

# Board of Zoning Adjustment Staff Report

July 24, 2017



|                                  |                                                                            |
|----------------------------------|----------------------------------------------------------------------------|
| <b>Case No:</b>                  | 14CUP1003                                                                  |
| <b>Project Name:</b>             | January 11, 2016 Minute Corrections & Status of two Conditions of Approval |
| <b>Location:</b>                 | 151 & 201 Cabel Street                                                     |
| <b>Owners:</b>                   | JBS USA, LLC & Swift Pork Company                                          |
| <b>Applicant:</b>                | JBS USA, LLC & Swift Pork Company                                          |
| <b>Representative:</b>           | Glenn Price                                                                |
| <b>Project Area/Size:</b>        | 8.9012 acres                                                               |
| <b>Existing Zoning District:</b> | M-3, EZ-1                                                                  |
| <b>Existing Form District:</b>   | Traditional Neighborhood                                                   |
| <b>Jurisdiction:</b>             | Louisville Metro                                                           |
| <b>Council District:</b>         | 4—Barbara Sexton Smith                                                     |
| <b>Case Manager:</b>             | Steve Hendrix, Planning Supervisor                                         |

## REQUESTS

1. January 11, 2016, Minute Corrections of Condition #18.
2. To determine if Condition #3, Landscaping has been met.
3. To determine if Condition #18, diesel fuel emissions have been met.

## STAFF FINDING

The intent of Condition #18 was to lower the diesel fuel emissions by the Transportation Refrigeration Units by three ways; electric, hybrid or the January 11, 2016 California standards. The correction will allow all three of those options.

Landscaping requirements were initially met, but missing plants in the bio-swale made the inspection on June 27, 2017 incomplete. It is staff's understanding that the shrubbery will be replaced or trees will be planted, thereby meeting the landscaping conditions of approval #3c.

Swift intends to implement the inspection of the Transportation Refrigeration Units requiring that they have a 2013 or newer model or that the units are not older than seven (7) years, thus meeting Condition of Approval #18.

## CASE SUMMARY

At the July 10, 2017 hearing, the Board continued this item until July 24, 2017, since the video of the January 11, 2016 BOZA hearing concerning the discussion and deliberation of Condition #18 was not able to be shown.

The Conditional Use Permit to allow a potentially hazardous or nuisance use, (proposed staging lot for trucks and trailers in an M-3 zoning district) Land Development Code 4.2.42., was approved on January 11, 2016 with conditions.

The intent of Condition #18 was to lower or eliminate diesel particulate matter by either electric or hybrid TRUs or adoption of the California practice.

### **Condition #3 Installation of fencing, Acoustifence, landscaping and bioswale.**

A. Except for the area bordering the Webster Street right-of-way partial closure (See B. below), the fencing and Acoustifence shown on the approved development plan shall be implemented within four (4) months of final approval of the CUP in favor of Applicant together with all time remaining for further appeal having elapsed.

B. Following completion of Item A. and upon obtaining closure of the Webster Street right-of-way as shown on the CUP Plan together with any zoning-related approvals, construction of the wooden fence and Acoustifence bordering the closed right-of-way shall be implemented upon completion of Item B., weather permitting.

**C. Weather permitting, all landscaping and the bio-swale as shown on the CUP Plan shall be implemented following the completion of Item A., except for landscaping adjacent to the Webster Street right-of-way closure which shall be implemented immediately upon completion of Item B., weather permitting.**

### **Condition #18**

Within 18 months of January 11, 2016, the applicant shall reduce or eliminate diesel particulate matter by using electric or hybrid TRUs on the subject property by implementing the current California standards for diesel fuel emissions.

The applicant has pointed out and staff is in agreement that Item #18 should have read;

**Within 18 months of January 11, 2016, the applicant shall reduce or eliminate diesel particulate matter by using electric or hybrid TRUs, (Transportation Refrigeration Units) on the subject property OR by implementing the current California standards for diesel fuel emissions.**

On June 27, 2017, staff's Landscape Architect made an inspection of the site and found that plant material from the bio-swale were missing. It was suggested that 6 trees be planted or that the shrubbery be replaced. Swift's representative stated that the requirements would be met.

