

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
April 22, 2021

NEW BUSINESS

CASE NO. 20-ZONE-0034

Request: Change in form district from NFD to SMCDFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements and Variance

Project Name: RaceTrac

Location: 11800 – 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Dante St. Germain, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:11:06 Dante St. Germain discussed the case summary from the staff report and indicated that the application was ready for a public hearing.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Matt McLaren, Gresham Smith, 111 West Main Street, Suite 201, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:18:05 Mr. Ashburner gave a power point presentation discussing the proposed changes to the plan. The request to move the form district line to E. Orell Rd. is to have it match the properties to the north and south. That request has been modified.

00:27:45 Commissioner Carlson asked if there's a grade change going onto Dixie Hwy. Mr. Ashburner said yes, from the roadbed to the site at the corner, the state has an odd right-of-way configuration (not straight line across property). Matt McLaren added, there's an existing drainage swale that will be covered up and sidewalk will be added as well as piped drainage.

00:30:49 Commissioner Carlson asked if there will be any grade work dealing with removing rock. Mr. McLaren said yes there will be grade work but doesn't know if there will be removal of rock.

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Commissioner Carlson stated, if there is blasting, the neighbors may want blast surveys to ensure their homes are not damaged.

Commissioner Carlson said a follow-up sound test was discussed at the last meeting, but there's nothing in the binding elements. Mr. Ashburner read the following: The applicant will provide, within 6 months of obtaining a Certificate of Occupancy, a follow-up sound study of the subject site if there are perceptible differences in sound level measurements of the subject property and surrounding properties that deviate from the modeled sound study more than 3dba, then the applicant will submit a sound mitigation plan for review by the Planning Commission. Any mitigation measures called for by the sound mitigation plan will be implemented in 6 months of approval.

Commissioner Carlson asked if the zoning and form district lines could remain. Mr. Ashburner said it may cause the need for a landscape waiver. It will be researched further before the public hearing.

00:46:33 Brian Davis said further discussions today should reflect changes made by the applicant and whether this case is ready to go to a night hearing.

The following spoke neither for nor against the request:

Cindi Fowler, Metro Council, 14206 Polyscaffe Road, Louisville, Ky.

Summary of testimony of those neither for nor against:

00:47:12 Cindi Fowler said she is concerned about the neighbors living along E. Orell Rd. (from sight and sound of development). The wall needs to be closer to E. Orell.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky.
James Jones, 6326 Winding Stream Drive, Louisville, Ky.
Misty Pack, 6204 Winding Stream Drive, Louisville, Ky.
Sally Smith, 11913 East Orell Road, Louisville, Ky.

Summary of testimony of those in opposition:

00:49:28 Steve Porter said the minutes from the March 1, 2021 public hearing have not been made available online.

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NEW BUSINESS

CASE NO. 20-ZONE-0034

Mr. Porter disagrees with staff stating the commission asked for a postponement. That may have been the final vote, but the commission was about to vote and 3 of the 5 members said they would be against this plan, then Mr. Ashburner asked for a postponement and the members granted it.

Mr. Porter said the residents have requested a 10-foot wall (from the very beginning). Also, the portion of property that is not going to be used by Race Trac should be kept as single-family zoning. The form district line makes no difference to the neighbors. There has been no discussion regarding elimination of the diesel fueling portion of the plan. The hours of operation need to be limited as well. The neighbors haven't been heard by Race Trac.

00:57:10 Brian Davis said, regarding the minutes, they were just approved last Thursday and will be uploaded to Legistar.

00:57:51 Andrew Fisher said he will save his comments for the public hearing.

00:58:25 James Jones said he agrees with Steve Porter. Race Trac has not worked with the neighborhood.

00:59:31 Misty Pack said she agrees with James Jones and Steve Porter.

01:01:39 Sally Smith said she is concerned about the wall and objects to the continuance.

01:03:47 Commissioner Carlson said there are mixed feelings regarding the wall (from neighbors). Mr. Porter said he will meet with the residents and come to an agreement before the public hearing.

Rebuttal:

01:08:55 Mr. Ashburner said the diesel canopy will not be eliminated from the proposal. The noise and light issues will be worked out. The buffers being provided are beyond those that are required between industrial uses and residential. Consideration will be given to leaving a portion of the site as R-4. The plan has changed many times and the neighbors were heard (listened to) at the meetings.

