

**PLANNING COMMISSION MINUTES**  
**May 23, 2019**

**PUBLIC HEARING**

**CASE NO. 18ZONE1087**

Request: Change in zoning from C-1 Commercial to M-2 Industrial with a revised plan and landscape waivers  
Project Name: 1332 Tile Factory Lane  
Location: 1330 & 1332 Tile Factory Lane  
Owner: Roark Realty LLC  
Applicant: Roark Realty LLC  
Representative: Glenn Price – Frost Brown Todd  
Jurisdiction: Louisville Metro  
Council District: 21 – Nicole George

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

**Agency Testimony:**

02:46:54 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

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

Glenn Price, Frost Brown Todd, 400 West Market Street Suite 3200, Louisville, KY 40202

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

**Summary of testimony of those in support:**

02:51:48 Glenn Price, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

02:55:52 Mike Hill, an applicant's representative, completed the development plan presentation. He said that, yesterday, the applicant turned in a new set of plans which addressed Commissioner Brown's request at LD&T to remove a pedestrian access that ran through the parking lot from the building out to Tile Factory Lane. There is no sidewalk along Tile Factory Lane.

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02:58:28 In response to a question from Commissioner Lewis, Mr. Hill showed the area affected by the waiver request to omit the buffer and plantings on the east and south. He also described the 8-foot-tall privacy fence along the rear of the property and a 6-foot tall privacy fence along the side.

03:00:00 Commissioner Howard asked about lot consolidation. Mr. Hill said that trucks currently cross both lots. Mr. Price said the applicant could agree to either consolidate the lots or do a crossover easement. Staff can add that as an additional binding element.

03:01:41 Commissioner Carlson asked what the parked trucks will have in them. Mr. Price said some trucks may be loaded or empty, but none will contain any hazardous products and/or products prohibited by binding element. Mr. Price said that, to the best of the applicant's knowledge, the trucks do not handle paint or any other hazardous materials.

03:06:40 Commissioner Carlson and Mr. Dock discussed a binding element regarding trucks which are required to be placarded by the Department of Transportation shall not be parked on-site. There was some discussion about how this is related to the Land Development Code, land-use policy, and enforcement. Commissioner Brown said he agreed with Commissioner Carlson that, because of the site's proximity to a residential neighborhood, anything that is defined as a hazardous material by the DOT should be restricted.

03:16:16 Commissioner Brown asked about the use of the area behind the building abutting the R-4 properties. Mike Hill said it is currently being used as storage; no activities or doors in or out of the rear of the building.

**The following spoke in opposition to this request:**

**Brian Rohleder, 4554 Poplar Level Road, Louisville, KY 40213**

**Summary of testimony of those in opposition:**

03:17:33 Brian Rohleder, a business owner adjacent to the site (to the east), spoke in opposition. He pointed out a location where truck traffic is blocking Poplar Level Road. He said this is forcing people to back up onto Tile Factory Lane and into his parking lot. Regarding the buffer on the east side, he said he has a demonstration and training facility where noise from this site can be a problem. In response to a question from Commissioner Lewis, Mr. Rohleder said the truck idling noise is not really an issue; it is when the trucks are loading/unloading and backing in. This is disruptive to his

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training classes. He said the existing fence has concrete and other debris piled up against it; also trucks back into it.

**Rebuttal:**

03:22:30 Mr. Price presented rebuttal. He said the applicant is willing to put up an 8-foot privacy fence instead of the current chain-link fence (see recording for detailed location of the fence.)

03:24:56 Commissioner Brown commented on the turning issue at the intersection. This is a State-owned intersection.

03:27:08 Commissioner Brown asked if the applicant would be willing to move a "stop bar" and move the detection to accommodate the new "stop bar" location. Mr. Price said he could not agree to this without knowing the cost. Commissioner Brown said he would address this with Louisville Metro electrical maintenance division, since this probably needs to be done regardless of whether this rezoning is approved or not.

**Deliberation:**

03:28:44 Commissioners' deliberation.

03:29:20 Commissioner Carlson read his requested binding element into the record, as follows:

"No truck required by United States Department of Transportation regulations to display a "Hazardous Materials" placard shall be parked on-site."

Mr. Dock added that this binding element would apply to both lots.

