

PLANNING COMMISSION MINUTES
October 30, 2014

PUBLIC HEARING

CASE NO. 13ZONE1031

Request: Change in zoning from R-4 to PEC, Waiver to reduce the 50' LBA along the north property and allow for encroachments into the 15' LBA, Waiver to permit encroachment of a proposed drive lane, Waiver to reduce the 50' LBA along the east property line and District Development Plan

Project Name: 3311 Collins Lane

Location: 3311 Collins Lane

Owner: Jerry and Martha Schade
1002 Round Table Court
Louisville, KY 40222

Applicant: Same as above

Representative: Land Design and Development, Inc.
503 Washburn Avenue, Suite 101
Louisville, KY 40222
Frost, Brown & Todd LLC
400 West Market Street, Suite 3200
Louisville, KY 40202

Jurisdiction: Louisville Metro

Council District: 17-Glen Stuckel

Staff Case Manager: Julia Williams, AICP, Planner II

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.)

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Agency Testimony:

00:05:06 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Glenn Price, 400 W. Market Street, Suite 3200, Louisville, KY 40202
Ann Richard, 503 Washburn Avenue, Suite 101, Louisville, KY 40222

Summary of testimony of those in favor:

00:13:38 Mr. Price presented a power point and report pertaining to the proposed use. He then explained to the Commissioners how the proposed use would be operated. Mr. Price also handed out maps to further explain the traffic flow on Collins Lane and stated that the request for Binding Element #10 was to make sure it stated no idling in the inside.

00:22:52 Ms. Richard explained the shaded area on the map of the proposed buildings and also the usage of the buildings. She also said they are proposing to provide the 50ft buffer area and will try their best to save some of the trees and will provide all landscape per the Land Development Code.

Deliberation

00:26:33 The Planning Commissioners didn't have any concerns with this case.

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-4 to PEC

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

WHEREAS, the Louisville Metro Planning Commission finds, that the proposal conforms to KRS 100.213 because it is in agreement with the Comprehensive Plan for Jefferson County, Kentucky, as further detailed in these Findings; and

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WHEREAS, the Louisville Metro Planning Commission further finds that the site lies on the north side Collins Lane, and is bordered on the southeast by property owned by IAN, LLC which was approved for 78,400 square feet of office/warehouse use {see Nicklies Chamberlain Crossings Revised Development Plan, approved May 19, 2014, Case Nos. 14VAR1028 and 14DEVPLAN1043} and that except for this property and the property immediately north there are no properties along this segment of the east side of Collins Lane which remain zoned for residential purposes; and the abutting use to the rear of the site is the CSX railroad; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal conforms to all applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan as further detailed in these Findings; and that the only applicable Goals, Objectives, Guidelines and Policies which are applicable to this request are found in these Findings of Fact; and

WHEREAS, the Louisville Metro Planning Commission further finds That the proposal conforms to Goals G1, G3, G4, and Objectives G4.1 and G4.2 and G4.3, Community Form Guideline 1 and all applicable Policies adopted thereunder, including Policy 1.B.10 because it lies within the Suburban Workplace Form District; because the Suburban Workplace Form District is "characterized by predominantly industrial and office uses where the buildings are set back from the street in a landscaped setting" which is a characterization met by the proposal; and because the site will be appropriately landscaped; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Centers Guideline 2 and all applicable Policies adopted thereunder, including Policy 2.2, because the development is consistent with the adjacent use proposed by IAN, LLC and conforms to the Suburban Workplace Form District which prevails in this geographic area; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Compatibility Guideline 3 and all applicable Policies adopted thereunder, including Policies 3.1, 3.2, 3.5, 3.6, 3.7, 3.8, 3.9, 3.11, 3.21, 3.22, 3.23, 3.24 and 3.28 because the proposed two-story building designed by Lichtefeld Incorporated is a 14,200 square foot structure, with space for a future addition behind the building and six (6) vehicle entry doors which will be situated at the side of the building for service entry; because building materials are proposed to be scored masonry, split faced masonry together with metal wall panels and translucent wall panels, which are appropriate for a high quality industrial building; because the proposed use is a low intensity use; because the proposal will not generate odor or excessive carbon monoxide pollution;

