

PLANNING COMMISSION MINUTES

November 2, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0107

Request: Change in Zoning from PRO Planned Research/Office to
PEC Planned Employment Center with a District
Development Plan with Binding Elements and Waiver(s)

Project Name: TEM Group Rezoning

Location: 3560 Bashford Avenue

Owner/Applicant: TEM Group, Inc.

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 10 – Tom Mulvihill

Case Manager: Jay Lockett, AICP, Planning Supervisor

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:

00:26:13 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing an expansion of an existing building, and since this is a non-conforming use, they need to update their zoning.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott & Roberts, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

Summary of testimony of those in favor:

00:31:40 Nick Pregliasco spoke in support of the application and presented a PowerPoint presentation (see video for details). Pregliasco stated some of the outdoor storage that has been on the site would become indoor storage. The applicant is also constructing a new parking area. The new parking area will be screened from Bashford Avenue.

Commissioner Carlson asked about the distance to the nearest residence. Pregliasco did not have the exact distance but they would be a pretty good distance away.

PLANNING COMMISSION MINUTES

November 2, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0107

Deliberation:

00:41:48 Planning Commission deliberation. Commissioner Carlson asked about outdoor activities on the site. Jay Lockett stated the applicant would be restricted to only having activities in the areas designated on the plan.

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 PRO to PEC

00:43:58 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposal does not represent an expansion of non-residential uses into residential areas, as the site already zoned for a mix of industrial and commercial uses in the Suburban Workplace form district. The use is existing on the site and is appropriate for the area as long as adequate buffering and screening is provided from public streets.

WHEREAS, the proposal meets Community Form: Goal 2 because the proposal is in an established activity center within the Suburban Workplace form near a variety of commercial and industrial uses and is served by adequate infrastructure and transportation facilities.

WHEREAS, the proposal meets Community Form: Goal 3 because the site is previously developed and does not have any environmentally sensitive features.

WHEREAS, the proposal meets Community Form: Goal 4 because the site is previously developed and does not have any environmentally sensitive features.

WHEREAS, the proposal meets Mobility: Goal 1 because the proposal is in a workplace form in an area with a variety of industrial and commercial uses. The site is served by existing infrastructure.

WHEREAS, the proposal meets Mobility: Goal 2 because the site is served by existing infrastructure.

PLANNING COMMISSION MINUTES

November 2, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0107

WHEREAS, the proposal meets Mobility: Goal 3 because the site is served directly by transit service.

WHEREAS, the proposal meets Community Facilities: Goal 2 because all utilities should be provided as required. Any necessary easements must be provided per utility agency requirements.

WHEREAS, the proposal meets Economic Development: Goal 1 because the proposal is in a workplace form in an area and would permit additional industrial development within an established industrial activity center.

WHEREAS, the proposal meets Livability: Goal 1 because the site is previously developed and does not have any environmentally sensitive features and is not in the floodplain.

WHEREAS, the proposal meets Housing: Goal 1 because The proposed zoning would not permit residential development, but would add additional employment opportunities within an established commercial activity center.

WHEREAS, the proposal meets Housing: Goal 2 because the proposal provides additional service and employment opportunities and is served by public transit, and

WHEREAS, the proposal meets Housing: Goal 3 because no residents would be displaced by this proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from PRO to PEC on property described in the legal description.

The vote was as follows:

YES: Commissioners Mims, Pennix, Clare, Carlson, Cheek, Kern, Sistrunk, and Howard

NOT PRESENT FOR THIS CASE: Commissioners Lewis and Fischer

Waiver from Land Development Code Section 10.2.4.B.8 (23-WAIVER-0116) and LDC Section 5.6.B.1 (23-WAIVER-0138)

00:44:54 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

PLANNING COMMISSION MINUTES

November 2, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0107

WHEREAS, the waiver will not adversely affect adjacent property owners. The waiver would permit existing structure and storage areas to remain,

WHEREAS, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 6 calls to discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. The waiver will not violate the Comprehensive Plan, as all required screening will be provided around the subject site. The applicant will provide all required screening around other areas of the site, including adjacent to public roadways the site,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant,

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as they would be required to remove areas of storage that are adjacent to other storage areas and will be screened from public roadways,

WHEREAS, the waiver will not adversely affect adjacent property owners. The building expansion will be consistent with the existing structure and compatible with surrounding development,

WHEREAS, the Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby

PLANNING COMMISSION MINUTES
November 2, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0107

existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. Use landscaping, trees, walls, colonnades or other design features to fill gaps along the street and sidewalk created by surface parking lots. The waiver will not violate the Comprehensive Plan, as all required screening will be provided around the subject site. The existing driveway and garage are being used to serve the proposed office use in a manner that is compatible with the surrounding area. The applicant will provide all required screening around the site,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant, and

WHEREAS, the applicant has incorporated additional screening and planting between the new parking area and the public street, and the proposed building expansion is consistent with the existing structure; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from Land Development Code Section 10.2.4 to permit encroachment into the property perimeter landscape buffer area and LDC Section 5.6.B.1 to permit the building to have animating features along less than 60 percent of the length of the façade facing Bashford Avenue.

The vote was as follows:

YES: Commissioners Mims, Pennix, Clare, Carlson, Cheek, Kern, Sistrunk, and Howard

NOT PRESENT FOR THIS CASE: Commissioners Lewis and Fischer

Detailed District Development Plan

00:46:10 On a motion by Commissioner Carlson seconded by Commissioner Clare, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted.

PLANNING COMMISSION MINUTES

November 2, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0107

WHEREAS, there are no significant natural or historic resources on the subject site. An existing residential structure is being reused for office use,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

WHEREAS, all required open space provisions of the Land Development Code have been met on the preliminary development plan,

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

WHEREAS, the overall site design and land uses are compatible with the existing and future development of the area. Adequate screening will be provided to screen adjacent properties and roadways, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with 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. 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.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:

PLANNING COMMISSION MINUTES

November 2, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0107

- b. The development plan must receive full construction approval from Construction Review, 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) 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.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
4. 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.
5. The final design of the building addition will be consistent with the existing structure.
6. The applicant will provide a continuous evergreen screen between the new parking area and the street in order to provide screening for the proposed loading and storage area consistent with the screening exhibit shown at the Planning Commission public meeting on November 2, 2023. Final species type and location to be determined in consultation with Office of Planning staff and shown on the approved landscape plan.
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.

The vote was as follows:

YES: Commissioners Mims, Pennix, Clare, Carlson, Cheek, Kern, Sistrunk, and Howard

NOT PRESENT FOR THIS CASE: Commissioners Lewis and Fischer