

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

Request: Change in zoning from C-1 to EZ-1 with revised detailed development plan – WILL NOT START BEFORE 6:00 PM
Project Name: Louisville Vegan Jerky
Location: 1311 S. Shelby Street
Owner: Second Chance Grocers, LLC
Applicant: Louisville Vegan Jerky
Representative: Gregg Rochman
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Joel P. Dock, 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:

05:59:48 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Gregg Rochman, 1624 Trevilian Way, Louisville, Ky. 40205
Zach Scott, Blue Energy Design, 3219 Normal Lane, Louisville, Ky. 40220
Zachery Brian Wohl, 632 Nalon Avenue, Louisville, Ky. 40217
Mike Morris, 947 Goss Avenue, Louisville, Ky. 40217
Akisha Townsend Eaton, 806 Lewis Lane, Bowling Green, Ky. 42104
Nicole Phillips, 543 East St. Catherine Street, Louisville, Ky. 40203
Geoff Wohl, 1933 Rutherford Avenue, Louisville, Ky. 40205
Peter McCormack, 1215 Cardinal Drive, Louisville, Ky. 40213
Gracie Taylor, 729 East Ormsby Avenue, Louisville, Ky. 40203

Summary of testimony of those in favor:

06:12:15 Gregg Rochman gave a power point presentation and discussed information about the company, project and thoughts and responsibilities concerning the neighborhood – main concerns were odor, traffic and noise.

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

06:24:23 Zach Scott said he designed the HVAC system for the dehydration and cooking process, making sure odor is not an issue - International Mechanical Code 2015. Gregg Rochman said if there is an issue dealing odor, they will deal with it and pay for it (will put in writing).

Commissioner Mims asked if they have received any nuisance violations for odors, truck traffic or noise. Mr. Rochman said no.

Commissioner Clare asked what size trucks will be going in and out of the site. Mr. Rochman said 18 wheelers (2 a day).

Commissioner Brown asked what steps will be taken to discourage truck drivers from using Ormsby and Camp (residential areas). Mr. Rochman said they will create a map for the delivery and shipping services (Merriweather to Burnett to Floyd).

Chair Lewis asked if there is a proposed dumpster. Mr. Rochman said yes.

Commissioner Carlson asked if any hazardous materials will be used. Mr. Rochman said no.

Commissioner Carlson asked if binding element 8 could be modified to include the statement, 'any amendment to this binding element shall require the review and approval in a public hearing before the Planning Commission with recommendations to Metro Council'. Mr. Rochman agreed.

06:41:32 Zachery Wohl supports the proposal as it provides jobs and will help Louisville Ky. become a major player in an alternative meat industry.

06:43:33 Mike Morris said he called in to confirm his letter of support was received and made part of the record. Joel Dock confirmed.

Mike Morris said the applicant has addressed all his concerns.

06:45:04 Akisha Townsend Eaton stated the proposal is a great opportunity for the neighborhood and city. The Louisville Vegan Jerky is an amazing product.

06:56:19 Nicole Phillips works for the company and is in support. It will be an enhancement to the neighborhood.

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

06:57:05 Geoff Wohl, Legislative Assistant to Councilman Pat Mulvihill (District 10), stated he supports this zoning change. If they want to change the use, they will have to come back for approval.

06:59:14 Peter McCormack supports the reuse of the property and the addition of jobs to the surrounding neighborhoods promotes a sustainable, environmental-friendly and healthy city. The company produces a product that bears our cities' name and Louisville should be proud to help it grow.

07:00:37 Gracie Taylor said she works for Louisville Vegan Jerky and is the nearest resident as well. The company will create jobs for the neighbors.

The following spoke neither for nor against the request:

Maria Gurren, 525 Camp Street, Louisville, Ky. 40203
Abby Long, 1251 South Clay Street, Louisville, Ky. 40203

Summary of testimony of those neither for nor against:

07:03:26 Maria Gurren stated she is speaking on behalf of the Shelby Park Neighborhood Association (President). The SPNA initially opposed the proposal because of the traffic, potential odor issues and the nature of industrial zoning. The industrial use of the property is inconsistent with the direction of Shelby Park and the surrounding neighborhoods, so losing a commercial property to industrial zoning is not to be taken lightly. It will leave the neighborhood at risk if the jerky company vacates the property in the future. The opposition stance was withdrawn based on conversations and inclusion of the binding elements.

