

PLANNING COMMISSION MINUTES
November 1, 2018

PUBLIC HEARING

CASE NO. 18ZONE1057

Request: Change in zoning from R-4 to PEC and a Change in Form District from Neighborhood to Suburban Workplace with a Detailed District Development Plan and setback variance

Project Name: 1701 North English Station Road

Location: 1701 North English Station Road

Owner: LINAK US, Inc.

Applicant: LINAK US, Inc.

Representative: John Talbott - Bardenwerper, Talbott & Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 19 – Julie Denton

Case Manager: Joel Dock, AICP, Planner II

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

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

Agency Testimony:

02:17:55 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 this request:

John C. Talbott, Bardenwerper Talbott & Roberts, 1000 North Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

Kent Gootee, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Andy Watson, 13307 Magisterial Drive, Louisville, KY 40223

Summary of testimony of those in support:

02:22:32 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (See recording for detailed presentation.)

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02:33:30 Kent Gootee, an applicant's representative, explained details about the development plan, landscaping, buffering, and particularly existing infrastructure (see recording for detailed presentation.)

02:38:18 Mr. Talbott resumed the podium and showed renderings of the proposed buildings.

The following spoke neither for nor against ("Other"):
No one spoke.

The following spoke in opposition to this request:
Ms. D. Washington, 1710 North English Station Road, Louisville, KY 40223

Myles Stevenson, 989 Locust Grove Road, Shelbyville, KY 40065

Summary of testimony of those in opposition:

02:38:58 Mr. Dock handed out an e-mail to the Commissioners, received this morning, from someone who was in opposition but was not able to attend today's hearing.

02:39:14 Myles Stevenson, representing a company (KEPA LLC?) which owns the property to the north, said his company is "seeking cooperation" regarding the MSD easement. He said his company is also planning on doing some development on their property as well. He pointed out the location of an existing fence along a property line and asked for confirmation that this will remain intact. He asked for more specifics about what will be installed in the landscape buffer (north end of the subject site.)

02:40:52 Mr. Gootee discussed LDC landscaping, screening, and buffering requirements and what the applicant is proposing. It includes a six-foot visual screen and tree canopy. He said the applicant is willing to keep the fence to delineate the property boundaries, but must complete the property survey first.

02:42:19 Ms. D. Washington gave Mr. Dock some handouts, which he passed out to the Commissioners. She said the development is fine; however, she is very concerned about the loss of mature trees and tree canopy. She suggested that as much plant life as possible be kept, and said that the applicant's statement that trees planted along roads cause accidents is incorrect.

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Rebuttal

02:49:25 Commissioner Jarboe noted that the Commissioners had received an e-mail from a citizen expressing concern about sight lines for drivers on North English Station Road during the construction process. Mr. Talbott first addressed some of Ms. Washington's concerns about the trees. Using aerial photos, he pointed out areas where trees will be preserved. He said as many as possible will be preserved in front. He discussed her concerns about the sidewalks being required.

02:51:31 Andy Watson, an applicant's representative, addressed how the sidewalk installation will affect tree removal, and other construction issues. See recording for detailed testimony.

02:53:41 Mr. Gootee said some trees will have to be removed in order to put the sidewalk in along N. English Station Road, especially given the shoulder work that must be done because of the grade change.

02:56:55 Ms. Washington asked if the road was going to be 22 feet wide, where is the area which will be widened. Mr. Talbott used the site plan to point out the exact location of the road widening. It will be directly in front of the subject site. However, most of the road is already 22 feet wide, so not much change will be needed.

Deliberation:

02:58:11 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.

Change in Form district from Neighborhood to Suburban Workplace

Change in Zoning from R-4, Single-family Residential to PEC, Planned Employment Center

03:01:46 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Cornerstone 2020 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal is not a neighborhood center. The proposal calls for an employment center to facilitate industrial growth and integrate with existing industrial operations having their primary location within the abutting workplace form. The PEC district calls for attractive, landscaped, and planned industrial parks for M-2 Industrial operations. The neighborhood form intends to provide residential opportunities and allow for mixed-use activity centers to serve the residential population. The Neighborhood form is not intended to serve the PEC zoning district.

