

PLANNING COMMISSION MINUTES
May 7, 2015

PUBLIC HEARING

CASE NO. 14ZONE1046

Request:	Change in Zoning from R-4 to M-2 with a Landscape Waiver
Project Name:	Premier Packaging
Location:	3900 Produce Road
Applicant/Owner:	Prempack Properties
Representative:	Gresham Smith and Partners 101 South 5 th Street, Suite 1400 Louisville, Ky. 40202
	Valenti Hanley and Robinson, PLLC 401 West Main Street, Suite 1950 Louisville, Ky. 40202
Jurisdiction:	Louisville Metro
Council District:	10 – Steve Magre
Staff 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.)

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.

Agency Testimony:

00:37:51 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kyle Galloway, 401 West Main Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

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00:43:15 Kyle Galloway, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

The following spoke in opposition to the proposal:

No one spoke.

The following spoke neither for nor against the proposal:

No one spoke.

Deliberation

00:47:52 Commissioners' deliberation. The Commissioners all agreed that the proposal is an appropriate use.

Zoning Change from R-4 to M-2

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

WHEREAS, the Louisville Metro Planning Commission finds that a Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district; and

WHEREAS, the Commission further finds that the proposed use is consistent with the community form because the area of the proposed rezoning conforms to the Suburban Workplace Form District which is characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting; and

WHEREAS, the Commission further finds that the current and any future uses will continue to be used by a single large scale user consistent with other uses located nearby and within the Suburban Workplace Form District; and

WHEREAS, the Commission further finds that, In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses; and

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WHEREAS, the Commission further finds that there is already adequate access for workers to the current portion of the site that is already zoned M-2 and upon which the building is located; and

WHEREAS, the Commission further finds that the proposed use is consistent with current activity centers because there is an existing activity center along Produce Road and Poplar Level Road where the property is located; the property is on the corner of the two roads and the portion to be rezoned has the majority of its frontage along Poplar Level Road; there is sufficient population to support this use; and this use is consistent with uses in the area along Poplar Level Road and Produce Road and will help any future business expansion be consistent with the current business activity in the area, in addition, the additional landscaping resulting from the new use will increase the attractiveness of the site and the area; and

WHEREAS, the Commission further finds that the proposed use is compatible with the surrounding area and uses because the property (which is a strip of land fronting Poplar Level Road) will be re-zoned to a more appropriate zoning district which is more compatible with the current uses in the neighborhood as there is very little residential use in this particular section of Poplar Level Road and Produce Road and a majority of the properties surrounding the property in question are already zoned M-2; and

WHEREAS, the Commission further finds that the proposed zoning for the property is appropriate because it is located along a transit corridor and within an existing activity center that supports the proposed use; and

WHEREAS, the Commission further finds that the proposal integrates into the mixed pattern of development along Poplar Level Road. Buildings are typically setback from the street but not in a consistent landscaped setting. The proposal is part of an established industrial area north of Poplar Level Road. A variety of uses are within the existing industrial area. The proposal will not affect existing roads and will also not propose new roads. Access to transit is provided and pedestrians are also provided for. No new building is proposed. The setbacks in the area are mixed and the trailer area would not be a significant change in the Poplar Level view shed. The loading and storage areas located adjacent to the existing residential zone will not have any adverse impacts because the adjacent R-4 site is not residentially used nor it is an established residential area. The 15' required LBA along Poplar Level and Produce is being provided. The proposal is for the high intensity M-2 zoning and is located along a transit corridor as well as within an existing mixed use activity center; and

WHEREAS, the Commission further finds that the proposed use promotes economic growth and stability as it allows for the additional access and truck storage which will

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supplement the economic capabilities of an existing business in an older but active neighborhood. The potential for any future proposed uses will be consistent with the form district pattern; and

WHEREAS, the Commission further finds that adequate parking is located on the property and along the right of way and will be as shown on the approved development plan; and

WHEREAS, the Commission further finds that the area proposed to be rezoned is a narrow strip of R-4 zoning (approximately 110' x 660') between an existing M2 development site and Poplar Level Road that is impractical and unsuitable for residential development; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative body of Louisville Metro Government that the requested change in zoning from R-4 to M-2 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Blake, Butler and White

ABSTAINING: No one

Waiver from 10.2.12 to provide more than 120' between ILA's

00:50:08 On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners since the adjacent properties are all industrial and the parking is existing; and

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WHEREAS, the Commission further finds that the waiver will not violate guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered. The waiver will not violate guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. ILAs are used to break up large areas of pavement. The parking is existing and the total ILA requirements are being met; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the parking is existing and there are no proposed changes to the building or employees; and

WHEREAS, the Commission further finds that the strict application would deprive the applicant of use of the land because the parking is existing and the only expansion is for trailer storage. The trailer storage is on another part of the site and would not affect the existing parking lot; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.2.12 to provide more than 120' between ILA's.

The vote was as follows:

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

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Blake, Butler and White

ABSTAINING: No one

Development Plan and Binding Elements

00:51:02 On a motion by Commissioner Jarboe, seconded by Commissioner Turner, the following resolution was adopted.

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WHEREAS, The Louisville Metro Planning Commission finds that there are no environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, the Commission further finds that there are no open space requirements with the current proposal. Open space is provided in the form of LBAs and the large open area at the corner of Produce and Poplar Level; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks; and

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

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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.
2. The development shall not exceed 240,000 square feet of gross floor area.

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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.
 - 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 permit 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.

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8. The Owner/Developer shall install a 12 foot wide concrete boarding area from sidewalk to the curb/edge of pavement.

The vote was as follows:

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

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Blake, Butler and White

ABSTAINING: No one