

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
November 19, 2020**

A meeting of the Louisville Metro Planning Commission was held on Thursday, November 19, 2020 via Webex.

**Commissioners present:**

Vince Jarboe, Chair  
Marilyn Lewis, Vice Chair  
Te'Andre Sistrunk  
Robert Peterson (arrived at 1:17 p.m.)  
Lula Howard  
Rich Carlson  
Ruth Daniels (arrived at 1:10 p.m.)  
Jeff Brown  
Patricia Seitz  
Jim Mims

**Commissioners absent:**

No one.

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning Supervisor  
Joe Haberman, Planning Manager  
Jay Lockett, Planner I  
Joel Dock, Planner II  
Travis Fiechter, Legal Counsel  
Beth Stuber, Transportation Planning  
Mark Sites, MSD  
Chris Cestaro, Management Assistant (minutes)

The following matters were considered:

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**APPROVAL OF MINUTES**

**Approval of the Minutes for the October 29, 2020 Planning Commission public hearing.**

00:03:26 On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission public hearing conducted on October 29, 2020; with one correction:

Commissioner Carlson noted that Steve Hanson is with the Anchorage Fire Department, not Louisville Metro Fire Department.

**The vote was as follows:**

**YES: Commissioners Lewis, Carlson, Howard, Mims, Brown, Seitz, Sistrunk, and Jarboe.**

**ABSENT: Commissioners Daniels and Peterson.**

**Approval of the Minutes for the November 5, 2020 Planning Commission public hearing.**

00:05:35 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission public hearing conducted on November 5, 2020.

**The vote was as follows:**

**YES: Commissioners Carlson, Howard, Mims, Brown, Daniels, Sistrunk, and Jarboe.**

**ABSTAIN: Commissioners Lewis and Seitz.**

**ABSENT: Commissioner Peterson.**

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**CONSENT AGENDA**

**CASE NO. 20-DDP-0047**

Request: Revised Detailed District Development Plan with a Waiver  
Project Name: BAE Systems  
Location: 105 Rochester Dr  
Owner: Louisville and Jefferson County Redevelopment  
Applicant: Titan R&D Louisville II, LLC  
Representative: Ashley Bartley, QK4  
Jurisdiction: Louisville Metro  
Council District: 21 - Nicole George

**Case Manager: Jay Lockett, AICP, Planner I**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:06:55 Jay Lockett presented the case and showed a Power Point presentation (see recording for detailed presentation.) He noted that this case went to the Development Review Committee meeting on October 14 ,2020 and was approved at that meeting. This is an appeal of that decision.

00:12:10 Commissioner Mims asked if staff had determined whether or not there was proper notice given to the residents of Heritage Green. Mr. Lockett said that notification is the responsibility of the applicant, and that the applicant said that required notice procedures were followed. See recording for detailed discussion.

00:13:50 In response to a question from Commissioner Mims, Mr. Lockett clarified what uses are permitted in the EZ-1 zoning district.

**The following spoke in support of this request:**

Ashley Bartley, Qk4, 1046 East Chestnut Street, Louisville, KY 40204

Michael McCarthy, BAE Systems, 1613 Beechwood Avenue, Louisville, KY 40204

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Cheryl Tyndall, Colliers International (sp), 220 Saddle Road, Alpharetta, GA 30009

**Summary of testimony of those in support:**

00:15:34 Ashley Bartley, the applicant's representative, first responded to Commissioner Mims' questions regarding notification (see recording for detailed discussion.) She noted that Councilwoman Nicole George attended the DRC hearing and discussed the notification to the Heritage Green residents.

00:17:48 Ms. Bartley discussed the use. She noted that "manufacturing" is listed incorrectly on the submitted plan, but it is listed as a use in the proposal letter, and on the applications for the development plan, waiver, and variance. This use was also discussed at the DRC meeting.

00:18:49 Ms. Bartley then presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:19:57 Michael McCarthy, an applicant's representative, discussed BAE Systems, what the company does, and what is being proposed here (see recording for detailed presentation.)

