

PLANNING COMMISSION MINUTES
December 5, 2019

PUBLIC HEARING

CASE NO. 19-ZONE-0065

Request: Change in Form District from Neighborhood to Suburban Workplace, change in Zoning from R-4 to PEC with Landscape Waivers, and a Detailed Development Plan

Project Name: Logistics Airpark North

Location: 5400 and 5402 Minor Lane and 3101, 3201, 3202 and 3206 Dupin Drive

Owner: Evangel World Prayer Center of KY Inc.

Applicant: Nicklies Development Inc.

Representative: Milestone Design Group; Nicklies Development

Jurisdiction: Louisville Metro

Council District: 13- Mark Fox

Case Manager: Julia Williams, AICP, Planning Supervisor

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:18:40 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

03:28:06 Commissioner Brown stated, for the waivers, it doesn't look like they are proposing to do a PEC, Planned Employment Center use on the existing parking lots subject to the waiver. Ms. Williams said not around the school building.

Commissioner Brown said it was mentioned at LD&T that the applicant would provide a berm along Minor Ln. Ms. Williams said yes, it's shown on the development plan but the height is unknown.

03:28:51 Commissioner Mims stated there is an opportunity for truck traffic to continue using Minor Ln. and not be routed out through the access road. Ms. Williams said the applicant intends to have trucks only use the south entrance from the adjacent property. Also, they've indicated some binding elements and working with Planning and Design and Public Works staff for signage. They will also be providing gates but it doesn't satisfy the Comprehensive Plan.

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The following spoke in favor of this request:

Jim Calvery, Nicklies Development, Inc., 6060 Dutchmans Lane, Louisville, Ky. 40205
Sue Bishop, 3301 Dupin Drive, Louisville, Ky.

Summary of testimony of those in favor:

03:31:09 Mr. Calvery gave power point presentation and a history of the site. Currently, there is no plan to develop this property. The school will continue operating until December 31, 2020.

The issues are as follows: access to the site; signage; keeping trucks off Minor Ln. – will use striping and narrowing portion, stop sign and stop bar and signage (at intersection of Logistics Airpark North)

In the future when the property develops, we will come in with a code compliant plan – building sidewalks along Minor Ln. and Dupin Dr. Currently there's a road under construction.

Mr. Calvery said a 2-5 foot berm (Minor Ln. towards school) is proposed and can be built now. A gate will be placed south of the school and Ford has its own gate.

03:44:26 Ms. Bishop, an adjacent neighbor, said a guard rail had to be replaced recently because of the high traffic. The vacant lot and traffic are major concerns. After speaking to Mr. Nicklies about these and other concerns, they were addressed immediately. The vacant property has not been maintained, enhanced or attractive at all in the past and the plans show that it will be in the future, with the access road being built right now.

03:49:37 Commissioner Mims asked if the proposed parking for Ford will be fenced. Mr. Calvery said yes.

03:53:07 Commissioner Brown stated the fire departments wrote regulations for how the gate will look and operate. Will you comply with those regulations? Mr. Calvery said yes.

Deliberation

03:55:59 Commissioner Brown stated he's in favor of rezoning the entire site but would like to review as the uses are proposed. The use they're proposing today is unobtrusive, no changes being made to the site, it's an existing parking lot and they're

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providing reasonable access to divert the trucks from Minor Ln. and Dupin Dr. They've mitigated the impact for this particular PEC use.

03:56:54 Commissioner Mims stated the large buildings are imposing but the traffic generation is usually minimal.

03:57:40 Commissioner Peterson stated the proposed binding elements have addressed the concerns from LD&T regarding the traffic and the trucks. Also, their commitment to working with the neighbors is very commendable.

03:58:12 Chair Jarboe said the mitigation of the roadway is the key to this proposal.

03:59:07 Commissioner Howard stated the staff report is not favorable.

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 district from Neighborhood to Suburban Workplace

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Applicant's Findings and the testimony heard today was adopted.

