

**PLANNING COMMISSION MINUTES**  
**October 1, 2020**

**PUBLIC HEARING**

**20-ZONE-0072**

Request: Change in zoning from R-4 to EZ-1 with waivers  
Project Name: Greenbelt Highway Warehouse - Access Easement  
Location: 7101 Greenbelt Highway  
Owner: Louisville Metro Government  
Applicant: Summit Construction  
Representative: Mindel Scott  
Jurisdiction: Louisville Metro  
Council District: 1 – Jessica Green  
12 – Rick Blackwell  
Case Manager: Joel P. Dock, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:34:28 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Michael ?, LDG Development, 1469 South 4<sup>th</sup> Street, Louisville, Ky. 40202

**Summary of testimony of those in favor:**

01:41:04 Mr. Gootee gave a power point presentation.

Mr. Gootee stated the entrance plan was denied by KYTC due to the limited access of the Greenbelt. The buffering and landscaping are problematic and that's why the waivers are necessary. The justification for the zoning is that one can't go from a low intensity to high intensity use.

Mr. Gootee discussed the 3 waivers.

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01:48:26 Commissioner Mims asked Mr. Gootee to explain the sidewalk issue. Mr. Gootee said they will put the sidewalk in (not the entire property) on the portion being rezoned.

01:51:16 Michael stated he was involved with the original rezoning and supports the request.

**Deliberation**

01:52:28 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 from Neighborhood to Suburban Workplace**

On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, the neighborhood form is not intended to serve industrial uses. It is designed for neighborhood serving commercial activities or residential uses. A form district change to SW, Suburban Workplace is appropriate in conjunction with the zoning change. The SW form is characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting; and

**WHEREAS**, the Louisville Metro Planning Commission further finds, Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development. The proposal serves a single large warehouse user to the north that is located within the SW form at an appropriate location along an arterial roadway near population and employment centers.

**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:**

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**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**Zoning Change from R-4 to EZ-1**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal would not expand upon a residential area as the area of rezoning serves an adjacent industrial zoning district and use, and is separated from residential areas by streams and vegetated area, some of which may be preserved from development for flood management; the proposed higher intensity use connects an industrial user to a major arterial roadway adjacent to employment centers; the area of rezoning serves an adjacent industrial zoning district proposed to be in the SW form district; The area of rezoning serves an adjacent industrial zoning district proposed to be in the SW form district. The resulting district does not result in adverse impacts upon disadvantaged populations; the area of rezoning serves an adjacent industrial zoning district proposed to be in the SW form district. The zoning change allows for access to be located further south from residential areas along Greenbelt Highway; the proposed change in zoning allows for appropriate access to Greenbelt Highway at an intersection as approved by KYTC; the proposed zoning district minimally increased an existing industrial district and no additional noises will result from this request; the proposed zoning change is located away from population centers and residential area to reduce impacts of hazardous or flammable materials; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal does not substantially impact natural features. It is the minimum area to accommodate access for an adjacent user; the proposal does not substantially impact wet or highly permeable soils, severe, steep or unstable slopes. It is the minimum area to accommodate access for an adjacent user; all MSD requirements will be met by the proposed development and construction plans; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, all MSD requirements will be met by the proposed development and construction plans; and

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**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 adjacent to similar intensities; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, pedestrian connectivity has been provided by the adjacent user; The proposal facilitates appropriate access per KYTC to a major arterial roadway; all improvements necessary to facilitate construction will be made; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, utilities will be available to serve the development; an adequate supply of potable water and water for fire-fighting purposes will be available; MSD approval has been received to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed district is needed to allow access to a major arterial roadway for an industrial user in the SW form; 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 vulnerable and the development area is minimal; MSD approval has been received.

**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 Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**Waiver of Land Development Code (LDC), section 10.2.4 to omit the 50' landscape buffer adjacent to R-4 zoning district**

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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.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the nearest residential user with respect to the request is more than 1,000 feet from the subject site. Between the requested buffer waiver and these properties are environmental features that provide a sufficient transition, and these properties are owned by Louisville Metro Government; and

**WHEREAS**, 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 proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user. the nearest residential user with respect to the request is more than 1,000 feet from the subject site; 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 as the proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user to the north that is unable to provide access on their site to the state right-of-way; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as it would require the industrial district to be expanded further upon the residential area.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of Land Development Code (LDC), section 10.2.4 to omit the 50' landscape buffer adjacent to R-4 zoning district.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**Waiver of LDC, section 10.2.4 to allow for greater than 50% overlap between easement and landscape buffer areas**

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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.

**WHEREAS**, the waiver will not adversely affect adjacent property owners as the proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user. the nearest residential user with respect to the request is more than 1,000 feet from the subject site; and

**WHEREAS**, 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 proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user. the nearest residential user with respect to the request is more than 1,000 feet from the subject site; 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 as the proposed area of improvement would appear to be the minimum necessary to afford access for an industrial user to the north that is unable to provide access on their site to the state right-of-way; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as it would require the industrial district to be expanded further upon the residential area.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of LDC, section 10.2.4 to allow for greater than 50% overlap between easement and landscape buffer areas.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**Waiver of LDC, section 10.3.5 to omit the screening requirement along Greenbelt Highway**

**Out of Deliberation**

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02:10:27 Mr. Dock suggests the following binding element: An equivalent number of trees shall be planted along the property to north, in addition to those already approved on the landscape plan.

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution based on the Applicant's Justification was adopted.

**WHEREAS**, the approval of this waiver will not negatively affect adjacent property owners as there are over 30 acres of forested land, the remainder of the 3 lots that will provide buffering for the nearest single family lots in the Sylvania subdivision. This property is owned by Louisville Metro Government and not likely to be developed as it is area primarily reserved for floodplain compensation; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the waiver does not violate the Comprehensive plan since the existing vegetation on the remainder of the property will be preserved and provide an adequate buffer for the nearest residential lots; and

**WHEREAS**, the Louisville Metro Planning Commission further finds, the existing vegetation on the residual property that will be preserved far exceeds the minimum buffer requirement. The strict application of the regulation to provide the buffer on the property being rezoned/the higher intensity zoning creates a larger area than needed being rezoned, larger than needed for the access drive/ access easement and would be an unnecessary hardship.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of the Land Development Code, section 10.3.5 to omit the screening requirement along Greenbelt Highway with an additional binding element number 8 concerning trees that will mitigate the impact of this waiver.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**NO: Commissioner Brown**

**Detailed District Development Plan and Binding Elements**

On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution was adopted.

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**WHEREAS**, 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 does not appear to adversely impact these features; and

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as the proposed roadway provides access at a location preliminarily approved by KYTC; and

**WHEREAS**, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided; 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 proposal is compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the access drive provides access to an industrial users to the north; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 as the proposal is within the SW form district.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **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



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until all construction is completed. No parking, material storage or construction activities are permitted within the protected area. 4. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:

a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,

b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.

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. An equivalent number of trees, as required within the 30-foot parkway buffer, shall be planted on the adjacent industrial site to the north, in addition to those, the tree canopy previously approved for that site.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz, and Jarboe**