00:23:05 Ms. Bartley resumed her presentation.

00:28:01 Cheryl Tyndall, project manager, spoke in support and said she was available for questions.

00:29:07 In response to a question from Commissioner Carlson, Ms. Bartley said the typical height of the trees at planting (installation) is about 6-7 feet tall and discussed the growing rates of the trees.

00:30:29 In response to a question from Commissioner Carlson, Ms. Bartley and Mr. McCarthy discussed sound/noise mitigation (see recording.) Mr. McCarthy added that noise studies have been done at the site to determine a baseline. Commissioner Carlson asked for a binding element stating that, once construction is completed, another noise study be done to determine if the sound is at the baseline and, if not, that additional mitigation levels be taken. Mr. McCarthy said that would be acceptable.

00:32:34 In response to a question from Commissioner Carlson, Mr. McCarthy said the painting would primarily be spray painting. Ms. Tyndall said spray painting would be done within a booth inside the building. She added that the construction plans call for insulated paneling all around the perimeter of the building, for additional sound insulation.

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00:33:40 In response to a question from Commissioner Lewis, Ms. Bartley said that the trees would be planted on the BAE side of the fence for security reasons (to prevent people from climbing the trees and/or scaling the fence.) Ms. Tyndall said that, again for security reasons, the chain link fence with razor wire would remain on the BAE side of the privacy fence.

00:35:26 In response to a question from Commissioner Mims, Ms. Tyndall noted that painting is taking place inside the building now and is exhausted through the roof. There have been no complaints from surrounding residents or properties that she is aware of.

00:36:08 In response to a question from Commissioner Mims, Ms. Bartley discussed more details about the fence (see recording for detailed discussion.)

00:37:54 Commissioner Brown asked if there will be additional mechanical equipment to support the addition (roof-mounted or ground-mounted.) He, and Commissioner Sistrunk, were specifically concerned with exhaust and ventilation. Ms. Tyndall and Mr. McCarthy discussed the systems. See recording for detailed discussion.

00:42:09 Commissioners Mims, Sistrunk and Brown said that noise and vapors should be measured pre- and post-construction. The post-construction survey should make sure that levels are the same or lower that they were pre-construction. Mr. Luckett suggested that an initial noise study be submitted to Planning & Design Services to be compared to the Land Development Code, which has a certain decibel level limit. A certain time limit could be set after construction is completed for the post-construction survey to be completed and submitted to PDS. If there is a difference in sound level, what would be the mitigation method for that.

**The following spoke neither for nor against (“Other”):**

Councilwoman Nicole George, 600 West Jefferson Street, Louisville, KY 40202

**Summary of testimony of those neither for nor against (“Other”):**

00:45:59 Councilwoman Nicole George was introduced but said she would reserve comment after hearing from those in opposition. (See her comments at 1:08:46.)

**The following spoke in opposition to this request:**

Julie Castellano, 10107 White Oak Park Road Apt. #1, Louisville, KY 40219

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Susan Copass-Cheng, 4808 Paloma Road, Louisville, KY 40272

Jamie Cox, Vice Cox and Townsend PLLC, 2303 River Road Suite 301, Louisville, KY 40206

**Summary of testimony of those in opposition:**

00:46:30 Julie Castellano said she is primarily concerned on behalf of her tenants regarding noise issues. She said there are already some noise issues throughout the day and night. Commissioner Jarboe noted that the noise issues had been discussed today and would be addressed by binding element.

00:48:45 Susan Copass-Cheng said she is the property manager at Heritage Green. She said the apartment complex next to the site is full. She said she still has some concerns about noise and pollution. She asked when the buffer will go up – will it be before or after the construction. Ms. Bartley said the fence could be put up initially; the trees should go in last. The chain link fence is on the inside of the property line and can remain in place. Ms. Copass-Cheng said she has some concerns about the chain link fence as it is now – it has gaps in it, not intact in several places, etc. Ms. Bartley said it would be a requirement to keep that maintained.

