

PLANNING COMMISSION MINUTES
April 16, 2015

PUBLIC HEARING

CASE NO. 14ZONE1061

Case No: 14zone1061
Request: Change in zoning from R-6/EZ-1 to EZ-1
Project Name: Cane Run Road Facility
Location: 3650 Cane Run Road

Owner: Don and Martha Tuffli Family Trust
2780 Skypark Drive, Suite 410
Torrance, CA., 90505

Applicant: Don and Martha Tuffli Family Trust
2780 Skypark Drive, Suite 410
Torrance, Ca. 90505

Representative: Mindel Scott and Associates, Inc.
Kathy M. Linares
5151 Jefferson Boulevard, Suite 101
Louisville, Ky. 40222

Bardenwerper, Talbott and Roberts PLLC
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 1-Jessica Green
Case Manager: Julia Williams, 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:

01:31:11 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

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Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, 2nd floor, Louisville, Ky. 40223
Kent Gootee, Mindel, Scott and Associates, Inc., 5151 Jefferson Boulevard, Suite 101, Louisville, Ky. 40222

Summary of testimony of those in favor:

01:34:12 Mr. Bardenwerper said the main concern that came up at the neighborhood meeting was what the proposed business would be. There is no definite use at this time.

1:39 Mr. Bardenwerper submitted a 'Prohibited Uses' list to help mitigate.

1:41:07 Mr. Gootee said there's a 25 foot buffer between the site and the church. The church owns the existing chain link fence along the property line and there is an existing tree canopy (on the proposed site) that cannot be saved. Additional trees will be planted for screening. All the drainage flows to the rear of the property. The building will be closer to the road and there will be no parking in the front.

Deliberation

01:49:33 The commissioners agree that the plan is appropriate. Commissioner Blake commends the applicant for working with the church and coming up with some binding elements to limit some land uses.

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 EZ-1

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

WHEREAS, A Traditional Workplace is a form characterized by predominantly small to medium scale industrial and employment uses. The streets are typically narrow, in a grid pattern and often have alleys. Buildings have little or no setback from the street. Traditional workplaces are often closely integrated with residential areas and allow a mixture of industrial, commercial and office uses. New housing opportunities should be allowed as well as civic and community uses.

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Traditional workplaces should be served by public transportation. Because of the close proximity to residential areas, parking should be encouraged to be located mostly off street and behind buildings. There should be adequate buffering of nearby neighbors from noise, odors, lighting and similar conditions; and

WHEREAS, In order to encourage reinvestment, rehabilitation and redevelopment in these areas, flexible and creative site design should be encouraged along with a respect for the traditional pattern of development in the surrounding area; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal for EZ-1 zoning is supported by the Comprehensive Plan. The proposal follows the requirements for new construction within the Traditional Workplace Form District as indicated in the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the zoning change from R-6 to EZ-1, Case No. 14ZONE1061, based on the staff report, applicant's statements and Planning and Design's statements.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Peterson, Tomes and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Kirchdorfer, Proffitt and Turner

ABSTAINING: No one

Development Plan and Binding Elements

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

WHEREAS, There are no natural features evident on the site. Landscaped areas will be created within the buffers and around the detention area; and

WHEREAS, Vehicles and pedestrians are both provided for within the development. A sidewalk is proposed along the frontage; and

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WHEREAS, Open space for the site is provided in the form of LBAs and a large area to the rear of the site where a detention/infiltration basin is proposed; and

WHEREAS, MSD has no issues with the proposal and have preliminarily approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds, the site design meets the requirements of the LDC; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposal follows the requirements for new construction within the Traditional Workplace Form District as indicated in the Land Development Code. The proposal also meets the guidelines of the Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan, binding elements on page 13 of the staff report and the binding elements submitted by the applicant with the following change: There will be no truck idling, loading/unloading activities that interfere with Saturday or Sunday services at the adjoining church property based on the staff report and the applicant's statements **SUBJECT** to the following Binding Elements:

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 review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The development shall not exceed 16,300 square feet of gross floor area.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners 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

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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, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, 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. 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
6. 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.
7. 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.
8. The property owner shall provide a cross over access easement if the property to the north and south are ever redeveloped. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 16, 2015 Planning Commission meeting.

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Proposed Binding Elements by Applicant

- There will be no truck idling, loading/unloading activities that interfere with Saturday or Sunday services at the adjoining church property.
- EZ-1 uses of the property shall not include the following list of prohibited uses, except as this prohibited use list may be amended following application, notice to APOs and those who spoke at the public hearing, and decision of the Planning Commission or Committee thereof.

Prohibited Uses

- Adult bookstores, novelty sales, health spas or entertainment
- Animal Pound
- Auction sales
- Automobile (major repair) garages
- Automobile gas stations/convenience stores
- Battery storage
- Bed and Breakfast and Hotels/Motels
- Billiard parlors, game rooms and similar entertainment uses
- Bingo Hall
- Boarding and Lodging houses
- Boiler manufacturing
- Bowling Alley
- Bus garage and repair
- Car Wash
- Clubs (Private)
- Distilleries, breweries and non-industrial alcohol spirits
- Establishments holding retail malt beverage and liquor licenses
- Firearm manufacture or sales
- Flea Market
- Fraternities, sororities, clubs and lodges
- Food Processing
- Garage or Yard sale
- Golf driving ranges
- Indoor or Outdoor paintball ranges
- Laundries/laundrettes or Dry Cleaning
- Machine tool, die and gauge shops
- Pawn Shop
- Railroad freight terminals and yards
- Refrigerating plants
- River terminals
- Skating rinks (ice or roller)
- Storage of coal and gas, yards and pockets

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- Tattoo, body art and piercing parlors
- Used car sales

- Use , manufacture, processing, treatment or storage of the following:
 - Chemicals
 - Insecticides, fungicides, disinfectants, and related industrial and household chemical compounds (blending only)
 - Jute, hemp, sisal, or oakum products
 - Lead oxide
 - Oils, shortening and Fats (edible)
 - Paint and coating
 - Paint, lacquer, shellac and varnish
 - Poultry or rabbit, packing or slaughtering (wholesale)
 - Rubber (natural or synthetic)
 - Sauerkraut
 - Stone processing or stone products
 - Synthetic Fibers
 - Textile and product bleaching
 - Tire retreading and vulcanizing shops
 - Tobacco (including curing) or tobacco products

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Peterson, Tomes and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Butler, Kirchdorfer, Proffitt and Turner

ABSTAINING: No one