Commissioner Carlson would like the sound engineer to consider or research using sound baffling panels that hang from ceilings to absorb or deflect sound.

Commissioner Daniels asked what the hours of operation will be. Mr. Ashburner said 24 hours for the fuel and the store as well.

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Chair Peterson asked if the applicant is willing to work with the opposition regarding the wall resolution. Mr. Ashburner said yes.

Deliberation

01:20:44 The commissioners agree that this case is ready for a night hearing.

An audio/visual recording of the Land Development & Transportation Committee meeting 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.

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby set a night public hearing for May 17, 2021, 6:30 p.m. at the Valley Hope Center, 10803 Deering Road.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Sistrunk and Peterson

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March 18, 2021

PUBLIC HEARING

20-ZONE-0034

Request: Change in form district from NFD to SMCFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements

Project Name: RaceTrac

Location: 11800 – 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Dante St. Germain, AICP, Planner II

THIS CASE WILL NOT BEGIN BEFORE 6:30 P.M.

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

03:53:33 Laura Ferguson, Assistant County Attorney stated this is a continuation of the March 1, 2021 Planning Commission night hearing. Some of the commissioners expressed difficulty hearing some testimony at the last meeting and will need to confirm they have watched the video and reviewed the missed testimony.

All commissioners have confirmed.

No Agency Testimony

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059
Mitchell Green, 3HMB Circle, Frankfort, Ky. 40601

Summary of testimony of those in favor:

PLANNING COMMISSION MINUTES
March 18, 2021

PUBLIC HEARING

20-ZONE-0034

03:55:50 Cliff Ashburner gave a power point presentation. The plan was very intense but has changed due to the responses of the neighborhood. This site is an infill development pattern. Most fuel centers do not have the level of buffering than what's being proposed – 85 ft. wide with 8 ft. solid screen. There are other commercial uses on the other 3 corners of this intersection. Some of the people prefer a masonry wall along E. Orell but a solid fence would look more residential in character of Orell. The applicant is willing to provide an 8 ft. masonry or concrete wall in the same location as the proposed 8 ft. solid fence. Safety features are in place concerning fire risks (mechanical and electronic cut-offs).

04:04:23 Diane Zimmerman continued the presentation discussing the traffic study and results.

04:08:10 Mitchell Green explained how he quantitatively assessed what the RaceTrac facility might do to the sound environment of the proposed project area should it be constructed. He summarized the results.

04:29:01 Steve Porter cross-examined Mitchell Green.

04:53:49 Commissioner Carlson asked Mr. Green if sound rises, sinks or stays level. Mr. Green said it goes in all directions. Also, does sound dissipate based on distance? Mr. Green yes.

Commissioner Carlson asked if there's anything, wall or fence, that will mitigate the noise generated by diesel truck traffic. Mr. Green said no, nothing can be done.

05:01:34 Commissioner Seitz asked why the applicant is going to put up a brick or concrete barrier if it's not going to help with the noise issue. Mr. Ashburner said they are taking some guidance from people in the community. Also, can you switch some things around so the trucks are not as close to the residents? Mr. Ashburner said it's designed that way so the trucks can maneuver. The canopy can't be moved but may be able to do something between the canopy and the concrete wall that may be helpful.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299
James Jones, 6326 Winding Stream Drive, Louisville, Ky.
Toby Combs, 6324 Winding Stream Drive, Louisville, Ky.

Summary of testimony of those in opposition:

Steve Porter asked Mr. Ashburner questions.

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March 18, 2021

PUBLIC HEARING

20-ZONE-0034

04:41:20 Steve Porter gave a power point presentation. There are 6 Dixie Hwy. stations within 1.8 miles from the proposed site. Every one of those have diesel pumps.

05:17:36 Steve Porter said the people living on E. Orell will have to deal with a lot of noises beside the trucks. There will be trucks/cars starting, honking, back-up beeping, etc. The neighbors have never asked for a concrete wall on E. Orell. The only proposal for a concrete noise wall or earth berm wall is to put it as close to the noise generator as possible. The new design is not much better than the first design.

Steve Porter has submitted finding of facts into the record.

05:31:21 James Jones stated RaceTrac is non-compliant in many aspects of the Comprehensive Plan 2040. He read several CEDS recommendations.

05:38:28 Toby Combs said she has put a lot of money in her home with a lot of upgrades. The houses on E. Orell face Dixie Hwy. There are no cable barriers to prevent cross-over accidents which could be deadly (and have been recently). Dixie Hwy. is the deadliest highway in the entire state of Ky.

Rebuttal

05:41:50 Mr. Ashburner said this case was not a 'bait and switch', but a plan carefully put together. The process helps to make a better plan. This plan goes above and beyond the requirements. There are no waivers or variances being requested. The lighting is dark-sky compliant as well (exceeds the Land Development Code). The use is at an appropriate location, fits within the form district guidelines whether it's Neighborhood or Suburban Marketplace, there have been significant design changes and the combination of the staff report, applicant's justification and the testimony all lead to a single conclusion, approve the change in zoning request.

05:52:38 Commissioner Brown asked why the entire property is being rezoned when only a portion is being used. Mr. Ashburner said the entire property is going to be affected by the development plan, including the large landscape buffer will offer better protection.

05:56:30 Commissioner Carlson said benzene was mentioned and he would like to hear more about vapor recovery when replenishing the underground storage tanks. Mr. Ashburner explained, fuel is being pumped in and vapors are being pumped out with as little as impact as possible.

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Commissioner Carlson suggests doing some baseline sound measurements before construction and after construction. If the peak generated sounds exceed a certain level, the applicant will go back in to mitigate. Mr. Ashburner said a follow-up study makes sense, but at what level?

06:13:32 Commissioner Seitz remarked, right now there is no fence so people already hear the noise from Dixie Hwy. The only way to help is to provide a fence closer to the canopy to help with visibility and have more space in between the fence and the properties. Would your client be willing to do something like that? Mr. Ashburner said they will consider it.

06:25:15 Mr. Ashburner read the following binding element in response to Commissioner Carlson: The applicant will provide within 6 months of obtaining a Certificate of Occupancy a follow-up sound study at the subject property. If there are perceptible differences in sound levels at the subject property and surrounding properties that deviate from the modeled sound study impacts by more than 3DB, then the applicant will come back before the Planning Commission with a sound mitigation plan for review. Commissioner Carlson would like to know the time frame. Mr. Ashburner said the timing of the implementation would be part of the mitigation plan. Commissioner Seitz suggests 6 months. Mr. Ashburner agrees.

Deliberation

06:28:33 Commissioner Carlson said there was a lot of concern regarding fire safety, but in his years of service, he did not see a significant problem of fires at gas stations. There are 2 railroad tracks near this area and are more of a concern. The EPA has implemented vapor recovery guidelines with dispensing gasoline and underground refilling. Whether a gas station is or isn't needed in the area is subjective. The noise will be mitigated as much as it can be.

Commissioner Seitz said she understands the noise issue from the closest neighbors, but they already have noise from Dixie Hwy. A fence needs to be put in place closer to the canopy.

Commissioner Clare said the expansion of the form district doesn't seem appropriate. Also, she is not in favor of the character of the diesel truck fueling station or the plan as a whole.

Commissioner Brown said the form district change is not justified. The proposal is too close to the residential area without the proper mitigation. The noise study shows there is an impact.

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Chair Lewis stated there are no variances or waivers and they went above and beyond trying to accommodate the neighbors. She supports the plan as presented.

No consensus, further discussion.

06:48:28 Julia Williams said if the form district remains Neighborhood, there would be issues with setbacks and would change the plan or require a variance. The C-1 will still allow for the use.

06:55:40 Mr. Ashburner said the commissioners have several things to consider including changes to the development plan that the applicant has agreed to make – moving the location of the wall and adding a post occupancy sound study.

Mr. Ashburner requests a continuance to submit a development plan that shows the implementations of the commitments made tonight.

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.

On a motion by Commissioner Carlson seconded by Commissioner Seitz, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case indefinitely.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Seitz and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Daniels, Howard, Mims, Peterson and Sistrunk

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
Special Night Hearing
March 1, 2021**

A meeting of the Louisville Metro Planning Commission was held on March 1, 2021 at 6:30 p.m. via Cisco Webex Video Teleconferencing and in person at the Valley Hope Center Gym, 10803 Deering Road, Louisville, Ky. 40272

Commission members present:

Marilyn Lewis
Jeff Brown
Robert Peterson
Ruth Daniels
Patricia Clare
Pat Seitz
Te'Andrea Sistrunk

Commission members absent:

Lula Howard
Rich Carlson
Jim Mims

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Joe Haberman, Planning and Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Beth Stuber, Engineering Supervisor
Tony Kelly, MSD
Laura Ferguson, Legal Counsel

The following matters were considered:

PLANNING COMMISSION MINUTES
March 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0034

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Project Name: RaceTrac

Location: 11800 – 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

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

Agency Testimony:

00:06:08 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
John Jansen, 200 Galleria Parkway, Atlanta, Ga. 30339
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059
Mitchell Green, 3HMB Circle, Frankfort, Ky. 40601
Gordon Ritchie, 15415 Dixie Highway, Louisville, Ky.