WHEREAS, the Planning Commission finds that the proposal conforms with KRS 100.213 because it agrees with the Comprehensive Plan of Metro Louisville and Jefferson County, its goals, objectives, guidelines and policies (sometimes called "Plan 2040") as further detailed in these Findings; and

WHEREAS, the Planning Commission finds that the existing zoning classification, R-4, and Neighborhood Form District is inappropriate and the proposed zoning classification, PEC, and proposed Suburban Work Place Form District is appropriate as further detailed in these findings; and

WHEREAS, the Planning Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area as further detailed in these findings; and

WHEREAS, the Planning Commission further finds that the Suburban Work Place Form Area is a more consistent and appropriate form area for this property because the

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Suburban Work Place Form District (SWFD) is designed to reserve land for industrial and employment uses in suburban locations with design standards intended to promote development and redevelopment that ensures adequate access for employees, freight, and products, to provide services and amenities for employees, and to improve transit service; because the Property is adjacent to and in between two parcels consisting of 199 acres of which 138 is zoned EZ1 and is in the Suburban Work Place Form District, and 61 acres is zoned PEC and is in the Suburban Work Place Form District; because adequate transportation access to, from, and throughout the proposal has been designed; because significant buffering from abutting uses is provided naturally and as shown on the proposal; and because the development is located at the intersection of an arterial (Outer Loop) and a collector (Minor Lane) near an expressway (I-65); and

WHEREAS, the Planning Commission further finds that the proposal complies with Community Form Goal 2 to Encourage sustainable growth and density around mixed-use centers and corridors, and Goal 3 to Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources because the proposed development use is compatible with nearby existing development and with the pattern of development within the adjacent Suburban Work Place Form District; because any adverse impact on adjacent residential uses, including traffic, parking, signs, and lighting, will be mitigated through the binding elements that have been proposed and agreed upon by the applicant; because appropriate transitioning from residential to non-residential uses will be provided through the use of natural vegetative buffers and landscaping, landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setbacks, which will also protect the character of residential areas, roadway corridors, and public spaces from visual intrusions; because the proposed development is designed to provide accessibility to people with disabilities; because the parking, loading and delivery areas are adequate for the proposed use and are designed to minimize any adverse impact on adjacent residential areas; because proposed signage will be compatible with the Suburban Work Place Form Area and will be integrated with or attached to structures wherever possible; and

WHEREAS, the Planning Commission further finds that the proposal complies with Economic Development goals and objectives and all applicable Policies thereunder because the development is appropriately located to meet the needs of this proposed workplace district and its employees, and because, as stated previously, this development is in close proximity to other existing facilities serving the Ford Motor Company Plant, United Parcel Service (UPS) and the Louisville International Airport and their collective employees; because the proposed development has chosen to locate on a site that will enable primary and secondary job creation in close proximity to existing social and economic infrastructures; because the proposed development adheres to the policies designed to promulgate the intentions of this Guideline; because the development will help keep dollars in the immediate community; because the

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development will have the ability to spread tax burden for public facilities maintenance and neighborhood programs; because the development will attract new investment dollars adjacent to major economic engines in Louisville, (Ford Plant, UPS, Louisville International Airport); because the development may provide management level and entry-level positions; because the development will offer flexible working hours; because the development will assist in preserving existing standards of living over time; because the development will provide new services and products not previously available in a timely manner to nearby industries; and

WHEREAS, the Planning Commission further finds that the proposed site is one of the most significant development sites in the Louisville Metro, and possesses unique characteristics unmatched by other alternatives such as access, existing paved parking lots, separation from residential properties; and It is located adjacent to the most traveled section of interstate highway in the Commonwealth of Kentucky with nearly 330,000 vehicles traveling past the site on a daily basis; and

WHEREAS, the Planning Commission further finds that the proposed development of this property is positioned in one of the nation's best performing areas for industrial development--the I-65 & South Louisville Airport sub-market in Louisville. From its standing as the hub of UPS' WorldPort, Louisville's Airport is the 7th busiest cargo airport in the world, between Dubai International Airport of the United Arab Emirates, and the Charles de Gaulle Airport outside Paris, France; and

WHEREAS, the Planning Commission further finds that the Property is exceptionally well-located off Interstate 65, and is in immediate proximity to the Louisville International Airport and UPS's WorldPort, and that the Louisville International Airport has stood as UPS's WorldPort, the state's largest employer with over 20,000 employees, for over 3 decades, and furthermore, UPS has demonstrated its commitment to Louisville and the surrounding area by investing over \$5 billion in UPS' operations infrastructure, and therefore this Property and the associated development plan, benefits from its' standing less than 2 miles from the Airport and less than 3 miles to Ford Motor Company's distribution plant (which houses more than 8,500 employees), and that the I-65 and Outer Loop location offers excellent operational benefits to Third Party Logistics providers and e-commerce retailers, and that the Property's location is easily accessible via the Outer Loop Exit off Interstate 65, and that the Property is in walking and/or short driving distance to other amenities which directly benefit the tenancy and its employees, including economy hotels, neighborhood restaurants, and fueling stations; and

