

# Planning Commission Staff Report

November 5, 2020



<b>Case No:</b>	20-DDP-0033
<b>Project Name:</b>	Durrett Lane Office/Warehouse
<b>Location:</b>	1231 Durrett Lane
<b>Owner:</b>	Durrett, LLC
<b>Applicant:</b>	Durrett, LLC
<b>Representative:</b>	Dinsmore & Shohl, LLP
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	21 – Nicole George
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

## REQUEST(S)

- **Waivers:**
  1. **Waiver** of Land Development Code (LDC), section 5.9.2 to not provide for pedestrian or vehicular connectivity between adjacent non-residential uses
  2. **Waiver** of LDC, section 10.2.4 to provide the landscape buffer within the area of a lower intensity zoning district and reduce the width of the buffer from 15' to 10'
  3. **Waiver** of LDC, section 10.2.12 to not provide interior landscape areas within the van storage area
- **Revised Detailed District Development Plan**

## CASE SUMMARY

A change in zoning from C-1 and C-2, Commercial to PEC, Planned Employment Center was approved by Metro Council on May 28, 2020, case 19-ZONE-0080. The approved development plan in this case called for the reuse of the vacant structure and parking on-site. Metro Council required by binding element that the first plan for redevelopment require full Planning Commission, as well as Council approval. A traffic study for the first development was also required. Action on the development plan in this case will be a recommendation to Metro Council.

The proposal includes a 142,000 sq. ft. office/warehouse and heavy-truck loading and unloading areas. Much of the redevelopment will be dedicated to van storage, staging, and loading areas. These areas will be enclosed and secured from the public. Access for heavy trucks will be from Preston Highway. Employee and van access will be located along Durrett Lane. Vans will exit on Preston Highway. Pedestrian connections are also provided to each roadway.

## STAFF FINDINGS

Waiver #3 does not appear to be adequately justified based on staff's analysis contained in the standard of review. Utilization of tree canopy to break-up large areas of impervious surface is an effective means of mitigating the impacts of urban heat islands. Additionally, it has not yet been demonstrated that ILA will impede the movement or parking of van or fleet vehicles within the area. The remainder of the requests generally meet the standard of review required for approval.

## TECHNICAL REVIEW

- Waiver #2: The LDC requires that the landscape buffer be applied along all applicable zoning boundaries and within the district of higher intensity. The applicant has requested to provide the required 15' property perimeter landscape buffer area on the C-2 side of the boundary that separates the PEC district from the C-2 district and reduce the buffer to 10'. Each side of the district is within the same property, see attachment 4.
- Waiver #3: The applicant has requested to omit the required interior landscape islands (ILA) within the van storage area. Instead, the applicant proposes to disperse the required canopy and area of ILA throughout the site. The minimum required VUA ILA for all VUA within the development site is 55,094 sq. ft. The development plan and ILA exhibit currently propose 62,837 sq. ft. of total ILA around the customer parking and loading areas. Some areas indicated may not be credited towards the total ILA because they are not surrounded by or project into vehicle use areas, including an area along the façade facing Preston Highway and portions of an area south of the truck/van access from Preston Highway.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (1)

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent site is built out and the proposed development plan will maintain a secured facility.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Plan 2040 calls for a mix of complementary neighborhood serving businesses and services in neighborhood and village centers to encourage short trips easily made by walking or bicycling. It also calls for developments to promote public 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 and housing choices. The proposal is adjacent to a non-retail facility and the proposal provides adequate connectivity for its employees and customers, as well as the safe movement of pedestrians along the frontage of the development site.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposed development site will be enclosed and secured from the public.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the proposal is adjacent to a non-retail facility and the proposal provides adequate connectivity for its employees and customers, as well as the safe movement of pedestrians along the frontage of the development site.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (2)**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the proposed buffer is not along a property boundary separating different owners but contained within the same property.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as the buffer would not provide buffering from adjacent properties but instead within the same property for the same user.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as both sides of the zoning district boundary are contained within the same property.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the areas in question are within the property.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (3)**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will adversely affect adjacent property owners as ILA containing tree canopy is intended to break-up large areas of impervious surface. The use of canopy to break up these areas can reduce the overall impact of heat island effect upon neighboring residential areas. The Louisville Urban Tree Canopy Assessment published in 2015 states, "Heat islands have a number of negative effects, including an increase in summertime peak energy demand and costs, an increased severity of air pollution and emissions, and a rise in human health issues, especially when the temperature reaches over 90°F. Hotter temperatures help create dangerous ozone pollution levels that can trigger asthma attacks, heart attacks, and other serious health conditions (US EPA, 2012)."