WHEREAS, the proposed district is a high intensity district and is located along a collector level roadway having direct access to arterial roadways and an industrial subdivision. It is not located along an arterial. The PEC district calls for opportunities for employment close to residential areas and compatibility between the industrial operations within the industrial park and the existing activities and the character of the community in which the park is located. The district would not appear to have a significant adverse impact on nearby residential uses as N. English Station Road provides space for existing industry and industrial operations within the abutting industrial subdivision are located within close proximity to surrounding residential uses. The proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting as the development conforms to the pattern of development expected within the workplace form district and the building is set back a significant distance from N. English Station Road. The proposal integrates into a planned development that features a mixture of related uses as the proposal provides connectivity between two adjacent properties serving the same operator and connects with the abutting industrial subdivision. The proposal incorporates connected roads, encourages access to public transportation, and provides for pedestrians as vehicular and pedestrian accommodations to the public road and adjacent sites will be provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because the proposed building materials increase the new development's compatibility as the materials and design are consistent with nearby industrial development that is compatible with the surrounding area; the proposal does not constitute a non-residential expansion into an existing residential area, or demonstrates that despite such an expansion, impacts on existing residences are appropriately mitigated' the proposed development expands an existing PEC zoning district in a manner consistent with the extent of the form district boundaries to the north and south and integrates itself with the abutting industrial subdivision; the district calls for sufficient space in attractive, landscaped, and planned industrial parks and compatibility between these operations and the community. The proposed building materials, setbacks, and landscaping mitigate any impact caused with the expansion of

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this use from the existing industrial park; the current proposal is for an office serving existing industry. No adverse odors or emissions would appear to be associated with the current request. In the event of future industrial redevelopment, odors and emissions will need to be reconsidered; the proposal would not appear to have any adverse impacts of traffic as it fronts collector roadway with access to arterial roadways and has secondary access through multiple points of adjacent connected development; lighting will comply with LDC 4.1.3; the proposed district integrated itself with the abutting industrial subdivision having multiple points of access to arterial roadways; the proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as all required landscape buffers and screening will be provided; the proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as all required landscape buffers and screening will be provided; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards as buildings are setback from the road in a landscaped setting; parking, loading and delivery areas located adjacent to residential areas are designed to minimize adverse impacts as landscaping will be provided as required to minimize the impact of parking areas adjacent to the roadway and residences; the proposal includes screening and buffering of parking and circulation areas adjacent to the street; no parking structures are proposed; and signage will be compliant with Ch. 8 of the LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposal provides open space that helps meet the needs of the community as tree canopy and wetland areas are being preserved; the site is not in the NFD; and the proposal integrates natural features into the pattern of development as tree canopy, wetland areas, and stream are being preserved; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the proposal respects the natural features of the site through sensitive site design as tree canopy, wetland areas, and stream are being preserved; the proposal includes the preservation, use or adaptive reuse of buildings, sites, districts and landscapes that are recognized as having historical or architectural value; the subject site does not appear to contain any historic resources; and the proposal avoids wet or highly permeable soils as a wetland area and stream are being preserved; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6: Economic Growth and Sustainability because the proposed district helps meet the needs of the abutting industrial subdivision and allows industrial growth at a single location; the site is not downtown; the proposal is integrated within the industrial subdivision and takes advantage of current infrastructure; the proposal fronts a collector

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roadway with access to arterial roadways and has secondary access through multiple points of adjacent connected development; and the proposal provide employment opportunities within close proximity to residential areas and immediately adjacent to the existing operator; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means; the proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as all accommodations required of the developer to support these modes will be provided; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as the site is integrated with adjacent uses and the industrial subdivision while providing access to a collector level roadway; the proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development; the proposal includes adequate parking spaces to support the use; and the proposal provides for joint and cross access through the development and to connect to adjacent development sites; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because adequate stubs are provided to adjacent development; primary access to the development site is through areas that contain industrial and residential development along a collector level roadway; and the site is appropriately linked to adjacent development; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as all accommodations required of the developer to support these modes will be provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 12: Air Quality because the proposal has been reviewed by APCD and found to not have a negative impact on air quality; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because the proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration as a stream, tree canopy and wetland pond are being preserved; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the proposal is located in an area served by existing utilities or planned for utilities; the proposal has access to an adequate supply of potable water and water for fire-fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form because this site and the accompanying site plan are more appropriately considered a part of the Suburban Workplace Form District; the site will be connected and be a part of the office park, and specifically will be an addition to the applicant's other two properties which are also a part of this office park and which are both already in the Suburban Workplace Form District; in fact, all of the surrounding properties in the office park are part of the Suburban Workplace Form District; the applicant's sites will be connected internally with drive lanes and pedestrian connections allowing a free flow throughout its sites; the site will share existing infrastructure with the adjacent office park as well as being located on a collector level road in a compact group with the existing Suburban Workplace Form District; and the new building and site will also share building characteristics, parking, and compatibility with the existing Suburban Workplace Form District; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 4, 5, 7, 9, 11, 13, 14 and 15 of Guideline 2 – Centers because the overall site subject of this rezoning looks and feels very much like the balance of the existing PEC zoned properties to the east and north which are located within the Eastpoint Business Park; infrastructure and utilities are available at the property lines; this area has proven to be a good location for offices because of the significant intensity of residential uses and commercial uses west of the site; locating this office development as proposed at this site helps reduce vehicle miles traveled and further improves the vitality of the area; and the design of the site is compatible with the uses in the business park and the residential uses to the west; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 4, 5, 6, 7, 8, 9, 12, 21, 22, 23, 24 and 29 of Guideline 3 – Compatibility because as referenced above, the proposed office development will be compatible in design to the current offices in the business park while at the same time using the office development use as an appropriate transition between the residential