WHEREAS, the Planning Commission further finds that the proposed site is one of the most significant development sites in the Louisville Metro, and possesses unique characteristics unmatched by other alternatives such as access, existing paved parking lots, separation from residential properties; and It is located adjacent to the most

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traveled section of interstate highway in the Commonwealth of Kentucky with nearly 330,000 vehicles traveling past the site on a daily basis; and

WHEREAS, the Planning Commission further finds that the proposed development of this property is positioned in one of the nation's best performing areas for industrial development--the I-65 & South Louisville Airport sub-market in Louisville. From its standing as the hub of UPS' WorldPort, Louisville's Airport is the 7th busiest cargo airport in the world, between Dubai International Airport of the United Arab Emirates, and the Charles de Gaulle Airport outside Paris, France; and

WHEREAS, the Planning Commission further finds that the Property is exceptionally well-located off Interstate 65, and is in immediate proximity to the Louisville International Airport and UPS's WorldPort, and that the Louisville International Airport has stood as UPS's WorldPort, the state's largest employer with over 20,000 employees, for over 3 decades, and furthermore, UPS has demonstrated its commitment to Louisville and the surrounding area by investing over \$5 billion in UPS' operations infrastructure, and therefore this Property and the associated development plan, benefits from its' standing less than 2 miles from the Airport and less than 3 miles to Ford Motor Company's distribution plant (which houses more than 8,500 employees), and that the I-65 and Outer Loop location offers excellent operational benefits to Third Party Logistics providers and e-commerce retailers, and that the Property's location is easily accessible via the Outer Loop Exit off Interstate 65, and that the Property is in walking and/or short driving distance to other amenities which directly benefit the tenancy and its employees, including economy hotels, neighborhood restaurants, and fueling stations; and **WHEREAS**, the Planning Commission further finds that the proposal as implemented enables temporary parking to be "out of sight, and out of mind" from adjoining properties while preserving land for future development; and

WHEREAS, the Planning Commission further finds that the Applicant has researched other sites, and the proposed site will become a revenue generating property, focusing future efforts on real estate that makes a difference in peoples' lives; and the current plan affords a major employer and contributor towards the greater good of our City to park trailers and vehicles on a piece of under-utilized land, the greater benefit is for this property to begin contributing to the tax rolls for our City in many ways; and

WHEREAS, the Planning Commission further finds that the proposal complies with the Mobility and Transportation policies because the proposed use has chosen to locate on a site that will enable efficient and safe access and direct access to a major arterial, where nuisances and activities of the proposed use will not adversely affect adjacent areas; and because access to major roadways will be through adjacent PEC zoned property and not through residential neighborhoods; and because it has been demonstrated that the development will not cause adverse impacts to the traffic-carrying

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capacity of the existing roadway network; because on-site parking is sufficient to serve the proposed use and is set back and screened away from nearby existing residential areas; and because the access points are located as reviewed and preliminarily approved by the Louisville and Jefferson County Metro Department of Public Works and will not pose any safety hazards; and because the agreed connection of this site to the existing roadway provides for a safe and reliable ingress and egress for truck traffic at the request of the Louisville and Jefferson County Metro Department of Public Works to better ensure safe maneuvering of trucks; and

WHEREAS, the Planning Commission further finds that the proposal complies with Livability/Environment and Community Facilities policies because the site has no blue line streams or wetlands that will be impacted; because the proposed plan has been reviewed approved by the Metropolitan Sewer District ("MSD"); because preliminary drainage conceptual plans have been approved and future plans will meet or exceed MSD requirements as determined in the construction plan design process; because the detention and drainage facilities are already constructed in dedicated sanitary sewer and drainage easements and will ensure that peak storm water runoff will not exceed predevelopment conditions; and

WHEREAS, the Planning Commission further finds that the granting of General Landscape Waiver of Chapter 10 part 2 and a Variance from Section 5.3 of the Land Development Code is appropriate because the requested waiver and variance will not adversely affect adjacent property owners; because this property will preserve existing trees as much as possible, and because extensive landscaping and berming will be created; because the waiver and variance requested are the minimum necessary to allow the Property to accommodate the proposed use with zero degradation of the land and structures and to remain in compliance with other sections of the Land Development Code; and because where relief is sought from the LDC, the applicant has sufficiently attempted to comply with the LDC and has not attempted to circumvent the requirements; and **WHEREAS**, The Planning Commission finds that the proposal does not over tax existing infrastructure because the site is served by all necessary utilities including water and sewerage facilities; and

WHEREAS, the Planning Commission finds that the proposal has been reviewed and approved by the Okolona Fire Protection District; and

WHEREAS, the Planning Commission further finds that the proposal complies with all other applicable Guidelines and Policies of the Jefferson County Comprehensive Plan.

