

# Planning Commission Staff Report

Date: December 2<sup>nd</sup>, 2021



<b>Case No:</b>	21-DDP-0071
<b>Project Name:</b>	Proposed Office Warehouse
<b>Location:</b>	10501 Freeport Drive
<b>Owner(s):</b>	Kenneth Delcour
<b>Applicant:</b>	John Campbell, Heritage Engineering, LLC
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	12 – Rick Blackwell
<b>Case Manager:</b>	Molly Clark, Planner I

## REQUEST(S)

- Amend the 200-foot setback adjacent to residential properties not zoned EZ-1
- Detailed District Development Plan with Binding Elements

## CASE SUMMARY/BACKGROUND

The applicant is proposing to build a 105,000 SF office warehouse with truck parking on a lot zoned EZ-1 in the Suburban Workplace Form District. This site is located within Riverport and is related to two different plan certain case numbers under case numbers 9-12-98 and 9-58-96 which were a rezoning from R-4 and R-1 to EZ-1.

## STAFF FINDING

Per the Land Development Code section 2.6.1, uses permitted in the M-2 and M-3 zoning districts are to observe a 200 foot setback from any residential use not zoned EZ-1 or to the first street intersection, whichever is less. The applicant did not specify the use that will be proposed within this office/warehouse that is within the 200 foot setback. The Planning Commission must determine whether or not the 200 foot setback should be amended to allow any M-2 or M-3 uses OR that a binding element be added that no M-2 or M-3 uses are permitted on this site.

Proposed Binding Element:

1. *Use of the subject site shall be limited to M-1 and C-2 uses. There shall be no other use of the property unless prior approval is obtained from the Planning Commission.*

## TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

The proposed Detailed District Development Plan is consistent with the previously approved General Plan.

## INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS**

- 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: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- 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 have approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- 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 and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- 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 guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the request to modify the 200-foot EZ-1 setback standards adjacent to residential properties not zoned EZ-1 **OR** add a binding element that would not allow M-2 or M-3 uses.
- **APPROVED** or **DENY** the Detailed District Development Plan with binding elements.

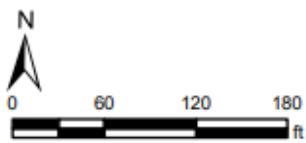
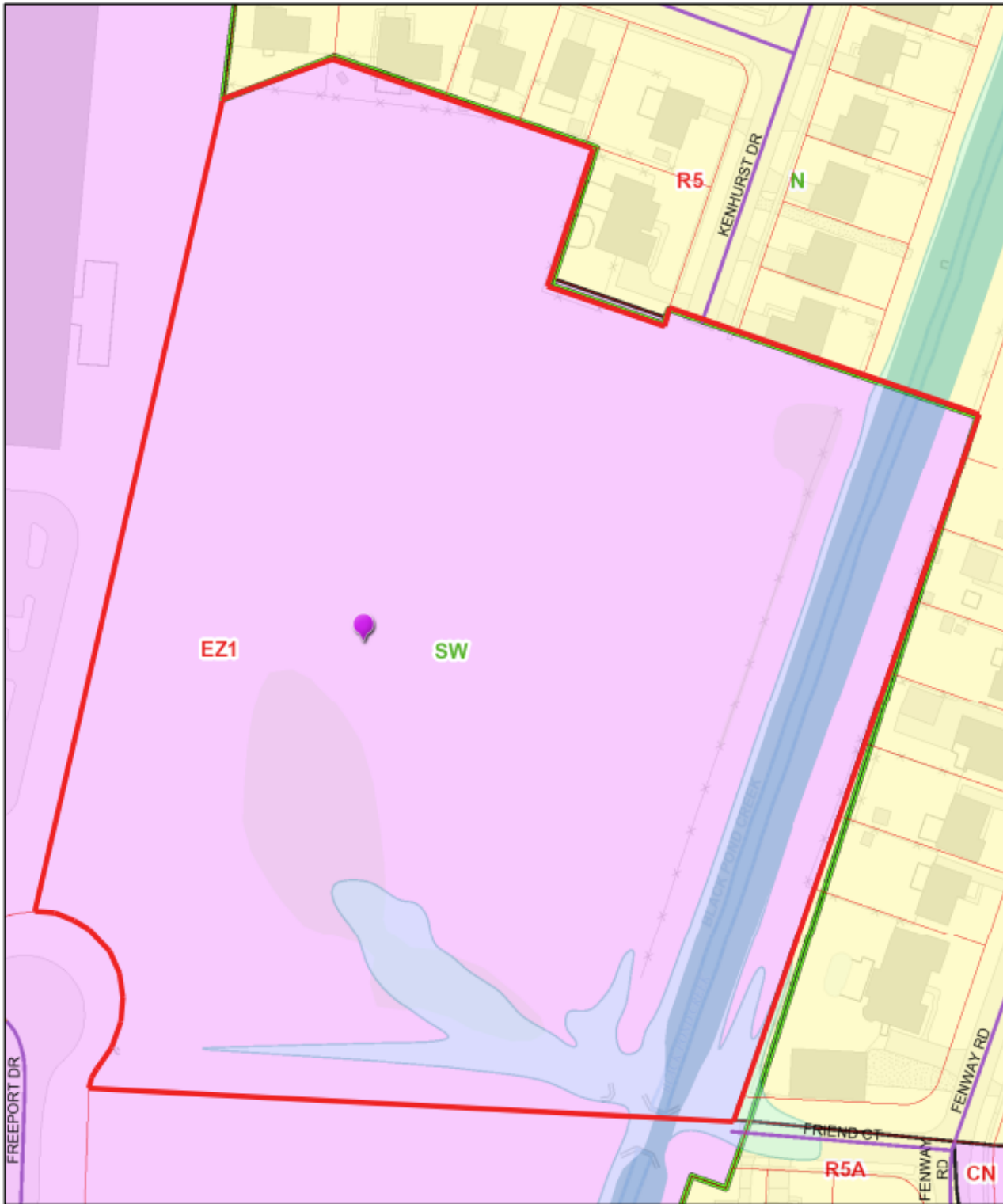
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/17/21	Hearing before Planning Commission on Dec. 2, 2021	1 <sup>st</sup> adjoining property owners and current residents and residents within 200 FT of the setback or to the nearest intersection (whichever is closer). Registered Neighborhood Groups in Council District 12

