

Board of Zoning Adjustment
Staff Report
December 3, 2018



Case No:	18CUP1151
Project Name:	LG&E Staging Lot
Location:	201 Cabel Street
Owner(s):	Louisville Gas & Electric Co.
Applicant:	Louisville Metro Government and JBS USA, LLC and Swift Pork Comany
Jurisdiction:	Louisville Metro
Council District:	4 – Barbara Sexton Smith
Case Manager:	Chris French, AICP, Planning & Design Supervisor

REQUEST(S)

Modified Conditional Use Permit (CUP) to amend conditions of approval 1, 8, 11, and 12.

CASE SUMMARY/BACKGROUND

The current conditional use permit for the property was approved on January 11, 2016, under case number 18CUP1003. The proposed modification is needed to facilitate construction of the nearby soccer stadium property. Part of this work requires utility improvements for the area. These improvements will require the temporary closure of Cabel Street. This closure of the street impacts conditions 1, 8, 11, and 12 of the CUP. Therefore, Louisville Metro Government (Louisville Metro) requests that the Board amend the current conditions to give JBS USA, LLC and Swift Pork Company (JBS/Swift) relief from the above-mentioned conditions of approval. Louisville Metro owns the property at 250 Adams Street, and leases 201 Cabel Street from LG&E (and subleases 201 Cabel Street to JBS/Swift). Louisville Metro is willing to allow JBS/Swift, for the duration of the utility work, to access the curb cut from 250 Adams Street for access to and from 201 Cabel Street. This would require the temporary removal of a portion of an existing chain link fence along the northern property line in order to allow trucks access to and from that curb cut.

The Board does not have the ability to temporarily suspend a condition of approval, but the Board can amend the conditions of approval to add an effective date or action. In this case, staff recommends that the Board at a statement to each condition of approval to make the conditions effective upon the reopening of Cabel Street.

STAFF FINDING / RECOMMENDATION

The proposal meets the applicable policies of the Comprehensive Plan and the specific requirements of the conditional use permit. Based upon the information in the staff report, the testimony and evidence provided, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the Land Development Code for a Conditional Use Permit.

RELATED CASES

14CUP1003 A request for a Conditional Use Permit to allow a potentially hazardous or nuisance use for the staging of trucks and transportation refrigeration units (TRU's) on the subject site (CUP was approved by the Board on January 11, 2016).

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was not required for this proposal.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposed modification is consistent with the applicable policies of the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposed modification is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, dust, drainage, and appearance because the proposed changes are temporary and will not alter the intensity of the development or the associated conditional use permit plan.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: No changes are proposed to the existing plan except for operational changes on a temporary basis to facilitate utility improvements for the area. There are sufficient public facilities (both on-site and off-site) to support the use.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

STAFF: The proposed modification complies with the specific standards of the CUP because the modification does not permanently alter the conditional permit plan and will only alter those

conditions of approval for a specified timeframe based on the needed utility improvement project.