Maria Gurren discussed the zoning process – neighborhood meeting and petition.

07:10:02 Abby Long said she didn't think council members could comment at these types of proceedings. Laura Ferguson answered (inaudible). Also, was the odor analysis only done on the soybean meal, or did it include the flavors being processed? Zach Scott said the odor analysis didn't distinguish between the protein and flavors. It looked at the volume of air, the way it's distributed and the fact that there are no animal proteins involved.

Abby Long suggest the applicant work with Ky. Greens, CSA (instead of Fresh Stop). She also suggests the following binding element: If the current applicant vacates the property then the zoning reverts back to C-1. This group has recently talked about re-evaluating how it handles the zoning process and equity has come up a lot. This is the action you could take to set the precedent to all the residents of Louisville that feel that

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

zoning is pro-developer and anti-resident. Joel Dock explained that zoning does not revert back to its original zoning designation. It runs with the land. Laura Ferguson added, the binding elements run with the land as well.

The following spoke in opposition to this request:

Diana Dinicola, 120 Waverly Court, Louisville, Ky. 40206
Brittany Cominco, 613 Camp Street, Louisville, Ky. 40203

Summary of testimony of those in opposition:

07:17:17 Diana Dinicola said she is a business property owner in the 1200 block of S. Shelby St. and objects to the EZ-1 designation. A conditional use permit would be better. The move away from industrial activity in Shelby Park has been positive for residents and recent business development. Joel Dock explained, currently there is no conditional use permit for an industrial use within a commercial zoning district.

07:22:35 Brittany Cominco asked why the applicant chose the Shelby Park neighborhood.

Commissioner Mims asked if there will be a binding element regarding the Community Benefits Agreement. Joel Dock explained that it has some items that are outside the scope of enforceability. The use restrictions can be used in the binding elements.

Rebuttal

07:24:37 Gregg Rochman said he will work with the neighborhood to figure out a mechanism that's comfortable for all parties to make sure we're held accountable. The binding elements have restricted certain uses – M-1, M-2, M-3 and food processes using a meat product. This property was chosen because the building has a lot of components of the infrastructure needed for processing.

Deliberation

07:30:47 Planning Commission deliberation.

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PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

Zoning Change from C-1 to EZ-1

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed non-residential use is located on a parcel of land that is currently zoned for commercial use and was previously zoned for industrial use, docket 9412; therefore, the proposal does not constitute a non-residential expansion into a residential area. Further, it is located along a rail corridor where industrial uses are present to the north and south. The subject site does not immediately abut a residential use, but residential uses are present in the area; the proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street; the proposed district is in a workplace form district and is not an isolated industrial site; the proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present; the approved detailed district development plan and binding elements will aid to mitigate any negative impacts from noise; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is located with the workplace form district. A Traditional Workplace is a form characterized by predominantly small-to medium-scale industrial and employment uses Workplace; The proposal allows for commercial uses by-right in an area that can support commercial uses; the proposal results in a cost-effective infrastructure investment as the site is previously development and will be repurposed; the proposal allows for a mixture of commercial activity in an area that is walkable and connected to transit; Residential use of the property in conjunction with an industrial use is discouraged, except for caretakers; the proposal results in the reuse of existing buildings and parking areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal results in the reuse of existing facilities where natural features are not present; the proposal results in the reuse of existing facilities where wet or highly permeable soils, severe, steep or unstable slopes are not present; the proposal results in the reuse of existing

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

facilities that are not located in the floodplain or combined sewer flood prone area as identified by LOJIC; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the proposal results in the reuse of existing facilities that are not recognized as having historic or architectural value; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed higher intensity use is located in an area of varying intensity and density, and supported by transit and a connected pedestrian network; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the subject site does not require access through areas of lower intensity that might result in nuisances; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal is in an area that is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; the proposal allows for employees from nearby neighborhoods that may access the site by foot or transit; the proposal allows for employees from nearby neighborhoods that may access the site by foot or transit. The proposed district allows for the concentration of commercial services on site as well as the proposed industrial use; the proposed district is in an area that is well-connected to transit, near similar intensities, and where adequate infrastructure is present. The specific route to access major transportation facilities (I-65) may result in the use of roadways containing residences, specifically Ormsby Ave to Jackson Street interchange. However, alternative routes to access the interstate are available through industrial areas using Meriwether Avenue and Hill Street to Floyd Street; Any improvements made necessary by the proposed development will be made to the transportation network; existing transportation facilities appear to be in adequate condition to support a variety of uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal will be served by existing or proposed utilities; an adequate supply of potable water and water for fire-fighting purposes will be available; an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided. MSD preliminary plan approval has been received for the development site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

