

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

MAY 2, 2011

BUSINESS SESSION:

NON-HEARING MODIFICATION OF CONDITIONAL USE PERMIT

CASE NO. B-15780-11 & 9-17-88C

Applicant/Owner: Louisville Underground, LLC
James Lowry, Director/Member
1454 Hugh Avenue
Louisville, Kentucky 40218

Attorney: Glenn A. Price, Jr.
Frost Brown Todd LLC
400 West Market Street, Suite 3200
Louisville, Kentucky 40202

Subject: An application for the modification of an existing Conditional Use Permit to allow public and private gatherings and events (including, but limited to a holiday light show, fundraisers, receptions, weddings, galas, catered events, banquets, conventions, exposition building, etc.); concerts and recitals; recreational and athletic uses (including, but not limited to paintball, soccer, volleyball, baseball, zip-line, rock climbing, track & field, running and jogging); tram tours and educational tours; computer data center; emergency fallout shelter; medical laboratories and other types of science laboratories; training and learning facility for geologists and other scientists; automobile parking areas, public and private; and on-line order fulfillment centers. In addition to the modification, the applicant is requesting to amend Condition of Approval No. 1 in BOZA Docket No. 9-17-88C (see below for changes).

The original CUP was granted by the Planning Commission under Case No. 9-17-88C, for Underground Space.

A resolution is scheduled for the Louisville Metro Council on **April 28, 2011**. The resolution requests that the Planning Commission review and make a recommendation on amendments to the Conditional Use Permit for the use of underground space. The Louisville Underground is currently the only holder of such a CUP within Jefferson County. The proposed amendment to the CUP for the underground space would allow this site to apply for a CUP modification before the Board of Zoning Adjustment to request the additional uses that are listed within this amendment. This amendment would allow for greater economic development potential for the Louisville Underground, thereby, fostering job growth within the community. Related Case No. 15631.

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Premises Affected: On property known as 1841 Taylor Avenue and being in Louisville Metro.

COUNCIL DISTRICT 10—Jim King

Staff Case Manager: Steve Hendrix, Planning Supervisor

On April 15, 2011, the applicant requested a modification of the approved Conditional Use Permit to allow public and private gatherings and events (including, but limited to a holiday light show, fundraisers, receptions, weddings, galas, catered events, banquets, conventions, exposition building, etc.); concerts and recitals; recreational and athletic uses (including, but not limited to paintball, soccer, volleyball, baseball, zip-line, rock climbing, track & field, running and jogging); tram tours and educational tours; computer data center; emergency fallout shelter; medical laboratories and other types of science laboratories; training and learning facility for geologists and other scientists; automobile parking areas, public and private; and on-line order fulfillment centers. In addition to the modification, Condition No. 1 shall be amended in BOZA Docket No. 9-17-88C (see below).

The original CUP was granted by the Planning Commission, Case No. 9-17-88C, for Underground Space.

DISCUSSION:

8:43:59 Steve Hendrix, Planning Supervisor, said the modification will allow for more uses. Metro Council approved the amendment to the Land Development Code, Chapter 4, Part 2-53, to expand the list of uses allowed in the underground space. He said the applicant is also requesting that Condition of Approval No. 1 be amended (see below for changes).

8:44:45 A motion was made by Member Grisanti, seconded by Member Wagaman and the following resolution was adopted:

WHEREAS, the Board finds that the applicant has requested a modification of an approved Conditional Use Permit to allow public and private gatherings and events (including, but limited to a holiday light show, fundraisers, receptions,

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weddings, galas, catered events, banquets, conventions, exposition building, etc.); concerts and recitals; recreational and athletic uses (including, but not limited to paintball, soccer, volleyball, baseball, zip-line, rock climbing, track & field, running and jogging); tram tours and educational tours; computer data center; emergency fallout shelter; medical laboratories and other types of science laboratories; training and learning facility for geologists and other scientists; automobile parking areas, public and private; and on-line order fulfillment centers.

