

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

Case No: 15ZONE1034  
Request: Change in zoning from R-6 to PEC on an estimated 10 acres  
Project Name: Air Hydro Power Expansion  
Location: 2550 Blankenbaker Parkway

Owner: Squire One-Blankenbaker, LLC  
William K. Orlove  
110 Painters Mill Road, Suite 113  
Owings Mills, Md. 21117

Applicant: MOB Investments, LLC  
Matthew Ott  
2550 Blankenbaker Parkway  
Louisville, Ky. 40299

Representative: Clifford H. Ashburner  
Dinsmore & Shohl  
Wyatt, Tarrant & Combs, LLP  
500 West Jefferson Street, Suite 2800  
Louisville, Ky. 4202

Kevin Young  
Land Design & Development  
503 Washburn Avenue, Suite 101  
Louisville, Ky. 40222

Jurisdiction: Louisville Metro  
Jeffersontown (Existing PEC Site)

Council District: 20 – Stuart Benson

**Case Manager: Christopher Brown, 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:**

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

03:19:33 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

**The following spoke in favor of this request:**

Cliff Ashburner, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202

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

03:26:30 Mr. Ashburner gave a power point presentation and stated that the project is an expanse of the Air Hydro Power headquarters, which has expanded incrementally over time. The company is about 55 years old and the growth rate is about 10% every year. The loading docks will be modified after the building is expanded. The power line is located close to the city line between Jeffersontown and Louisville (to be moved underground).

**Deliberation**

03:33:03 Planning Commission deliberation.

**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-6 to PEC**

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

**WHEREAS**, A Suburban Workplace is a form characterized by predominately industrial and 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; and

**WHEREAS**, the Louisville Metro Planning Commission finds, in order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses; and

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal to rezone the subject site from R-6, Residential, to PEC, Planned Employment Center would expand an existing industrial site in an area of both low and high intensity uses along the Blankenbaker Parkway and Blankenbaker Road corridors. The existing form district encourages predominantly industrial and office uses. The proposed industrial warehouse and office use expansion is appropriate for this form district and follows the concepts of the Suburban Workplace found to the south and east of the site.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 15ZONE1034, the change in zoning from R-6 to PEC based on the staff report, testimony heard today and the applicant's statements

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Brown and White**

**Revised Detailed District Development Plan/DDDP and Binding Elements**

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

**WHEREAS**, There does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

**WHEREAS**, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

**WHEREAS**, There are no open space requirements with the current proposal; and

**WHEREAS**, The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the existing and future development of the area. The building will meet the setback requirements of the form district; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to the City of Jeffersontown, **APPROVAL** of Case No. 15ZONE1034, the portion of the development plan that lies within the jurisdiction of Jeffersontown to be rezoned as requested as well as the Revised Detailed District Development Plan as depicted on the development plan, including the binding elements on pages 18 and 19 in the staff report deleting 5c.

**Existing Binding Elements**

**9-34-04:**

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. Use of the subject site shall be limited to multi-family residential. There shall be no other use of the property unless prior approval is obtained from the Planning Commission/ LD&T Committee. 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/LD&T Committee may require a public hearing on the request to amend this binding element.
3. The density of the development shall not exceed 15.44 dwelling units per acre (328 units on 21.83 acres).
4. Signs shall be in accordance with Chapter 8 or as presented at the public hearing.
5. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

6. Access to the site shall be made from the new curb cuts as shown on the development plan. No additional direct access shall be created to Blankenbaker Road and Plantside Drive.
7. 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.
8. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, or demolition permit) is requested:
  - a. The development plan must receive full construction approval from 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. A minor subdivision plat shall be recorded dedicating additional right-of-way to Blankenbaker 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.
  - d. 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.
  - e. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - f. If applicable: 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 (Murphy and Jenkins properties, and Miller property). 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.

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

- g. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - h. Prior to the issuance of a building permit, a copy of the recorded document shall be submitted assuring the permanent protection, preservation and maintenance of the proposed open space.
9. 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.
10. 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.
11. 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.
12. The façade elevations shall be in accordance with applicable form district standards. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 25, 2004 LD&T meeting and October 7, 2004 Planning Commission meeting.
13. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

**For Plans with Tree Canopy Preservation Areas (TCPA-s)**

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

15. The site shall be developed in accordance with the tree canopy preservation areas delineated on the site plan and related notes. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan.

All plans setting out tree preservation areas must contain the following notes:

1. Tree preservation areas (TCPA-s) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Tree in these areas may be removed during construction of homes or buildings on individual lots.
2. Dimension lines have been used on this plan to establish the general location of TCPA-s and represent minimum distances. The final boundary for each TPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
3. Tree protection fencing shall be erected around all TCPA-s prior to site disturbance (except as provided in these notes) to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed in a TCPA, the fence shall be relocated to protect all remaining trees within that TCPA. When a tree mass contains both WPAs and TCPA-s, fencing shall only be required at the outer most perimeter of that tree mass.
4. No parking, material storage, or construction activities are permitted within the TCPA-s beyond that allowed for preliminary site investigation work.
5. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed 12 feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at a height of

**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

four and one-half feet above ground level shall be removed without prior approval by DPDS.

**15129 (updated for current proposal with 15ZONE1034)**

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 and to the City Jeffersontown for review and approval dependent upon the jurisdiction for portions of the site; any changes/additions/alterations not so referred shall not be valid.
2. Signs shall be in accordance with Chapter 8. The only permitted freestanding sign shall be a monument style sign, located as shown on the approved development plan/sign plan. The sign shall not exceed 60 square feet in area per side and 6 feet in height. No sign shall have more than two sides.
3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banner shall be permitted on the site.
4. 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.
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 Louisville Metro Department of Develop Louisville Construction Permit Review, Transportation Planning Review 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.
6. If a building permit, parking lot permit, or site disturbance permit is not issued within two years of the date of approval of the plan, the proposed expansion shall



**PLANNING COMMISSION MINUTES**  
**February 4, 2016**

**PUBLIC HEARING**

**CASE NO. 15ZONE1034**

not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
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 materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 4th Planning Commission public hearing.
10. No overnight idling of trucks shall be permitted on site.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Brown and White**