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. Zoning Map



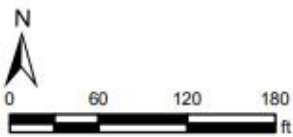
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2. Aerial Photograph



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1. **Existing Binding Elements**

9-12-98 General Plan Binding Elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission except for land uses permitted in the established zoning district.
2. The binding elements adopted by the Planning Commission and the Riverport Authority under Docket number 9-58-96 (and any subsequent revisions) are hereby adopted by reference for this case. Specifically slaughter houses or meat packing operations are prohibited.
3. Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not be limited, to the following items:
  - a. Screening, buffering, landscaping, tree preservation
  - b. Density, floor area, size and height of buildings
  - c. Points of access and site layout with respect to on-site circulation
  - d. Land uses
  - e. Signage
  - f. Loading berths
  - g. Parking
  - h. Sidewalks
  - i. Site design elements relating to alternative transportation modes
  - j. Outdoor lighting
  - k. Minor subdivision plat approval
  - l. Air pollution
  - m. The timing of construction to coincide with the availability of flood protection measures, municipal sewer and water service, and adequate fire protection
  - n. Dumpsters
4. There shall be no direct vehicular access to Greenbelt Highway
5. No outdoor advertising signs (billboards), small free-standing (temporary) signs, pennants balloons, or banners shall be permitted on the site.
6. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90 degree cutoff so that no light source is visible off-site.
7. Construction fencing shall be erected at the edge of the area of development prior to any grading or construction to protect the existing tree stands and their 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.
8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation ( 400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.

9. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
10. A certificate of occupancy must be received from the appropriate code enforcement office 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.
11. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.

9-58-96 General Plan Binding Elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. No further development shall occur without prior approval from the Planning Commission, except for land uses permitted in the established zoning district.
2. Prior to development of each site or phase of this project, a detailed district development plan shall be submitted to the Planning Commission for approval. Each plan shall be in adequate detail and subject to additional binding elements. The additional binding elements may relate, but not limited, to the following items:
  - a. Screening, buffering, landscaping, tree preservation
  - b. Density, floor area, size and height of buildings
  - c. Points of access and site layout with respect to on-site circulation
  - d. Land uses
  - e. Signage
  - f. Loading berths
  - g. Parking
  - h. Sidewalks
  - i. Site design elements relating to alternative transportation modes
  - j. Outdoor lighting
  - k. Minor subdivision plat approval
  - l. Air pollution
  - m. Dumpsters
3. A 25 ft landscape buffer is required along the east property lines of all the industrial lots north of Trade Port Road extension. No disturbance shall be permitted within the floodway of Black Pond Creek. A forty-foot landscape buffer area shall be provided along the east boundary line of Lots 18 and 19.
4. No outdoor advertising signs (billboards), small freestanding (temporary) signs, pennants or banners shall be permitted on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties
6. Slaughterhouses and/or meatpacking operations shall not be permitted on any lot in this development.
7. Buildings on lots 17 and 18 that are greater than 20 feet in height shall be set back from the LBA along the north property line an additional 3 feet for each foot of building height greater than 20 feet.

8. A six-foot tall berm shall be constructed in the LBA situated on the north sides of lots 17 and 18 at the time of lot development. If consistent with drainage requirements, a six-foot tall berm shall be constructed in the 40 foot LBA situated on the east side of lots 18 and 19.
9. A sidewalk shall be constructed along the north side of Trade Port Road extension, between the Greenbelt Highway and Black Pond Creek.
10. The applicant shall submit a plan for approval by the Planning Commission staff landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading). Any modification of the tree preservation plan requested by the applicant may be approved by the Planning Commission staff landscape architect if the changes are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/ tree mass designated to be preserved.
11. Before any building permit is requested:
  - a. The development plan must receive full construction approval from the Jefferson County Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 W. Liberty Street).
  - b. The size and location of any proposed freestanding sign must be approved by the Planning Commission. The Planning Commission may require that the signs be smaller than would otherwise be permitted by the Zoning District Regulations.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A major subdivision plan creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
12. A certificate of occupancy must be received from the appropriate code enforcement office 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.
13. The property owner/developer shall provide copies of these binding elements to tenants, contractors and other parties engaged in development of this project, and shall inform them of the content of these binding elements. Further, the property owner/developer shall require contractors to similarly notify all of their sub-contractors whose duties relate to the binding elements. The property owner/developer shall ensure their compliance with the binding elements.



## 2. Proposed Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, 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 (and to the City of Lyndon, St. Matthews, Hurstbourne, or Middletown etc) for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. Use of the subject site shall be limited to M-1 and C-2 uses. There shall be no other use of the property unless prior approval is obtained from the Planning Commission.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 2<sup>nd</sup>, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
6. 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.
7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
8. 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.

9. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.