WHEREAS, the Board finds that the Louisville Metro Council and the Louisville Metro Planning Commission approved an amendment to the "underground space" regulation (Land Development Code Chapter 4 Part 2-53) allowing the additional uses of the underground cavern; and;

WHEREAS, the Board finds that the request will allow for greater economic development potential for the Louisville Underground, thereby, fostering job growth within the community; and

WHEREAS, the Board finds the proposal to be in conformance with the Comprehensive Plan because it complies with all applicable guidelines, principles and objectives; and it has received preliminary approval from Transportation Review and Louisville and Jefferson County Metropolitan Sewer District;

NOW, THEREFORE, BE IT RESOLVED, that the Modification of the existing Conditional Use Permit is hereby **APPROVED**, to allow public and private gatherings and events (including, but limited to a holiday light show, fundraisers, receptions, weddings, galas, catered events, banquets, conventions, exposition building, etc.); concerts and recitals; recreational and athletic uses (including, but not limited to paintball, soccer, volleyball, baseball, zip-line, rock climbing, track & field, running and jogging); tram tours and educational tours; computer data center; emergency fallout shelter; medical laboratories and other types of science laboratories; training and learning facility for geologists and other scientists; automobile parking areas, public and private; and on-line order fulfillment centers based on the previously approved conditions of approval, but does hereby **AMEND** Condition of Approval No. 1 to state:

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1. The development shall not exceed the following:
 - a) 225,000 square feet of gross floor area in office use on the surface;
 - b) 20,000 square feet of gross floor area in retail use of the surface;
 - c) 275,000 square feet of gross floor area in general warehousing and light industrial use on the surface;
 - d) 1,730,000 square feet of gross floor area of all uses permitted in the underground pursuant to LDC Chapter 4, Part 2.53.

The vote was as follows:

YES: Members Wagaman, Grisanti, Allendorf, Proffitt and Jarboe.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Fishman and Liggin.

ABSTAINING: No one.

LD&T MINUTES

APRIL 8, 1999

DOCKET NO. 9-17-88C (City of Louisville)

Project Name: Louisville Underground, Phase I
Development Name: Ecospace Business Park
Location: 1841 Taylor Avenue
Applicant: Louisville Underground
Request: Detailed District Development Plan
Staff Case Manager: Steve Lutz, Planner II

187,200 square feet of underground storage space and 107 underground parking spaces are proposed for phase 1. The plan meets the general plan requirements, and this project was eligible to be on the consent agenda. However, staff felt that it should be reviewed by the full committee.

Staff questions:

What is proposed to be stored at this facility?
Why are so many parking spaces provided?

The project has been approved preliminarily by the Fire Department. There is a letter in file to this effect.

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

BINDING ELEMENTS:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding elements shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
- 2.. Use of the subject site shall be limited to underground storage. There shall be no other use of the property unless prior approval is obtained from the Planning Commission. Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.
3. The development shall not exceed 187,200 square feet of gross floor area.

LD&T MINUTES

APRIL 8, 1999

DOCKET NO. 9-17-88C (City of Louisville)

4. There shall be no freestanding sign permitted on site without prior approval. Monument style signs that meet the size and height limits established in the "Policies for Future Development Along Designated Parkways" may be approved by DPDS staff. Signs that exceed those limits are permitted only if approved by LD&T or the Commission. LD&T or the Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
5. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
6. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from the City of Louisville Department of Inspections, Permits and Licenses (617 W. Jefferson Street) and the Metropolitan Sewer District (700 West Liberty).
7. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
8. 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.
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.

LD&T MINUTES

APRIL 8, 1999

DOCKET NO. 9-17-88C (City of Louisville)

DISCUSSION:

The Committee suggested the applicant work with the fire department and check with the fire marshal for standards.

On a motion by Commissioner Herron, the following resolution was unanimously adopted:

RESOLVED, That the Land Development and Transportation Committee does hereby **APPROVE**, The Detailed District Development Plan subject to the binding elements.

The vote was as follows:

YES: Commissioners Thieneman, Crawford and Herron.

NO: None.

NOT PRESENT FOR THIS CASE AND NOT VOTING: None.

ABSTAINING: None.

Dale Hettinger and Clifford Ashburne were present.