

**Planning Commission Minutes  
June 2, 2016**

**Public Hearing**

**Case No. 15ZONE1028**

This case was heard out of order. It was heard 6<sup>th</sup> on the Agenda.

**\*NOTE: Commissioner Brown left the meeting at approximately 3:50 p.m. and did not hear or vote on this and subsequent cases.**

**Request:** Rezoning from R-4 to PEC on 6.4 acres, Detailed District Development Plan; and Binding Elements

**Project Name:** Maple Crossing

**Location:** 2211 Tucker Station Road

**Owner/Applicant:** Adam Koch  
3937 Kennison Court  
Louisville, KY 40207

**Representative:** William Bardenwerper/Nick Pregliasco  
Bardenwerper, Talbott & Roberts PLLC  
1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor  
Louisville, KY 40223

David Mindel and Kathy Linares  
Mindel Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY

**Jurisdiction:** Louisville Metro

**Council District:** 20 Stuart Benson

**Case Manager:** Brian Davis, AICP, Planning Manager

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.)

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**An audio/visual recording of the Land Development and Transportation Committee meeting 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.**

**Agency Testimony:**

02:33:47 Brian Davis presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

02:37:06 Mr. Davis discussed public comments received from David Kaelin (included in the staff report). Also, presented the requested changes/additions to the proposed binding elements received from Steve Porter, which Mr. Davis read into the record as follows:

#5e. Applicant agrees to submit detailed building elevations, design details, sign details, detailed landscaping plan and a lighting plan to DRC after applicant conducts a neighborhood meeting.

#2. All lighting, freestanding or attached, shall be fully shielded and pointed down and no luminaries shall be visible.

#3. No lighting or signage shall occur on the west façade of any building.

#4. The site shall either become a part of the Blankenbaker Station II development or shall be subject to all of the same restrictions, binding elements, and design standards.

#5. All building materials shall be the same as allowed in Blankenbaker Station II.

Mr. Davis explained that Binding Element #9 was included because he was not

**The following spoke in favor of the proposal:**

Nick Pregliasco, Bardenwerper, Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2<sup>nd</sup> Floor, Louisville, KY 40223

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Kathy Linares and Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Greg Oakley, P.O. Box 7368, Louisville, KY 40257

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David Kaelin, 2421 Tucker Station Road, Louisville, KY 40299

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

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

02:42:28

ee recording for

detailed presentation.)

02:52:39 Mr. Pregliasco said the applicant would agree to Mr. Porter's requested binding elements regarding lighting, in addition to the LDC requirements. However, he said that Tucker Station Road would be the only street frontage this building would have and that any signage would therefore have to be facing that road. He said any signage would meet the LDC and any conditions and restrictions for Blankenbaker Station II. He discussed landscaping.

02:55:19 Steve Porter, representing the Tucker Station Neighborhood Association, spoke in support. He said the Association approves of the changes the applicant has made.

03:00:29 David Kaelin, President of the Tucker Station Neighborhood Association, spoke in support. He was particularly in favor of the fully-shielded lighting, as proposed by Mr. Porter.

03:02:47 Greg Oakley, developer of Blankenbaker Station Phase II, spoke in support.

03:03:59 In response to a question from Commissioner Turner, Kathy Linares, pointed out the location of Blankenbaker Station II.

03:05:00 Mr. Pregliasco read three proposed changes to binding elements into the record (see recording for verbatim presentation.)

**The following spoke in opposition to the proposal:**

No one spoke.

**T**

No one spoke.

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**Rebuttal:**

There was no rebuttal, since no one spoke in opposition.

**Deliberation:**

03:08:43

**Zoning**

03:11:47 On a motion by Commissioner Jarboe, seconded by Commissioner Lewis, the following resolution was adopted:

**GUIDELINE 1: COMMUNITY FORM**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 Community Form**. The applicable form district for this property is the Suburban Workplace Form District which is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting; this application and the Detailed District Development Plan (DDDP) accompanying this application demonstrate compliance with the Suburban Workplace Form District given how the proposed buildings satisfy the Land Development Code (LDC) setback requirements from Tucker Station Road and given proposed landscaping screening and buffering along Tucker Station Road and adjoining residential property lines; and the aerial photograph accompanying the PowerPoint Presentation shown at the Public Hearing further illustrates how this property adjoins or is located close to other warehouses, distribution and industrial uses, fitting within the Suburban Workplace Form District; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 2 Activity Centers**. The Intents and applicable Policies 1, Q, 4, 5, 7, H, 13, 14, 15 and 16 of this Guideline all pertain to such things as assuring an efficient use of land and investment in existing infrastructure, reducing commuting time and distances so as to not exacerbate air pollution problems, locating in existing activity centers and appropriate form districts, developing non-residential and mixed uses in such centers, assuring compact and mixed compatible uses, appropriately designing shared parking and buildings in such centers, and assuring adequate utilities and utility easements as necessary; and

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**WHEREAS**, the Commission further finds that this application complies with all of these Intents and applicable Policies of this Guideline for the following reasons; while activity centers are normally thought of as commercial centers, what they really are places where similar or compatible activities are all located in close proximity one to the other so that they either feed off of and support one another or work in some sort of symbiotic relationship; given that, for the most part, especially to the east and northwest, this is an intensely developed workplace area, this rezoning and accompanying development plan are appropriate for this area; infrastructure exists because all manner of other office, warehouse, distribution and industrial activities are located next door or close by, thus another similar use activity, like this, makes sense from the standpoint of access to and through the area as well as where employees typically commute to jobs of this kind; the proposed small warehouse buildings located on this property fit well, while leaving setbacks, landscaping and buffering where required by the LDC or to address the interests of adjoining property owners; and parking is appropriately designed to be shared among the several warehouse buildings; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 3 Compatibility**. The Intents and applicable Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 19, 20, 21, 22, 23, 24, and 29 all pertain to the issues of impact mitigation; sometimes this can be through building design and materials; given that the adjoining Blankenbaker Station encompasses a wide variety of relatively well-designed intense office, warehouse, distribution and light industrial building designs, the buildings proposed for this site will be held to a similar standard; these buildings will be attractive, and images of them were presented at LD&T and the Public Hearing for review in this case; the impacts of noise generated from trucks, as well as lighting from trucks and from parking lots, will be mitigated by the mostly internal location of parking, with landscaping, and by Metro approved points of access to assure that the adjoining R-4 neighbors are not disrupted during hours of operation; and the DDDP and possible binding elements also address transitional issues, such as buffers, setbacks, screening and landscaping; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 6 Economic Growth and Sustainability**. The Intents and applicable Policies 1, 2, 3, 4, 6, 8, and 10 of this Guideline all pertain to the issues of assuring availability of adequate usable land for such uses as these,

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to reduce public and private costs for land development, to preserve workplaces, to provide for appropriate access, to invest in developing and redeveloping industrial areas, to locate industries where other industries already exist and in the activity centers in and around those industrial areas, to assure that transportation is adequate in and out of industrial areas and properties such as this, and to continue to redevelop and adaptively reuse vacant properties like this; and

**WHEREAS**, this application complies with the Intents and applicable Policies of this Guideline because this property adjoins the existing Blankenbaker Station business park with an opportunity for more compatible buildings on a vacant property in an area appropriate for the same type uses as this kind; roads which provide access are (or must be) constructed to provide safe transportation routes to and from this site, and the point of access to this property, which is no longer off Tucker Station Road, is one that has been preliminarily approved by Metro Transportation Planning/Public Works prior to docketing for Public Commission consideration and is one that has been endorsed by neighbors; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guidelines 7, 8, and 9 Circulation; Transportation Facilities; and Alternative Transportation Modes.** The Intents and applicable Policies 1, 2, 9, 10, 11, 12, 13, 14 and 15 of Guideline 7, Policies 5, 6, 7, 9, 10, 11 and 12 of Guideline 8, and Policies 1, 2, 3 and 4 of Guideline 9 all pertain to the multiplicity of issues that are typically reviewed by Metro Transportation Planning and Public Works in connection with those agencies' reviews of DDDPs such as the one submitted with this application; and

