

May 16, 2023

Dante St. Germain, AICP
Louisville Metro Planning and Design Services
444 South Fifth Street, Suite 300
Louisville, KY 40202

Re: Case No. 22-ZONE-0098

Dear Dante,

As you know, my firm represents Xebec Pursuits, LLC ("Xebec"), the applicant in the subject rezoning case. Thank you for forwarding Nick Pregliasco's letter on behalf of the Blankenbaker Station Community Association (the "Association"). I am writing to respond to the comments and questions contained in the letter. For ease of reference, I have copied the text of Nick's letter prior to each response.

1. Does Xebec intend to implement the same design covenants/standards for a Class A business park as set forth in the Declaration of Covenants, Conditions, and Restrictions for the Blankenbaker Station Business Park (the "CCRs"), to address such items as required building materials, signage, green space/irrigation, etc.?

Response: Xebec is willing to implement a set of covenants and standards for this project that are substantially similar to the CCRs for Blankenbaker Station Business Park as recorded in Deed Book 8375, Page 750 in the Jefferson County Clerk's office. If the request is intended to give the Association or the developer of Blankenbaker Station Business Park oversight or enforcement rights over the covenants and standards for this project, Xebec declines to do so.

2. Does Xebec have a conceptual plan (alignment/profile) of how the proposed Schutte Station Place will be constructed? This has been requested numerous times by the Planning Commission with only an engineer letter opining that a connection to Schutte Station Place is technically feasible having been provided to date. The Xebec LD&T presentation indicates additional right-of-way is required from the Association and/or the adjacent business owner in order for the connection at Schutte Station Place to be completed, but no agreements have been reached with the Association or the adjacent business owner.

Response: The proposed alignment for the Schutte Station Place connection is clearly shown on the development plan that is a part of the record of this case and publicly available online via the Louisville Metro Business Portal. The LD&T Committee asked for assurances that the

Schutte Station Place connection could physically be made. To address this concern, Xebec hired a structural engineer to analyze the existing site conditions and make recommendations on whether the connection was reasonably feasible and how it might be constructed. As stated in the letter from American Engineers on February 21, 2003, “AEI feels an engineered solution is possible and constructible with more than one possible solution.” A copy of this letter was provided for the case file. We do not have a road profile to share at this time. We are currently in the development plan stage of this project and have not begun construction drawings, as is typical with developments in Jefferson County. A preliminary grading study has been conducted to provide approximate finished floor elevations for the proposed buildings in order to prepare illustrative exhibits to present at LD&T, but full grading and drainage plans have not been prepared, and won’t be until zoning approval is obtained.

As we indicated at various LD&T and neighborhood meetings, the extension of Schutte Station Place will require that a portion of the Association’s property to the immediate south of the project site be dedicated as right-of-way. The rest of the property required for the extension will be provided from property that Xebec is acquiring. In Case No. 16ZONE1090, the development plan for the Association’s property at issue shows a 63-foot strip of such property as “reserved for future R/W,” and Binding Element No. 6 states: “Right of way for the extension of Schutte Station Place, if not already constructed as determined by Metro Public Works, shall be dedicated by the HOSTS Development within 60 days of the request from the Director of Public Works or at the time of the Developer’s request for a major subdivision plat.” This binding element requiring dedication of the right-of-way for the extension of the road is binding on the Association. In fact, Xebec has elected to swing the proposed road alignment further into the property it is acquiring and away from the pond on the Association property, so less of the Association’s property will be used for right-of-way than is required to be dedicated under Case No. 16ZONE1090.

3. *Has Xebec made any commitments to participate in trash pick-up, etc. for using Blankenbaker Station infrastructure?*

Response: Similar to the CCRs for Blankenbaker Station Business Park, the covenants, conditions, and restrictions for the Xebec project as described in item 1 above will include a mechanism to ensure that the roads, common areas, and other parts of the Xebec development are properly maintained.