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

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

Zoning Change from R-4 to PEC

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution based on the Applicant's Findings and the testimony heard today was adopted.

WHEREAS, the Planning Commission finds that the proposal conforms with KRS 100.213 because it agrees with the Comprehensive Plan of Metro Louisville and Jefferson County, its goals, objectives, guidelines and policies (sometimes called "Plan 2040") as further detailed in these Findings; and

WHEREAS, the Planning Commission finds that the existing zoning classification, R-4, and Neighborhood Form District is inappropriate and the proposed zoning classification, PEC, and proposed Suburban Work Place Form District is appropriate as further detailed in these findings; and

WHEREAS, the Planning Commission finds that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of the area as further detailed in these findings; and

WHEREAS, the Planning Commission further finds that the Suburban Work Place Form Area is a more consistent and appropriate form area for this property because the Suburban Work Place Form District (SWFD) is designed to reserve land for industrial and employment uses in suburban locations with design standards intended to promote development and redevelopment that ensures adequate access for employees, freight, and products, to provide services and amenities for employees, and to improve transit service; because the Property is adjacent to and in between two parcels consisting of 199 acres of which 138 is zoned EZ1 and is in the Suburban Work Place Form District, and 61 acres is zoned PEC and is in the Suburban Work Place Form District; because

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adequate transportation access to, from, and throughout the proposal has been designed; because significant buffering from abutting uses is provided naturally and as shown on the proposal; and because the development is located at the intersection of an arterial (Outer Loop) and a collector (Minor Lane) near an expressway (I-65); and

WHEREAS, the Planning Commission further finds that the proposal complies with Community Form Goal 2 to Encourage sustainable growth and density around mixed-use centers and corridors, and Goal 3 to Enhance neighborhoods by protecting and integrating open space, watersheds and other natural resources because the proposed development use is compatible with nearby existing development and with the pattern of development within the adjacent Suburban Work Place Form District; because any adverse impact on adjacent residential uses, including traffic, parking, signs, and lighting, will be mitigated through the binding elements that have been proposed and agreed upon by the applicant; because appropriate transitioning from residential to non-residential uses will be provided through the use of natural vegetative buffers and landscaping, landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setbacks, which will also protect the character of residential areas, roadway corridors, and public spaces from visual intrusions; because the proposed development is designed to provide accessibility to people with disabilities; because the parking, loading and delivery areas are adequate for the proposed use and are designed to minimize any adverse impact on adjacent residential areas; because proposed signage will be compatible with the Suburban Work Place Form Area and will be integrated with or attached to structures wherever possible; and

WHEREAS, the Planning Commission further finds that the proposal complies with Economic Development goals and objectives and all applicable Policies thereunder because the development is appropriately located to meet the needs of this proposed workplace district and its employees, and because, as stated previously, this development is in close proximity to other existing facilities serving the Ford Motor Company Plant, United Parcel Service (UPS) and the Louisville International Airport and their collective employees; because the proposed development has chosen to locate on a site that will enable primary and secondary job creation in close proximity to existing social and economic infrastructures; because the proposed development adheres to the policies designed to promulgate the intentions of this Guideline; because the development will help keep dollars in the immediate community; because the development will have the ability to spread tax burden for public facilities maintenance and neighborhood programs; because the development will attract new investment dollars adjacent to major economic engines in Louisville, (Ford Plant, UPS, Louisville International Airport); because the development may provide management level and entry-level positions; because the development will offer flexible working hours; because the development will assist in preserving existing standards of living over time;

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because the development will provide new services and products not previously available in a timely manner to nearby industries; and