Summary of testimony of those in favor:

00:19:26 Cliff Ashburner gave a power point presentation. Inaudible.

The area is going to be developed. The proposal is compliant with the Comprehensive Plan 2040 and there are no variances or waivers being requested. The South Dixie Highway Master Plan mainly applies to the recognition that Flowervale Ln. and Dixie

PLANNING COMMISSION MINUTES
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CASE NO. 20-ZONE-0034

Hwy. are a major intersection (lot of traffic). The plan is to keep as many mature trees along E. Orell as possible.

00:28:53 John Jansen gave an overview of his company, RaceTrac. He also discussed the elevations. Site cleanliness is very important.

00:33:56 Mr. Ashburner discussed the plan in more detail.

00:36:18 Diane Zimmerman prepared the traffic impact study for this project and the conclusion is that based on the volume generated and the amount of traffic projected for 2031, there will be an impact to the existing network; however, the only improvement required (by Ky. Transportation) will be a right turn lane at the entrance on Dixie Hwy.

00:39:22 Mitch Green discussed his noise assessment for the project.

00:48:00 Mr. Ashburner continued with the presentation discussing the original plan and its being revised by responding to citizen concerns.

01:01:00 Gordon Ritchie said he's in favor of the proposal. The people in opposition have no recorded information on their deed regarding the property on old Dixie Hwy. and the current Dixie Hwy. They also don't complain about the 2 chemical trains that run every day, 7 days a week.

01:10:36 Ms. Zimmerman answered traffic related questions from Commissioner Brown.

Commissioner Brown asked if there is there a sidewalk requirement on E. Orell? Mr. Ashburner said they will be paying the fee-in-lieu.

Commissioner Brown said this site was compared to other sites, but did the other sites have diesel fueling? Mr. Ashburner said no they do not.

01:21:15 Commissioner Clare asked how they will deal with overnight truck parking. Mr. Ashburner said it's not designed to provide what an overnight truck stop would provide (showers or lounge area). John Jansen added, if a truck is parked overnight, it will be towed.

Commissioner Clare asked, can people consume alcohol at your outdoor seating areas? Mr. Ashburner said a conditional use permit for outdoor alcohol consumption would be required for that use.

The following spoke neither for nor against the request:

PLANNING COMMISSION MINUTES
March 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0034

Cindi Fowler, 601 West Jefferson Street, Louisville, Ky. 40202

Summary of testimony of those neither for nor against:

01:24:38 Cindi Fowler asks the applicant/representatives to provide a wall on E. Orell. A vinyl fence won't hold up and is not aesthetically pleasing. Noise will be a significant issue. Also, it's very hard to hear the virtual speakers.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299
Andrew Fischer, 11909 East Orell Road, Louisville, Ky. 40272
Sally Smith, 11913 East Orell Road, Louisville, Ky. 40272
Stephen Puricelli, 6318 (Inaudible)
Ken Thieneman, 833 Valley College Drive, Louisville, Ky. 40272
James Jones, 6326 Awning Springs Drive, Louisville, Ky. 40272
Melody Burns, 11605 (Inaudible)
Mike Searcy, Inaudible
Misty Pack, Inaudible
Martina Kunnecke, NPP

Summary of testimony of those in opposition:

01:29:13 Steve Porter said he represents the neighbors in the Winding Brook Subdivision which is adjacent to the subject site.

Mr. Porter objects to the due process of the hearing because he couldn't hear/understand the speakers or see the screens.

Mr. Porter said the proposal is in violation of Comprehensive Plan 2040. See recording for details.

Mr. Porter said there's no need for this project. There will be noise and odor from the trucks and additional flammable liquids stored on the property. There should be a better location for this proposal.

Mr. Porter has proposed 5 binding elements and submitted them into the record.