4. *Has Xebec made any commitments to improve Tucker Station Road East of Bluegrass Parkway, other than adding turn lanes at the Tucker Station Road / Pope Lick Road intersection, such as widening Tucker Station Road to four lanes similar to Plantside Drive or constructing a median similar to the medians on Plantside Drive and Bluegrass Parkway? Association members have asked whether Xebec would enter into a binding element prohibiting approval of any construction plans until the Schutte Station Place connection and four-lane widening of Tucker Station Road is complete? This was a commitment that the developers of*

Blankenbaker Station were required to make on the construction of Plantside Drive prior to the approval of any constructions plan within the Blankenbaker Station development.

Response: As stated in our LD&T meetings, Xebec will be installing turn lanes eastbound, westbound, and northbound at the Tucker Station/South Pope Lick/Schutte Station intersection. There isn't enough right-of-way available to install turn lanes in the southbound direction. Xebec will also be widening Tucker Station and South Pope Lick to three lanes for approximately 2,300 feet from the end of the existing three lane section across the frontage of the property in accordance with Metro Public Works requirements. We do not believe that there is any precedent for imposing on Xebec a binding element that restricts all construction approvals until all road improvements are complete. However, Xebec would be willing to agree that the road improvements be completed prior to certain stages of the development as described in the proposed binding elements included with this letter.

5. *Will Xebec install a Traffic Signal at the intersection of Plantside Drive/Tucker Station Road or make a financial contribution to same?*

Response: Xebec has maintained all along that they would be willing to make a traffic signal contribution. The Comprehensive Plan provides that any such contribution should be roughly proportionate to the impact of the proposed development. The proposed binding elements included with this letter include our suggestion as to the appropriate level of Xebec's contribution.

6. *At the numerous prior Neighborhood Meetings and Land Development and Transportation Committee Meetings, the Xebec representatives have been asked about the visual impact on neighboring Blankenbaker Station businesses as to the scale and height of the proposed buildings. These impacts are greatly influenced by site grading, building placement, parking lane/drive slopes, first floor elevations, building height, etc.. To date, information related to some of these items have been provided for the Tucker Station Road / Pope Lick Road frontage only, but have not be provided for the west frontage or south frontage.*

Response: The Land Development Code has specific requirements for buffering between businesses in the PEC zoning district. In accordance with Section 10.2.4.B.8, a minimum 15' landscape buffer with 1 Type A or B tree per 75 feet of boundary will be provided. Building heights will not be taller than 45' as shown on the plan. In our LD&T presentations we provided estimated finish floor elevations for building 1 at 675.0 +/- and building 3 at 670.0 +/- . Others are anticipated to be in this general range or lower as well. Again, these should be considered preliminary estimates since construction plans have not been started. Furthermore, the applicant felt that the impact of these buildings on the adjacent residential warranted detailed exhibits while the impact of one business development on another does not...especially when the existing development has structures larger than what is proposed for the subject site.

7. *How does Xebec propose to screen the beautiful office buildings surrounding the lake (Charah, Kelley Construction, Donan Engineering, Eurofins, Farm Credit Mid-America, Boys Scouts of America) from the docks/truck storage areas proposed on the Xebec Development? Will there be wing walls? Landscaping?*

Response: Again, the Land Development Code has specific requirements for buffering between businesses in the PEC zoning district. In accordance with Section 10.2.4.B.8, a minimum 15' landscape buffer with 1 Type A or B tree per 75 feet of boundary will be provided. It is also likely that wing walls and additional landscaping will be provided, but details about the extent of those features will not be decided until the construction plan process. This is not to suggest that Xebec has not taken seriously the concerns expressed by the Association regarding the views from its side of the lake. In fact, after meeting with some of the directors of the Association early in this case and hearing their concerns, Xebec agreed to purchase additional property so that that it could change the orientation of the proposed buildings to ensure that no truck bays would face the lake.