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because Tony's Wrecker's existing location is at 12203 Westport Road – at the intersection of Collins Lane and Westport Road – there will be no additional traffic on Collins Lane due to the approval of the use at this location; because there will be no adverse visual impacts due to the Lichtefeld Incorporated design of the building and building materials; because a 78,400 square foot office/warehouse building was recently approved on the immediately abutting parcel for IAN, LLC; because all on-site lighting will conform to Land Development Code (“LDC”) limitations, and outdoor lighting will be directed down and away from adjacent residential areas; because appropriate landscape buffers are proposed on either side of the property; and because one free-standing sign monument sign, 6-feet tall and 60 square feet in area, is proposed; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Natural Areas and Scenic and Historic Resources Guideline 5 and all applicable Policies adopted thereunder, including Policies 5.1, 5.2, 5.3, and 5.6 because site topography will be observed; because there are no historic resources or distinctive cultural features located on site, and the soils on site are not wet or highly permeable; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Circulation Guideline 7 and all applicable Policies adopted thereunder, including Policies 7.1, 7.2, 7.9 and 7.10 because the development plan shows a forty (40') foot dedication of frontage to right-of way; because a proposed 5-foot sidewalk is proposed along the Collins Lane frontage; and because adequate parking pursuant to Land Development Code requirements is proposed; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policies 9.1 and 9.2 because bicycle parking facilities will be located within the building; because a 5-foot wide public sidewalk is proposed along the Collins Lane frontage of the site; because although no transit service serves Collins Lane (a secondary collector roadway), transit service is available on nearby La Grange Road to the south of the site; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Flood Control and Stormwater Management Goal B1 and Objective B1.1 and B1.8, Flooding and Stormwater Guideline 10 and all applicable Policies adopted thereunder, including Policies 10.1, 10.3, 10.7, 10.10, and 10.11 because the Metropolitan Sewer District (“MSD”) approved the development plan; because MSD's approval indicates that the development will not have an adverse impact on the watershed as a whole, reflecting the development potential of the entire watershed; that the drainage design will accommodate on-site and upstream run-off water; that the

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drainage system will preserve the “through” drainage system, and that peak stormwater runoff rates after development will not exceed pre-development rates; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Air Goal C1, Air Quality Guideline 12 and all applicable Policies adopted thereunder, including Policies 12.1 and 12.8 because the Louisville Air Pollution Control District (“APCD”) has approved the development plan; because APCD’s approval indicates that activities at the site will not be a source of ambient air pollution due to the low intensity of the proposal; because traffic to and from the site will be minimal; because no additional traffic will occur on Collins Lane than that which presently exists because Tony’s existing location is at the intersection of Collins Lane and Westport Road and no additional traffic is anticipated; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Landscape Character Guideline 13 and all applicable Policies adopted thereunder, including Policies 13.2, 13.4, 13.5, and 13.6 because proposed landscaping will be native plant species; because the development will conform to the requirements of Land Development Code Chapter 10 regarding landscaping and tree canopy except where waivers have been granted by the Planning Commission; because landscape buffers will be employed to protect the abutting single-family residence to the northeast; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Infrastructure Guideline 14 and all applicable Policies adopted thereunder, including Policies 14.2, 14.3, 14.4, 14.6 and 14.7 because adequate utility service is located on Collins Lane to serve the proposed development; because the site is served by MSD sewage facilities; because an adequate supply of potable water and water for fire-fighting purposes is supplied by the Louisville Water Company; and because utilities will be located underground wherever possible and will be placed in easements as prescribed by the applicable utility; and

WHEREAS, The Louisville Metro Planning Commission further finds That the proposal conforms to Community Facilities Guideline 15 and all applicable Policies adopted thereunder, including Policy 15.9, because the site will be adequately served by the Worthington Fire Protection District; and

WHEREAS, The Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant’s justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; therefore be it

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RESOLVED, that the Louisville Metro Planning Commission, does hereby recommends to the legislative body of Louisville Metro Government that the requested Change in zoning from R-4 to PEC on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.

ABSTAINING: No one.

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Waivers #1 & #2

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

WHEREAS, the Louisville Metro Planning Commission finds, The waiver request will only affect the CSX property because CSX is the only adjacent property owner. The CSX property is not occupied; therefore, the requested waiver will have no adverse effect on any adjacent property owners.

WHEREAS, the Louisville Metro Planning Commission further finds, The proposed waiver will not violate the Comprehensive Plan Specific Goals, Objectives, Guidelines and Policies of the Comprehensive Plan which support this statement are detailed below

Compatibility Guideline 3. The proposal conforms to Compatibility Guideline 3 and Policies 3.21 and 3.22. The CSX property – an active railroad line -- will continue to be a more intense use than the low-intensity PEC industrial use proposed by the Applicant on this site. The reduced landscaping proposed is an appropriate transition to the CSX site. Moreover, Policy 3.22 provides that buffers “should be variable in design.” This Policy should allow for a reduced buffer when a lower intensity industrial use is adjacent to a higher intensity (and unoccupied) railroad line. The reduced buffer will adequately accommodate the utility easement.