01:51:25 Andrew Fischer gave a power point presentation. The project will be approximately 300 ft. from his home. The main concerns are as follows: safety hazards, health risks and increased noise.

PLANNING COMMISSION MINUTES
March 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0034

02:09:04 Ms. Smith stated she objects to the gas station unless someone has done an impact study for the nearby homes/properties. There will be a negative economic impact.

02:19:57 Stephen Puricelli complained about the due process – can't see screen, no heat in the building, projector is too small, our voices have not been properly heard and couldn't hear the experts speak. The commissioners represent the citizens and need to do their job. The neighborhood is an established neighborhood and you (commissioners) need to prevent this plan from being approved.

02:23:04 Ken Thieneman stated the nearby homes are going to be economically destroyed and made unsafe.

Mr. Thieneman discussed FHA guidelines. This form district was specifically designed to protect this subdivision (he built) and should not be changed. There are other sites that would be compatible and have no residential impact.

02:26:21 James Jones said the railroad tracks were there when he bought his property but he did not foresee the gas station being placed in front of his house. The proposal does not comply with the Comprehensive Plan 2040. It's too close to an established neighborhood, nothing in the plan to protect the safety and health of nearby neighborhoods and the proposed fence does nothing to mitigate the noise and pollution.

02:38:26 Melody Burns said a major concern is the plan for an entrance/exit structure on Flowervale Ln. Other concerns are as follows: loss of peace of mind living in a quiet and safe neighborhood; children's safety at risk; elevated rate of drugs and crime to neighborhood; home is largest investment; and, if built, a need for a suitable barrier.

02:42:58 Mike Searcy (Inaudible). We don't need another gas station. If RaceTrac sells the property, the new owners may not take good care of the property.

02:47:40 Misty Pack (Inaudible). Ms. Pack discussed the vapors and E. Orell. The values of the homes will decrease.

02:52:22 Martina Kunnecke said she can't hear the speakers and it's not due process. The proposed development is not appropriate for this community.

Rebuttal

PLANNING COMMISSION MINUTES
March 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0034

02:56:41 Mr. Ashburner (Inaudible). There will be some screening and planting. Dixie Hwy. is a major arterial roadway. The proposal is in compliance with the Comprehensive Plan 2040.

Several commissioners complained of not being able to hear the rebuttal due to technical issues.

03:30:43 Chair Lewis stated, due to the technical difficulties, this case will be continued to the March 18, 2021 Planning Commission meeting (all virtual). The tapes are fine so the commissioners can review the tapes and ask questions at the next meeting. A staff member will be at the Valley Hope Center Gym, 10803 Deering Rd. for anyone who wants to attend the meeting at this location.

NO 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.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the March 18, 2021 regular Planning Commission meeting at 1:00 p.m.

The vote was as follows:

YES: Commissioners Brown, Clare, Daniels, Peterson, Seitz, Sistrunk and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Carlson, Howard and Mims

PLANNING COMMISSION MINUTES
March 1, 2021

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 10:14 p.m.

Chair

Planning Director

PLANNING COMMISSION MINUTES
January 7, 2021

BUSINESS SESSION
CASE NO. 20-ZONE-0034

Request: Change in form district from NFD to SMCDFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements – NIGHT HEARING REQUEST

Project Name: RaceTrac

Location: 11800 – 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman and Karl Gohl, Catherine and Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Dante St. Germain, AICP, Planner II

Agency Testimony:

00:51:36 Mr. Davis explained the Policy and Procedure meeting decisions concerning night hearings.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:50:00 Mr. Ashburner thanks staff and the Policy and Procedures Committee for creating a hearing procedure that increases access, is mindful of safety and will provide a physical location in or near the council district.

Mr. Ashburner requests the February 15, 2021 night hearing date.

01:53:54 Commissioner Peterson said February 15th is a holiday (President's Day). Mr. Davis said it's not a metro holiday.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299
James Jones, Inaudible
Misty Pack, 6204 Winding Stream Drive, Louisville, Ky. 40272

Summary of testimony of those in opposition:

PLANNING COMMISSION MINUTES
January 7, 202

BUSINESS SESSION
CASE NO. 20-ZONE-0034

01:54:48 Mr. Porter stated night hearings should not be held during the pandemic.

Mr. Porter requests the March 1, 2021 night hearing. Also, binding elements have been submitted but will not be in the staff report.