00:52:04 In response to a question from Commissioner Mims, Ms. Bartley said the chain link fence would be “sandwiched” between the new privacy fence and the landscaping.

00:53:06 Jamie Cox represents an adjacent property owner. She discussed the notice issues, and said that mail delivery at Heritage Green is “spotty” and the residents have had to go to a P.O. Box due to mail delivery issues. She discussed the landscape buffer requirement – will this address the “heavy industrial environment” of an industrial use encroaching into a residential neighborhood? She said the goal is to restore Heritage Green to a livable neighborhood, and there is concern that the 250 apartment units which abuts the subject site would be less likely to become occupied if this industrial use encroaches there. She showed photos from 1996 and 2019 which shows the loss of greenspace adjacent to the residential uses (see recording for detailed presentation.) She requested an 8-foot wall, made of acoustic panels, as opposed to just vinyl fencing, and that the landscape trees would exceed the height of the wall at planting. She also requested that the applicant landscape along the entire length of the property line, to compensate the residents for the encroachment of this industrial use.

01:04:55 Laura Ferguson, legal counsel for the Planning Commission, said that the open space identified by the property is owner is dedicated as a Metro Park. If the applicant wants to add landscaping there, Metro Parks would need to be consulted.

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01:05:29 Commissioner Mims asked who takes care of off-site trees that are planted in/around Heritage Green. Ms. Copass-Cheng explained about groundskeeping (see recording.)

01:08:46 Councilwoman George said it is important to meet the needs of the Navy; however, building submarines at all times of the day and night while encroaching into a residential neighborhood. She noted that there is a chain link fence there today that is not being taken care of. She said there are still many questions and is concerned about the long-term impact on residents.

**Rebuttal:**

01:11:18 Ms. Bartley addressed mail problems at Heritage Green; proposed binding element/s regarding noise surveys before and after construction; APCD permitting will address air quality issues; phasing and putting up the fencing first. She said the residential/industrial uses have co-existed for about 80 years; even though the building is expanding, it is the same work/use that is being done today. Regarding the request for an acoustic wall, she said BAE will already have acoustic panels around the inside of the building, thus containing sound within the structure. She said the applicant would be willing to discuss extending the fencing, but asked Ms Cox for some clarification about where that is intended. See recording for detailed discussion.

01:14:46 Ms. Tyndall clarified that BAE Systems is not “building submarines” at this site and never has been. Without encroaching on confidentiality, she said the expansion is because of the size of a piece/part that needs to be painted.

01:15:27 Commissioner Jarboe asked what the hours of operation would be. Mr. McCarthy said typical painting work would be done during the first shift (during the day) and a night shift during the week.

01:16:31 Commissioner Carlson expressed concern because the landscaping he has seen has only been at ground level; what will the view be for apartment tenants on the second floor? Ms. Bartley discussed sight-lines and said this is the view that the second-floor tenants have had since 1940. She said this should be an improvement.

01:19:04 Commissioner Mims and Ms. Bartley discussed what type of trees might work best in this location, and also the possibility of placing some landscaping/tree canopy on the Heritage Green side of the fence. Commissioner Seitz said she had brought up this idea at another hearing and was told by the applicant that they could not take care of the plants on someone else’s property. Ms. Tyndall noted the security issues that prohibit trees on the outside of the fence.

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01:21:27 Mr. Lockett read some proposed binding elements into the record, as follows:

The applicant shall submit a noise study to Planning and Design Services staff prior to requesting a building permit. The study should establish the existing noise levels of the residential property. Within twelve months of receiving a Certificate of Occupancy permit for the addition, an additional noise study shall be submitted. If any increase is detected, the Planning Commission shall determine appropriate methods for mitigation.

01:22:16 In response to a request from Commissioner Jarboe, Mr. Lockett said language could be added to require a noise study be done once during each active shift.

01:22:54 The Commissioners, Ms. Tyndall, and Mr. McCarthy discussed a timeframe for the second noise study. After discussion, it was agreed to do the second study within 12 months after issuance of a Certificate of Occupancy. See recording for detailed discussion.