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and more intense commercial uses; appropriate buffers will be in place to mitigate impacts to the surrounding residential properties on the same side of N. English Station Road, which are for the most part not occupied currently for residential purposes; the site will not generate significant traffic and the clearing of the site of the significant foliage which is currently limiting site lines at turns in N. English Station Road will significantly increase the safety to this collector roadway; in addition to these aesthetic factors, office uses do not create odors or significant noise; and lighting will be directed down and away from nearby residential properties and will be in compliance with lighting restrictions of the Land Development Code (LDC); and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies 2, 3, 4, 6, and 8 of Guideline 6 – Economic Growth and Sustainability because as referenced above, this is currently a vacant site; N. English Station Road has proven to be a great location for office development because it is a center of fairly intense residential and intense commercial activity; and this site will also take advantage of the existing infrastructure and utilities available to the Eastpoint Business Park; and the development plan encourages the applicant to expand its footprint with the campus of its industrial facilities, with access to a collector roadway and the other internally connected drives and pedestrian access, all located near arterials and the expressway system; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 3, 4, 6, 10, 11, 12, 13, 14, 16 and 18 of Guideline 7; Policies 7, 8, 9, 10 and 11 of Guideline 8; and Policies 1, 2, 3 and 4 of Guideline 9 because the office development will have shared access from the existing applicant's office/warehouse building to the east and north of this site in the Eastpoint Business Park and will provide a curb-cut along N. English Station Road at a location where automobiles slowing to enter the site will slow traffic at a location where lower speeds are appropriate for safety; and it provides for excellent cross-connectivity and helps address issues of traffic congestion at peak hours; and

WHEREAS, the Commission further finds that the detailed district development plan (DDDP) accompanying this zoning and form change application received preliminary stamps of approval from Metro Transportation Planning and Public Works prior to docketing of this application for any Planning Commission public review, with such agencies specifically reviewing the proposed points of access and connections as well as corner clearances, site distances, median opening and adequacy of parking; the site plan will provide "stubs" to the parking lot and sidewalks for future connectivity and will further be designed for transit available in the area; sidewalks will be provided where required and bicycle parking will be accommodated; and the clearing of the site will tremendously enhance the safety of the collector roadway by increasing visibility around the turns existing on the roadway; and

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WHEREAS, this application complies with Intents and applicable Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 – Flooding and Stormwater because post-development rates of runoff will not exceed pre-development conditions; additionally, the applicant's engineer will review these drainage conditions and advise MSD of them so as to determine whether any additional mitigation measures need to be made to existing storm water systems in association with this proposed office development; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies 1, 3 and 5 of Guideline 11 – Water Quality because at time of construction, the developer of this site will be required to comply with MSD's soil erosion and sedimentation control regulations; also, new water quality standards have been implemented by MSD which must be addressed as well at time of construction plan approval; and

WHEREAS, the Commission further finds that this application complies with the Intents and applicable Policies 1, 2, 3, 6, 7, 8 and 9 of Guideline 12 – Air Quality because as referenced above, this proposed corporation office is basically an expansion of the existing Linak office/warehouse located north and east of this proposed site, thus reducing vehicle miles traveled for people already engaged in commerce and residing in this area, leading to reduced miles traveled and improved air quality; and

WHEREAS, this application complies with the Intents and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 – Landscape Character because the LDC requires tree canopies as well as both perimeter and interior landscaping of all sites; and this application will comply with LDC standards, and will provide screening and buffering as promised nearby residents with the TPA areas and 19,956 square feet for a TCCP area; now, therefore be it

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

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.

NOT PRESENT: Commissioner Lewis, Smith, and Brown.

