

PLANNING COMMISSION MINUTES
November 18, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0103
CASE NO. 21-AMEND-0009

NOTE: These cases were heard together, but voted on separately.

Case No. 21-ZONE-0103

Request: Change in zoning from PEC to M-3 with detailed plan and variance
Project Name: Blankenbaker Station II Lots 11 & 12
Location: Schutte Station Place (Parcel #0039 - 0551 - 0000)
Owner: Hosts Developments, LLC
Applicant: Foresee Investment, LLC
Representative: Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 20 - Stuart Benson
Case Manager: **Joel Dock, AICP, Planning Coordinator**

Case No. 21-AMEND-0009

Request: Amendment to Binding Element for Blankenbaker Station II, last revised by case 14489, to allow for an M-3 industrial use magnet manufacturing - associated with case 21-ZONE-0103
Project Name: Blankenbaker Station II Lots 11 & 12
Location: Blankenbaker Station II (Plantside Drive - Tucker Station Road to Rehl Road), including Schutte Station Place (Parcel ID 0039 - 0551 - 0000)
Owner: Multiple Owners
Applicant: Foresee Investment, LLC
Representative: Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 20 - Stuart Benson
Case Manager: **Joel Dock, AICP, Planning Coordinator**

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:

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02:42:57 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in support of the request:

Bill Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40222

Summary of testimony of those in support:

02:52:02 Bill Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

The following spoke neither for nor against the request ("Other"):

Steve Porter, 2426 Tucker Station Road, Louisville, KY 40219

Summary of testimony of those neither for nor against:

02:57:25 Steve Porter discussed issues that were of concern to the Tucker Station Neighborhood Association, whom he represents. He said there was concern about what was planned for the third building, which Mr. Bardenwerper addressed.

03:03:05 Kent Gootee, an applicant's representative, discussed the timing of the proposed creek crossing. Mr. Porter said that his concerns were answered and at this time had no opposition to the rezoning.

Deliberation:

03:04:22 Commissioners' 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.

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CASE NO. 21-AMEND-0009

Case No. 21-AMEND-0009 (Amendment to Binding Element)

03:07:10 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the applicant's justification and findings of fact, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal complies with Plan Element 4.1, its 5 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 2, 2.1, 3.1.10, 4, 6, 7, 8, 9 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22 and 23, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the site is located in the Suburban Workplace Form District which is characterized by mostly industrial and office buildings which are set back from streets in a landscaped setting; these buildings are often large scale uses, significant in size, which this plan proposes; public transportation is always desirable but not necessarily always fully available because of limited government funding; here public transportation is available, although to a limited extent; and pedestrian and bicycle access to nearby retail is desired, and the infrastructure here has and will provide for it; and

WHEREAS, Land Development Code required size and height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage, and required setbacks will also be met; and

WHEREAS, located as this proposed manufacturing plant is just a short drive in all directions from sizeable and ever-growing population centers, travel distances for workers are reduced, and walking and biking become very real possibilities, especially over time as sidewalk extensions are completed; this helps contribute to improved air quality; and

WHEREAS, quality building components and a design compatible with other buildings in the Blankenbaker Station business park and surrounding area will assure compatibility with nearby workplace buildings, development sites and also remaining residentially occupied properties; quality landscaping and effective screening and buffering also help assure context- appropriateness and design-compatibility for the larger area and proximate residential neighborhoods; and

WHEREAS, partly as a consequence of what surrounds this proposal and the fact that this is a proposed industrial plant, much like its surrounding land uses, impacts such as traffic, odors, lighting, noise and aesthetic factors will not prove to be nuisance factors;

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after all, this area has been almost entirely built out as Suburban Workplace development; but to the extent that this manufacturing plant involves equipment and processes that raise any potentially objectionable noise, vibration, heat, odor and/or air quality issues, these plant-specific, potential nuisances will be mitigated, as the manufacturing process was explained in the 8-step process presented in the PowerPoint at the public hearing; and

As to Goal 2, Policies 1, 2, 7 and 17, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the proposed manufacturing plant will be located in a Suburban Workplace Form District and will adjoin already built Workplace facilities of a similar kind to this one; as such and with good and improving pedestrian and vehicular access inside the Blankenbaker Station business park and also along Blankenbaker and Bluegrass Parkways, Plantside Drive and other area streets, there already exist convenient vehicular, bicycle and pedestrian connections to other like-kind developments, commercial establishments and nearby residential neighborhoods; indeed the proposed manufacturing plant is part of a large mixed use activity center that extends from Middletown south down Blankenbaker Parkway to Jeffersontown, west along Shelbyville Road and I-64 to Hurstbourne, St. Matthews and downtown Louisville, and east to Middletown, Frankfort and Lexington; thus, it will access the mix of diverse residential communities nearby that provide a workforce; plus this plant will have easy access to Louisville's interstate highway system, which leads to and from the UPS Worldport facility and is within a day's drive of a significant portion of the United States; and