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Plan 2040 calls for parking lot greenspace and stormwater management standards that enhance the community-wide tree canopy and minimize surface runoff. It also calls for tree preservation Best Management Practices during land development and construction activities and an increase in the Metro-wide tree canopy coverage toward 45% that is equitably distributed either by planting new trees or preserving existing trees. While the tree canopy is still intended to be provided across the whole of the site, the removal of the mitigation method (ILA) intended to break-up large impervious areas would not be appropriate as it has not been demonstrated that ILA cannot be located within the area or that ILA being located within this area would significantly impact the movement and parking of vans or fleet vehicles. The use of canopy to break up impervious surface areas reduces the overall impact of heat island effect upon neighboring residential areas. The omission of ILA in this area may exacerbate the existing heat island conditions of the area resulting from existing unmitigated surface areas, including roadways, parking lots, and the airport.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as it has not been demonstrated that providing ILA in these areas would significantly impact the movement of van or fleet vehicles.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant as ILA can be physically provided and ILA is needed to break-up large areas of impervious surfaces.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DETAILED DISTRICT DEVELOPMENT PLAN**

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: The site is currently developed and contains vacant structures and impervious surfaces. Require Tree canopy will be provided. There do not appear to be environmental constraints on site due to previous development.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and community will be provided as pedestrian connection to transit routes and public walks along the site frontage will be available.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided as buffers around the perimeter of the site will be provided.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: Except for the waiver to omit ILA from the van parking area, the proposal generally conforms to the land use and development policies of Plan 2040.

**REQUIRED ACTIONS:**

- **Waivers:**
  1. **APPROVE or DENY** the **Waiver** of Land Development Code, section 5.9.2 to not provide for pedestrian or vehicular connectivity between adjacent non-residential uses
  2. **APPROVE or DENY** the **Waiver** of Land Development Code, section 10.2.4 to provide the landscape buffer within the area of a lower intensity zoning district and reduce the width of the buffer from 15' to 10'
  3. **APPROVE or DENY** the **Waiver** of Land Development Code, section 10.2.12 to not provide interior landscape areas within the van storage area
- **RECOMMEND** to the Louisville Metro Council that the **Revised Detailed District Development Plan** be **APPROVED or DENIED**