Landscape Character Guideline 13. The proposed waiver conforms to Landscape Character Guideline 13 and all Policies adopted thereunder, including Policies 13.2 and 13.6. Landscaping will be native species as required by the Land Development Code. Policy 13.6 recommends screening and buffering to mitigate adjacent incompatible uses. Because the adjacent use is a CSX railroad line, only minimal landscaping should be required.

WHEREAS, the Louisville Metro Planning Commission further finds, The requested waiver is the minimum necessary to afford relief to the Applicant because this waiver request, if granted, will only apply to the area of the site adjacent to CSX.

WHEREAS, the Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant’s justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now therefore be it,

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the proposed waivers from Chapter 10.2.4 to reduce the 50' LBA to 15' and to permit the encroachment of a proposed driving lane.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.

ABSTAINING: No one

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Waiver #3

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

WHEREAS, the Louisville Metro Planning Commission finds, The waiver will allow the construction of a sidewalk from the proposed building to the the Collins Lane sidewalk which connects the development to the greater pedestrian network. A sidewalk at this location will have no impact on any property owners in the vicinity, whether they are abutting or nearby neighbors.

WHEREAS, the Louisville Metro Planning Commission further finds, The proposed waiver will allow the construction of public sidewalks along the frontage of the site. This waiver request will not violate the Comprehensive Plan; it will promote applicable Goals, Objectives, Guidelines and Policies of the Comprehensive Plan, as follows:

Bicycle, Pedestrian and Transit Guideline 9. The proposed waiver conforms to Site Design Standards for Alternative Transportation Modes Goals I1, I2, I3, I4, and I5, Objectives I2.1, I3.1, and I4.1, and Bicycle, Pedestrian and Transit Guideline 9 and all applicable Policies adopted thereunder, including Policy 9.1, which encourage development to provide sidewalks along the streets of the development where appropriate.

WHEREAS, the Louisville Metro Planning Commission further finds, The requested waiver is the minimum necessary to afford relief to the Applicant because the request would enable the sidewalk only as shown on the development plan. This is a minimal waiver request which will benefit all who walk this area of Collins Lane.

WHEREAS, the Louisville Metro Planning Commission further finds, The strict application of the provisions of the regulation would deprive the Applicant of the reasonable use of the land because both the Comprehensive Plan and the Land Development Code foster the provision of public sidewalks by development. The provision of this sidewalk is, therefore, a reasonable use of the land.

WHEREAS, The Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the proposed waiver from Chapter 10.2.4 to reduce the 50' LBA to 15' along the east

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property line, reduce the tree equipment, and permit the overlap of an easement into the LBA by more than 50%.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.

ABSTAINING: No one

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Development Plan and Binding Elements

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

WHEREAS, the Louisville Metro Planning Commission finds, there are no evident natural features on the site.

WHEREAS, the Louisville Metro Planning Commission further finds, Sidewalks are being provided along the sites frontage as well as a pedestrian connection to the office portion of the building. Employee and visitor parking is located separate from the truck maneuvering portion of the site.

WHEREAS, the Louisville Metro Planning Commission further finds, Open space for the site is provided within the buffers and proposed detention basin.

WHEREAS, the Louisville Metro Planning Commission further finds, MSD has preliminarily approved the proposal.

WHEREAS, the Louisville Metro Planning Commission further finds, the site is compatible with the adjacent sites due to the projected future non-residential development of the lot to the north.

WHEREAS, the Louisville Metro Planning Commission further finds, the proposal is in compliance with the Comprehensive Plan guidelines and requirements of the LDC.

WHEREAS, The Louisville Metro Planning Commission further finds that, based on the evidence and testimony presented, the staff report, and the applicant's justification and findings of fact that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following 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 for review and approval; any changes/additions/alterations not so referred shall not be valid.

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2. The development shall not exceed 14,200 square feet of gross floor area.
3. No 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 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.
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. 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.

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9. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 30, 2014 Planning Commission meeting.

10. No idling of trucks outside the building shall take place within 200 feet of single-family residences. No overnight idling of trucks outside the building shall be permitted on-site.

The vote was as follows:

YES: Commissioners Blake, Kirchdorfer, Turner, Tomes, Butler, Jarboe and White.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Proffitt, Brown and Peterson.

ABSTAINING: No one.