WHEREAS, this location adds to the opportunities existing and planned in this high growth area to work in close and convenient proximity to places of residence, food and shopping within easy driving distances in all directions along I-64 and the Snyder Freeway; and

As to Goal 3, Policies 3, 6 and 9, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the detailed district development plan (DDDP) filed with the rezoning application for this proposed manufacturing plant includes an outdoor community space for workers to congregate; and

As to Goal 4, the applicant/developer submits that no historic structures exist on this site; and

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As to Goal 5, the proposed manufacturing plant is not of the kind intended nor public enough to include an element of public art; and

PLAN ELEMENT 4.2: MOBILITY

This Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, this proposed industrial plant (located as it is within an existing and growing mixed use Suburban Workplace area proximate to other large facilities of this kind, with good access off both arterial and collector level streets and thereby well connected as it is proposed to be close to restaurants, retail shopping and other nearby residential developments and communities) is plainly part and parcel of good pedestrian, bicycle and road networks; locating its development along and with access to and from those networks, Quadrant, at its cost, will assure the provision of sidewalks; and in doing so, it will prepare construction plans that will assure safe access with good site distances and turning radii; and

WHEREAS, bike racks and handicapped parking spots will be installed as and where required near buildings; and all drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements; and these are preliminarily depicted on the DDDP filed with this application; and

WHEREAS, all of the traffic and transportation studies and improvements anticipated for Blankenbaker Station II were conducted and made at earlier stages of review and development of this larger project; and

WHEREAS, existing TARC service is generally available in this area; and

WHEREAS, further, all necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

WHEREAS, Schutte Station Road is required to be built through this site to service other properties, including a future one that the applicant's representatives explained at the public hearing; and, as a consequence, Schutte Station Road will extend across an

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existing stream and through existing open space, which was contemplated at the time the DDDP was approved in Docket No. 15ZONE1028; and

PLAN ELEMENT 4.3: COMMUNITY FACILITIES

This Application Package complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following Policies:

As to Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the suburban cities of Jeffersontown and Middletown have assured that necessary community facilities are located nearby, including fire stations; and

PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT

This Application Package complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following Policies:

As to Goal 1, Policies 1, 2, 4 and 5 and as to Goal 2, Policies 1 and 3, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, as Louisville Metro's population continues to grow, so does demand for workplaces of all types; this proposed manufacturing plant is part of a Hollenbach-Oakley developer response to that demand, which largely results from the UPS Worldport facility at Louisville's central location along the I-64, I-65 and I-71 corridors; this particular plant promises increased opportunities for employment initially in the building trades and ultimately in the manufacturing business; and

WHEREAS, it also increases the Metro Louisville tax base essential to the provision of government services; and

PLAN ELEMENT 4.5: LIVABILITY

This Application Package complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 23, 26, 27, 28, 30, 31, 32, 33 and 35; and

Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below:

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WHEREAS, the DDDP filed with this application contemplates that storm water will be accommodated by way of detention either on-site or otherwise already constructed within the Blankenbaker Station business park; sanitary sewer service is available at the nearby Floyds Fork regional wastewater treatment plant; and it can be accessed via lateral extension to and from an existing nearby manhole; and

WHEREAS, measures will also be taken during construction to assure that erosion and sediment impacts are fully controlled and/or mitigated; and

WHEREAS, as mentioned above, given the location of this proposed manufacturing plant in and near a large existing and expanding activity center, and nearby residential living opportunities, air quality impacts will be minimized because vehicle miles travelled are reduced; and

PLAN ELEMENT 4.6: HOUSING

This Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives:

WHEREAS, as to these Goals, Objectives and Policies generally, while they don't specifically address developments of this kind, this manufacturing plant proposal nevertheless complies in that it will bring additional high-quality workplace opportunities to Greater Louisville and this area so as to assure more good jobs proximate to where people live; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals, Objectives and Policies of Plan 2040; now therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested binding element amendment, to read as follows:

14. Use of the subject site (except as stated in BE# 15 below) shall be limited to uses permitted in the PEC district. ~~with the following exceptions:~~ **The following uses are also prohibited:** residential uses; trailer courts or recreation vehicle campgrounds; junk yards; drilling for and removing of oil, gas or other hydrocarbon substances; refining of petroleum products; commercial petroleum storage yards; commercial excavation of building or

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construction materials (except as excavation is necessary in the course of construction of this site); distillation of bones; dumping, disposal, incineration or reduction of garbage, sewer, dead animals or other refuse; fat rendering; stockyard or slaughter of animals; smelting of iron, tin, zinc or other ores; cemeteries; jail or honor farms; labor or migrant worker camps; foundries; animal or poultry farms; production of insecticides, fungicides or disinfectants; bus garages and repair shops; fairgrounds; flea markets; coal and coke storage and sales. **The land use restrictions described by this binding element shall be applicable to lots 11 & 12 (Schutte Station Place), except that the manufacturing of magnets, an M-3, Industrial land use as described in case 21-ZONE-0103 shall be permitted.** Notice of a request to amend this binding element shall be given in accordance with the Planning Commission's policies and procedures. The Planning Commission may require a public hearing on the request to amend this binding element.

15. Uses on Lot 8 and the portion of Lot 24 identified on the development plan shall be limited to those uses permissible in the PRO zoning district. Modified by the Development Review Committee on September 22, 2010, case # 14489

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.

ABSTAIN: Commissioner Daniels.

ABSENT: Commissioner Lewis.

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Deliberation

03:09:47 Commissioners' deliberation.

Zoning

03:12:42 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on testimony heard today and at the November 4, 2021 Planning Commission meeting, and on the applicant's justification, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal complies with Plan Element 4.1, its 5 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 2, 2.1, 3.1.10, 4, 6, 7, 8, 9 10, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22 and 23, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the site is located in the Suburban Workplace Form District which is characterized by mostly industrial and office buildings which are set back from streets in a landscaped setting; these buildings are often large scale uses, significant in size, which this plan proposes; public transportation is always desirable but not necessarily always fully available because of limited government funding; here public transportation is available, although to a limited extent; and pedestrian and bicycle access to nearby retail is desired, and the infrastructure here has and will provide for it; and

WHEREAS, Land Development Code required size and height restrictions, interior and perimeter landscaping, minimum parking, maximum lighting and signage, and required setbacks will also be met; and

WHEREAS, located as this proposed manufacturing plant is just a short drive in all directions from sizeable and ever-growing population centers, travel distances for workers are reduced, and walking and biking become very real possibilities, especially over time as sidewalk extensions are completed; this helps contribute to improved air quality; and

WHEREAS, quality building components and a design compatible with other buildings in the Blankenbaker Station business park and surrounding area will assure compatibility with nearby workplace buildings, development sites and also remaining residentially occupied properties; quality landscaping and effective screening and buffering also help assure context- appropriateness and design-compatibility for the larger area and proximate residential neighborhoods; and

WHEREAS, partly as a consequence of what surrounds this proposal and the fact that this is a proposed industrial plant, much like its surrounding land uses, impacts such as traffic, odors, lighting, noise and aesthetic factors will not prove to be nuisance factors; after all, this area has been almost entirely built out as Suburban Workplace development; but to the extent that this manufacturing plant involves equipment and processes that raise any potentially objectionable noise, vibration, heat, odor and/or air quality issues, these plant-specific, potential nuisances will be mitigated, as the manufacturing process was explained in the 8-step process presented in the PowerPoint at the public hearing; and

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As to Goal 2, Policies 1, 2, 7 and 17, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the proposed manufacturing plant will be located in a Suburban Workplace Form District and will adjoin already built Workplace facilities of a similar kind to this one; as such and with good and improving pedestrian and vehicular access inside the Blankenbaker Station business park and also along Blankenbaker and Bluegrass Parkways, Plantside Drive and other area streets, there already exist convenient vehicular, bicycle and pedestrian connections to other like-kind developments, commercial establishments and nearby residential neighborhoods; indeed the proposed manufacturing plant is part of a large mixed use activity center that extends from Middletown south down Blankenbaker Parkway to Jeffersontown, west along Shelbyville Road and I-64 to Hurstbourne, St. Matthews and downtown Louisville, and east to Middletown, Frankfort and Lexington; thus, it will access the mix of diverse residential communities nearby that provide a workforce; plus this plant will have easy access to Louisville's interstate highway system, which leads to and from the UPS Worldport facility and is within a day's drive of a significant portion of the United States; and