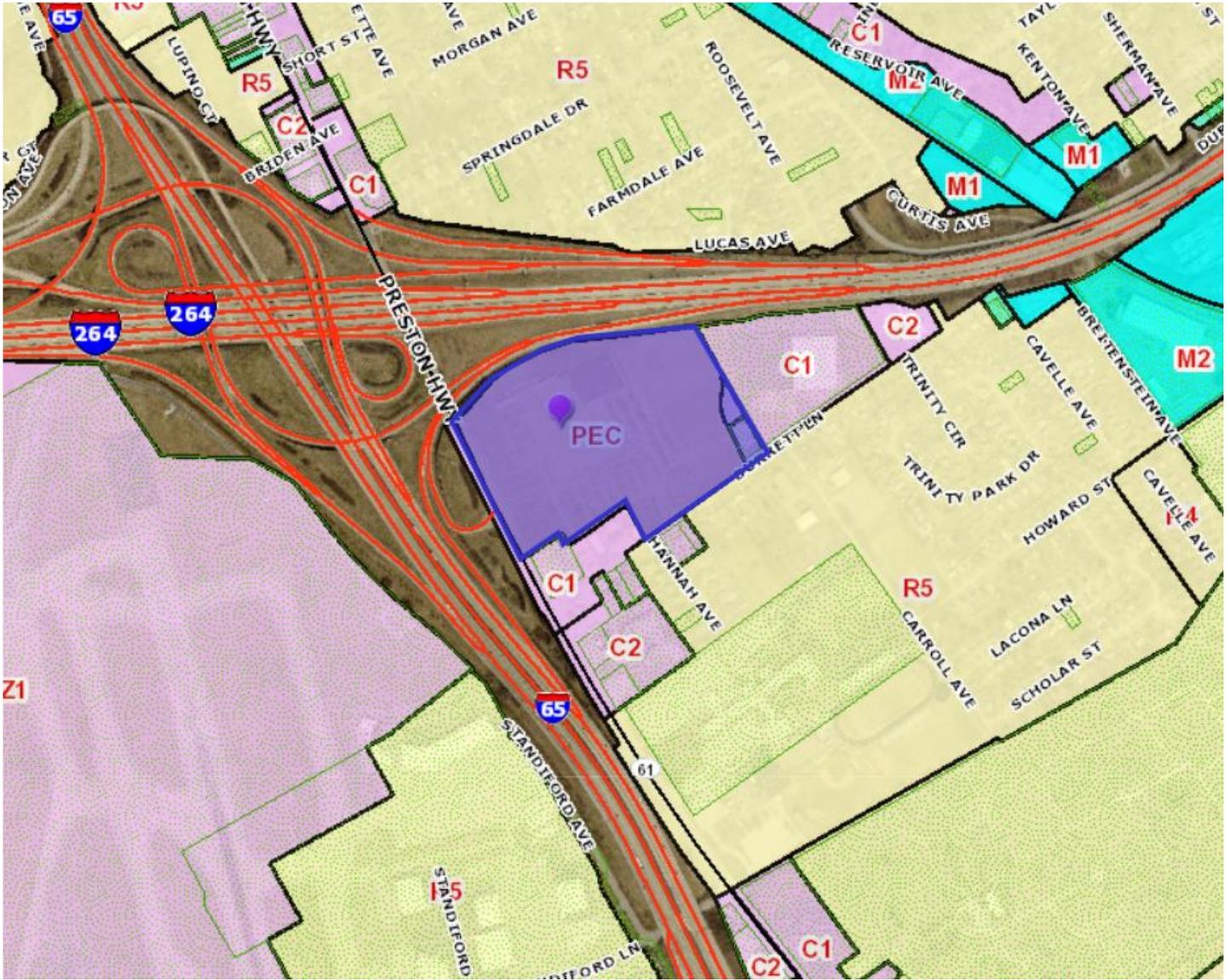
**NOTIFICATION**

Date	Purpose of Notice	Recipients
10/23/20	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners Subscribers of Council District 21 Notification of Development Proposals

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Waiver #2 Plan View

1. **Zoning Map**



2. Aerial Photograph



### **3. Existing 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.
2. Prior to the development or occupancy of the site (includes clearing and grading), the applicant, developer, or property owner shall obtain approval of a Detailed District Development Plan by the full Planning Commission. The intent of this binding element is to have the first Detailed Plan reviewed by the full Planning Commission and Metro Council. Subsequent Revised Development Plans may proceed under normal policies and procedures at the discretion of the Planning Commission. in which case this binding element should be amended.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. Before any permit, including but not limited to building, parking lot, change of use is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to occupying the building. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject site and the adjoining property owners at 1243 Durrett Lane and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
5. 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.
6. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
7. A legal instrument providing for the long-term use of the off-site parking spaces for property at 1243 Durrett lane as shown on the approved district development plan and in accordance with Section 9.1.5 Off-Site Parking shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a certificate of occupancy.
8. Compliance with parking minimum/maximum and/or non-conformance shall be determined at time of occupancy. The approved development plan and Planning Commission record shall be updated to reflect compliance.

9. 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.
10. Heavy truck traffic shall be prohibited on Durrett Ln east of the development site. Developer/Owner shall install traffic control signs directing outbound truck traffic to Preston Hwy and inbound truck traffic to the development site.
11. The first Detailed District Development Plan submitted after the rezoning shall require a traffic study to determine necessary improvements to adjacent roadways and access points. The scope of the traffic study shall be determined in consultation with Metro Public Works. If the traffic study results in recommendations for improvements to Durrett Lane. Developer shall contribute up to \$100,000 toward the cost of the new improvements. This contribution shall not be requested more than 2 years after issuance of certificate of Occupancy.