district is consistent with adjacent district in the workplace form. The proposed land use, food processing, appears to be consistent with the area as well and its impacts will be limited; the proposed industry is located within the workplace form adjacent to similar or the same zone. The site and district are located along a rail corridor where industrial uses are present to the north and south. The subject site does not immediately abut a residential use, but residential uses are present in the area; the proposed district allows for commercial reuse and the location of activity centers in a well-connected area served by transit along an arterial roadway; the proposed district is located along an arterial roadway. Access to I-65 is within proximity to the subject site.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from C-1, Commercial to EZ-1, Enterprise Zone on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson, Seitz and Sistrunk

Revised Detailed District Development Plan with review of an M-2 use within 200' of a residential use (LDC 2.6.1.A.1)

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the site does not contain natural resources. Interior landscape areas will be provided to break up hard-surface parking areas; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided as public sidewalks are currently available and the site is easily accessible by transit; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided by interior landscape areas. Parks and amenities are also located nearby for employees; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is compatible within the scale and site design of nearby existing development and with the form district's pattern of development as compliance with the Land Development Code has been demonstrated on the revised detailed district development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 and the Land Development Code as no waivers or variances have been requested and the site is in a walkable and well-connected area along a rail corridor abutting industrial uses. Residential and commercial uses are also located within proximity. Many factors of concern regarding the industrial use of the property and the proposed zoning district are mitigated by the proposed binding elements restricting the use of the property, shipping and delivery, and idling of heavy trucks.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised Detailed District Development Plan with review of an M-2 use within 200' of a residential use (LDC 2.6.1.A.1) and the abandonment of the binding elements from Docket No. 9142, **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.
2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) and tree canopy as described in Chapter 10 prior to requesting a building permit or certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter
3. 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

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

4. 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.

5. 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.

6. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

7. No idling of trucks shall take place within 200 feet of a residence. No overnight idling of trucks shall be permitted.

8. The development site shall be limited to food processing as permitted in the M-1 and M-2 zoning districts, as well as all C-1 and C-2 commercial uses. All other uses permitted within the M-1, M-2, or M-3 districts shall be prohibited. Packing and processing of meat products shall also be prohibited. The use of hazardous materials as defined in Louisville Metro Code of Ordinance Chapter 95 shall be prohibited. Any amendment to this binding element shall require the review by the Planning Commission in a full public hearing with a recommendation of approval or denial to the Louisville Metro Council.

9. Shipping and receiving utilizing heavy trucks shall be prohibited from 7 PM to 7 AM.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Mims and Lewis

PLANNING COMMISSION MINUTES
February 18, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0111

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Peterson, Seitz and Sistrunk

PLANNING COMMISSION MINUTES
February 4, 2021

20-ZONE-0111

Project Name: Louisville Vegan Jerky
Location: 1311 S. Shelby Street
Owner(s): Second Chance Grocers, LLC
Applicant: Louisville Vegan Jerky
Representative(s): Gregg Rochman
Jurisdiction: Louisville Metro
Council District: 4 – Jecorey Arthur
Case Manager: Joel P. Dock, AICP, Planner II

Discussion

00:08:28 Joel Dock stated this case was scheduled for public hearing on February 18, 2021, but staff has received a petition for an evening hearing for that date. Staff recommends the item be included on the agenda with a note saying it will not start before 6:00 p.m. The meeting will be held virtually and at 444 S. 5th Street, room 101 for those that want to come in person.

Commissioner Peterson asks if there will be security. Ms. Liu said she will check on it.

Gregg Rochman, 1624 Trevilian Way, Louisville, Ky. 40205, is in agreement with the night hearing date and time.

Maria Gurren is in agreement as well.

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.

On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby schedule this case for the February 18, 2021 Planning Commission evening hearing at 6:00 p.m.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis