

PLANNING COMMISSION MINUTES
January 21, 2016

PUBLIC HEARING

CASE NO. 15ZONE1021

Case No: 15zone1021
Request: Change in zoning from R-4 to PEC and C-1
Project Name: Hurstbourne Station
Location: 7300 South Hurstbourne Parkway and TB 636 Lot
155

Owner: Hurstbourne Corporate Group, LLC
David A. Dries, Manager
15510 Champion Lakes Place
Louisville, Ky. 40245

Robert and Nancy Williamson

Applicant: Hurstbourne Corporate Group, LLC
David A. Dries, Manager
15510 Champion Lakes Place
Louisville, Ky. 40245

Representative: BTM Engineering Inc.
John Addington, RLA
3001 Taylor Springs Drive
Louisville, Ky. 40220

Frost Brown Todd LLC
Glenn A. Price, Jr.
400 West Market Street, 32nd floor
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 2- Barbara Shanklin
Case Manager: Julia Williams, RLA, AICP, Planner II

CONTINUED FROM THE JANUARY 7, 2016 PLANNING COMMISSION HEARING

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.)

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Agency Testimony:

00:24:26 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, Frost Brown Todd, 400 West Market Street, Louisville, Ky. 40202
John Addington, BTM Engineering, 3001 Taylor Springs Drive, Louisville, Ky. 40220

Summary of testimony of those in favor:

00:30:01 Mr. Price stated there was no opposition from the neighbors, but there were some concerns from Metro Council staff. Some binding elements have been drafted to address those concerns.

Mr. Price read the following proposed binding elements:

1. **Truck transfer or freight terminal uses.** A detailed district development plan for a truck transfer or freight terminal use having loading/unloading doors in a building of 400,000 square feet or greater square feet on an individual lot shall require approval of the Planning Commission and the Louisville Metro Council base on the criteria stated in LDC 11.4.7.E.2
2. **Residential uses.** Subject to the exceptions shown in the second sentence below, (i) a residential use having a density greater than permitted in Residential Single-Family District R-4 and (ii) any multi-family use shall require approval of the Planning Commission and the Louisville Metro Council based on the criteria stated in LDC 11.4.7.E.2. A nursing home, home for the infirm or aged, rehabilitation home, or other healthcare residential facility and/or retirement community shall not require approval of the Louisville Metro Council.

The following spoke neither for nor against the request:

Rebecca Browning, 5805 Lisa Court, A-11, Louisville, Ky. 40291

Summary of testimony of those neither for nor against:

00:35:14 Ms. Browning said she wants the area of Fegenbush and Bardstown Rd. to stay as it is for the animals to have a place to live. Also, she doesn't want the beauty to be lost.

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Deliberation

00:37:24 Commissioner Brown agrees with the additional binding elements. They address everyone's concerns. He also requests a couple of notes be added to the development plan: to restrict access to a few those lots directly from Hurstbourne and Fegenbush. Mr. Addington stated he will have the notes added to the plan when it's ready to go through review next Wed. (for Mon. submittal). Commissioner Brown read the notes into the record as follows: 1. No direct access from Hurstbourne Pkwy. To lot 7, 8, 9, 10 and 11 shall be permitted. 2. No direct access from Fegenbush Ln. to lots 4 and 5 shall be permitted.

The other commissioners agree the proposal is appropriate and are glad the issues have been worked out between the applicant and Councilwoman's office.

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 Change from R-4 to PEC and C-1

On a motion by Commissioner Jarboe, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

WHEREAS, The Planning Commission finds that the proposed zone change from R-4 Residential Single Family District to PEC Planned Employment Center District and C-1 Commercial District (the "proposal") conforms to KRS 100.213 because it is in agreement with the adopted Comprehensive Plan for Louisville and Jefferson County, Kentucky, within which this property lies, as further detailed in these Findings; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.10, Suburban Workplace Form District Goal G1 and Objective G1.1, Community Design Goal G2 and Objectives G2.1, G2.2, G2.3, Land Use Goal G3 and Objectives G3.1 and G3.3, Site Design Goal G4 and Objectives G4.1, G4.2, G4.3 and G4.4 because the 37.13-acre site lies within the Suburban Workplace Form District; because appropriate access to the site will occur via Hurstbourne and Fegenbush Lane; because the development will be flexible to accommodate a user of a large parcel or a cluster of smaller uses; because the proposal for PEC and C-1 zoning allows for a mix of compatible uses; because site perimeters will be compatible with adjacent properties by use, buffering and screening; because buffer and landscape