WHEREAS, the Planning Commission further finds that the proposed site is one of the most significant development sites in the Louisville Metro, and possesses unique characteristics unmatched by other alternatives such as access, existing paved parking lots, separation from residential properties; and It is located adjacent to the most traveled section of interstate highway in the Commonwealth of Kentucky with nearly 330,000 vehicles traveling past the site on a daily basis; and

WHEREAS, the Planning Commission further finds that the proposed development of this property is positioned in one of the nation's best performing areas for industrial development--the I-65 & South Louisville Airport sub-market in Louisville. From its standing as the hub of UPS' WorldPort, Louisville's Airport is the 7th busiest cargo airport in the world, between Dubai International Airport of the United Arab Emirates, and the Charles de Gaulle Airport outside Paris, France; and

WHEREAS, the Planning Commission further finds that the Property is exceptionally well-located off Interstate 65, and is in immediate proximity to the Louisville International Airport and UPS's WorldPort, and that the Louisville International Airport has stood as UPS's WorldPort, the state's largest employer with over 20,000 employees, for over 3 decades, and furthermore, UPS has demonstrated its commitment to Louisville and the surrounding area by investing over \$5 billion in UPS' operations infrastructure, and therefore this Property and the associated development plan, benefits from its' standing less than 2 miles from the Airport and less than 3 miles to Ford Motor Company's distribution plant (which houses more than 8,500 employees), and that the I-65 and Outer Loop location offers excellent operational benefits to Third Party Logistics providers and e-commerce retailers, and that the Property's location is easily accessible via the Outer Loop Exit off Interstate 65, and that the Property is in walking and/or short driving distance to other amenities which directly benefit the tenancy and its employees, including economy hotels, neighborhood restaurants, and fueling stations; and

WHEREAS, the Planning Commission further finds that the proposal as implemented enables temporary parking to be "out of sight, and out of mind" from adjoining properties while preserving land for future development; and

WHEREAS, the Planning Commission further finds that the Applicant has researched other sites, and the proposed site will become a revenue generating property, focusing future efforts on real estate that makes a difference in peoples' lives; and the current plan affords a major employer and contributor towards the greater good of our City to park trailers and vehicles on a piece of under-utilized land, the greater benefit is for this property to begin contributing to the tax rolls for our City in many ways; and

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WHEREAS, the Planning Commission further finds that the proposal complies with the Mobility and Transportation policies because the proposed use has chosen to locate on a site that will enable efficient and safe access and direct access to a major arterial, where nuisances and activities of the proposed use will not adversely affect adjacent areas; and because access to major roadways will be through adjacent PEC zoned property and not through residential neighborhoods; and because it has been demonstrated that the development will not cause adverse impacts to the traffic-carrying capacity of the existing roadway network; because on-site parking is sufficient to serve the proposed use and is set back and screened away from nearby existing residential areas; and because the access points are located as reviewed and preliminarily approved by the Louisville and Jefferson County Metro Department of Public Works and will not pose any safety hazards; and because the agreed connection of this site to the existing roadway provides for a safe and reliable ingress and egress for truck traffic at the request of the Louisville and Jefferson County Metro Department of Public Works to better ensure safe maneuvering of trucks; and

WHEREAS, the Planning Commission further finds that the proposal complies with Livability/Environment and Community Facilities policies because the site has no blue line steams or wetlands that will be impacted; because the proposed plan has been reviewed approved by the Metropolitan Sewer District ("MSD"); because preliminary drainage conceptual plans have been approved and future plans will meet or exceed MSD requirements as determined in the construction plan design process; because the detention and drainage facilities are already constructed in dedicated sanitary sewer and drainage easements and will ensure that peak storm water runoff will not exceed predevelopment conditions; and

WHEREAS, the Planning Commission further finds that the granting of General Landscape Waiver of Chapter 10 part 2 and a Variance from Section 5.3 of the Land Development Code is appropriate because the requested waiver and variance will not adversely affect adjacent property owners; because this property will preserve existing trees as much as possible, and because extensive landscaping and berming will be created; because the waiver and variance requested are the minimum necessary to allow the Property to accommodate the proposed use with zero degradation of the land and structures and to remain in compliance with other sections of the Land Development Code; and because where relief is sought from the LDC, the applicant has sufficiently attempted to comply with the LDC and has not attempted to circumvent the requirements; and

WHEREAS, the Planning Commission finds that the proposal does not over tax existing infrastructure because the site is served by all necessary utilities including water and sewerage facilities; and

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WHEREAS, the Planning Commission finds that the proposal has been reviewed and approved by the Okolona Fire Protection District; and

WHEREAS, the Planning Commission further finds that the proposal complies with all other applicable Guidelines and Policies of the Jefferson County Comprehensive Plan.

