

Planning Commission

Staff Report

May 12, 2022



Case No:	21-ZONE-0162
Project Name:	Logistics Air Park II
Location:	3200 & 3201 Dupin Drive, 5400 Minor Lane
Owner(s):	Kentuckiana Development LLC, Logistics Air Park II LLC
Applicant:	Nicklies Development
Jurisdiction:	Louisville Metro
Council District:	13 – Mark Fox
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in form district** from Neighborhood to Suburban Workplace
- **Change in zoning** from R-4 Single Family Residential to PEC Planned Employment Center
- **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-VARIANCE-0016)
- **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)
- **Revised Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The site to be rezoned is located at the terminus of Dupin Drive and consists of one parcel currently developed with a single-family residential structure. The applicant proposes to rezone the site to PEC in order to demolish the existing structure and expand the proposed development south of the site into the site. The development plan associated with the requested zoning change encompasses the area previously rezoned to PEC under docket 19-ZONE-0065.

The property to be rezoned is surrounded on three sides by PEC-zoned land with a proposed industrial development. To the north is a single-family residential neighborhood (Pioneer Acres). Dupin Drive is a local class street at this location. No access is proposed from Dupin Drive. I-65 is located nearby the west, across Wet Woods Creek.

The original Binding Element #12 on the site requires that the revised detailed district development plan be approved by Metro Council.

STAFF FINDING

Staff finds that the proposed form district change meets the guidelines of the Comprehensive Plan. Staff finds that the proposed zoning change meets the guidelines of the Comprehensive Plan. The variance is adequately justified and meets the standard of review. The waiver is adequately justified and meets the standard of review. The site plan meets the requirements of the Land Development Code with the exception of the requested variance and waiver, and generally meets the guidelines of the Comprehensive Plan.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The applicant requests the Suburban Workplace Form District

A Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban Workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district.

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within Suburban Workplace Form Districts may need significant buffering from abutting uses.

Following is staff's analysis of the proposed rezoning against the Goals, Objectives and Policies of Plan 2040.

The proposal would expand an existing industrial site slightly, and include a small property which was not involved in the original rezoning for the site. The property which is the subject of the zoning change and form district change was not acquired by the applicant until after the original zoning change was approved. Had it been acquired prior to the original zoning change and form district change, it would have been included at that time. The proposal does not significantly impact the neighborhood, as the majority of the site has already been rezoned to PEC and the form district is Suburban Workplace.

The proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council

regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 4.8.1

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: 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.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: 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.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: 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.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: 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.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: 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.

2. 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.

STAFF: 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.

3. 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.

STAFF: 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B.8

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: 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.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: 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.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: 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.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The 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.

STAFF: 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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (a) 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;

STAFF: 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.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: 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.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: No open space provisions are pertinent to the request.

- (d) 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;

STAFF: 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.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: 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.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: 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 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.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Form-District** from Neighborhood Form to Suburban Workplace Form
- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to PEC
- **APPROVE** or **DENY** the **Variance**
- **APPROVE** or **DENY** the **Waiver**
- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Revised Detailed District Development Plan** with **Binding Elements**