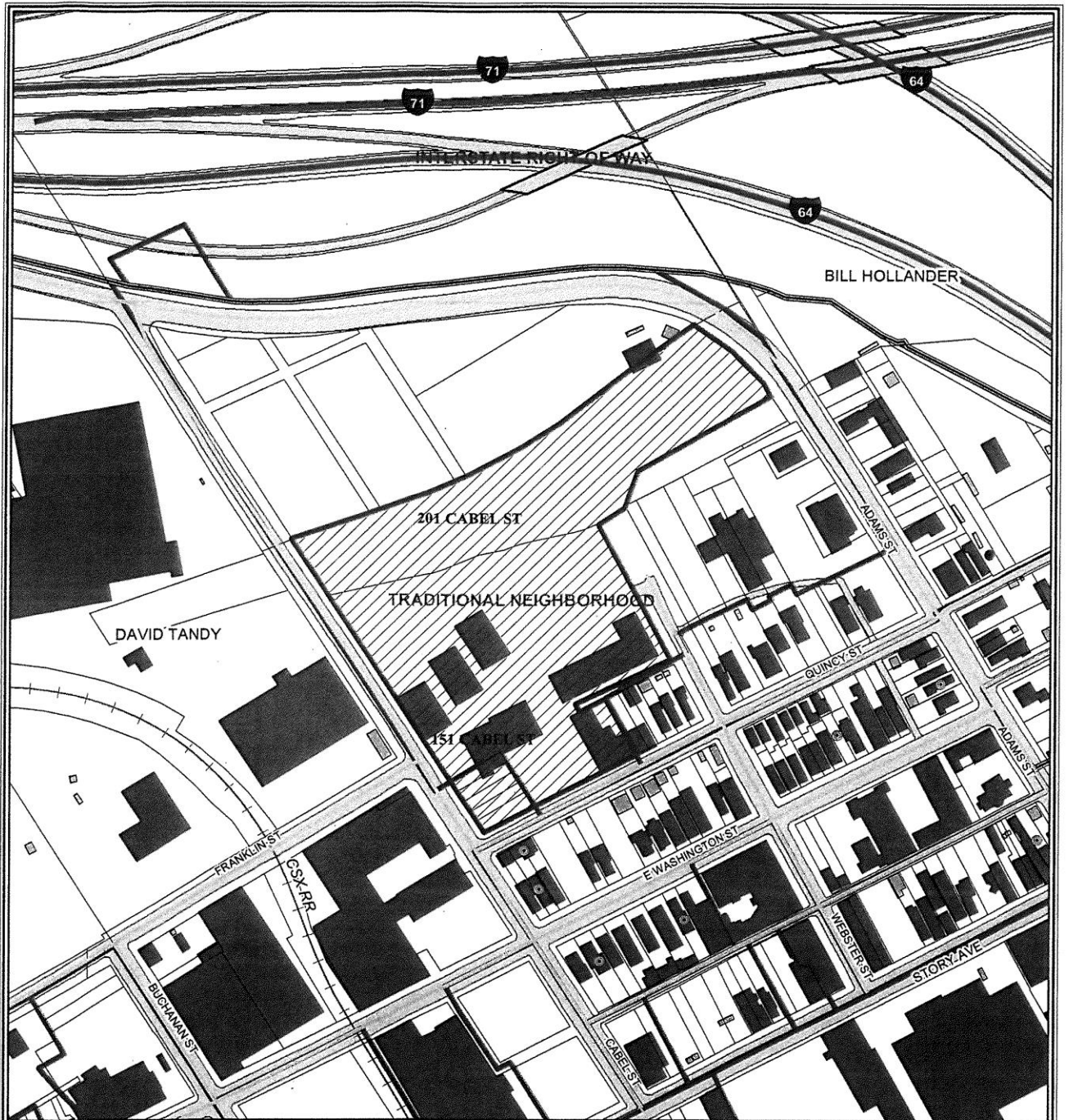
A letter submitted on June 21, 2017, explains how JBS/Swift can comply with the California TRU standards by requiring transporters using the Cabel Street Lot to only use TRUs that have ultra-low emissions (2013 or newer model) or TRUs that are new enough that they are not yet required by the California TRU rule compliance schedule to have been upgraded/retrofitted, (not older than seven years).

The TRU engine model year is provided on a label on most engines. JBS USA's representative stated during a conversation on June 29, 2017, that Swift intended to implement such a procedure.

The Board will need to make a decision based upon the information in the staff report, the testimony and evidence provided at the public hearing, whether the remaining Condition #3, and the revised Condition #18 have been met.

### **ATTACHMENTS**

1. Zoning Map
2. Site Plan (submitted at November 19, 2016 hearing).



|                 |                  |                  |                 |                     |                       |
|-----------------|------------------|------------------|-----------------|---------------------|-----------------------|
| R-R RURAL RES.  | R-5 RES. S.FAM.  | R-8A RES. M-FAM. | C-R COMM./RES.  | M-1 IND.            | DRO DEV. REVIEW OV.   |
| R-E RES. EST.   | RRD RES. REDEV   | OR-1 OFF./RES.   | C-1 COMM.       | M-2 IND.            | W-1 WATERFRONT        |
| R-1 RES. S.FAM. | R-5A RES. M-FAM. | OR-2 OFF./RES.   | C-2 COMM.       | M-3 IND.            | W-2 WATERFRONT        |
| R-2 RES. S.FAM. | R-5B TWO-FAM.    | OR-3 OFF./RES.   | C-3 CBD         | CRO CRO. REVIEW OV  | W-3 WATERFRONT        |
| R-3 RES. S.FAM. | R-6 RES. M-FAM.  | OTF OFF./TOUR    | C-M COMM. MAN.  | PRO PLAN. RESEARCH  | WRO WATER. REVIEW OV. |
| R-4 RES. S.FAM. | R-7 RES. M-FAM.  | C-N NEIGH. COMM. | EZ-1 ENTERPRISE | PEC PLAN. EMP. CEN. |                       |



**Zoning District Map**  
 Louisville/Jefferson Metro Government  
 Planning and Design  
 Services

**14CUP1003  
 APPEAL**

Scale: 1:3126 Date: 06/05/2015

