

**PLANNING COMMISSION MINUTES**  
**April 2, 2015**

**PUBLIC HEARING**

**CASE NO. 14ZONE1056**

Request: Change in zoning from M-1 to EZ-1  
Project Name: The Edison Center  
Location: 1228 South 7<sup>th</sup> Street  
Louisville, Ky. 40203

Owner/Applicant: The Edison Center LLC  
1228 South 7<sup>th</sup> Street  
Louisville, Ky. 40203

Representative: Sabak Wilson and Lingo Inc.  
608 South 3<sup>rd</sup> Street  
Louisville, Ky. 40202

Jurisdiction: Louisville Metro  
Council District: 6-David James  
**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:**

00:13:32 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

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

Kelli Jones, Sabak, Wilson and Lingo, Inc., 608 South 3<sup>rd</sup> Street, Louisville, Ky. 40202

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

00:23:13 Ms. Jones said the site is surrounded on the north, west and south by industrial zoning and TNZD across 7<sup>th</sup> St. The site is documented as a Brown Field and has a current action plan in place. There is ongoing monitoring of the soil. No new buildings are being proposed and the existing pavement will be repaired and restriped for parking.

## PLANNING COMMISSION MINUTES

April 2, 2015

### PUBLIC HEARING

#### CASE NO. 14ZONE1056

#### Deliberation

00:34:04 Planning Commission deliberation. The site is appropriate and a great use of the property. The variance is not needed.

**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 M-1 to EZ-1

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

**WHEREAS**, The site is located in the Traditional Workplace Form District; 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.

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.

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 site will not screen the parking from the adjacent residential located across 7<sup>th</sup> Street; and

**WHEREAS**, the proposal will not change the existing grid pattern. The alley adjacent to the site is unimproved and does not have sufficient width to provide access. Transit is available along 7<sup>th</sup> Street. A sidewalk exists along 7<sup>th</sup> Street. The proposal includes on street parking as well as a parking lot around the existing building. The proposal is not directly adjacent to residential uses. All the buildings are existing and will remain on the site.

The proposal is for EZ-1 which is allows for a mix of commercial and industrial uses in a mostly industrial area; and

## PLANNING COMMISSION MINUTES

April 2, 2015

### PUBLIC HEARING

#### CASE NO. 14ZONE1056

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

**WHEREAS**, the Louisville Metro Planning Commission further finds a checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the zoning change from M-1 to EZ-1 for Case No. 14ZONE1056 based on the staff report and the testimony heard today.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tomes, Turner and White**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioner Butler**

**ABSTAINING: No one**

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

#### **WAIVER #1**

Waiver from 5.8.1.B to not provide sidewalks along 9<sup>th</sup> Street and Dumesnil Street

**WHEREAS**, The waiver will not adversely affect adjacent property owners since Dumesnil is a dead end street that was cut off due to the 9<sup>th</sup> Street expansion. Pedestrian access is only from 7<sup>th</sup> Street where transit exists. A fence surrounds the site to control both pedestrian and vehicular access to the site. Vehicular and access to 9<sup>th</sup> Street is limited. When 9<sup>th</sup> Street was expanded in this area sidewalks were not constructed; and

**WHEREAS**, the Louisville Metro Planning Commission finds, Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. Sidewalks are not appropriate

## **PLANNING COMMISSION MINUTES**

**April 2, 2015**

### **PUBLIC HEARING**

#### **CASE NO. 14ZONE1056**

along 9<sup>th</sup> Street due to its use as a “highway” in this area. Sidewalks along Dumesnil in this area would also not be appropriate due to it being a dead end road and the site limiting access to the site from that road; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since 9<sup>th</sup> Street was constructed to not have pedestrian activity in this area and since Dumesnil is a dead end street.

#### **WAIVER #2**

Waiver from 5.9.2.A.1.b.1 to not provide a pedestrian connection from 9<sup>th</sup> Street and Dumesnil Street to the primary structure

**WHEREAS**, The waiver will not adversely affect adjacent property owners since the transit route is along 7<sup>th</sup> Street where the existing sidewalk and pedestrian connection will be. 9<sup>th</sup> Street was constructed to not have pedestrian activity in this area and Dumesnil is a dead end street; and

**WHEREAS**, Guideline 9, states that proposal should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity. The proposal provides for pedestrians where it is most appropriate, along 7<sup>th</sup> Street; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the waiver is the minimum necessary because the Site Management Plan indicates that the site is to have limited access due to potential soil and groundwater contaminants. The access is being provided where it is most appropriate which is from 7<sup>th</sup> Street; and

**WHEREAS**, the Louisville Metro Planning Commission further finds, the strict application of the regulation would deprive the applicant of reasonable use of the land because there are environmental issues regarding the site that require the site to have managed access.

