

PLANNING COMMISSION MINUTES
October 21, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0072

Request: Change in zoning from R-4 to C-M, parking waiver, and development plan
Project Name: Thieneman 6212 Shepherdsville Rd
Location: 6212 Shepherdsville Road
Owner: AL CAT, LLC
Applicant: CL CAT, LLC
Representative: Jon Baker - Wyatt Tarrant & Combs, LLP
Jurisdiction: Louisville Metro
Council District: 2 - Barbara Shanklin
Case Manager: Joel Dock, AICP, Planning Coordinator

Notices of this public hearing 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:

02:43:37 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He said that he received an email from the applicant earlier today asking for a revision to Binding Element #2, to read as follows:

2. Except for the clearing, grading and construction necessary for the implementation and maintenance thereafter of improvements related to sanitary sewer, storm sewer, detention basin, and roadway connection infrastructure, as depicted on the approved district development plan, no development on Tract 2 shall occur, unless developed in accordance with the Land Development Code. Prior to development (includes clearing and grading for development unrelated to the aforementioned exceptions herein) of Tract 2, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each Plan shall be in adequate detail and subject to additional binding elements.

02:50:34 In response to a question from Commissioner Mims, Mr. Dock explained why the applicant chose the C-M zoning category (see recording.) Commissioner Mims and Mr. Dock discussed a road/alley in the back.

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The following spoke in support of the request:

Jon Baker, Wyatt Tarrant & Combs, 400 W Market St, Louisville, KY 40202

Derek Triplett, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in support:

02:52:35 Jon Baker presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

03:00:53 Derek Triplett, an applicant's representative, presented details about the site development plan (see recording for detailed presentation.)

03:06:43 In response to a question from Commissioner Mims, Mr. Baker discussed the cross-accesses to the McDonalds.

03:07:31 In response to a question from Commissioner Carlson, Mr. Baker provided more information regarding the proposed changes to Binding Element #2.

The following spoke in opposition to the request:

No one spoke.

Deliberation:

03:09:54 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.

Zoning

03:15:57 On a motion by Commissioner Carlson, seconded by Commissioner Mims, 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 proposal meets Community Form: Goal 1 because the proposed land use does not encroach upon

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residential areas as the site is located within the Workplace form district adjacent to the neighborhood form where residential lands uses are present; the proposed district is located along an arterial roadway with access to transportation facilities and transit corridors. I-65 is located nearby to the west and the site is along a TARC route. Population is nearby to support land uses permitted within the district; the site is located within a workplace form and while the proposed use is not industrial itself, the district and context of industrial use is appropriately located; the proposed zoning does not allow uses which create significant concerns of hazards, air, noise, or light pollutants. Disadvantaged populations would not appear to be significantly impacted by increasing industrial land use in the workplace form; the proposed zoning does not allow uses which create significant concerns impacting quality of life. Disadvantaged populations would not appear to be significantly impacted by increasing industrial land use in the workplace form; the site is located along an arterial roadway which is intended to serve larger volumes of traffic such as those that might be permitted by the proposed district; the proposed zoning does not allow uses which create significant concerns of hazards, air, noise, or light pollutants; and disadvantaged populations would not appear to be significantly impacted by increasing industrial land use in the workplace form; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposed land use is appropriately located within the Workplace Form District; the district allows for a combination of light- industrial and retail which allows for goods to be sold in areas to support employment in workplaces; the proposed land use appears to be an efficient use of land to reuse a vacant site to provide supportive services to employees in the area; the proposed district allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces, which supports shorter trips from nearby employers to goods; the proposed land use allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces; and the proposed district does not allow for hazardous uses; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because the current extent of the zoning change does not contain environmental features; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no historic or cultural resources are present on the site of the zoning change; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposed land use allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces; and

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WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposed land use allows for a combination of light-industrial and retail which allows for goods to be sold in areas to support employment in workplaces. Pedestrian access and transit access are available, and housing is located nearby; the development will have a limited impact on the transportation network as it is located on an arterial roadway with transit access; and improvements will be made to make connections and improve connections for pedestrians along the right-of-way and internal to the site; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the development site appears to an adequate supply of water for fire fighting purposes; and the development would appear to have adequate means of sewage treatment as it has received preliminary approval from MSD; and

WHEREAS, the Commission further finds that the proposal meets Economic Development: Goal 1 because the site is located within a workplace form and while the proposed use is not industrial itself, the district and context of industrial use is appropriately located to support employment centers; the proposed district is in the workplace form; the proposed district is located along an arterial roadway with access to transportation facilities and transit corridors; and I-65 is located nearby to the west and the site is along a TARC route; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because the area of the zoning change does not appear to contain environmentally sensitive features; and impacts to the regulatory floodplain will be mitigated, as needed. MSD preliminary approval has been received; now, therefore be it

RESOLVED that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to C-M, Commercial Manufacturing on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Sistrunk, Daniels, Carlson, Howard, Brown, Peterson, Mims, and Lewis.

