

PLANNING COMMISSION MINUTES

September 7, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0141

Request:	Change in Zoning from R-4 & M-2 to PEC Planned Employment Center with a Detailed District Development Plan with Binding Elements and Waiver(s)
Project Name:	13110 Old Henry Road
Location:	13110 Old Henry Road
Owner:	WSA Realty Properties LLC
Applicant:	WSA Realty Properties LLC
Representative:	Wyatt Tarrant & Combs
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Jay Lockett, 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:

00:27:46 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The site is currently vacant and the applicant is proposing outdoor truck parking on the site.

The following spoke in favor of this request:

Jon Baker, Wyatt Tarrant & Combs, 400 W. Market Street, Louisville, KY 40202

Alex Rosenberg, AL Engineering, 13000 Middletown Industrial Boulevard, Suite A, Louisville, KY 40223

Summary of testimony of those in favor:

00:33:20 Jon Baker spoke in support of the application and presented a PowerPoint presentation (see video for details). The applicant is meeting all the buffer requirements with the exception of the location of the access easement that runs to the adjoining property.

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00:45:40 Alex Rosenberg spoke in support of the application. Rosenberg stated the plan proposes to save trees where they can and maintains the stream buffering along the west side of the development site.

00:47:00 Jon Baker resumed testimony.

00:49:00 Commissioner Mims asked if this would be a temporary or permanent use for this site. Baker stated the proposed use will meet the short-term needs and if it can be combined with neighboring properties in the future for a larger use then that option is there. In response to Commissioner Mims question, Alex Rosenberg said they would be using sealed gravel to minimize dust.

Deliberation

00:54:55 Planning Commission deliberation. The commissioners discussed the additional binding elements.

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 R-4 & M-2 to PEC

00:57:10 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, 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. Portions of the subject site are already zoned M-2, and sites to the south and west contain other industrial zones. There is a significant area of PEC zoning across Old Henry Rd, as well as various commercial and office districts to the east near the Gene Snyder Freeway interchange. The proposed district is appropriately located adjacent to like zones and uses. Appropriate buffering will be provided adjacent to the remaining residential zoning district. The proposal is in a workplace form adjacent to a variety of commercial, office and industrial uses readily served by infrastructure and transportation facilities. The proposal concentrates like uses and zones. Appropriate buffering will be provided adjacent to the remaining residential zoning district. The site is in an area with a mix of industrial, office and commercial uses. The applicant will be required to provide adequate screening and buffering adjacent to the existing residential zoning district. Traffic entering the area will not need to pass through residential areas to access the interstate or arterial roadways. Currently the access for the site and parts of

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the adjacent quarry pond passes through R-4 zoning along the front of this site. The proposed change would remedy this situation,

WHEREAS, the proposal meets Community Form: Goal 2 because the proposal is located in an existing industrial and commercial activity center. The proposed zoning district allows for a variety of industrial uses. The subject site is located in workplace form in an area with a variety of industrial, office and commercial uses. The proposal is in a workplace form near a variety of commercial, industrial and office uses and is served by adequate infrastructure and transportation facilities. The proposed zoning would not permit residential development. The site is within an established industrial activity center. The proposal allows for the expansion of an existing industrial site within an established industrial activity center. The site does not contain buildings and no buildings are proposed,

WHEREAS, the proposal meets Community Form: Goal 3 because the site appears heavily treed. The preliminary development plan complies with the LDC requirements for tree preservation and planting. Staff recommends preservation of mature trees on site wherever possible, especially within buffer areas. The site appears to contain some areas of steep slopes along the western edge. The proposed development does not appear to impact steep slope areas. MSD has approved the preliminary development plan,

WHEREAS, the proposal meets Community Form: Goal 4 because the proposed site does not have any known historic or cultural value,

WHEREAS, the proposal meet Mobility: Goal 1 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses,

WHEREAS, the proposal meets Mobility: Goal 3 because the proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The zoning would not permit residential development, but would allow for additional employment-generating uses within an established industrial activity center. Transit is available approximately 800 feet away along Stanley Gault Pkwy. The proposal is in a workplace form in an area with a variety of industrial, office and commercial uses. The applicant has agreed to fill in some gaps in the existing sidewalk along the north side of Old Henry Rd. The applicant has agreed to fill in some gaps in the existing sidewalk along the north side of Old Henry Rd., providing proportional improvements to walkability within an area that contains a variety of land uses. Transportation Planning has reviewed and approved the preliminary development plan,

WHEREAS, the proposal meets Community Facilities: Goal 2 because All utilities will be provided as required. Any necessary easements will be provided per utility agency

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requirements. Water service will be coordinated. MSD has approved the preliminary development plan,

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. The site is located along a minor arterial and is approximately 1800 ft from the Gene Snyder Freeway,

WHEREAS, the proposal meets Livability: Goal 1 because soil erosion does not appear to be an issue with the proposal. MSD has approved the preliminary development plan. The site is not located in the floodplain, and

WHEREAS, the proposal meets Housing: Goal 3 because no residents will be displaced as a result of this development. The site is currently vacant; 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 R-4 & M-2 to PEC on property described in the attached legal description.

The vote was as follows:

YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek

Waiver of LDC Section 10.2.10

00:58:00 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the waiver will not adversely affect adjacent property owners. The buffer area would be internal to the site and only be visible from other industrial properties,

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 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

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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. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The waiver will not violate the Comprehensive Plan, as all required screening will be provided around the subject site adjacent to properties of lower intensity ,

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 deprive the applicant of reasonable use of the land, as the buffer would be internal to the site and only be visible from adjacent industrial properties; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver.

The vote was as follows:

YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek

Detailed District Development Plan

00:58:44 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, there are no significant natural or historic resources on the subject site,

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, there are no open space requirements associated with this request,

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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. Appropriate 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 **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. 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:
 - a. 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.

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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 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.
6. No idling of trucks shall take place within 200 feet any residence. No overnight idling of trucks shall be permitted on-site.
7. Prior to requesting a certificate of occupancy for the site, the developer/property owner/applicant shall construct sidewalks along the frontages of 12905 Old Henry Rd and 13103 Old Henry Rd as shown on the sidewalk submitted 5-18-23 on file with Planning and Design Services.
8. No trucks or trailers that are required by US Department of Transportation regulations to display hazardous materials placards shall be parked on the site.
9. Products used for dust control shall be installed and maintained as recommended by the manufacturer's recommendations.
10. The applicant shall comply with Public Works requirements for location of the entrance gate. Final location shall be reviewed prior to construction plan approval.

The vote was as follows:

YES: Commissioners Clare, Fischer, Mims, Howard, Kern, Sistrunk, Carlson and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Pennix and Cheek