

PLANNING COMMISSION MINUTES
May 25, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0098

Request: Change in Zoning from R-4 to PEC, with Associated Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements and Waivers

Project Name: Xebec Tucker Station

Location: 1525 – 1711 Tucker Station Road, 12850 & 1704 South Pope Lick Road, Parcel ID 367200070000

Owner: Mark & Sandra Holloway, William Gary Holloway, LRH Family, LLC, Lois R. Holloway Revocable Trust, Brian & Annette Whitcomb, HHOP Partners, LLC

Applicant: Xebec Pursuits, LLC

Representative: Sabak Wilson & Lingo Inc., Stites & Harbison, PLLC

Jurisdiction: Louisville Metro

Council District: 11 – Kevin Kramer

Case Manager: Dante St. Germain, 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:

02:05:57 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Greg Ehrherd, 400 West Market Street, 18th floor, Louisville, Ky. 40202
Kelli Jones, Sabak, Wilson and Lingo, 608 South 3rd Street, Louisville, Ky. 40202
Adam Kirk, 137 McClellan Springs Drive, Georgetown, Ky. 40324

Summary of testimony of those in favor:

02:23:16 Greg Ehrherd, attorney for the applicant, introduced his co-workers (see recording for detailed presentation).

02:23:54 Kelli Jones gave a power point presentation. The zoning request is to match the adjacent properties.

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Kelli Jones discussed the following: lakes; road names; grade change; 3 access points instead of 5; increased setbacks and landscape buffer areas; on-site detention; circulation of all buildings; and tree canopy (see recording for detailed presentation).

02:35:11 Adam Kirk discussed the Traffic Impact Study for the development. There will be an additional 2 left-turn signals on Tucker Station Rd. and S. Pope Lick (see recording for detailed presentation).

02:43:47 Kelli Jones said they will be expanding Tucker Station Rd. and S. Pope Lick Rd. across their frontage to 3 lanes as requested by Transportation Planning. Ms. Jones also discussed proposed binding elements and timing on certificate of occupancy and permits (see recording for detailed presentation).

The following spoke in opposition to this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Roy Lillpop, 12611 South Pope Lick Road, Louisville, Ky. 40299

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299

Summary of testimony of those in opposition:

03:16:25 Nick Pregliasco is representing the Blankenbaker Station Community Association. The use is very intense and there are concerns regarding lack of details (see recording for detailed presentation).

Nick Pregliasco provided additions/revisions to the applicant's proposed binding elements (see recording for detailed presentation).

03:28:15 Roy Lillpop said the binding elements will not be enforced. The entrance will be across from his home and he will have to deal with light intrusion. He also discussed the following: loud trucks; 3 to 5 years to build project; traffic; and the roads (see recording for detailed presentation).

03:38:57 Steve Porter discussed the following: Tucker Station Rd. has 9/90 degree turns because the roads were built in the 1800's; proposal doesn't have to be Industrial; project is almost a million square feet; buildings are huge; traffic; access; and it's just not compatible with the neighborhood (see recording for detailed presentation).

Rebuttal

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04:00:08 Kelli Jones said the area is appropriate for Industrial. There is no berm but the elevation change will help lessen the impact for the neighbors across the street. There will also be additional landscaping and before buildings 3, 4, and 5 are issued a certificate of occupancy, the road improvements will be completed (see recording for detailed presentation).

The following spoke neither for nor against the request:

David Kaelin, 2421 Tucker Station Road, Louisville, Ky. 40299

Summary of testimony of those neither for nor against:

04:34:10 David Kaelin said he hopes the applicant will adopt all the binding elements that the Blankenbaker II development has adopted.

David Kaelin also mentioned the fact that there is too much square footage on the amount of acres and truck traffic (see recording for detailed presentation).

04:38:18 Kelli Jones said most of the binding elements are duplicative to Blankenbaker II and the applicant has agreed to Mr. Pregliasco's binding element which covers a lot of the concerns as well (see recording for detailed presentation).

Deliberation

05:02:45 Planning Commission deliberation.

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 Single Family Residential to PEC Planned Employment Center

On a motion by Commissioner Mims, seconded by Commissioner Sistrunk, 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 proposal would constitute an expansion of an existing non-residential development to a natural terminus at Tucker Station Road/S Pope Lick Road. Appropriate mitigation will be provided to the

