

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1019

Case No: 16zone1019
Request: Change in zoning from R-4 and PEC to OR-3 and C-2 on approximately 106.82 acres with a General District Development Plan

Project Name: St. Joseph's Property
Location: 13508 Factory Lane and 2520 Terra Crossing Boulevard

Owner: St. Joseph Catholic Orphanage Society
2823 Frankfort Avenue
Louisville, Ky. 40206

Jefferson Healthcare Old Henry Lane
Kevin Cogan
320 Whittington Parkway, Suite 304
Louisville, Ky. 40222

Applicant: JDG 1849, LLC
Kevin Cogan
320 Whittington Parkway, Suite 304
Louisville, Ky. 40222

Representative: Mindel Scott and Associates
Kent Gootee
5151 Jefferson Boulevard
Louisville, Ky. 40219

Bardenwerper, Talbott and Roberts PLLC
William B. Bardenwerper
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 19- Julie Denton
Case Manager: Julia Williams, RLA, AICP, Planning Supervisor

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.

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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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:41:25 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Diane Zimmerman, 9000 Bunsen Parkway, Suite 225, Louisville, Ky.

Summary of testimony of those in favor:

03:53:00 Mr. Bardenwerper gave a power point presentation.

Mr. Bardenwerper stated the population growth is such that we have to start developing more intensely.

04:22:27 Ms. Zimmerman stated Public Works and Transportation Planning has requested 4 binding elements. There is a concern about binding element B – waiting for approval from the Federal Highway Administration, which can take up to a year.

Deliberation

04:30:55 Planning Commission deliberation.

Commissioner Brown stated that this has been envisioned for a long time. The binding elements requested by Transportation may have to be modified.

04:32:56 Vice Chair Lewis stated it appears to be a well thought out plan.

04:33:11 Commissioner Howard said there have been major economic and physical changes in the proposed area.

04:36:12 Ms. Williams stated there has been a change to binding element 15B (requested by applicant) and will read as follows: Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right

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turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted.

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 Change from R-4 and PEC to OR-3 and C-2

04:45:33

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The site is located in the Neighborhood Form District. The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

WHEREAS, Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of

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design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Louisville Metro Planning Commission finds, the site is proposed to be located in 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; and

WHEREAS, the Louisville Metro Planning Commission further finds The OR-3 and C-2 zones proposed permit a mix of uses that could serve and expand the existing needs of the workplace district and employees. Transit is not available but the site has easy access by vehicles and bicycles. Sidewalks are being provided along the main roadways. Cross access will be provided as well as expansions of existing Terra Crossing and Bush Farm. The proposal will create a center where both OR-3 and C-2 permit a mix of uses and where the scale could be appropriate for adjacent neighborhoods. The proposal is for high intensity/density zoning that is not located on an arterial. Buffers are provided to address the impacts on adjacent lower density/intensity uses. The proposal will create a new center in both the NFD and SWFD where all construction will be new construction for a mix of uses. There are some high density developments adjacent to the site as well as could be found within the site as the zoning permits. The proposal extends two roadways (Bush Farm and Terra Crossing) to serve the site. The site is also adjacent to low and high density developments as well as workplace uses which indicate that new infrastructure will serve the site. The proposed zoning is similar to existing zoning near the site. The proposed zoning permits compatible uses that could reduce trips. Sidewalks are shown along the major roadways to support pedestrian activity.

