

ORDINANCE NO. 089, SERIES 2020

AN ORDINANCE RELATING TO THE ZONING OF PROPERTY LOCATED AT 13207 REHL ROAD CONTAINING APPROXIMATELY 17.61 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 19ZONE0044).

SPONSORED BY: COUNCILWOMAN MADONNA FLOOD

WHEREAS, the Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning Commission (the "Planning Commission") and the recommendations of the Planning Commission and its staff as set out in the minutes and records of the Planning Commission in Case No. 19ZONE0044; and

WHEREAS, the Council concurs in and adopts the findings of the Planning Commission for the zoning change in Case No. 19ZONE0044 and approves and accepts the recommendation of the Planning Commission as set out in said minutes and records

NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: That the zoning of the property located at 13207 Rehl Road containing approximately 17.61 acres and being in Louisville Metro, as more particularly described in the minutes and records of the Planning Commission in Case No. 19ZONE0044, is hereby changed from R-4 Residential Single Family to PEC Planned Employment Center; provided, however, said property shall be subject to the binding elements as set forth in the minutes of the Planning Commission in Case No. 19ZONE0044.


SECTION II: This Ordinance shall take effect upon its passage and approval.



Sonya Harward
Metro Council Clerk



David James
President of the Council



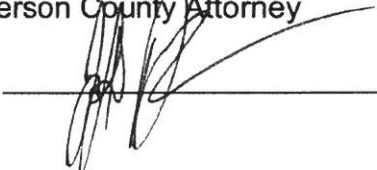
Greg Fischer
Mayor

8/10/2020

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: 

**LOUISVILLE METRO COUNCIL
READ AND PASSED**
August 6, 2020

O-304-20 – Zoning at 13207 Rehl Road (LF)

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June 18, 2020

BUSINESS SESSION

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Planning Commission recessed at 3:34 p.m.

Planning Commission resumed at 3:40 p.m.

Request: Change in zoning from R-4 to PEC, with Detailed District
Development Plan and Binding Elements
Project Name: Powerscreen Crushing and Screening
Location: 13207 Rehl Road
Owner: Thomas & Rebecca Garrity
Applicant: Powerscreen Crushing and Screening
Representative: Dinsmore & Shohl LLC
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Dante St. Germain, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:33:15 Dante St. Germain presented a Power Point slide show. Ms. St. Germain detailed the Plantside Drive access point, the Applicant's Development plan, elevations, and staff findings. Dante noted comments regarding the design of the property and the proposed binding elements (see recording for detailed presentation.)

02:48:17 Commissioner Brown asked if the applicant will be providing sidewalks on Plantside Drive. Dante St. Germain replied the sidewalks will be installed by Hollenbach and Oakley when Plantside Dive is extended.

The following spoke in favor of this request:

Cliff Ashburner, 101 South Fifth Street, suite 2500, Louisville, Kentucky, 40202
Steven Porter, 2406 Tucker Station Road, Louisville, Kentucky, 40299
Mark Madison 108 Daventry Lane, Louisville, Kentucky, 40223

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John Talbott, 100 North Hurstbourne Parkway, Louisville, Kentucky, 40223

Summary of testimony of those in favor:

02:48:55 Cliff Ashburner, representing the applicant presented a Power Point slide show (see recording for detailed presentation.) Mr. Ashburner detailed the subject property, the updated plan, and the new access to Plantside drive. He noted the developer will be responsible for construction of sidewalks along Plantside Drive. Cliff presented the applicant's binding elements to Commissioners (see recording for detailed presentation.)

02:59:10 Steven Porter, representing the Tucker Station Neighborhood Association, stated he agrees with the new access point and new proposed binding elements. Mr. Porter listed the compromised binding elements (see recording for detailed presentation.)

03:01:42 Commissioner Jarboe, Cliff Ashburner, and Dante St. Germain discussed the proposed binding elements (see recording for detailed presentation.)

03:03:00 Mark Madison noted binding element 4 regarding catch basins (see recording for detailed presentation.)

03:04:03 John Talbott, Steven Porter, and Cliff Ashburner discussed the change to binding element 9 regarding the board fencing along Tucker Station Road (see recording for detailed presentation.)

03:06:09 Commissioner Brown asked if the installation of the sidewalk along Plantside drive will be the applicant's responsibility. Cliff Ashburner replied yes.

Deliberation

03:06:42 Planning Commission deliberation (see recording for detailed presentation.)

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

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03:11:05 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the property is adjacent to an existing, developing activity center and would extend the activity center to Rehl Road. Adverse impacts on adjacent residential uses can be mitigated by adequate buffering, the subject site is located adjacent to an existing employment center, The site is located in the Suburban Workplace form district., Disadvantaged populations are not disproportionately impacted by the proposed zoning district., Adequate buffering can be provided between industrial uses on the site and the adjacent residential uses, as the site is relatively large, The proposal is unlikely to generate high rates of new traffic, The site is relatively large and adequate buffering between industrial uses and adjacent residential uses can be provided, Junkyards, landfills, quarries and similar uses will not be permitted by the proposed zoning district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, The subject site is adjacent to an existing activity center, The proposed zoning district would permit retail development and the site is adjacent to an existing activity center, The proposed zoning district would permit a more compact pattern of development in an existing activity center, The proposed zoning district would permit a mixture of compatible land uses adjacent to an existing activity center, The proposed zoning district would permit a mixture of compatible land uses adjacent to an existing activity center, The proposal does not include an underutilized parking; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils are evident on the site. No development on steep slopes is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the existing principal structure on the property was constructed circa 1850 and it is proposed to be moved rather than demolished; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets

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Land Use & Development Goal 1: Mobility because, the subject site is located adjacent to an existing activity center and employment center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, A mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities is encouraged by the proposed zoning district as both industrial and commercial uses are permitted in the proposed district, The proposed zoning district would permit higher density mixed-use developments as the proposed district permits industrial and commercial uses, The site is adjacent to Blankenbaker Station II and will additionally be providing sidewalks along Rehl Road, Transportation Planning has approved the proposal with access from Plantside Drive; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal, Louisville Water Company has approved the proposal, MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the subject site is located adjacent to an existing tract of land that is zoned PEC. The proposal would permit land uses that are compatible with the existing industrial subdivision, the subject site is located adjacent to existing industry, The proposed zoning district would permit commercial uses, but the proposed use is not for commercial, The proposal would permit industrial uses, and the site has access to Plantside Drive; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, Karst features were found on the subject site and mitigation will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents will be displaced by the proposal; and

Applicant's Justification

COMMUNITY FORM

The proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject property is located in the Suburban Workplace Form District, which the Comprehensive Plan states is a form "characterized by predominately industrial and

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office uses where the buildings are set back from the street in a landscaped setting. Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district." Here, the proposal is consistent with the Suburban Workplace Form district as it will re-zone the property to Planned Employment Center district (PEC) and allow for the development of a new large-scale industrial use that will be part of the larger surrounding industrial park development along Plantside Drive. The proposal is also consistent with the pattern of development in the area, which features commercial or industrial properties in PEC zones to the north and west. The development will be set back from the residential zoned properties to the east and south.

The proposal is compatible with the scale and site design of the surrounding area as it proposed a 40,00 sq. ft. building that is similar in scale and design to the other industrial or commercial uses along Plantside Drive, including the FedEx Ground facility adjacent to the west, and the Rev-a-Shelf facility adjacent to the north; and

MOBILITY

The proposed development complies with the intent and applicable policies of the Mobility Plan Element. The proposed development will be accessed via Rehl Road, which provides easy access to Blankenbaker Parkway and Interstates 64 and 265. Rehl Road is an appropriate access point for the subject development because the property fronts onto Rehl Road. Also, the Applicant is proposing a low traffic generating use as a headquarters and maintenance garage for a business with only 10-12 employees. Truck traffic will be limited; the majority of the vehicle traffic will be passenger vehicles. The proposal includes 51 parking spaces and will also include bicycle parking; and

COMMUNITY FACILITIES

The proposed development complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is adequately served by all utilities, including water and sewer; and

ECONOMIC DEVELOPMENT

The proposed development complies with the intent and applicable policies of the Economic Development Plan Element. The proposal is for a Planned Employment Center zone, and the development of a new headquarters and maintenance garage that will provide workspace for the approximately 10-12 employees of the Applicant. The proposal will also further the development adjacent to the existing Blankenbaker Station business park along Plantside Drive; and

LIVABILITY

The proposed development complies with the intent and applicable policies of the

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Livability Plan Element. The proposed industrial development will be set back from the nearby residential uses and will be clustered with the other industrial and commercial uses along Plantside Drive. The property will be accessed via Rehl Road, which provides easy access to the commercial corridor along Blankenbaker Parkway and Interstates 64 and 265. The Applicant will provide the required amount of tree canopy, storm water detention and water quality measures. In addition, the historic, but non-original, cabin on the subject property will be moved to a new location; and

HOUSING

The proposed development complies with the intent and applicable policies of the Housing Plan Element. The proposal will permit the development of a new headquarters and maintenance garage that will provide jobs for approximately 10-12 employees of the Applicant. There are several nearby neighborhoods and apartment communities that serve the Blankenbaker Station business park that will serve the subject property, as well; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, single family residential to PEC, Planned Employment Center on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Howard, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

ABSTAIN: Commissioner Seitz

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims.