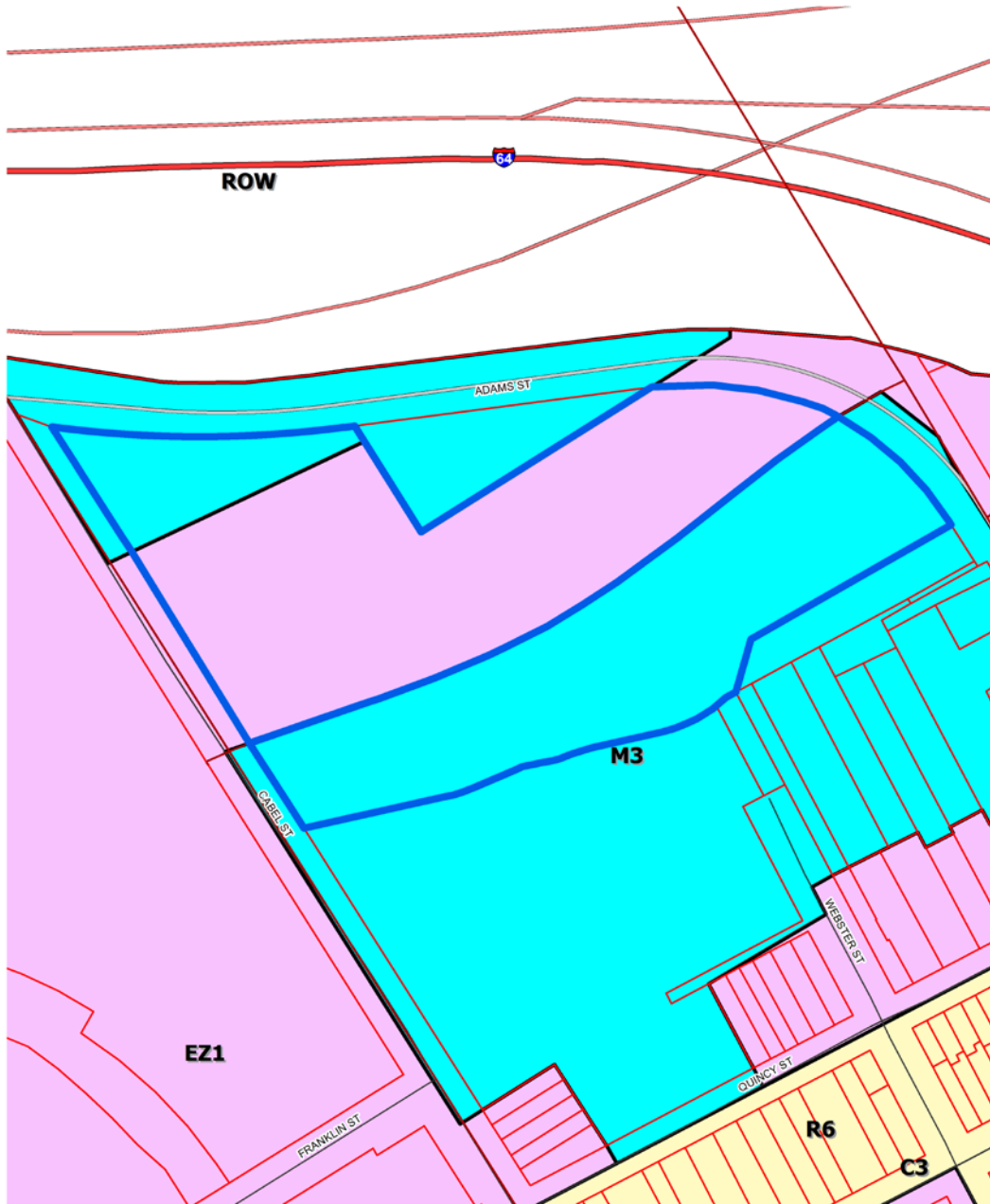
NOTIFICATION

Date	Purpose of Notice	Recipients
11/07/18	BOZA Business Session	Registered Neighborhood Groups in Council District 4

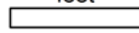
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval
4. Proposed Conditions of Approval

1. Zoning Map



201 Cabel Street
feet



160
Map Created: 11/13/2018

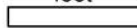


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2. Aerial Photograph



201 Cabel Street
feet



160
Map Created: 11/13/2018



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3. Existing Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be “exercised” as described in KRS 100.237 within two years of the Board’s vote on this case. If the Conditional Use Permit (“CUP”) is not so exercised, the site shall not be used for a staging lot for trucks and trailers without further review and approval by the Board.
3. Installation of fencing, Acoustifence®, landscaping and bioswale.
 - A. Except for the area bordering the Webster Street right-of-way partial closure (see B. below), the fencing and Acoustifence® shown on the approved development plan shall be implemented within four (4) months of final approval of the CUP in favor of Applicant together with all time remaining for further appeal having elapsed.
 - B. Following completion of item A. and upon obtaining closure of the Webster Street right-of-way as shown on the CUP Plan together with any zoning-related approvals, construction of the wooden fence and Acoustifence® bordering the closed right-of-way shall be implemented within thirty (30) days of closure and approvals.
 - C. Weather permitting, all landscaping and the bioswale as shown on the CUP Plan shall be implemented immediately following the completion of Item A., except for landscaping adjacent to the Webster Street right-of-way closure which shall be implemented immediately upon completion of Item B., weather permitting.
 - D. A sign conforming to the Land Development Code identifying the JBS/Swift Cabel Street Lot shall be attached to the fence near the entrance.
4. Removal of all barbed and razor wire and MSD signage on building:
Within thirty (30) days of final approval (regardless of whether an appeal has been filed) all (i) barbed wire and razor wire on the site and (ii) all signs on buildings identifying them as MSD buildings shall be removed.
5. Within four (4) months of final approval (regardless of whether an appeal has been filed), the Applicant shall submit a certification statement to the Division of Planning and Design Services, from an engineer or other qualified professional, stating that the lighting of the development site conforms to Chapter 4, Part 1 of the Land Development Code. Lighting in conformance with the Land Development Code shall be maintained thereafter. No Certificate of Occupancy shall be issued unless such certification statement is submitted.
6. Weather permitting, areas of the lot scheduled for paving as shown on the Paving Plan shall be paved within sixty (60) days of having received approval from all reviewing governmental agencies (regardless of whether an appeal has been filed).
7. No truck idling shall occur within the 100-foot setback line shown on the CUP Plan between the hours of 10 PM and 6 AM.
8. Operation:
 - A. No empty trailers or Transportation Refrigeration Units (“TRUs”) located east of the “10 PM to 6 AM line” shown on the approved CUP Plan shall be moved or connected to a tractor or shag truck; nor shall any tractor or shag trucks be operated in this area.