**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.**

**Zoning**

03:33:24 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on the Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Community Form – Goal 1** because the proposal does not result in an expansion into a residential area as it is located with the workplace form; the proposed district is located adjacent to existing high intensity uses and major transportation infrastructure. It is also with a workplace district that covers roughly 2,000 acres of land between Poplar Level and Newburg Roads; the proposal is located within with a workplace district that covers roughly 2,000 acres of land between Poplar Level and Newburg Roads; the proposed district does not immediately abut residential uses and its location at the subject site enables an operator to use existing space within a workplace district in- lieu-of relocating to an area which might result in a disproportionate impact on disadvantaged populations; the proposal is located in area that concentrates potentially noxious uses to limit impacts on human health, quality of life and the environment; adequate transportation networks are in place to provide for the appropriate movement of traffic; the proposal is located in area that concentrates potentially noxious uses to limit adverse impacts of noise from proposed development on existing communities ; the storage, transport, and production of hazardous uses are not permitted with the proposed district; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form Goal 1** because the proposed zone change (the "Proposal") conforms with Community Form Goal 1 and all applicable Policies adopted thereunder, including Policies 6, 7, 8, 15, 16, 17, 18, and 21. The Proposal is properly located within a Suburban Workplace Form District and is surrounded by other industrial and distribution businesses near Poplar Level Road, which has direct access to the Watterson Expressway and the interstate system. The Proposal is adjacent to a few residential uses which will be buffered by an 8-foot tall solid fence. The building is set back from the street. Sidewalks are not available along the frontage of the site nor are they available in the vicinity. Poplar Level Road is a transit corridor. Adequate infrastructure for this land use presently exists on-site. The truck distribution business on-site does not handle hazardous uses or uses having air, noise and light emissions. Disadvantaged populations will not be adversely impacted by the proposal. Odors, particulates or other emissions will not be caused by the development. The development does not cause substantial traffic; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form : Goal 2** because the proposal is compatible with uses located within the form district of its location; the proposal is an Industrial use; the proposed district puts to use, and zones appropriately, land within a workplace district resulting result in efficient land use and cost - effective infrastructure investment; the proposal is located within a district that is intended to concentrate industrial and employment centers in order to reduce the negative impacts of industrial uses elsewhere in the

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community; the proposal utilizes exiting industrial land; and the proposal promotes the utilization of existing infrastructure; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form Goal 2** because the Proposal conforms with Community Form Goal2 and all applicable Policies adopted thereunder, including Policies 2, 6, 7 and 15. Locating transportation uses adjacent to other such uses- all of which have near access to the interstate system, is appropriate. This development constitutes an activity center which has a relatively low trip generation rate. On-site parking reflects the character of the area, as can be readily seen from the surrounding land uses. This development has a compact development pattern; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form : Goal 3** because there do not appear to be any natural features on the subject property; the subject property does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes; the subject site is not near Ohio River; the subject property is not located within the 100-yr floodplain and does not appear to contain features vulnerable to natural disasters; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form Goal 3**. The Proposal conforms with Community Form Goal 3 and all applicable Policies adopted thereunder, including Policies 3, 9 and 10 because open space is not appropriate in this type development/Form District. No substantial change to site topography is proposed. There are no wet or highly permeable soils on site nor are there steep or unstable slopes or flood-prone areas on-site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Form : Goal 4** because no structures are present on site which requires preservation, reuse, or rehabilitation, and no cultural features are present on site; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 1** because The proposed higher intensity is located within the appropriate form district to serve the use; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility Goal 1** because this is the site of a business which has a limited intensity in a vicinity of employment centers; and

**WHEREAS**, the Commission further finds that the Proposal conforms to **Mobility Goal 2** and all applicable Policies adopted thereunder, including Policies 4 and 5.

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Access is to Poplar Level Road and is not through and area of significantly lower intensity and does not create significant nuisances. Sight distances are adequate; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Mobility: Goal 3** because the proposal does not significantly impact mobility within the area as it is an existing industrial area and consumer interaction is limited; Poplar Level Road provides for public transit and pedestrian uses; the existing workplace form provides limited means of walkability within its current extend, except that Poplar Level Road provides for multi-modal transport; the proposal does not significantly impact the transportation network in the area as the form is intended to serve industrial uses similar to the proposal; and significant improvements to the public transportation network are not required; and

**WHEREAS**, the Commission further finds that the proposal conforms with **Mobility Goal 3** and all applicable Policies adopted thereunder, including Policies 2 and 5. This development is a low impact development that utilizes the interstate highway system for transport. It is appropriately located near the Watterson Expressway (Interstate-264). Because of the relatively low intensity of the business on-site its location is appropriate; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Community Facilities : Goal 2** because the site is served by existing utilities or capable of being served by public or private utility extensions; the site has an adequate supply of potable water and water for fire-fighting purposes; and the site will meet necessary requirements for sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Commission further finds that the Proposal conforms to **Community Facilities Goal 2** and all applicable Policies adopted thereunder, including Policies 1, 2 and 3. The site is served by all existing necessary utilities and has an adequate supply of potable water and water for fire-fighting purposes provided by the Louisville Water Company. Sewage treatment and disposal is adequately handled by the facilities of the Metropolitan Sewer District; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Economic Development: Goal 1** because the proposed district is appropriately located within a workplace form district and is compatible with nearby uses; the proposed district is appropriately located within a workplace form district to take advantage of special infrastructure needs; the proposal is located within close proximity to a major arterial roadway with access to the interstate; the site is not near