**WHEREAS**, this application complies with all these Intents and applicable Policies of these Guidelines because Metro Transportation Planning has reviewed the DDDP and assured compliance with all of these applicable Policies; in that regard, Mindel Scott & Associates (MSA), a professional land planning and engineering firm that has worked on this DDDP, has taken into account in its design such issues as appropriate access, internal circulation, adequate parking, adequacy of street access, appropriate site distances and even whether sidewalks and bicycles need to be provided/accommodated; all of these things have been addressed on the DDDP accompanying this DDDP before the Planning Commission for consideration; and the main point of contention with neighbors which had been access has been resolved by virtue of there being no access points off Tucker Station Road, rather the future access to be constructed by virtue of an extension of Schutte Station Road; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guidelines 10 and 11 Flooding and Stormwater; and Water Quality**. The Intents and applicable Policies 1, 3, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 raise issues that are already regulated by MSD; the DDDP accompanying this application has received the preliminary stamp of approval from MSD demonstrating compliance with all of these Policies; on-site detention will be required or the regional fee will be paid; wetlands, if any, and streams will be protected; work done on this property will be performed in compliance with the soil erosion and sediment control guidelines of MSD and also with the new water quality standards adopted by MSD; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 12 Air Quality**. The Intents and applicable Policies 1, 2, 4, 6, 7, 8 and 9 of this Guideline all pertain to the various issues of air quality regulated by the Air Pollution Control District (APCD) ; and

**WHEREAS**, this application complies with these Intents and applicable Policies of this Guideline because APCD adopts regulations that require compliance; one of the goals of the Comprehensive Plan as evident in this Guideline is to reduce commuting distances and to assure that major truck traffic, to the maximum extent possible, utilize routes that are typically traveled by trucks, this project helps reduce vehicle miles traveled; and the proposed warehouses are located next to the existing Blankenbaker Station business park with proposed access to it; which truck traffic and employees are already accessing; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guideline 13 Landscape Character**. The Intents and applicable Policies 1, 2, 4, and 6 of this Guideline all pertain to the issues of LDC compliance with landscaping requirements and to the need to screen and adequately buffer adjoining uses that might be of a different nature, such as the R-4 parcels next door and along the Scenic Corridor of Tucker Station Road; and the landscape plan will comply with the LDC and include enhanced landscaping as to mitigate unacceptable impacts; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of **Guidelines 14 and 15 Infrastructure and Community Facilities**. The Intents and applicable Policies 2, 3, 4, 6 and 7 of Guideline 14 and Policies 3, 4, and 9 of Guideline 15 all pertain to the issues of assuring that adequate water supply, sewage treatment, other utility services and public services are available to serve sites, including industrial ones, of this kind; and this application and the

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accompanying DDDP demonstrate, in part, how utilities and public services, such as fire and emergency, are available at this site or close by; and

**WHEREAS**, the Commission further finds that, based on the evidence and the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; 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 R-4 to PEC on property described in the attached legal description, be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Lewis, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard,**

**NO: No one.**

**NOT PRESENT: Commissioner Brown.**

**ABSTAINING: Commissioner Smith.**

**Detailed District Development Plan and binding elements**

03:13:03 On a motion by Commissioner Jarboe, seconded by Commissioner Lewis, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal is predominantly surrounded by industrially-zoned land; and

**WHEREAS**, the Commission further finds that the proposal provides the required buffering along the protected stream which traverses the eastern portion of the property; and

**WHEREAS**, the Commission further finds that, based on the evidence and justification, and the staff report that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements:



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**Binding Elements**

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 changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 48,000 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Construction fencing shall be erected when off-site trees or tree canopy 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. 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.
  - c. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. 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.

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- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
- e. ~~Applicant agrees to submit detailed building elevations for the proposed structures to staff for approval.~~
- 6. 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.
- 7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
- 8. 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.
- 9. The façade elevations shall be in accordance with applicable form district standards and ~~shall be approved by PDS staff prior to construction permit approval.~~ The building elevations shall be substantially similar as shown at the June 2, 2016 Planning Commission public hearing. *(Revised at the June 2, 2016 Planning Commission public hearing.)*
- 10. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.
- 11. There is no direct access to the site from Tucker Station Road. Access will come via an extension of Schutte Station Place.
- 12. The lighting shall be fully shielded; shall utilize flat lenses, and shall be pointed to the ground. *(Added at the June 2, 2016 Planning Commission public hearing.)*

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**The vote was as follows:**

**YES: Commissioners Lewis, Turner, Blake, Kirchdorfer, Tomes, Jarboe, Peterson, and Howard.**

**NO: No one.**

**NOT PRESENT: Commissioner Brown.**

**ABSTAINING: Commissioner Smith.**