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residential uses across Tucker Station Road and S Pope Lick Road through setbacks and landscaping; the proposal would permit higher density and intensity uses. The site is close to transit along Plantside Drive and would expand an existing employment center; the proposal is for industrial zoning. The site is located in a Workplace form; the proposed zoning district would permit hazardous uses and uses with air, noise and light emissions. Appropriate mitigation will be provided to the residential uses across Tucker Station Road and S Pope Lick Road through setbacks and landscaping; the proposal would permit uses generating noxious odors, particulates and emissions. The site is separated from the majority of the residential uses nearby by Tucker Station Road/S Pope Lick Road. No schools or parks are located nearby. Appropriate mitigation will be provided to the residential uses across Tucker Station Road and S Pope Lick Road through setbacks and landscaping; access to the site is via Tucker Station Road, a primary collector at this location, and S Pope Lick Road, a secondary collector; appropriate mitigation will be provided to the residential uses across Tucker Station Road and S Pope Lick Road through setbacks and landscaping; the proposed zoning district would not permit junkyards, landfills or quarries; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the site is located adjacent to an existing activity/employment center and would expand the center; the proposal would permit retail development. The site is located adjacent to an existing activity/employment center; the proposal would permit a more compact pattern of development; the proposed zoning district would permit a mixture of compatible land uses; the proposal would permit new development providing commercial/industrial uses;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the natural features of the site will be preserved to the highest degree possible. Significant tree canopy will be preserved, as well as waterway and water body buffers; wet and highly permeable soils, and severe, steep or unstable slopes are mostly being preserved on the site; flood-prone areas and karst terrain are mostly being avoided by the development on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no historic assets are evident on the site; No distinctive cultural features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is adjacent to an existing employment center with transit located nearby; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would permit a mixture of compatible land uses. The site is easily accessible by car and bicycle, and transit is located nearby. Accessibility by pedestrians and people with disabilities would be improved by the development; transit is located close to the site. The proposal would encourage higher density mixed-use development; Transportation Planning has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the responsible utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed zoning district would permit land uses compatible with the existing Workplace form; the site is located adjacent to existing industry; the majority of heavy truck traffic would be routed to Plantside Drive, a minor arterial, via Schutte Station Place; the site is located adjacent to an existing industrial subdivision and would have access to a minor arterial at Plantside Drive once the access from Schutte Station Place is extended; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, karst terrain is being mostly avoided by the development; flood-prone areas are being mostly avoided by the development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, no existing residents would be displaced by the proposal.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to PEC, Planned Employment Center on property described in the legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Brown and Pennix

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Waiver from 10.2.4.B.8 to permit encroachment into a required LBA by a drive aisle, and to waive the required plantings in the area of encroachment (22-WAIVER-0118)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the encroachment is along an internal property line which will not be visible outside the site; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The property line to be buffered is internal to the site, and the uses on both sides of the property line will be similar in intensity; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the drive aisle is proposed to be shared between the two lots, in order to minimize the number of curb cuts on Tucker Station Road and S Pope Lick Road; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 by placing landscape islands on either side of the drive aisle, which will permit the required buffering to be provided, although it will be outside of the required LBA.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4.B.8 to permit encroachment into a required LBA by a drive aisle, and to waive the required plantings in the area of encroachment (22-WAIVER-0118).

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Brown and Pennix

Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements

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

WHEREAS, the preservation of steep slopes, water courses, and tree canopy will be made on the residual tract proposed to be subdivided off the remainder of the site. The majority of the natural resources on the site are located within the future residual tract; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, no open space requirements are pertinent to the request. Required amenity areas are being provided; 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 order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The proposal would provide industrial development within a Workplace form and adjacent to existing industrial development; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable requirements of the Land Development Code and Plan 2040 with the exception of the requested waiver. The site plan generally complies with the policies and guidelines of the Comprehensive Plan.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision, **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 for review and approval, and the hearing in which any proposed changes/additions/alterations are heard shall be noticed in accordance with the Land Development Code and Kentucky Revised Statutes regulations for a public hearing for a

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zoning change, in addition to notice being provided to all parties who spoke on this case at the May 25, 2023 Planning Commission hearing. Any changes/additions/alterations not so referred shall not be valid.

2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.

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 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 certificate of occupancy. 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.
- d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
- e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
- f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 25, 2023 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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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. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
8. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of any 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.
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. The connection to the existing Schutte Station Place to the south of the site shall be completed prior to issuance of the first certificate of occupancy for the first structure on the site.
11. No construction traffic shall be permitted on S Pope Lick Road. No construction traffic shall be permitted on Tucker Station Road once the Schutte Station Place connection has been completed.
12. Signage shall be placed at all access points to Tucker Station Road and S Pope Lick Road to direct truck traffic to the Schutte Station Place connection. The entrances to S Pope Lick Road and Tucker Station Road shall be designed on construction plans in consultation with Public Works to encourage truck traffic to the Schutte Station Place connection.
13. No development, including tree clearance or grading, shall take place on the residual tract, except for the minimum necessary to install or maintain utility services within the marked utility easements. This tract shall be otherwise reserved for tree canopy preservation and preservation of other natural resources.

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14. Buildings 1 and 2 shall be constructed in tract order. After the first two buildings are constructed, Tracts 3-5 shall be constructed in any order.

15. The applicant shall contribute \$12,000 toward the construction of a traffic signal at Bluegrass Parkway and Tucker Station Road. Payment shall be made prior to the issuance of a certificate of occupancy for the first building.

16. The applicant shall contribute an amount not to exceed \$120,000 toward the construction of a signal at Tucker Station Road and South Pope Lick Road. Payment shall be made prior to issuance of a certificate of occupancy for the third building.

17. The applicant shall widen Tucker Station Road & South Pope Lick Road to three lanes across the frontage of the property and add turn lanes at the South Pope Lick/Tucker Station/Schutte Station intersection as presented at the Public Hearing on May 25th, 2023. This work shall be completed prior to a certificate of occupancy being issued for the second building.

18. Recommendations made in the geotechnical report on file shall be followed prior to and during construction.

19. A qualified third-party geotechnical engineer shall be retained for consultation during construction of the site and shall conduct periodic inspections during construction of the Schutte Station Place roadway.

20. Applicant shall execute and record a set of Covenants, Conditions, and Restrictions (CCRs) for this project that are substantially similar to the CCRs for Blankenbaker Station Business Park as recorded in Deed Book 8375, Page 750 in the Jefferson County Clerk's Office.

21. Applicant shall grant an easement to the Blankenbaker Station Community Association, Inc. to construct, use, and maintain a walking path along the north side of the lake on the subject property as an extension of the Blankenbaker Station walking path.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Brown and Pennix