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standards and lighting and noise controls will ensure compatibility among the uses on-site and with adjacent properties; and because all parking facilities will meet the minimum requirements of the Land Development Code; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.5, 3.6, 3.7, 3.8, 3.9, 3.11, 3.12, 3.17, 3.21, 3.22, 3.23, 3.24 and 3.28 because development of this site will be consistent with its intended function under Suburban Workplace Form District guidelines; because the development will be compatible with the scale and site design of nearby development, including Mercy Academy and Wildwood Green, which will be protected through the use of substantial buffers and landscaping; because the proposal is not a non-residential expansion into a residential area; because other non-residential uses exist in the immediate area, including a proposed commercial shopping center at the intersection of South Hurstbourne Parkway and Fegenbush Lane; because the proposed Wildwood Green, a multi-family use (R-7 Multi-Family), is an abutting property northeast of the Subject Site; because the site will not be a source of odor or adverse air quality emissions, excessive traffic, noise, lighting nuisances or visual nuisances; because the lighting will meet the requirements of the Land Development Code; because the Subject Site is located across Fegenbush Lane from an existing activity center, which includes Globalport Business Centre, an industrial distribution and business center, and General Electric Appliance Park; because the Subject Site also has close proximity to UPS Worldport facilities near Louisville International Airport; because all building setbacks, lot dimensions and building heights will be compatible with adjacent development and will be in accordance with Land Development Code requirements; because parking facilities and landscape adequacy will be reviewed in detail for each individual lot; because requirements for outdoor amenities and focal points will be determined at the time of development of each site; and because signs will conform to Land Development Code requirements; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Open Space Guideline 4 and all applicable Policies adopted thereunder, including Policies 4.1, 4.4., 4.5 and 4.7; because open space is provided onsite via landscape buffer areas and setbacks; and because maintenance of open space will be provided for; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.2 and 5.6 and Social and Cultural Resources Goal D1 and Objective D1.1 because development of the property will respect the natural features of the site and will avoid substantial topographical changes; because there are no steep or severe slopes on site; because on-site soils drain well and are highly permeable; and because no soils on-site are classified as wet soils; and

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WHEREAS, The Planning Commission further finds that the proposal conforms to Economic Growth and Sustainability Guideline 6 and all applicable Policies adopted thereunder, including Policies 6.1, 6.2, 6.4, 6.6 and 6.8 because Core Graphic 10 identifies South Hurstbourne Parkway as a major arterial roadway and identifies Fegenbush Lane as a minor arterial roadway; because the requested PEC district permits M-2 industrial uses having the potential for more than 100 employees; because the site is located immediately adjacent to two arterials; South Hurstbourne Parkway and Fegenbush Lane; and because the proposed C-1 area of the Subject Site has immediate access to South Hurstbourne Parkway, a major arterial, and has excellent access to Fegenbush Lane; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.2, 7.3, 7.4, 7.6, 7.8, 7.10, 7.12, 7.13, 7.14, 7.16 and 7.19 and Pattern of Development Goal E3 because although there is no transit service on South Hurstbourne Parkway in the vicinity of the site, Transit Authority of River City (TARC) Route 23 is located along the Fegenbush Lane frontage of the site; because adequate access for all forms of transportation – vehicular, pedestrian and bicyclists – is provided for on-site; because the Department of Public Works approved the development Plan on November 4, 2015, indicating that space for adequate parking facilities is located on the Subject Site, that the roadways will provide for uniform access and circulation, and that the site design provides for efficient and safe movement of vehicles and pedestrians; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Transportation Facility Design Guideline 8 and all applicable Policies adopted thereunder, including Policies 8.9 and 8.11 because access is provided to all lots via internal roadway network as shown on the development plan; and because stub streets are provided for access to adjacent lots and multiple types of roadways are proposed within the site; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 9.1, 9.2, 9.3 and 9.4, Moving People and Goods Goal A1, Goal A2 and Objectives A2.1 and A2.2, Bicycle and Pedestrian Circulation Plan Planning Goal H1, Goal H2 and Objective H2.2 and H2.5, Safety Goal H3 and Objective H3.1, Promotion Goal H4, Site Design Standards for Alternative Transportation Modes Goal I1 and Objective I1.1, Goal I2 and Objective I2.1, Goal I3 and Objective I3.1, Goal I4 and Objective I4.1, Goal I5 and Objective I5.1 and Goal I7 and Objective I7.1 because sidewalks are proposed throughout the development as detailed in General Note No. 25 of the development plan; because bicycle parking facilities will be provided