01:59:13 Mr. Jones stated when the petition was submitted, everyone was under the impression the meeting would be held in person. It should not be considered or scheduled for a night hearing at this time.

02:02:30 Ms. Pack disagrees with in-person, hybrid and Webex meetings.

Rebuttal

02:07:07 Mr. Ashburner said there is no perfect solution and given the varied objections, there is no public hearing that would satisfy everyone who wants to participate in this case.

Mr. Ashburner requests February 15, 2021 date, but will accept March 1, 2021 as the night hearing date.

Deliberation

02:12:36 Planning Commission 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.

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution based on the testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby schedule the night hearing for this case on March 1, 2021, 6:30 p.m. to be held at the Valley Hope Center, 10803 Deering Rd.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Mims, Peterson, Seitz, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioner Lewis

PLANNING COMMISSION MINUTES
December 3, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

*NOTE: This case was heard out of order. It was heard third on the agenda.

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Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 - Cindi Fowler

Case Manager: Dante St. Germain, 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:

00:20:37 Dante St. Germain said she did not have any new information to present, except that it is currently unsafe for a night hearing to be held. She said it is her understanding that this case will be continued to the January 7, 2020 Planning Commission public hearing.

The following spoke in support of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202 (was present but did not speak.)

The following spoke in opposition to this request:

No one spoke.

PLANNING COMMISSION MINUTES
December 3, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

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.

00:21:47 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 7, 2021** Planning Commission public hearing.

The vote was as follows:

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

PLANNING COMMISSION MINUTES
October 15, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

Request: Change in form district from NFD to SMCDFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements - **NIGHT HEARING REQUEST**

Project Name: RaceTrac

Location: 11800 - 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Cliff Ashburner, Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 - Cindi Fowler

Case Manager: Dante St. Germain, 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:

00:08:02 Dante St. Germain said this case has been before the Planning Commission several times, to schedule a night hearing. She said she has not received any communication from the applicant regarding a potential night hearing date; therefore, she requested a continuance of this case to an LD&T Committee meeting, date uncertain.

00:08:41 Brian Davis, Planning & Design Manager, said the reason for the continuance the last time was because there was an Ordinance filed by the Louisville Metro Council regarding potential changes to night hearing procedures. At this time, there has been no movement on that Ordinance by the Council. He said he has been in contact with the applicant, who requested that a night hearing be scheduled and conducted according to procedures put in place by Planning & Design Services. He said that November 10, 2020 would be the preferred date for the proposed facility and the applicant (see recording for detailed discussion.)

The following spoke in support of this request:

PLANNING COMMISSION MINUTES
October 15, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

Cliff Ashburner, Dinsmore & Shohl, 101 South Fifth Street, Louisville, KY 40202

Summary of testimony of those in support:

00:10:32 Cliff Ashburner, the applicant's representative, gave a brief history of the case and what the applicant has done so far (see recording.)

The following spoke in opposition to this request:

James Jones, 6326 Winding Spring Drive, Louisville, KY 40272

Misty Pack, 6204 Winding Spring Drive, Louisville, KY 40272

Shellie Nitsche, 2117 Walnut Place, Louisville, KY 40205

Summary of testimony of those in opposition:

00:12:39 James Jones said it is irresponsible to hold an in-person public hearing right now because the COVID numbers are rising. He said holding a public hearing now is unsafe, and asked that any night hearing be postponed until it is safe.

00:14:13 Misty Pack said she also lives in the neighborhood where this project is being proposed, and she agreed with Mr. Jones. She said there are about 350 signatures of people who want an in-person hearing. She feels she and the other residents "will not be heard" unless there is an in-person hearing.

00:19:18 Shellie Nitsche said that, while she is sympathetic to COVID concerns, she said that any meeting requiring public input should be held in-person and in the neighborhood. She feels that online hearings "put the public at a disadvantage." She also said that there is inadequate notification, people aren't being heard, that the Planning Commission has become "developer-centric."

The following spoke neither for nor against the proposal ("Other"):

No one spoke.

00:16:07 Commissioners' deliberation.

00:21:50 After Ms. Nitsche spoke, Mr Ashburner said that no one is trying to hide anything – this case has bene to LD&T and the Planning Commission; a neighborhood meeting was held in the neighborhood, etc. He said that public notification and access is greater now than it was in 2019, and that public input has been collected for the last nine months.

PLANNING COMMISSION MINUTES
October 15, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

00:24:21 SEE RECORDING FOR DETAILED DISCUSSION.