01:26:46 Commissioner Brown asked about the extent of the fencing that the applicant is proposing. Ms. Bartley said it is about 195 feet.

01:27:45 In response to a question from Commissioner Carlson, Mr. McCarthy and Ms. Tyndall discussed planting trees on the other side of the fence. Ms. Tyndall said the applicant cannot prevent adjoining property owners from planting trees on their own property.

01:29:48 In response to a question from Commissioner Sistrunk, Ms. Tyndall said exhaust goes from the paint booth directly to the roof and out. She said all code requirements will be met. Commissioner Sistrunk said his concern is to keep the exhaust as far away from the residential areas as possible. Ms. Tyndall said that exhaust will be kept off the edge of the building.

01:32:29 Commissioner Mims requested that Ms. Bartley and Sherie Long (Metro staff landscape architect) review the choice of trees along the fence line. He also suggested that Heritage Green look in to planting their own trees on their property, to help restore a residential feel to the property. See recording for detailed discussion.

01:37:00 Regarding Commissioner Sistrunk's concern, Ms. Tyndall said their architect will ensure that the structure is within the Air Permit guidelines. They also have to make sure that the paint booth will work effectively. She asked that no perimeter inset of that exhaust system be set in a binding element. Commissioner



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Sistrunk asked that the applicant make a good-faith effort to keep the exhaust away from the residences. Ms. Tyndall said yes, and added that all exhaust is now and will be filtered. All air and environmental issues are addressed by regulatory agencies (APCD, EPA, etc)

**01:38:48 Commissioners' deliberation.**

01:43:50 Commissioner Lewis asked if each of these buildings are a separate piece of property. Ms. Bartley pointed out the boundaries of the subject site/s (down to just a couple hundred feet off Strawberry Lane.) Ms. Tyndall clarified that BAE Systems *leases* the property, it does not own the property.

01:45:18 Commissioners' deliberation resumed.

01:53:50 The Commissioners came out of Business Session to discuss the possibility of additional mitigation measures with Ms Bartley and Ms. Tyndall. See recording for detailed discussion.

02:02:36 Mr. McCarthy said he could commit to putting that fence from the west side of Building A up to the access road, and whatever landscaping is required.

02:03:49 Commissioners' deliberation resumed.

**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.**

02:04:15 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the applicant has agreed to the binding elements that have been proposed today that will help with the base system and also that they will bring in a before report and they will submit another one one year after construction, and the equipment has been placed into the building. The applicant is also willing to expand the proposed fence from the west side of Building A up to the access road; and has agreed to use large trees to be placed on the site; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby affirm the Development Review Committee approval of this request, with the addition of the binding elements as noted in today's hearing. The binding elements shall read as follows:

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. Prior to development (includes clearing and grading) of each site or phase of this project, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance 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.
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.

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6. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items:
  - a. Mounting Height Limit
  - b. Luminaire Shielding
  - c. Canopy Lighting Level
  - d. Light Trespass
  
7. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
  
8. The applicant shall provide screening as shown on the landscaping exhibit presented to the Development Review Committee on October 14, 2020, **with the plantings and screening extending from the western edge of Building A to the eastern side of building B at the drive lane.** The final location and type of trees shall be shown on the approved landscape plan and chosen in conference with Planning and Design Services staff landscape architect.
  
9. The applicant shall submit a noise study to Planning and Design Services staff prior to requesting a building permit. The study should establish the existing noise levels of the residential property. Within twelve months of receiving a Certificate of Occupancy permit for the addition, an additional noise study shall be submitted. If any increase is detected, the Planning Commission shall determine appropriate methods for mitigation. **Studies shall be performed during each working shift (AM/PM)**

**The vote was as follows:**

**YES: Commissioners Sistrunk, Lewis, Seitz, Howard, Mims, and Peterson.**  
**NO: Commissioners Carlson, Daniels, Brown, and Jarboe.**

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**PUBLIC HEARING**

**CASE NO. 20-ZONE-0069**

Request: Change in zoning from R-4 & M-2 to EZ-1 and Change in Form from Neighborhood to Suburban Workplace  
Project Name: Bohannon Property  
Location: 13915, 14201, & 15012 Bohannon Avenue  
Owner: LDG Land Holdings, LLC  
Applicant: LDG Land Holdings, LLC  
Representative: Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 14 - Cindi Fowler

**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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:14:47 Joel Dock presented the case and showed a Power Point presentation (see recording for detailed presentation.)