8. *Xebec has been asked if it would it construct and connect to the proposed walking trail/loop around the lake? Phase II of the walking trail in Blankenbaker Staton is under construction presently. To date, only a verbal statement that a walking trail would be provided has been received, without the requested details as to the commitment, location, and timing of construction, etc.*

Response: Xebec would be willing to grant an easement to the Association to construct and maintain an extension of the path along the northern side of the pond on the property that Xebec is acquiring. The easement would need to include customary insurance and indemnification covenants on the part of the Association.

9. *Xebec has indicated the need to build tall retaining walls at the sound end of the Xebec Development adjacent to the lake (and visible from the Office Buildings noted above). These walls could be as tall as 25' in some areas. No details related to these retaining walls have been provided (materials, etc.).*

Response: Again, we have not begun construction drawings for this project yet and there are no details available for the construction of these walls. They could be stacked block, reinforced concrete, earthen, or any number of other styles based on the structural engineer's design.

10. *Does Xebec propose saving the trees along the lake on its side of the lake? I believe there was a verbal commitment that Xebec will endeavor to save as many trees as possible. The details of which trees will be preserved has not been provided.*

Response: There is no requirement to save trees on this site. Xebec intends to save as many trees along the lake as possible, but this will be a major grading operation and the exact extents of preservation are unknown at this time. At a minimum, a majority of the 25' inner buffer should remain undisturbed, but it is Xebec's intent to save more than that wherever possible. Of

course, tree preservation in this area could be impacted by the Association's extension of the walking path around the pond.

11. *Who will the Xebec tenants be?*

Response: That is presently unknown. As has been stated multiple times, these are speculative buildings that will be built prior to obtaining a specific tenant.

12. *Will this be a 24-hour operation?*

Response: Hours of operation are unknown. Again, this is a speculative building and no specific tenants have been secured at this time.

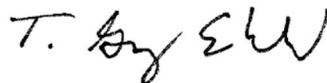
13. *Blankenbaker Station was required to commit to Lighting restrictions above the Land Development Code ("LDC") requirements for the buildings and the site lighting through binding elements related to same. Will the proposed Xebec Development incorporate these same lighting restrictions into its design commitments?*

Response: This development will meet the requirements of the Land Development Code in regards to lighting.

Finally, we were surprised by the letter's suggestion that Xebec and its professional representatives have ignored the requirements of the Comprehensive Plan. We have been to LD&T three times, and each visit involved lengthy discussions regarding issues integral to Plan 2040's Plan Elements, especially the Community Form, Mobility, and Economic Development elements. We look forward to the opportunity to discuss this further at the public hearing.

Very truly yours,

STITES & HARBISON, PLLC



T. Gregory Ehrhard

Case No. 22-ZONE-0098
Proposed Binding Elements

1. The applicant shall contribute \$12,000 toward the construction of a traffic signal at Bluegrass Parkway and Tucker Station Road. Payment shall be made prior to the issuance of a certificate of occupancy for the first building.
2. The applicant shall contribute an amount not to exceed \$120,000 toward the construction of a signal at Tucker Station Road and South Pope Lick Road. Payment shall be made prior to issuance of a certificate of occupancy for the third building.
3. The applicant shall widen Tucker Station Road & South Pope Lick Road to three lanes across the frontage of the property and add turn lanes at the South Pope Lick/Tucker Station/Schutte Station intersection as presented at the Public Hearing on May 25th, 2023. This work shall be completed prior to a certificate of occupancy being issued for the second building.
4. The applicant shall complete construction of the extension of Schutte Station Place to Tucker Station/South Pope Lick Road prior to the issuance of a certificate of occupancy for the third building.
5. No construction traffic shall be permitted on S Pope Lick Road. No construction traffic shall be permitted on Tucker Station Road once the Schutte Station Place connection has been completed.
6. Signage shall be placed at all access points to Tucker Station Road and S Pope Lick Road to direct truck traffic to the Schutte Station Place connection.