WHEREAS, this location adds to the opportunities existing and planned in this high growth area to work in close and convenient proximity to places of residence, food and shopping within easy driving distances in all directions along I-64 and the Snyder Freeway; and

As to Goal 3, Policies 3, 6 and 9, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the detailed district development plan (DDDP) filed with the rezoning application for this proposed manufacturing plant includes an outdoor community space for workers to congregate; and

As to Goal 4, the applicant/developer submits that no historic structures exist on this site; and

As to Goal 5, the proposed manufacturing plant is not of the kind intended nor public enough to include an element of public art; and

PLAN ELEMENT 4.2: MOBILITY

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This Application Package complies with Plan Element 4.2, its 3 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 1, 2, 3, 4 and 6; Goal 2, Policies 1, 2, 3, 4, 5, 6, 7, 8 and 9; and Goal 3, Policies 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 18, 19, 20 and 21, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, this proposed industrial plant (located as it is within an existing and growing mixed use Suburban Workplace area proximate to other large facilities of this kind, with good access off both arterial and collector level streets and thereby well connected as it is proposed to be close to restaurants, retail shopping and other nearby residential developments and communities) is plainly part and parcel of good pedestrian, bicycle and road networks; locating its development along and with access to and from those networks, Quadrant, at its cost, will assure the provision of sidewalks; and in doing so, it will prepare construction plans that will assure safe access with good site distances and turning radii; and

WHEREAS, bike racks and handicapped parking spots will be installed as and where required near buildings; and all drive lanes, parking spaces and stub connections will be designed in accordance with Metro Public Works and Transportation Planning (MPW&TP) requirements; and these are preliminarily depicted on the DDDP filed with this application; and

WHEREAS, all of the traffic and transportation studies and improvements anticipated for Blankenbaker Station II were conducted and made at earlier stages of review and development of this larger project; and

WHEREAS, existing TARC service is generally available in this area; and

WHEREAS, further, all necessary utilities are located proximate to this site and accessible by it via public right of way or easements; and

WHEREAS, Schutte Station Road is required to be built through this site to service other properties, including a future one that the applicant's representatives explained at the public hearing; and, as a consequence, Schutte Station Road will extend across an existing stream and through existing open space, which was contemplated at the time the DDDP was approved in Docket No. 15ZONE1028; and

PLAN ELEMENT 4.3: COMMUNITY FACILITIES

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This Application Package complies with Plan Element 4.3, its 3 Goals and their Objectives plus the following Policies:

As to Goal 2, Policies 1, 2 and 3, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the suburban cities of Jeffersontown and Middletown have assured that necessary community facilities are located nearby, including fire stations; and

PLAN ELEMENT 4.4: ECONOMIC DEVELOPMENT

This Application Package complies with Plan Element 4.4, its 2 Goals and their Objectives, plus the following Policies:

As to Goal 1, Policies 1, 2, 4 and 5 and as to Goal 2, Policies 1 and 3, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, as Louisville Metro's population continues to grow, so does demand for workplaces of all types; this proposed manufacturing plant is part of a Hollenbach-Oakley developer response to that demand, which largely results from the UPS Worldport facility at Louisville's central location along the I-64, I-65 and I-71 corridors; this particular plant promises increased opportunities for employment initially in the building trades and ultimately in the manufacturing business; and

WHEREAS, it also increases the Metro Louisville tax base essential to the provision of government services; and

PLAN ELEMENT 4.5: LIVABILITY

This Application Package complies with Plan Element 4.5, its 4 Goals and their Objectives plus the following Policies:

As to Goal 1, Policies 5, 7, 8, 10, 11, 12, 13, 15, 16, 23, 26, 27, 28, 30, 31, 32, 33 and 35; and

Goal 4, Policies 1 and 2, it complies as follows, in addition to the other ways set forth above and below:

WHEREAS, the DDDP filed with this application contemplates that storm water will be accommodated by way of detention either on-site or otherwise already constructed within the Blankenbaker Station business park; sanitary sewer service is available at the

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nearby Floyds Fork regional wastewater treatment plant; and it can be accessed via lateral extension to and from an existing nearby manhole; and

WHEREAS, measures will also be taken during construction to assure that erosion and sediment impacts are fully controlled and/or mitigated; and

WHEREAS, as mentioned above, given the location of this proposed manufacturing plant in and near a large existing and expanding activity center, and nearby residential living opportunities, air quality impacts will be minimized because vehicle miles travelled are reduced; and

PLAN ELEMENT 4.6: HOUSING

This Application Package complies with Plan Element 4.6, its 3 Goals and their Objectives:

WHEREAS, as to these Goals, Objectives and Policies generally, while they don't specifically address developments of this kind, this manufacturing plant proposal nevertheless complies in that it will bring additional high-quality workplace opportunities to Greater Louisville and this area so as to assure more good jobs proximate to where people live; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals, Objectives and Policies of Plan 2040; 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 PEC, Planned Employment Center to M-3, Industrial on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.