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 attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

1. Waiver from 10.2.4 to permit existing encroachments into the 35' LBA along the north property line (see exhibit) and not provide the planting and screening requirements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as those uses are existing today and this proposed application does not increase the intensity for those areas; and

WHEREAS, the waiver will not violate specific guidelines and Plan 2040 as this is no real change in use associated with the rezoning and those areas will be used as they have been traditionally with the non-residential use; however, allowed in that previously residential zoned area; 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 they are performing no work or changes of use to those areas or the parking lots serving those areas; and

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WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because there is an existing use that will need to be accommodated.

2. Waiver from 10.2.10 to permit existing encroachments into the 15' VUA LBA along both Dupin Drive and Minor Lane and to not provide the required screening and plantings

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as those uses are existing today and this proposed application does not increase the intensity for those areas; and

WHEREAS, the waiver will not violate specific guidelines and Plan 2040 as this is no real change in use associated with the rezoning and those areas will be used as they have been traditionally with the non-residential use; however, allowed in that previously residential zoned area; 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 they are performing no work or changes of use to those areas or the parking lots serving those areas; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because there is an existing use that will need to be accommodated.

3. Waiver from 10.2.12 to allow the spacing between ILAs to be more than 20 spaces and to not provide ILAs

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as those uses are existing today and this proposed application does not increase the intensity for those areas; and

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WHEREAS, the waiver will not violate specific guidelines and Plan 2040 as this is no real change in use associated with the rezoning and those areas will be used as they have been traditionally with the non-residential use; however, allowed in that previously residential zoned area; 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 they are performing no work or changes of use to those areas or the parking lots serving those areas; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land because there is an existing use that will need to be accommodated.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver #1 from 10.2.4 to permit existing encroachments into the 35 foot landscape buffer area along the north property line and the applicant will not be providing the screening or plantings required within the 35 foot LBA, landscape buffer area, Waiver #2 from 10.2.10 to permit existing encroachments into the 15 foot vehicular use area, VUA landscape buffer area, LBA along both Dupin Drive and Minor Lane and to not provide the required screening and plantings and Waiver #3 from 10.2.12 to allow the spacing between interior landscape areas, ILAs to be more than 20 spaces and to not provide ILAs.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

District Development Plan

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

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject site; and

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

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the Kentucky Transportation Cabinet have approved the preliminary development plan. Pedestrians are not provided for as there are no sidewalks proposed along the roadways; and

WHEREAS, there are no open space requirements pertinent to the current proposal; 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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening is not being provided to screen adjacent properties and roadways. Trees are being planted in ILAs to help reduce the heat island effect of the property; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan does not conform to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code due to the lack of sidewalks and landscaping being provided on the site.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan **ON CONDITION** that the applicant include a fenced in area for the proposed semi-trailer parking area shown on the development plan and the elimination of the gate at the end of the Dupin Drive access, **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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owner to the south 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.
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. The property owner shall provide a cross over access easement if the property to the north is ever developed for a nonresidential use. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.
 7. No idling of trucks shall take place within 200 feet of residences. No overnight idling of trucks shall be permitted on-site.
 8. No deliveries shall be permitted by any commercial use between 10:00 pm and 7:00 am

PLANNING COMMISSION MINUTES
December 5, 2019

PUBLIC HEARING

CASE NO. 19-ZONE-0065

9. A 2-5 foot berm shall be provided similar to what was described at the December 5, 2019 Planning Commission meeting.
10. The only permitted access for Ford Motor Company parking, and/or any future commercial/industrial use, of the property shall be from the property to the south, 5540 Minor Lane. Users of the current school and church shall continue to utilize the access points along Minor lane and Dupin Drive until they cease operations.
11. Applicant shall work with Staff to create a "No Truck Traffic" signage plan for Dupin Drive and Minor Lane from Preston and the Outer Loop back to the site, and place it into action prior to the church parking lots being used for vehicle parking and storage and before the remainder of the property may be used for any future commercial or industrial use.

The vote was as follows:

YES: Commissioners Brown, Howard, Mims, Peterson and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Daniels, Tomes, Carlson and Lewis

04:22:33 Go back and revisit the waiver request for adjustments and revisions.