02:21:22 In response to a question from Commissioner Carlson, Mr. Dock said he had not received a response from police about the gate.

02:21:34 In response to a question from Commissioner Mims, Mr. Dock discussed existing encroachments of impervious surfaces where the proposed road will take its place (see recording.) Mr. Dock reviewed MSD's comments.

02:22:41 In response to a question from Commissioner Mims, Mr. Dock reviewed the access to Dixie Highway (see recording.)

**The following spoke in support of this request:**

Cliff Ashburner, Dinsmore and Shohl, 101 South Fifth Street, Louisville, KY 40202

Kelli Jones, Sabak Wilson and Lingo, 608 South Third Street, Louisville, KY

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**PUBLIC HEARING**

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**Summary of testimony of those in support:**

02:24:30 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:33:15 Kelli Jones discussed the site plan in detail, as well as the evolution of the plan and how the applicant has responded to concerns.

02:43:49 Mr. Ashburner resumed and concluded the applicant's presentation. He noted that the applicant has tried repeatedly to contact the owner of one home that this site surrounds, with the intent to purchase the property. He proposed a binding element regarding the northernmost buildings (Buildings #3 and #4), to read as follows:

*Before development of Buildings #3 and #4, a landscape plan will be reviewed and approved by the Louisville Metro Planning Commission or a Committee thereof. This requirement for Building #3 shall be null and void should the property to the west of Building #3 cease being used as a residence.*

02:47:44 In response to a question from Commissioner Brown, Mr. Ashburner said hours of operation were not known at this time.

02:47:58 In response to a question from Commissioner Mims, Ms. Jones used the site plan to clarify setbacks for utility easements and ROW; she also pointed out the areas for preservation of streams, wetland areas, etc. (see recording.)

02:49:29 In response to a question from Commissioner Carlson, Ms. Jones confirmed that all construction safety guidelines will be followed, notably for the Texas Gas Line on the site. See recording for detailed discussion.

**The following spoke in opposition to this request:**

No one spoke.

02:50:38 Commissioners' deliberation.

\*NOTE: one person who signed in to speak as "Other" joined the meeting and asked to speak. The Commissioners came out of Business session temporarily to allow the speaker.

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**CASE NO. 20-ZONE-0069**

**The following spoke neither for nor against (“Other”):**

Tony Kelly, 13706 South Blakely Lane, Louisville, KY

**Summary of testimony of those neither for nor against (“Other”):**

02:53:55 Tony Kelly said he lives one parcel over from Bohannon. He said his concern is the viewshed, hours of operation being unknown, and noise from an unknown tenant. He said he is concerned that, once the zoning is changed, there will be few protections for residents. He noted that the noise from Riverport travels right in to his backyard. This is not as much of a concern now, because these are daily businesses; he is concerned about a possible overnight/third shift business.

02:56:16 Mr. Ashburner said the applicant has heard residents’ concerns; that is one reason why he suggested that the landscape plans come back before the Planning Commission for the two northernmost buildings, which are closest to the residential property.

02:57:35 The Commission resumed 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.**

**Change-in-Form from Neighborhood to Suburban Workplace**

03:01:33 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the request meets the intents of Community Form: Goal 1 because the proposal would result in an expansion of industrial uses in a residential area as the proposed district expands the existing industrial zoning district north towards a residential neighborhood and borders one residential property on three sides. However, the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access though local residential roadways will be provided to the development site. Transitions in the form of landscape buffers and screening will be provided; and

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**WHEREAS**, the Commission further finds that the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access through local residential roadways will be provided to the development site. Dixie Highway provides for transit access to population and employment centers; and