#### **WAIVER #3**

Waiver from 5.9.2.C.4 to permit traffic circulation in front of the principal structure

**WHEREAS**, The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public rights-of-way to the building entrance; and

## **PLANNING COMMISSION MINUTES**

**April 2, 2015**

### **PUBLIC HEARING**

#### **CASE NO. 14ZONE1056**

**WHEREAS**, Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use. Encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. The waiver is a result of an existing condition on the site. The site traffic and circulation has been in place for some time with the exception of where a building once stood and there is no new construction proposed. Therefore, the waivers will not violate specific guidelines and policies of Cornerstone 2020; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the pavement is existing and will only be re-striped; and

**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 or create an unnecessary hardship on the applicant since the pavement is existing and there is no new construction on the site.

#### **WAIVER #4**

Waiver from 5.5.1.A.3 to permit parking in front of the building and to not provide a masonry wall to screen the parking from the ROW

**WHEREAS**, The waiver will not adversely affect adjacent property owners since safe pedestrian access is provided from the public right-of-way along 7<sup>th</sup> Street to the building entrance; and

## PLANNING COMMISSION MINUTES

April 2, 2015

### PUBLIC HEARING

#### CASE NO. 14ZONE1056

**WHEREAS**, Guideline 2, policy 15 states to encourage the design, quantity and location of parking in activity centers to balance safety, traffic, transit, pedestrian, environmental and aesthetic considerations. Guideline 3, policy 1 states to ensure compatibility of all new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 7, policy 3 states to evaluate developments for their ability to promote mass transit and pedestrian use, encourage higher density mixed use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation choices. Guideline 9, policy 1 states that new development and redevelopment should provide, where appropriate, for the movement of pedestrians, bicyclists and transit users with location of retail and office uses, especially in the Traditional Neighborhood, Village, Marketplace Corridor, Traditional Workplace Form Districts close to the roadway to minimize the distance pedestrians and transit users have to travel. The purpose of the requirement is to promote mass transit and pedestrian use and reduce vehicle trips in and around the site, and to reduce the distance pedestrians and transit users have to travel. All the pavement is existing with no new construction proposed. The parking areas on the site have not ever been screened; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since the parking areas and pavement is existing and has been so for some time. Adding a 3' wall on only the portion of the site where it is required would be inconsistent with the overall development; and

**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 or create an unnecessary hardship on the applicant since the pavement is existing and there is no new construction on the site. Adding a 3' wall on only the portion of the site where it is required would be inconsistent with the overall development.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #1 from 5.8.1.B to not provide sidewalks along 9<sup>th</sup> Street and Dumesnil Street, WAIVER #2 a waiver from 5.9.2.A.1.b.1 to not provide a pedestrian connection from 9<sup>th</sup> Street and Dumesnil Street to the primary structure, WAIVER #3 a waiver from 5.9.2.C.4 to permit traffic circulation in front of the principal structure and WAIVER #4 a waiver from 5.5.1.A.3 to permit parking in front of the building and to not provide a masonry wall to screen the parking from the ROW based on the staff report and the testimony heard today.

## PLANNING COMMISSION MINUTES

April 2, 2015

### PUBLIC HEARING

CASE NO. 14ZONE1056

The vote was as follows:

**YES:** Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Toms, Turner and White

**NO:** No one

**NOT PRESENT FOR THIS CASE:** Commissioner Butler

**ABSTAINING:** No one

### Development Plan and Binding Elements

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

**WHEREAS**, The proposal preserves the existing buildings on the site which are on the National Register of Historic Places. Natural features are not evident on the site; and

**WHEREAS**, Vehicular transportation is provided for with drive lanes and parking. 7<sup>th</sup> and Dumesnil Streets will not be changed. A sidewalk exists along 7<sup>th</sup> Street where transit is also available. A sidewalk is not provided along Dumesnil as it is a dead end street; and

**WHEREAS**, Open space is not required for the proposal; and

**WHEREAS**, MSD has preliminarily approved the proposal; and

**WHEREAS**, the Louisville Metro Planning Commission finds, the long vacant site and existing historic buildings are compatible with the areas industrial past. The zoning will allow for both industrial and commercial uses which would be compatible with future development in the area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposal complies with the LDC and Comprehensive Plan.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan and the proposed binding elements on page 17 of the staff report based on the staff report and the testimony heard today and **SUBJECT** to the following Binding Elements:

### Proposed 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

**PLANNING COMMISSION MINUTES**  
**April 2, 2015**

**PUBLIC HEARING**

**CASE NO. 14ZONE1056**

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. The development shall not exceed 150,390 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 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.
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 audible beyond the property line.
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,



**PLANNING COMMISSION MINUTES**

**April 2, 2015**

**PUBLIC HEARING**

**CASE NO. 14ZONE1056**

contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

**YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tames, Turner and White**

**NO: No one**

**NOT PRESENT FOR THIS CASE: Commissioner Butler**

**ABSTAINING: No one**