive Plan, and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as all other buffering requirements are being met with the buffer width being exceeded on much of the site, and

WHEREAS, the Commission further finds that 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 as providing the berm would require the removal of mature trees. The applicant has elected to instead preserve as many trees as possible on this forested site, and

Detailed District Development Plan

WHEREAS, the Commission further finds that this development site is currently heavily forested. The applicant has proposed to preserve as many trees as possible, including those along the perimeter that will be used for buffering and a 248,071 square foot protection area on the east side of the site. The development will also leave an existing intermittent stream and the associated buffer undisturbed, and

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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 the development meets the requirements for amenity area with an 18,000 square foot area proposed, and

WHEREAS, the Commission further finds that 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 that 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, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE (1)** the waiver of Section 5.5.4.B.1 to not provide the 6' berm along all property lines and **(2)** the detailed district development plan, **ON CONDITION** that the applicant will provide a solid fence and enhanced landscaping as presented today's Planning Commission meeting, and **SUBJECT** to the following 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:

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- 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. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. 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.
 - d. 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
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. Signs shall be posted restricting idling and establishing a slow acceleration zone along the northern drive aisle.
 8. The materials and design of proposed structures shall be reviewed for Land Development Code compliance By Planning & Design Services staff prior to construction approval.
 9. Northern access shall not be used for truck traffic between the hours of 10:00 p.m. and 6:00 a.m.

The vote was as follows:

YES: Brown, Lindsey, Carlson, Jarboe, Peterson, Smith, Lewis, and Ferguson
NOT PRESENT: Howard and Tomes