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the Ohio; and the proposal is located with appropriate transportation connectivity within close proximity to a major arterial roadway with access to the interstate; and

**WHEREAS**, the Commission further finds that the Proposal conforms to Economic Development Goal I and all applicable Policies adopted thereunder, including Policies 2, 4 and 5. Although not generating high volumes of traffic, the development is located in an older industrial subdivision near Poplar Level Road, an arterial roadway, and the Watterson Expressway. The site is close to the airport; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Livability: Goal 1** because the site does not appear to be susceptibility to erosion or karst disturbance; the subject site is not located within the 100- yr floodplain and does not appear to contain other conditions that impact increase disturbance; and the storage, transport, and production of hazardous uses are not permitted with the proposed district; and

**WHEREAS**, the Commission further finds that the Proposal conforms to **Livability Goal 1** and all applicable Policies adopted thereunder, including Policies 17 and 21. Use of the site will not affect groundwater resources. The site is not subject to erosion and the regulatory floodplain will be observed; 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 C-1 to M-2 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Tomes, Jarboe, Smith, and Robinson.**

**Waiver of Land Development Code, section 10.2.4 to omit the required buffer and plantings along east and south property lines**

03:35:11 On a motion by Commissioner Carlson, seconded by Commissioner Peterson the following resolution based on the applicant's justification, and evidence and testimony heard today, was adopted:



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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposed waiver will not adversely affect adjoining property owners because an 8-foot tall privacy fence is proposed where the south property line abuts residential home properties and a commercial business. This tall fence will adequately buffer the adjoining property owners from site impacts. The east property line is proposed to have a 6-foot tall privacy fence. This fence will abut a building on the adjacent property, built near the property line. The fence will have no adverse impact to this property; and

**WHEREAS**, the Commission further finds that the proposed waiver will not violate the Comprehensive Plan because it conforms to Community Form Goal 1 and Policies 9 and 10. Adequate screening will be in place to protect adjacent properties from the trucking/transportation use on the subject site. The buffer will protect nearby residents from lights, noise and visual appearances; and

**WHEREAS**, the Commission further finds that the extent of the waiver is the minimum necessary to afford relief to the Applicant because it allows the Applicant to make viable use of its storage yard while protecting the neighbors from the use of the property for storage and truck movement; and

**WHEREAS**, the Commission further finds that the strict application of the regulation would deprive the Applicant of the reasonable use of its land and would create an unnecessary hardship on the Applicant because the adjoining property owners would not benefit from the strict application of the regulation: the neighbor to the east has a building that is close to the property line having no visibility to this site; and the neighbors to the south have residences that are distant from the common property line and will be protected by the 8-foot privacy fence. The Applicant is in need of the use of predominantly all of the storage yard for its trailers; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code, section 10.2.4 to omit the required buffer and plantings along east and south property lines.

**The vote was as follows:**

**YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Tomes, Jarboe, Smith, and Robinson.**

**Revised Detailed District Development Plan**



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03:36:13 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised Detailed District Development Plan, **SUBJECT** to the abandonment of existing binding elements and adoption of proposed binding elements:

**Proposed Binding Elements for 9-78-78 (revised) and 18ZONE1087**

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.
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 (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. The property shall be consolidated by deed or other acceptable legal instrument, or a reciprocal and cross access easement shall be recorded for those lots as shown on the approved development plan. A copy of

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either document must be provided to Planning and Design Services and/or the Planning Commission's legal counsel for review.

- c. 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
5. 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.
6. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
7. The following uses shall not be permitted on the subject property without the prior approval of the Planning Commission by majority vote taken following the public hearing that is duly noticed to all property owners otherwise entitled to notice for a zone change:
  - Processing of meat or meat products or fish or fish products
  - Blending of insecticides, fungicides, disinfectants and related industrial and household chemical compounds
  - Poultry, rabbit or animal packing or slaughtering
8. No trucks required by United States Department of Transportation regulations to display a "Hazardous Materials" placard shall be parked on-site.

**The vote was as follows:**

**YES: Commissioners Peterson, Daniels, Brown, Lewis, Howard, and Carlson.**  
**NOT PRESENT: Commissioners Tomes, Jarboe, Smith, and Robinson.**