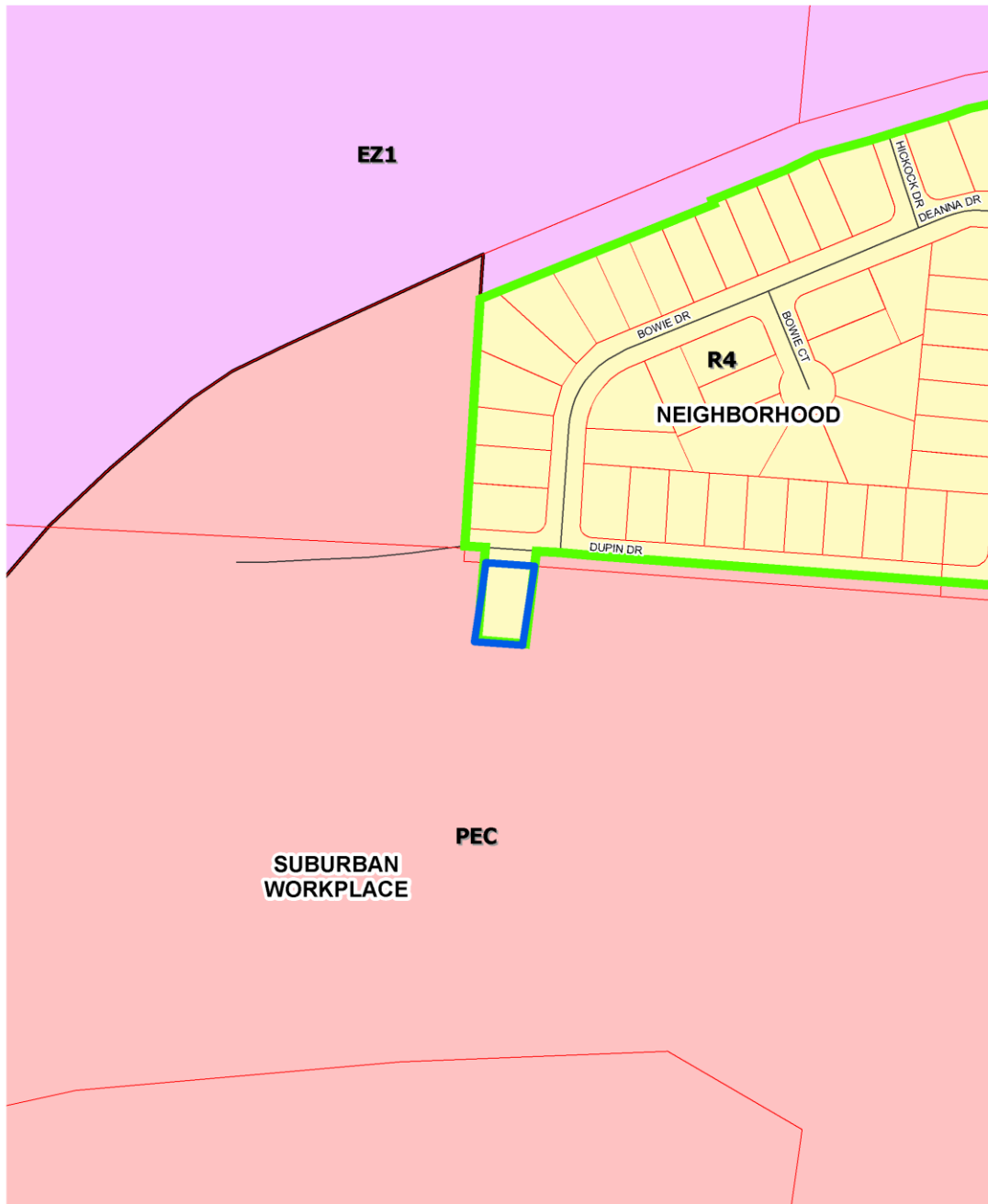
NOTIFICATION

Date	Purpose of Notice	Recipients
03/31/2022	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 13
04/25/2022	Hearing before PC	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 13
04/25/2022	Hearing before PC	Sign Posting on property
04/29/2022	Hearing before PC	Legal Advertisement in the Courier-Journal

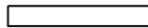
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Existing Binding Elements (to be replaced)
5. Proposed Binding Elements

1. Zoning Map



3200 Dupin Drive
feet

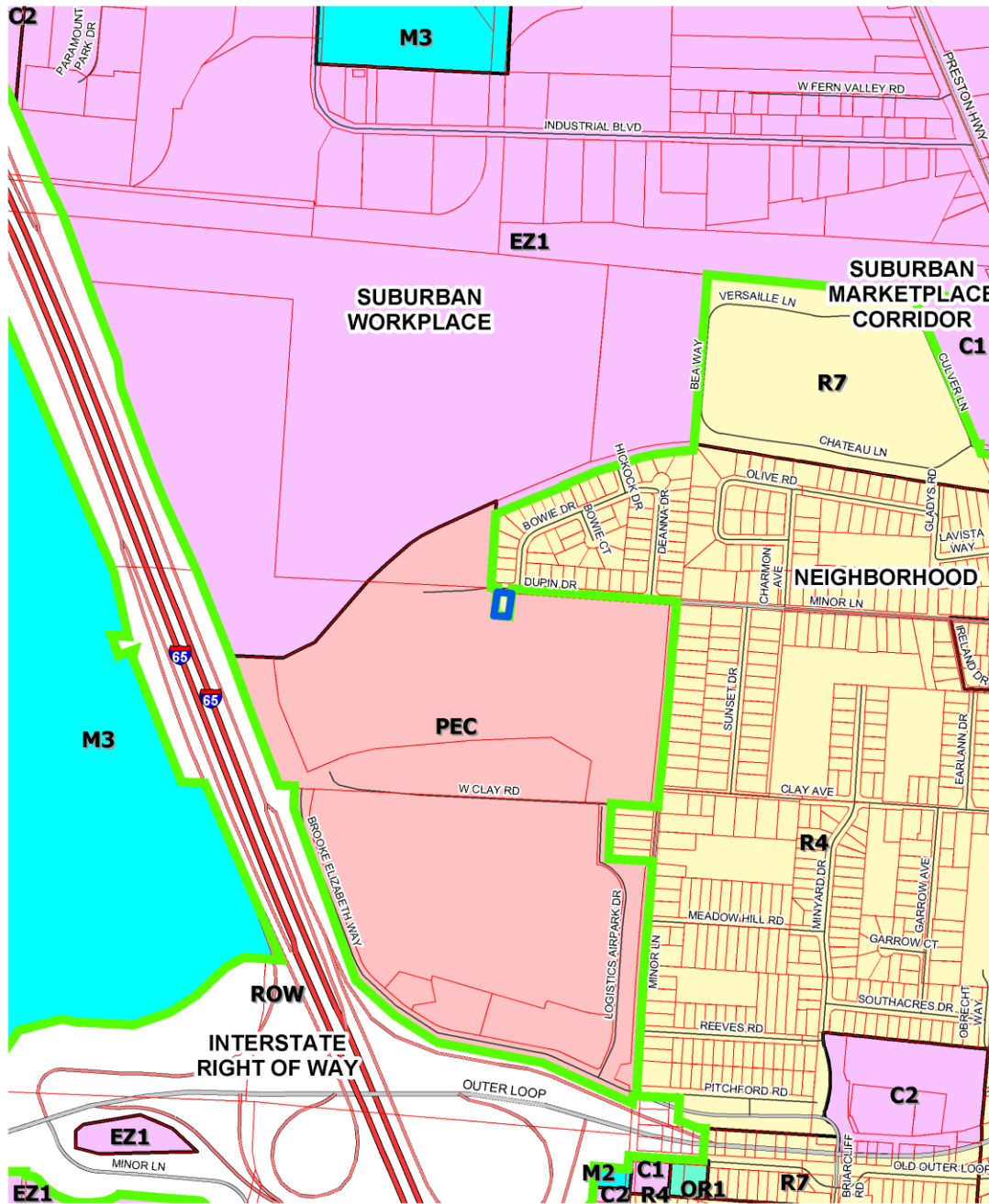


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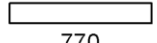
Map Created: 9/30/2021