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within the development as detailed in General Note No. 17 of the development plan; and because transit service serves the Fegenbush Lane frontage of the site; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.1, 10.2, 10.3, 10.4, 10.7, 10.10 and 10.11 and Water Goal B1 and Objective B1.3 because the development of Hurstbourne Station minimizes the potential for the impacts of flooding, and will effectively manage stormwater runoff; because storm sewers will be sized appropriately for the full development of the site; because storm sewers will discharge into on-site sewer and drainage easements, as provided for by the Metropolitan Sewer District (MSD); because there will be no impact to the regulatory floodplain because all structures will be located above the floodplain; because compensatory storage is not required; because no buildings are proposed to be located within the 100-year FEMA regulatory floodplain; because there is no impact to existing stream valleys and no disturbance to jurisdictional waters of the United States as defined by the U.S. Army Corp of Engineers; because the proposal received the approval of MSD on November 4, 2015 which indicates, among other things, that detention facilities will adequately accommodate stormwater from the site based on a fully developed watershed; that the on-site drainage system will likewise accommodate the “through” drainage system of water flows on-site and off-site, and that peak stormwater runoff rates post-development will not exceed pre-development rates; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1, 12.2, 12.3, 12.5, 12.6, 12.7 and 12.8 and Air Goal C1 because South Hurstbourne Parkway, a major arterial, is located along the frontage of the site, as is Fegenbush Lane, a minor arterial; because Fegenbush Lane is a transit route; because sidewalks will be located throughout the development and are situated to encourage the use of these alternate modes of transportation by on-site workers and area residents; and because the proposal received the approval of the Louisville Air Pollution Control District on August 14, 2015; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 13.1, 13.2, 13.4, 13.5 and 13.6, Habitat and Biodiversity Goal F1 and Objective F1.1 and Goal F2 because street trees and landscaping will be provided on roadways throughout the Subject Site; because native plant species will be installed; because planting and buffering plans, wherever required, will be implemented; and because an adequate tree canopy will be provided for the Subject Site as indicated in the Tree Canopy Calculations shown on the development plan; and

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WHEREAS, The Planning Commission further finds that the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6 and 14.7 because the proposal has adequate service for all necessary utilities; because one or more common utility corridors will exist in the development that includes gas, electric, water, telephone, cable and telecommunications; because an adequate water supply for domestic and fire-fighting purposes will serve the site; and because utilities will be located underground wherever possible and will be situated where recommended by each utility for appropriate maintenance and repair access; and

WHEREAS, The Planning Commission further finds that the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9 because adequate fire fighting services will be provided by the Buechel Fire Protection District; and

WHEREAS, The Planning Commission further finds that the proposal conforms to all other applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan; and

WHEREAS, The Planning Commission further finds that all necessary utilities, including gas, electric, water, telephone, cable and telecommunications, are either presently exist on-site or will be constructed, and essential public services, including sidewalks, will be constructed to serve the site; and

WHEREAS, The Louisville Metro Planning Commission finds that implementation of the proposed uses on the Subject Site is anticipated to begin within twelve (12) months of final approval.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1021, change in zoning from R-4 to PEC and C-1 based on the staff report, testimony heard today and the applicant's finding of fact.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

General District Development Plan and Binding Elements

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On a motion by Commissioner Jarboe, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1021, the Detailed District Development Plan, including the binding elements on pages 12 and 13 of the staff report as well as the two additions proposed by the applicant based on the staff report, testimony heard today and applicant's finding of facts.

Proposed Binding Elements

1. The development shall be in accordance with the approved general 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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
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 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.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to

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- requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
 7. 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.
 8. The property owner shall provide a cross over access easement if the property to the west is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
 9. No idling of trucks shall take place within 200 feet of residential development. No overnight idling of trucks shall be permitted on-site.
 10. **Truck transfer or freight terminal uses.** A detailed district development plan for a truck transfer or freight terminal use having loading/unloading doors in a building of 400,000 square feet or greater square feet on an individual lot shall require approval of the Planning Commission and the Louisville Metro Council base on the criteria stated in LDC 11.4.7.E.2

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11. **Residential uses.** Subject to the exceptions shown in the second sentence below, (i) a residential use having a density greater than permitted in Residential Single-Family District R-4 and (ii) any multi-family use shall require approval of the Planning Commission and the Louisville Metro Council based on the criteria stated in LDC 11.4.7.E.2. A nursing home, home for the infirm or aged, rehabilitation home, or other healthcare residential facility and/or retirement community shall not require approval of the Louisville Metro Council.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson

Subdivision

On a motion by Commissioner Jarboe, seconded by Commissioner Kirchdorfer, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Case No. 15ZONE1021, subdivision plan based on the applicant's finding of facts, staff report and testimony heard today.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Lewis, Tomes, Turner and White

NOT PRESENT AND NOT VOTING: Commissioner Peterson