Transit is not available to this proposed activity center.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the zoning change from R-4 and PEC

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to OR-3 and C-2 for Case No. 16ZONE1019 based on the staff report, testimony heard today and the applicant's justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

Variance

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The requested variance will not adversely affect public health safety or welfare since the buildings are located interior to the site and follow all required setbacks; and

WHEREAS, The requested variance will not alter the essential character of the general vicinity since there are other multi-story buildings located in the vicinity; and

WHEREAS, The requested variance will not cause a hazard or nuisance to the public since the buildings are located interior to the site and follow all required setbacks; and

WHEREAS, The requested variance will not allow an unreasonable circumvention of zoning regulations since there are other multi-story buildings located in the vicinity; and

WHEREAS, The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone since much of this proposal is located in the transition zone. The buildings will meet required setbacks; and

WHEREAS, the Louisville Metro Planning Commission finds, The strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land since there are multi-story structures located in the vicinity and along the Gene Snyder corridor; and

WHEREAS, the Louisville Metro Planning Commission further finds The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance from section 5.3.1.C and 5.3.4.D.4 of the Land Development Code to permit the building heights not to exceed 53 feet in both the Neighborhood form and Suburban Workplace Form Districts based on the staff report, testimony heard today and the applicant's justification.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

General District Development Plan/Preliminary Subdivision Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, There are no open space requirements pertinent to the current proposal. Future multi-family development proposed on the subject site will be required to meet Land Development Code requirements; and

WHEREAS, 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; and

WHEREAS, the Louisville Metro Planning Commission finds, the land uses permitted within both C-2 and OR-3 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; and

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WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the General District Development Plan/Preliminary Subdivision Plan and binding elements on pages 20-22 of the staff report including the revision to 15B to read as follows: Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted; based on the staff report, testimony heard today and the applicant's justification, **SUBJECT** to the following Binding Elements:

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. Prior to development (includes clearing and grading) of each site or phase of this project, 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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. 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

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- remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. 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 Develop Louisville, 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 for each lot prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. An 80' access and public utility easement will be dedicated with the first plat. All roads shall be dedicated and recorded to Public RW on a major subdivision plat once 80% of the lots are developed.
 - d. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners and recorded.
 7. 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.
 8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line
 9. 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.
 10. The property owner shall provide a cross over access easement to the property to the east (Jewish Hospital property) if it is developed for a nonresidential use.

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A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

11. The materials and design of proposed structures shall be substantially the same as depicted in the exhibits as presented at the January 19, 2017 Planning Commission meeting.
12. No idling of trucks between the site and adjacent residential uses. No overnight idling of trucks shall be permitted on-site.
13. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
14. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
15. Threshold for road improvements detailed within shall be based on current ITE trip generation peak hour rates and calculated prior to construction approval for each site. Construction plans, bond and encroachment permit shall be required from the developer prior to construction plan approval of each site as the trip generation thresholds are met, and improvements shall be constructed and operational prior to issuance of Certificate of Occupancy for the site. A table containing approved sites and trips generated shall be maintained by Transportation Planning.
 - a. Prior to issuance of a building permit for a site-generated 100th peak hour trip from the entire development, a stabilized road bed connecting Factory Lane and Old Henry Road shall be provided. Prior to the issuance of a certificate of occupancy (CO) for this site-generated 100th peak hour trip, the roadway connecting Factory Lane and Old Henry Road shall be completed.
 - b. Prior to issuance of the building permit for the 150th site generated peak hour trip, construction plans for the dual right turn from the I-265 north bound ramp to Old Henry Rd. shall be submitted to KYTC. The turn lane shall be operational before the issuance of a Certificate of Occupancy related to this 300th site generated peak hour trip or a bond for the amount of the construction will be posted.

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- c. Prior to the issuance of a building permit for the site generating the 225th peak hour trip of the entire development, a traffic signal shall be present at the I-265 southbound at Old Henry Rd intersection. Traffic signal shall be operational prior to the issuance of Certificate of Occupancy.
- d. Prior to the issuance of a building permit for the site generating the 500th peak hour trip of the entire development, a dual left turn lane and signalization shall be provided at the Old Henry and Terra Crossing intersection. Signal and left turn lanes shall be operational prior to the issuance of Certificate of Occupancy. Implementation of this binding element is conditioned on KTC approval.

16. A Uniform signage plan in compliance with LDC 5.12.1 shall be submitted with or prior to approval of the first Detailed District Development Plan of this GDDP”

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes