

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

JANUARY 11, 2016

NEW BUSINESS:

CASE NO. 14CUP1003

site; because appropriate drainage from the site is made through the use of MSD facilities; because no odors are produced on the site; because lighting on the site conforms to the Land Development Code and produces no nuisances; because the appearance of the facility is compatible with surrounding residential areas due to the historic use of the site for industrial staging, because the existing on-site buildings and the flood wall separate many nearby residences from staging activities on the site, and because an 8-foot tall wood privacy fence will be provided in areas up to the point where the 12-foot tall sound attenuation fence begins near the Webster Street right-of-way extending to Adams Street; because existing buildings on-site are one-to two stories in height and are generally hidden from the adjacent residential areas by the floodwall; because there is only one entry-exit point on Cabel Street – at the furthest point from the residential areas of Butchertown; and

WHEREAS, The Board Further Finds that existing public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage and emergency services are adequate to serve the site; and because the Cabel Street Lot is located reasonably near downtown Louisville and has easy access to all services provided by governmental agencies, including adequate transportation and roadway facilities, adequate water, sewer, drainage, gas and electric facilities, and adequate access to fire protection services and emergency medical services; and because the proposal has been reviewed and preliminarily approved by Transportation Planning and MSD;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the 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 **SUBJECT** to the following 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.

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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 & 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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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 to 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 tractors 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.

Shag Trucks/Trailers

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**

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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 to the 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.

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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.

YES: Members Tharp, Fishman, Jarboe, Turner and Proffitt.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Bergmann and Allendorf.**

ABSTAINING: No one.