ABSTAIN: Commissioner Daniels.

ABSENT: Commissioner Lewis.

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Variance

03:14:57 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and testimony heard today and at the November 4, 2021 Planning Commission hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect adjacent property owners as the structure will be located adjacent to other industrial users, not on the edge of the form district, and several hundred feet from the nearest residential structure; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the structure will be placed away from Plantside Drive and also several hundred feet from the nearest residence. Tree massing is also present along Tucker Station to prevent views from existing residences of the extra height; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as no pedestrian or vehicular movement is impacted; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the regulations allow for additional height if certain standards have been met. While those standards have not been met, the structure does not appear to negatively impact adjacent owners, character, or cause a hazard; and

WHEREAS, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the workplace form is subject to these standards and options remain available to meet special standards for height; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land as the workplace form allows additional height if the building façade is stepped back 1' for every additional 4' of height. This option remains available to the applicant; and

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WHEREAS, the Commission further finds that 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 development has occurred; and

WHEREAS, the variance will not adversely affect the public health, safety or welfare because this is an aesthetic code requirement; the building has been set back an additional 20' from the required front yard setback such that, according to the Suburban Form District guidelines, an additional 4' of height is arguably allowed per 1' of additional setback; therefore, the 67' height would be conceptually be permitted with an additional 5' of front yard setback; as a result of the attempt to comply with the intent of LDC 5.2.4.d.4.a., there will not be any adverse effects on the public health, safety, or welfare, particularly because there is no evidence that the extra height will cause any traffic or other safety problems; the site is in the Blankenbaker Station II development and thus subject to the strict covenants, conditions, and restrictions for all properties within the development; and the building will meet the same standards the other properties owners expect for buildings within the development; and

WHEREAS, the variance will not alter the essential character of the general vicinity this is an aesthetic code requirement and, as said, the property is subject to the Blankenbaker Station II covenants, conditions and restrictions prepared and recorded to ensure all properties in the development meet certain design standards; and

WHEREAS, the variance will not cause a hazard or a nuisance to the public because this is an aesthetic code requirement and the proposed building height is similar to other buildings in the business park; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because this is an aesthetic code requirement; the additional setback being provided is anticipated to allow additional building height, and because the building will be in compliance with the Blankenbaker Station II CCRs; and

WHEREAS, the Variance arises from special circumstances, which do not generally apply to land in the general vicinity because building height is already governed by private deed restrictions, which does not apply to all properties in this area of town; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because this is an aesthetic code requirement, which is already regulated by private restrictions; and

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WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation, but rather are a result of a constrained site for the proposed use; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** from Land Development Code, section 5.3.4 to allow for the building to exceed the maximum height of 50' and be 67' in height.

The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.

ABSTAIN: Commissioner Daniels.

ABSENT: Commissioner Lewis.

Detailed District Development Plan

03:16:14 On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution, based on evidence and testimony heard today and at the November 4, 2021 Planning Commission hearing, and on the Standard of Review and Staff Analysis, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the conservation of 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 provided. Landscaping and tree canopy will be provided as required and MSD buffers for intermittent streams have been provided; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided; and

WHEREAS, the Commission further finds that outdoor amenities for employees will be provided. Tree canopy is preserved to the rear of the development area; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate

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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 with the overall site design and with the future use of the area; and

WHEREAS, the Commission further finds that the proposal conforms with Plan 2040 and the Land Development, except where relief has been requested; now, therefore be it

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

Binding Elements (21-ZONE-0103)

All general plan binding elements approved under docket 14489 and 21-AMEND-0009 are applicable to the requested change in zoning and revised detailed district development plan, in addition to the following:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:

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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. A minor subdivision plat or legal instrument shall be recorded (creating the lot lines as shown on the approved development plan)
 - c. 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.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the November 4, 2021 Planning Commission meeting. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 site shall be limited to uses permitted in the PEC district and Magnet Manufacturing, an M-3 Industrial Use. No other uses shall be allowed unless approved by the Planning Commission in a public hearing.

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The vote was as follows:

YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, and Sistrunk.

ABSTAIN: Commissioner Daniels.

ABSENT: Commissioner Lewis.