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3200 Dupin Drive
feet

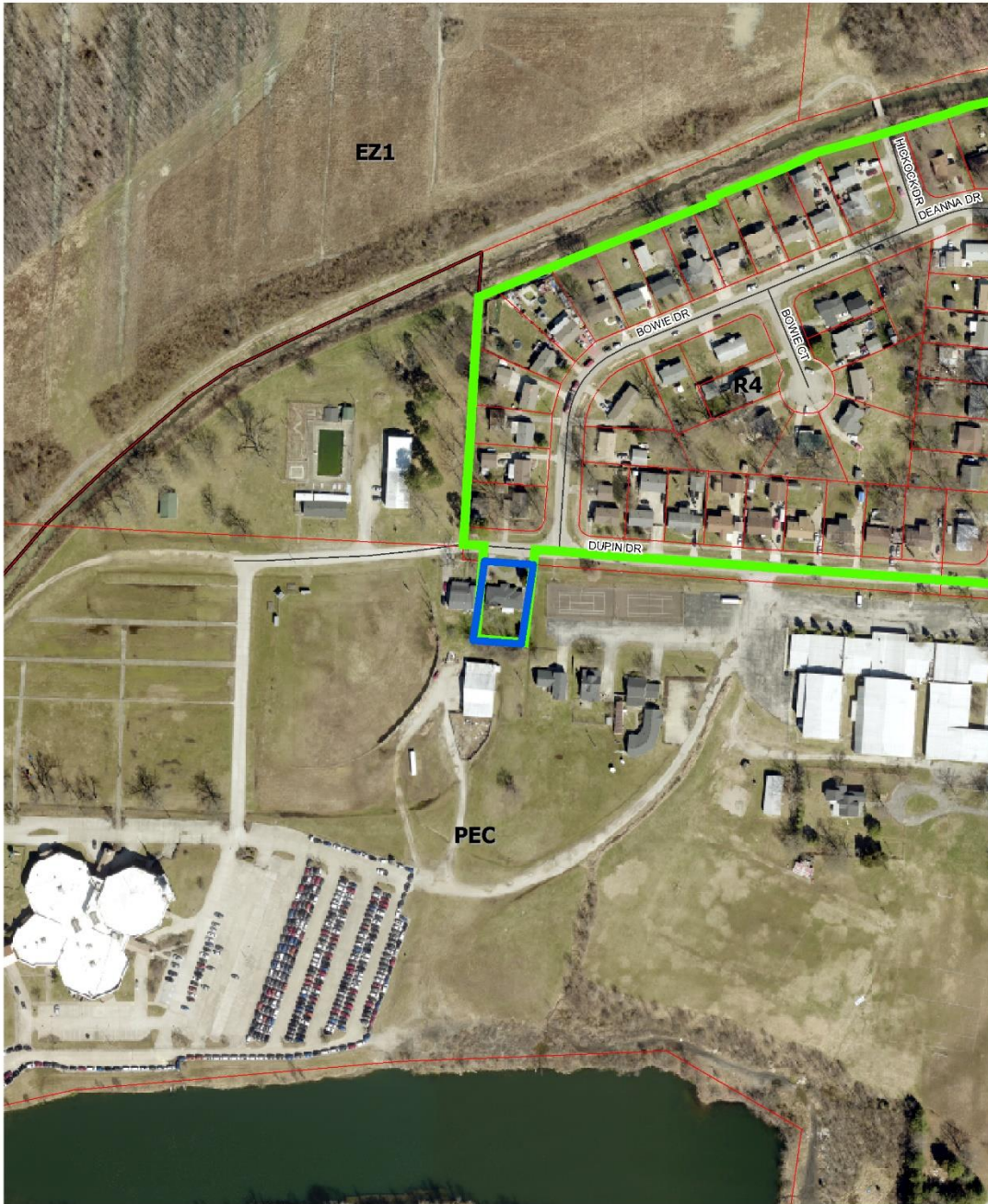


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Map Created: 4/4/2022



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2. Aerial Photograph



3200 Dupin Drive
feet

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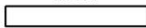
Map Created: 9/30/2021



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3200 Dupin Drive
feet



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3. Staff Plan 2040 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Suburban Workplace: Non-Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	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.
2	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The site is located adjacent to existing industrial zoning.
3	Community Form: Goal 1	8. Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	✓	The applicant requests that the form district be changed to Suburban Workplace.
4	Community Form: Goal 1	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	Adequate buffering is being provided to protect abutting residential uses from industrial uses on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Community Form: Goal 1	16. Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	Adequate buffering is being provided to protect abutting residential uses from industrial uses on the site.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Access to the site will be achieved through the larger development, and Dupin Drive will not be utilized.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	Adequate buffering is being provided to protect abutting residential uses from industrial uses on the site.
8	Community Form: Goal 1	21. Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	✓	Adequate buffering is being provided to protect abutting residential uses from industrial uses on the site.
9	Community Form: Goal 2	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The proposal would be appropriate for the Suburban Workplace form.
10	Community Form: Goal 2	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	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.
11	Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposal would encourage a more compact pattern of development in industrial zoning.
12	Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposal would unify a larger site of industrial zoning, permitting a mixture of compatible land uses.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	NA	The proposed zoning district does not permit housing.
14	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would not re-use the existing building. It would permit new commercial uses.
15	Community Form: Goal 2	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The proposal does not include underutilized parking lots.
16	Community Form: Goal 3	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	✓	No natural features are evident on the site.
17	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Community Form: Goal 3	11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.	NA	The site is not located in the Ohio River Corridor.
19	Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The site is not in a flood prone area. The site is not located on karst terrain.
20	Community Form: Goal 4	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	✓	No historic assets are evident on the site.
21	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	✓	No distinctive cultural features are evident on the site.
22	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The applicant requests a Workplace form and the site is adjacent to existing industrial zoning.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
23	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	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.
24	Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposal would unify a larger industrial site, reducing the need for multiple automobile trips.
25	Mobility: Goal 3	4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	Transportation Planning has approved the proposal.
26	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning has approved the proposal.
27	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
28	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning has approved the proposal.
29	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has approved the proposal.
30	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
31	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Louisville Water Company has approved the proposal.
32	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has approved the proposal.
33	Economic Development: Goal 1	1. Limit land uses in workplace Form Districts to compatible uses that meet the needs of the industrial subdivision or workplace district and their employees.	✓	The proposal would meet the needs of a Workplace form.
34	Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	✓	The site is located adjacent to existing industrial zoning.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
35	Economic Development: Goal 1	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposal would permit commercial uses generating high volumes of traffic. The site has adequate access to I-65.
36	Economic Development: Goal 1	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The site is not located near the airport or the Ohio River.
37	Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	✓	The proposal is for industrial zoning. The site is located in an industrial subdivision.
38	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	No karst features are evident on the site.
39	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	NA	The site is not located in the floodplain.
40	Livability: Goal 1	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The site is not located in the floodplain.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
41	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	NA	The proposed zoning district would not permit housing.
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	NA	The proposed zoning district would not permit housing.
43	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	NA	The proposed zoning district would not permit housing.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced by the proposal.
45	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	NA	The proposed zoning district would not permit housing.

4. Existing Binding Elements (to be replaced)

- ~~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.~~

~~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 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.~~
- ~~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. 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.~~
- ~~12. Any change to the development plan requiring a meeting before the Planning Commission shall also require approval by Metro Council.~~

5. Proposed 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.
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. A 4-6 foot landscaped berm shall be provided along the boundaries with the R-4 zoned properties and with Dupin Drive and Minor Lane as shown on the development plan. The berm shall be provided for all R-4 zoned properties abutting the site, including the ones which front on Bowie Drive.
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.