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed change in zoning from R-4, Single-family

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Residential to PEC, Planned Employment Center on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.

NOT PRESENT: Commissioner Lewis, Smith and Brown.

Variance from Land Development Code, section 5.7.1.B.2 to reduce the transition zone setback from 30' to 15'

03:03:35 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as no structures which might impact sight lines for vehicular or pedestrian movement are proposed; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as landscaping will be provided to sufficiently buffer the proposed parking areas adjacent to the roadway; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as sight lines for the movement of pedestrians and motorists are not impacted; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the workplace form allows for parking to encroach upon setbacks provided all required landscaping is provided. All required landscaping is being provided to sufficiently buffer the parking from the street and nearby residential areas; and

WHEREAS, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as a transition zone is present between the abutting form districts; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as natural resources prevent the structure and parking facilities from being located further from the roadway; 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 Commission further finds that the variance will not adversely affect the public health, safety or welfare because part of the property to the north along N. English Station Road is commercial zoned and in the same Suburban Workplace Form District; additionally, properties to the north and south in the different Form District, are mostly undeveloped and likely in the future to be absorbed by the Eastpoint Business Park in the future; infrastructure has been installed by MSD and the LWC which would anticipate future expansion of the Eastpoint Business Park between N. English Station Road and Stanley Gault Parkway; and because of the street sightlines in this area, removing landscaping impeding views will improve safety; and

WHEREAS, the Commission further finds that the variance will not alter the essential character of the general vicinity because this regulation is merely aesthetic to provide uniformity between different Form Districts, but since there is not any uniform setback along N. English Station Road, this regulation does not serve any real purpose and will not adversely affect any adjacent or nearby property owner; and the property to the immediate north violates the very same setback requirement; and

WHEREAS, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because the regulation is merely aesthetic; rather, the variance will open sight lines on this section of N. English Station Road improving road safety and reducing hazards; further, the slope of the land will place most of the parking encroachment into the 30 foot setback below the grade of the road, where the encroachment will not be easily visible from the roadway; and

WHEREAS, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because the intent of the regulation does not serve any purpose due to the varying setbacks which already exists in the adjacent Form District and along N. English Station Road, and because the variance will improve safety along this stretch of N. English Station Road; and

WHEREAS, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because the road curves and limited sight-lines is a pre-existing condition which cannot be changed by the applicant; and

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WHEREAS, the Commission further finds that 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 the location along this section of the N. English Station Road frontage is an existing condition which the applicant cannot change and it would unnecessarily limit the parking available to the site; and

WHEREAS, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation because this is an adaptive use of a property in a transition area; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance** from Land Development Code, section 5.7.1.B.2 to reduce the transition zone setback from 30' to 15'.

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Howard, and Jarboe.

NOT PRESENT: Commissioners Lewis, Smith, and Brown.

Detailed District Development Plan

03:04:22 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the 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. The proposed development preserves tree canopy, an ephemeral stream, and wetland pond; 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 as all accommodations required of the developer to support movement of pedestrians and vehicles will be provided. The development provides connectivity to adjacent uses and industrial subdivision; and

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WHEREAS, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as tree canopy, an ephemeral stream, and wetland pond are preserved; and

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

WHEREAS, the Commission further finds that the development is compatible with existing and projected development of the area as the proposed zoning district calls for sufficient space in attractive, landscaped, and planned industrial parks and compatibility between these operations and the community. The proposed building materials, setbacks, and landscaping mitigate any impact caused with the expansion of this use from the existing industrial park. Screening and buffering of parking and circulation areas adjacent to the street will be provided. The extent of the development is consistent with the extent of industrial development to the north and south along N. English Station Road; and

WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan as the proposal integrates into the pattern of development, which features buildings set back from the street in a landscaped setting as the development conforms to the pattern of development expected within the workplace form district and the building is set back a significant distance from N. English Station Road. It integrates into a planned development that features a mixture of related uses as the proposal provides connectivity between two adjacent properties serving the same operator and connects with the abutting industrial subdivision. Natural features of the site are respected through sensitive site design and connectivity between users is provided; 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:

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.

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2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide 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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7. To the extent that N. English Station Road is not 22 feet wide, it shall be widened to provide 22' of pavement across the frontage of the approved detailed district development plan prior to issuance of certificate of occupancy

The vote was as follows:

YES: Commissioners Peterson, Robinson, Tomes, Daniels, Carlson, Howard, and Jarboe.

NOT PRESENT: Commissioners Lewis, Smith, and Brown.