Detailed District Development Plan and Binding Elements

03:12:27 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds, tree canopy will be provided. No other natural resources appear to exist on the site. A house constructed circa 1850 is currently located on the site. The applicant plans to have the house moved rather than demolished. If the house is demolished it would be subject to LMO 150.110; and

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WHEREAS, the Commission further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are in question. Metro Public Works has not provided approval of the plan, as there has been inadequate time for Public Works to review the revised plan; and

WHEREAS, the Commission further finds the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Commission further finds the overall site design and land uses are compatible with the existing and future development of the area. The site is relatively large and adequate buffering can be provided between the industrial use on the property and the lower-intensity, mostly residential uses adjacent to the site; and

WHEREAS, the Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following 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 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.

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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 Construction Review, 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan and dedicating additional right-of-way to Rehl Road to provide a total of 40 feet from the centerline. 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.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 18, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - f. An easement agreement allowing access to Plantside Drive as it currently exists shall be provided to Planning and Design Services in a form acceptable to Planning Commission legal counsel and recorded.
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. No access to Rehl Road shall be permitted from either tract. All access shall be from Plantside Drive.
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. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.

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9. 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.
10. Curbing. Concrete vertical 6' curbs are required in all areas of the site visible from the Plantside Drive and Rehl Rd.
11. Pavement. The pavement striping (other than fire curbs) shall be white.
12. Lighting. The parking lot lighting shall be by pole lighting with shielded box type fixtures (no wall packs).
 - a. All exterior lighting, whether freestanding or attached to any structure, including street lights, lot lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. The following are exceptions to this requirement:
 - i Low voltage landscape lighting aimed away from adjacent properties and not exceeding 2000 lumens in output per fixture.
 - b. No LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3000 degrees Kelvin.
 - c. No parking lot light fixtures shall be more than fourteen feet high, measured from ground level.
13. Drainage. The entrances to storm drainage shall be catch basins.
14. Utilities. All utility services will be under ground. Exterior utility equipment is to be shielded from view by masonry wall and landscaping or dense evergreen landscaping
15. Building setbacks. Building setback shall be a minimum 80 feet from the public roadway on which the building fronts; 50 feet from public roadways on side of building and 33 from side and rear lot lines.
16. Landscaping. Minimum 25 foot wide landscape area shall be provided adjacent to all public roadways and 15 foot wide adjacent to all side lot lines.

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17. Sidewalks. All lot frontage along a street shall have sidewalks constructed for pedestrian use. Sidewalks to be constructed prior to occupancy of building.
18. Fencing. Fencing to be masonry coordinated with building masonry or black wrought iron or aluminum picket style, if any. Notwithstanding the aforesaid, four-board fencing along Rehl Road is permitted.
 - a. A black or grey four-board horse fence shall be constructed along the portion of the property abutting Rehl Road.
19. Building exterior. All building exteriors shall be constructed of brick, stone, masonry or similar in quality and design products facing public right-of-ways.
20. Roofing. Rooftop units shall be screened from the view from the public roads. No metal roofs allowed.
21. Signage. Signage is to be monument style with individual letters or approved metal cabinets. Letters may be illuminated with hidden flood lights or internal fixtures. Design of sign is to be consistent and complementary to materials used on building.
 - a. No lighted signage shall be placed above the first-floor level, except it shall be allowed on a gable over an entrance.
 - b. No changing image or moving signs shall be permitted.
 - c. All freestanding signage shall not exceed six feet in height, measured from ground level
22. Attachments. Exterior vents, lights, dock doors and other attachments to be painted to match the adjoining surface. Downspouts and gutters are to be internal on all sides of building and connected to the storm sewer system.
23. Landscaping. Natural buffers and existing vegetation is to be incorporated into design features where possible. Automatic irrigation system and sod required on sides and in front of all buildings. Strip side is to be used on the perimeter of all walls, curbs and pavement. Landscaping will comply with chapter 10 of the Louisville Metro Land Development Code. Landscaping plan shall be stamped and approved by a landscape architect. Erosion controls shall comply with Louisville Metro erosion control ordinance. Dock doors, trucks and service areas are to be screened from adjoining property owners by landscape material and from roadways by masonry walls.

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24. Upon receipt of a Certificate of Occupancy, no stone crushing, cutting or screening activity shall occur on the property.

The vote was as follows:

YES: Commissioners Howard, Seitz, Peterson, Carlson, Brown, Lewis, and Jarboe.

NO: No one.

ABSTAN: Commissioner Setiz

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Mims

Commissioner Brown left approx. 4:25 p.m.