- B. Exception: Empty trailers brought to the Cabel street Lot by over-the-road haulers may be taken to the Washout Building for cleaning, but must be moved immediately thereafter to the west of the "10 PM to 6 AM line" shown on the approved CUP Plan.
9. Grass cutting and landscape maintenance: The applicant shall maintain the grass and landscaping along its boundaries within the Cabel Street right-of-way and otherwise on-site. Grass shall be cut and landscaping shall be maintained and litter shall be removed from the site on a regular basis as necessary to maintain the premises in a presentable condition, including weed control and removal.
10. Dust Control: The site shall be maintained free of dust at all times in conformance with the Fugitive Dust Control and Trailer Staging Plan of October 7, 2010 which shall include the regular application of MSD-approved surfactant.
11. Late night shag truck/trailer movement. Following the completion of improvements required by the Louisville Department of Public Works at the intersection of Buchanan Street and Franklin Street, and between the hours of 12 AM to 6 AM shag trucks/trailers shall use the following route to move between the Cabel Street Lot and the JBS/Swift plant at 1200 Story Avenue (the "plant"):
- A. Movement from the Cabel Street Lot to the plant. Shag trucks/trailers shall travel Cabel Street to Franklin Street to Buchanan Street to Bickel Avenue to Mellwood Avenue to Spring Street to Story Avenue to the plant (thereby avoiding movement on Cabel Street between Franklin Street and Story Avenue).
- B. Movement from the plant to the Cabel Street Lot. Shag trucks/trailers shall travel from the plant to Story Avenue to Buchanan Street to Franklin Street to Cabel Street Lot (thereby avoiding movement on Cabel Street between Franklin Street and Story Avenue).
12. An 8 ft. tall wooden perimeter fence shall surround the property and be substantially the same as what was presented in the Applicant's PowerPoint presentation at today's hearing, with the exception of the installation of a 12 ft. tall Acoustifence® as delineated on the plan. The existing chain link fence along the northern perimeter of the site adjacent to Marshall's Auto Parts business shall remain.
13. The on-site diesel fuel tank near the Webster Street right-of-way shall be screened from view of the adjacent residential property owners pursuant to Section 10.2.6 of the Land Development Code.
14. Landscaping shall be provided as shown on the CUP Plan in the Cabel Street right-of-way; the Quincy Street right-of-way; the Webster Street right-of-way; and along Adams Street frontage of the site and meet the minimum planting requirements of Section 10.2.2 of the Land Development Code.
15. Landscaping and buffer widths along Cabel Street and Quincy Street perimeters of the property shall be implemented pursuant to the minimum requirements of the LDC with the exception of a 10 ft. Landscape Buffer Area from the right-of-way on Cabel Street.
16. Decorative litter receptacles similar to receptacles on Story Avenue in Butchertown shall be provided in the Cabel Street right-of-way near the entrance to the Lot, and thereafter, placed approximately every 100 feet southwardly in the right-of-way immediately outside of the Lot.

17. A minimum 4-foot wide sidewalk shall be constructed along the Cabel Street frontage of the site extending from a point opposite Franklin Street to the northernmost point of the Cabel Street Lot as shown on the CUP Plan.
18. Within 18 months of January 11, 2016, the applicant shall reduce or eliminate diesel particulate matter by using electric or hybrid TRUs on the subject property by implementing the current California standards for diesel fuel emissions.
19. All diesel trucks shall be shut down within 15 minutes of being on the subject site.
20. The applicant shall submit a Revised Plan to staff illustrating all the conditions of approval noted herein.
21. The applicant shall submit a documented truck route to staff by February 10, 2016, illustrating the route to and from the Cabel Street Lot before and after "the bridges project" is complete.

4. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board. General Note 1 of the development plan shall not take effect until Cabel street reopens following Louisville Gas & Electric Co. utility work in the right-of-way.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit ("CUP") is not so exercised, the site shall not be used for a staging lot for trucks and trailers without further review and approval by the Board.
3. Installation of fencing, Acoustifence®, landscaping and bioswale.
 - A. Except for the area bordering the Webster Street right-of-way partial closure (see B. below), the fencing and Acoustifence® shown on the approved development plan shall be implemented within four (4) months of final approval of the CUP in favor of Applicant together with all time remaining for further appeal having elapsed.
 - B. Following completion of item A. and upon obtaining closure of the Webster Street right-of-way as shown on the CUP Plan together with any zoning-related approvals, construction of the wooden fence and Acoustifence® bordering the closed right-of-way shall be implemented within thirty (30) days of closure and approvals.
 - C. Weather permitting, all landscaping and the bioswale as shown on the CUP Plan shall be implemented immediately following the completion of Item A., except for landscaping adjacent to the Webster Street right-of-way closure which shall be implemented immediately upon completion of Item B., weather permitting.
 - D. A sign conforming to the Land Development Code identifying the JBS/Swift Cabel Street Lot shall be attached to the fence near the entrance.
4. Removal of all barbed and razor wire and MSD signage on building:
Within thirty (30) days of final approval (regardless of whether an appeal has been filed) all (i) barbed wire and razor wire on the site and (ii) all signs on buildings identifying them as MSD buildings shall be removed.
5. Within four (4) months of final approval (regardless of whether an appeal has been filed), the Applicant shall submit a certification statement to the Division of Planning and Design Services,

from an engineer or other qualified professional, stating that the lighting of the development site conforms to Chapter 4, Part 1 of the Land Development Code. Lighting in conformance with the Land Development Code shall be maintained thereafter. No Certificate of Occupancy shall be issued unless such certification statement is submitted.

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