

PLANNING COMMISSION MINUTES
May 12, 2002

PUBLIC HEARING

CASE NO. 21-ZONE-0162

Request: Change in form district from NFD to SWFD, change in zoning from R-4 to PEC, with Revised Detailed District Development Plan with Binding Elements, and Variance and Waiver

Project Name: Logistic Air Park II

Location: 3200 & 3201 Dupin Drive, 5400 Minor Lane

Owner: Kentuckiana Development LLC, Logistics Air Park II LLC

Applicant: Nicklies Development

Representative: Heritage Engineering

Jurisdiction: Louisville Metro

Council District: 13 – Mark Fox

Case Manager: Dante St. Germain, AICP, Planner II

Presented By: 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:

03:18:10 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

John Campbell, Heritage Engineering, 642 South 4th Street, Suite 100, Louisville, Ky. 40202

David Nicklies, Nicklies Development, 6060 Dutchmans Lane, Louisville, Ky. 40205

Summary of testimony of those in favor:

John Campbell gave a power point presentation. The request is a warehouse and the ponds will be modified as necessary to ensure appropriate flood plain compensation on site as well as over-detaining by a 50% volume to additionally help the flood plain areas (see recording for detailed presentation). Commissioner Carlson proposed the following: The landscape berm shall be provided as shown in the exhibit provided at today's meeting. John Campbell agreed.

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David Nicklies discussed the road to the north (see recording for detailed presentation).

Deliberation

Planning Commission deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in form district from Neighborhood to Suburban Workplace

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Plan 2040 Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed zoning district would not constitute a non-residential expansion into an existing residential area. The site is adjacent to an existing industrial zone and future development; the site is located adjacent to existing industrial zoning; the applicant requests that the form district be changed to Suburban Workplace; adequate buffering is being provided to protect abutting residential uses from industrial uses on the site; access to the site will be achieved through the larger development and Dupin Drive will not be utilized; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would be appropriate for the Suburban Workplace form; the site is located adjacent to existing industrial development. Retail would be permitted in the proposed zoning district. Access to the site is via Minor Lane from Outer Loop, a major commercial corridor; the proposal would encourage a more compact pattern of development in industrial zoning; the proposal would unify a larger site of industrial zoning, permitting a mixture of compatible land uses; the proposal would not re-use the existing building. It would permit new commercial uses; the proposal does not include underutilized parking lots; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable

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slopes are evident on the site; the site is not in a flood prone area. The site is not located on karst terrain; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the applicant requests a Workplace form and the site is adjacent to existing industrial zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is relatively small in comparison with the larger industrial site to which it is intended to be consolidated. Access is the same as access to the larger industrial development; the proposal would unify a larger industrial site, reducing the need for multiple automobile trips; Transportation Planning has approved the proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal would meet the needs of a Workplace form; the site is located adjacent to existing industrial zoning; the proposal would permit commercial uses generating high volumes of traffic. The site has adequate access to I-65; the proposal is for industrial zoning. The site is located in an industrial subdivision; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; and

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

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**.

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The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown and Lewis

Zoning Change from R-4 to PEC

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Plan 2040 Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed zoning district would not constitute a non-residential expansion into an existing residential area. The site is adjacent to an existing industrial zone and future development; the site is located adjacent to existing industrial zoning; the applicant requests that the form district be changed to Suburban Workplace; adequate buffering is being provided to protect abutting residential uses from industrial uses on the site; access to the site will be achieved through the larger development, and Dupin Drive will not be utilized; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would be appropriate for the Suburban Workplace form; the site is located adjacent to existing industrial development. Retail would be permitted in the proposed zoning district. Access to the site is via Minor Lane from Outer Loop, a major commercial corridor; the proposal would encourage a more compact pattern of development in industrial zoning; the proposal would unify a larger site of industrial zoning, permitting a mixture of compatible land uses; the proposal would not re-use the existing building. It would permit new commercial uses; the proposal does not include underutilized parking lots; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no natural features are evident on the site; no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; the site is not in a flood prone area. The site is not located on karst terrain; and

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

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the applicant requests a Workplace form and the site is adjacent to existing industrial zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is relatively small in comparison with the larger industrial site to which it is intended to be consolidated. Access is the same as access to the larger industrial development; the proposal would unify a larger industrial site, reducing the need for multiple automobile trips; Transportation Planning has approved the proposal; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal would meet the needs of a Workplace form; the site is located adjacent to existing industrial zoning; the proposal would permit commercial uses generating high volumes of traffic. The site has adequate access to I-65; the proposal is for industrial zoning. The site is located in an industrial subdivision; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; and

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

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

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown and Lewis

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Variance from Table 4.8.1 to permit encroachment into the required Type B buffer area around an existing lake (required 100' buffer, requested 0' buffer, variance of 100') (22-VARIANCE0016)

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony was adopted.

WHEREAS, the requested variance will not adversely affect public health, safety or welfare as the variance will permit revision to the pond so that it can better serve as floodplain compensation. The pond in question is not a natural pond but was haphazardly created in the past. Revision to the pond will permit the pond to be engineered to adequately handle floodplain compensation; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the pond is not a natural pond and is not generally visible beyond the property line; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the revision to the pond permitted by the variance would improve the drainage situation on the site; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the pond is not a natural pond, but was haphazardly created in the past; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the pond is not a natural formation; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because revision to the pond for floodplain compensation is needed in order to fully utilize the site; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Table 4.8.1 to permit encroachment into the required Type B buffer

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area around an existing lake (required 100' buffer, requested 0' buffer, variance of 100') (22-VARIANCE0016).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown and Lewis

Waiver from 10.2.4.B.8 to permit elimination of the required PEC 15' Landscape Buffer Area along the southern property line and elimination of the required plantings (22-WAIVER-0053)

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and the Applicant's testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners as the most affected property is where a pond to be revised is located. The other affected property shares access with the subject site and is under a similar use to the one proposed on the subject site; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The adjacent property that is most affected is the location of a pond which is proposed to be revised for floodplain compensation. The other affected property is in similar use as the use proposed on the subject site and is not significantly different in density or intensity; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the waiver is needed in order to allow the applicant to revise the adjacent pond as needed to provide floodplain compensation. The pond is not a natural feature; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because provision of the required LBA would prevent the applicant from adequately revising the pond as needed for floodplain compensation.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4.B.8 to permit elimination of the required PEC 15' Landscape

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Buffer Area along the southern property line and elimination of the required plantings (22-WAIVER-0053).

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown and Lewis

Revised Detailed District Development Plan with Binding Elements

On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution based on the Standard of Review and Staff Analysis and Applicant's testimony heard today was adopted.

WHEREAS, the major "natural" resource on the site is the pond, which was created in the past when I-65 was built. This is therefore not a natural feature of the site, and revision to the pond will not significantly impact natural resources. Tree canopy will be provided on the site. The stream which runs through the site, Wet Woods Creek, is preserved with a 25' buffer; and

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

WHEREAS, no open space provisions are pertinent to the request; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The site plan proposes a warehouse/distribution center, which is appropriate in the Suburban Workplace form. The site plan provides adequate buffering between the proposed industrial use and the adjoining and abutting residential uses; and

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

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complies with the policies and guidelines of the Comprehensive Plan. The development of the site with a warehouse is consistent with development in the site to the south.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** the Louisville Metro Council **APPROVE** the Revised Detailed District Development Plan, **SUBJECT** to the following Binding Elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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:
 - 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.
4. A permanent 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 permanent 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.

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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 between the hours of 10:00 pm and 7:00 am.
8. No deliveries shall be permitted by any commercial use between 10:00 pm and 7:00 am.
9. Landscaped berms shall be provided as shown in the applicant's exhibit as presented at the Planning Commission meeting on May 12, 2022 and shall be provided along the boundaries with the R-4 zoned properties with Dupin Dr. and Minor Ln. as shown on the development plan and applicant's exhibit. The berms shall be provided for all R-4 zoned properties abutting the site including the ones that front Bowie Dr.
10. The only permitted access for any commercial/industrial use of the property shall be from the property to the south, 5540 Minor Lane. No access is permitted directly from Dupin Drive or Minor Lane.
11. Applicant shall ensure that the "No Truck Traffic" signage for Dupin Drive and Minor Lane from Preston and the Outer Loop back to the site, as installed per the prior Binding Element #11 on docket 19-ZONE-0065, is kept in good order. It shall be the responsibility of the property owner in perpetuity to maintain the signage and repair or replace it as necessary.
12. Any change to the development plan requiring a meeting before the Planning Commission shall also require approval by Metro Council.
13. This development requires the addition of a right turn overlap for the southbound right turn movement from Minor Lane to Outer Loop to allow southbound right turning traffic to move concurrently with the eastbound left turn phase. This improvement must be implemented prior to certificate of occupancy for LAP II.

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Mims, Price, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Brown and Lewis