**WHEREAS**, the Commission further finds that the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form. The site can be served through roadways on this adjacent site and will not be isolated from industrial users; and

**WHEREAS**, the Commission further finds that impacts of the industrial use on residential users will be reduced through restrictive access through adjacent industrial areas. The site is in an area of low population density and not immediately adjacent to larger residential populations. Impacts of the industrial use on residential users will be reduced through restrictive access through adjacent industrial areas. The site is in an area of low population density and not immediately adjacent to larger residential populations. Adverse impacts of traffic on nearby residential roads will be reduced by restricting access to Bohannon Ave. The adverse impacts of noise on adjacent uses should be mitigated in the future in the event a user may disturb adjacent residential users with noises or vibrations, specifically for occupants, if any, of the residential property that is bordered on 3 sides by the proposed development. Potentially hazardous or nuisance uses as defined by the Land Development Code will require conditional use permit to use the property; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 3 because the subject property contains environmental features that will be disturbed. All restoration improvements required by the LDC to stream banks as a result of disturbance will be provided; MSD, KDOW and USACE review and approval will be received prior to site disturbance to minimize environmental degradation of sensitive features; and measures to protect health, safety and welfare of future users of the development will be provided as construction plan approval will be required prior to disturbance.; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because the proposal will connect with adjacent uses of similar intensities via roadways to Dixie Highway which provides for transit and bike facilities. Pedestrian connectivity will be provided to public walks proposed or existing; all improvements necessary to facilitate appropriate levels and points of access will be made. All vehicular access, except for emergency vehicles, will be prohibited from

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Bohannon; the proposal eliminates the use of Bohannon Avenue for future industrial traffic. This roadway is inadequate to serve an industrial user; the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access though local residential roadways will be provided to the development site; and Dixie Highway provides for transit access to population and employments centers; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Facilities: Goal 2 because all utilities will be provided as required and MSD review and approval has been received; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Economic Development: Goal 1 because the proposed district is compatible with adjacent industrial land within the Workplace form and does not result in increased traffic on nearby local residential roadways; the proposed district is compatible with adjacent proposed Riverport, Phase 5; and the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access though local residential roadways will be provided to the development site. Dixie Highway provides for transit access to population and employments centers; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Livability: Goal 1 because MSD, KDOW and USACE review and approval will be received prior to site disturbance to minimize environmental degradation of sensitive features; and MSD review and approval has been received; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change-in-Form from Neighborhood to Suburban Workplace on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, and Jarboe.**

**Change-in-Zoning from R-4 & M-2 to EZ-1**



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03:02:32 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the request meets the intents of Community Form: Goal 1 because the proposal would result in an expansion of industrial uses in a residential area as the proposed district expands the existing industrial zoning district north towards a residential neighborhood and borders one residential property on three sides. However, the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access though local residential roadways will be provided to the development site. Transitions in the form of landscape buffers and screening will be provided; and

**WHEREAS**, the Commission further finds that the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access though local residential roadways will be provided to the development site. Dixie Highway provides for transit access to population and employments centers; and

**WHEREAS**, the Commission further finds that the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form. The site can be served through roadways on this adjacent site and will not be isolated form industrial users; and

**WHEREAS**, the Commission further finds that impacts of the industrial use on residential users will be reduced though restrictive access though adjacent industrial areas. The site is in area of low population density and not immediately adjacent to larger residential populations. Impacts of the industrial use on residential users will be reduced though restrictive access though adjacent industrial areas. The site is in area of low population density and not immediately adjacent to larger residential populations. Adverse impacts of traffic on nearby residential roads will be reduced by restricting access to Bohannon Ave. The adverse impacts of noise on adjacent uses should be mitigated in the future in the event a user may disturb adjacent residential users with noises or vibrations, specifically for occupants, if any, of the residential property that is bordered on 3 sides by the proposed development. Potentially hazardous or