ABSENT: Commissioners Clare and Seitz.

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Parking Waiver

03:17:21 On a motion by Commissioner Carlson, seconded by Commissioner Mims, 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 Plan 2040 calls for development to accommodate all modes of transportation which the development will provide using sidewalks, pedestrian connections, and bike parking which aid the use of transit service in the area and public sidewalk network. The applicant has provided a parking study which demonstrates that the maximum requirements are insufficient in accommodating the real volume of parking needed for the proposed use. For similar facilities, the parking demanded for lunch-time hours ranges from 15-23 spaces, while the parking demanded for dinner-time ranges from 10-16 spaces; and

WHEREAS, the Commission further finds that revisions to the parking standards were made in August of 2020. A second round of revisions heard at the Planning Commission on September 16, 2021 sought adjustments to the initial round of changes made in August 2020. These recent amendments would revise the maximum parking ratio to 1 space per 100 sq. ft. of gross floor area, which amounts to a total parking for the site maxed out at 21 spaces, which would not appear to accommodate the peak parking demanded and demonstrated by the applicant's parking study; and

WHEREAS, the Commission further finds that the applicant has indicated in their parking study that the maximum requirements are insufficient in accommodating the real volume of parking needed for the proposed use. For similar facilities, the parking demanded for lunch-time hours ranges from 15-23 spaces, while the parking demanded for dinner-time ranges from 10-16 spaces. The applicant proposes 27 parking spaces; now, therefore be it

RESOLVED that the Louisville Metro Planning Commission does hereby **APPROVE** the requested parking waiver (Land Development Code, section 9.1.16) to exceed the maximum parking requirement of 9 spaces and allow for 27 spaces

The vote was as follows:

YES: Commissioners Sistrunk, Daniels, Carlson, Howard, Brown, Peterson, Mims, and Lewis.

ABSENT: Commissioners Clare and Seitz.

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District Development Plan

03:18:55 On a motion by Commissioner Carlson, seconded by Commissioner Mims, 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 development site contains a protected waterway towards the rear in an area that is not being requested to be rezoned at this time but will need to be considered in the future as that area develops; and

WHEREAS, the Commission further finds that the development will provide sidewalks, pedestrian connections, and bike parking to accommodate pedestrians and vehicular connectivity will be coordinated with adjacent owners; and

WHEREAS the Commission further finds that the development site contains a protected waterway towards the rear in an area that is not being requested to be rezoned at this time but will need to be considered in the future as that area develops; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary drainage plan; and

WHEREAS, the Commission further finds that the proposed plan is consistent with the area and the form districts pattern of development. The proposed use allows for a combination of services in an area to support employment in workplaces, which also supports shorter trips from nearby employers to goods and services. Pedestrian access and transit access are available, and housing is located nearby and outside the Workplace form; and

WHEREAS, the Commission further finds that the development plan is in conformance with Plan 2040 and the Land Development Code. The parking waiver has been adequately justified based on staff's analysis contained in the standard of review; now, therefore be it

RESOLVED that the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed 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

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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. Except for the clearing, grading and construction necessary for the implementation and maintenance thereafter of improvements related to sanitary sewer, storm sewer, detention basin, and roadway connection infrastructure, as depicted on the approved district development plan, no development on Tract 2 shall occur, unless developed in accordance with the Land Development Code. Prior to development (includes clearing and grading for development unrelated to the aforementioned exceptions herein) of Tract 2, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each Plan shall be in adequate detail and subject to additional binding elements.
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 Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet, Bureau of Highways.
 - c. A minor plat shall be recorded creating the lots as shown on the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. 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.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between tracts 1 and 2, and with the adjoining property owners and recorded.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

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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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

The vote was as follows:

YES: Commissioners Sistrunk, Daniels, Carlson Howard, Brown, Peterson, Mims, and Lewis.

ABSENT: Commissioners Clare and Seitz.