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nuisances uses as defined by the Land Development Code will require conditional use permit to use the property; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Form: Goal 3 because the subject property contains environmental features that will be disturbed. All restoration improvements required by the LDC to stream banks as a result of disturbance will be provided; MSD, KDOW and USACE review and approval will be received prior to site disturbance to minimize environmental degradation of sensitive features; and measures to protect health, safety and welfare of future users of the development will be provided as constructions plan approval will be required prior to disturbance.; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Mobility: Goal 3 because the proposal will connect with adjacent uses of similar intensities via roadways to Dixie Highway which provides for transit and bike facilities. Pedestrian connectivity will be provided to public walks proposed or existing; all improvements necessary to facilitate appropriate levels and points of access will be made. All vehicular access, except for emergency vehicles, will be prohibited from Bohannon; the proposal eliminates the use of Bohannon Avenue for future industrial traffic. This roadway is inadequate to serve an industrial user; the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access though local residential roadways will be provided to the development site; and Dixie Highway provides for transit access to population and employments centers; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Community Facilities: Goal 2 because all utilities will be provided as required and MSD review and approval has been received; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Economic Development: Goal 1 because the proposed district is compatible with adjacent industrial land within the Workplace form and does not result in increased traffic on nearby local residential roadways; the proposed district is compatible with adjacent proposed Riverport, Phase 5; and the site is adjacent to an appropriately located industrial site (Riverport Phase 5) within the workplace form and all vehicular, except for emergency vehicles, will be restricted to access through the adjacent industrial development and eventually connect to Dixie Highway, a major arterial roadway. No access though local residential roadways will be provided to the development site. Dixie Highway provides for transit access to population and employments centers; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Livability: Goal 1 because MSD, KDOW and USACE review and approval will be received prior to site disturbance to minimize environmental degradation of sensitive features; and MSD review and approval has been received; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 & M-2 to EZ-1 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, and Jarboe.**

**Variance**

03:03:28 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety, or welfare as existing encroachments are present in this area and all streambank restoration required by the Land Development Code will be provided; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as encroachments of an existing industrial users are present in the area of the new drive lane; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as stream bank restoration will be required in disturbed areas to accommodate the proposal; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the proposed roadway is consistent with the existing impervious surfaces; and

**WHEREAS**, the Commission further finds that binding elements have been added to the zoning change request that further require the enforcement of stream bank restoration and management; and

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**WHEREAS**, the Commission further finds that MSD, KDOW and USACE review and approval will be received prior to site disturbance to minimize environmental degradation of sensitive features; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** from Land Development Code (LDC), section 4.8.3 to encroach upon the 100' protected waterway (Weavers Run).

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, and Jarboe.**

**Waiver**

03:04:29 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as all required plantings and screening will be required and the use of the encroachment will be for passenger vehicles; and

**WHEREAS**, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The proposed development will provide all required planting materials to protect the residence from visual intrusions; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the encroachments can be removed though a redesign of the development site. Encroachments in this location are primarily the result of restricting access To Bohannon Avenue; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as all required planting and screening will be provided and the area is limited to passenger vehicles; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Waiver** of LDC, section 10.2 to encroach upon the 50' landscape buffer between EZ-1 and R-4.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, and Jarboe.**

**Detailed District Development Plan**

03:05:21 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that impacts upon natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be mitigated or avoided where necessary; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will provided through Riverport Phase 5 (Lewis/Randy Coe Lane) to Dixie Highway, an arterial roadway, providing public transit; and

**WHEREAS**, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development will be provided; and

**WHEREAS**, the Commission further finds that 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 Commission further finds that the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the proposed development generally complies with the Land Development Code, except for the requested relief; and

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**WHEREAS**, the Commission further finds that the proposed development plan conforms to Plan 2040 as access to a local residential roadway is restricted, connectivity to arterial roadway with transit is provided, and the site is adjacent to similar intensities and future users; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed Development Plan, **SUBJECT** to the following binding elements:

1. The site shall be maintained in accordance with all applicable sections of the Land Development Code (LDC) and agreed-upon binding elements unless amended pursuant to the LDC. Amendment of any binding element(s) shall be submitted to the Planning Commission or its designee for review and approval; any amendments not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons or banners shall be permitted.
3. 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.
4. Before any permit is requested, including but not limited to permits for building, parking lot, change of use, site disturbance, alteration or demolition:
  - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District,
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.
  - c. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
  - d. 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

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- e. Portions of Bohannon Avenue shown on the approved development plan to be closed shall be reviewed by the Planning Commission and recorded prior to requesting a permit
5. 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.
6. The applicant, developer or property owner shall provide a copy of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development and/or use of this site and shall advise all parties of their content. 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. These binding elements shall run with the land and the owner(s) and occupant(s) of the property shall at all times be responsible for compliance with them.
7. No overnight idling within 200 ft. of residential property lines.
8. No access shall be permitted to Bohannon Avenue, except for emergency vehicles and pedestrians.
9. At the time of development, the following restoration standards shall be met:
  - a. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
  - b. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless MSD determines such vegetation would be inadequate to re-stabilize the bank. In instances where the MSD determines that planting of riparian vegetation is inadequate to

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stabilize the stream bank alternate methods of stabilization, approved by the MSD shall be utilized.

- c. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.
10. Tree and Vegetation Removal.
- a. Existing, healthy trees and vegetation within the Buffer Area shall be preserved, except for those areas designated by the Limits of Disturbance on the approved district development plan. Trees and vegetation shall be restored in accordance with Binding Element #9 for all areas within the buffer that lie between impervious surfaces and the Limits of Disturbance.
  - b. This provision shall not prohibit any of the following: Removal of dead or diseased trees/vegetation (provided a live root system stays intact); removal of noxious weeds; Removal of non-native trees/vegetation that threaten native species growth or reintroduction; removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or removal of any other tree/vegetation that is a threat to the public health or safety; Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project.
11. Before development of Buildings #3 and #4, or the buildings nearest the home in the northeast corner of the site, a landscape plan will be reviewed and approved by the Louisville Metro Planning Commission or a Committee thereof. This requirement for Building #3 shall be null and void should the property to the west of Building #3 cease being used as a residence.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, and Jarboe.**



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**CASE NO. BE Final Order – 9201 Blue Lick Road**

Project Name: Binding Element Final Order  
Location: 9201 Blue Lick Road

**Case Manager: Laura Ferguson, Jefferson County Attorney's Office**

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

03:06:44 Laura Ferguson presented the case and referenced the materials that were provided as part of the agenda (see recording for detailed presentation.)

03:08:52 In response to a question from Commissioner Mims, Ms. Ferguson discussed how binding element violation fines are enforced (see recording.)

03:10:16 In response to a question from Commissioner Brown, Ms. Ferguson corrected a typographical error on the binding element citation final order.

03:10:44 In response to a question from Commissioner Jarboe, Ms. Ferguson said that this is a single-sum fine of \$1,000, and described the legal procedure accompanying this (see recording.)

03:11:26 In response to a question from Commissioner Carlson, Ms. Ferguson discussed options that the Planning Commission might have regarding any decision today (see recording.)

**The following spoke in support of this request:**

No one spoke.

**The following spoke in opposition to this request:**

No one spoke.

03:13:54 Commissioners' deliberation.

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**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.**

03:16:30 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution, based on the evidence and testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby uphold the binding element citation dated September 23, 2019 and authorize the Planning Commission Chairperson to sign the final order upholding that on behalf of the Planning Commission.

**The vote was as follows:**

**YES: Commissioners Lewis, Peterson, Brown, Mims, Howard, Carlson, Daniels, Seitz, Sistrunk, and Jarboe.**

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**LDC REFORM UPDATE – 11.19.20**

Project Name: LDC Reform Update

**Case Manager: Emily Liu, Director, Planning & Design Services**

03:17:30 Julia Williams, Planning Supervisor, presented the information on behalf of Emily Liu (see recording for detailed presentation.)

\*NOTE: This was an informational presentation only. No action was taken.

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**ADJOURNMENT**

The meeting adjourned at approximately 4:34 p.m.

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Chairman

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Division Director