00:24:21 In response to questions from Commissioner Carlson, Mr. Davis detailed the Health Department and Safety and Health Committee (part of Metro Human Resources Department.)

00:26:14 Councilwoman Cindi Fowler said she has contacted Dr. Moyer regarding in-person meetings. She received an e-mail from Dr. Moyer stating that she does not recommend in-person meetings (see recording for detailed discussion.) She said she would forward Dr. Moyer's e-mail to the Planning Commission, and also to Planning & Design staff.

00:28:37 Laura Ferguson, legal counsel for the Planning Commission, explained why the Planning Commission is "on firm legal footing" for having virtual night hearings (see recording for detailed discussion.)

00:36:22 Misty Pack said she and Mr. Jones had asked many of their neighbors to attend (virtually or by phone) these meetings, and the neighbors don't because they say that 1:00 p.m. "is not a good time" or "nobody feels comfortable speaking up." She said neighbors don't feel comfortable with hybrid meetings "because that is something new." She reviewed her concerns in detail (see recording.)

00:39:30 Resume Commissioners' discussion.

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.

00:57:46 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

RESOLVED, the Louisville Metro Planning Commission does hereby schedule a night hearing on this case, to be heard on November 10, 2020 at 6:30 p.m. via Webex AND in-person at the November 10, 2020 at the Valley Hope Center, 10803 Deering Road. The motion carried by the following vote:

The vote was as follows:

PLANNING COMMISSION MINUTES
October 15, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

**YES: Commissioners Daniels, Carlson, Brown, Seitz, Mims, Peterson, Howard,
and Jarboe.**

NOT PRESENT: Commissioner Lewis.

PLANNING COMMISSION MINUTES
September 17, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

Request: Change in form district from NFD to SMCFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements – NIGHT HEARING REQUEST

Project Name: RaceTrac

Location: 11800 – 11908 East Orell Road, 11705 Dixie Highway

Owner: Herman and Karl Gohl, Catherine and Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Dante St. Germain, AICP, Planner II

Agency Testimony:

00:44:11 Ms. St. Germain stated she received a request from the applicant yesterday to not set the night hearing at this time. When the applicant decides to move forward with the request again, it will go back to Land Development and Transportation LD&T to set the night hearing. Acting Chair Lewis asked if it's to be set to a date uncertain. Ms. St. Germain said yes.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:46:16 Mr. Ashburner said he would prefer to set this case for LD&T, 3 weeks from now in the hope that by that time, Metro Council will make a determination regarding the night hearings. Also, it will give time to put technology solutions in place (if needed). Commissioner Mims said he's not sure there is a plan for resolving technology issues with the Planning Commission. Mr. Ashburner said he's heard a lot of community concern about access to a night hearing and wants to make sure everyone who wants to comment and participate, or as many as reasonable, will have that opportunity.

00:49:47 Commissioner Brown asked Mr. Ashburner if he will be submitting any new material (noise study) between now and the LD&T meeting. Mr. Ashburner said no because the noise study has already been submitted to staff. There may be a different rendering, but the plan will remain the same. Mr. Ashburner said he now requests to continue this case to the October 15, 2020 Planning Commission meeting.

PLANNING COMMISSION MINUTES
September 17, 2020

PUBLIC HEARING

CASE NO. 20-ZONE-0034

The following spoke neither for or against this request:

James Jones, 6326 _____, Louisville, Ky. 40272

Summary of testimony of those neither for nor against:

00:53:49 Mr. Jones agrees with Mr. Ashburner.

00:54:27 Planning Commission deliberation.

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

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.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the October 15, 2020 Planning Commission meeting to set a night hearing date.

The vote was as follows:

YES: Commissioners Brown, Daniels, Howard, Mims, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Peterson and Jarboe

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
September 10, 2020

NEW BUSINESS

CASE NO. 20-ZONE-0034

Request: Change in form district from NFD to SMCFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements – NIGHT HEARING REQUEST

Project Name: RaceTrac

Location: 11800 – 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Dante St. Germain, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Discussion

00:22:30 Dante St. Germain presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Ms. St. Germain stated the neighborhood to the east of this site has voiced objection to this development and the neighbors petitioned a night hearing with 351+ signatures. She noted there have been emails objecting to a virtual/hybrid night hearing and asked the proposed night hearing to be postponed until COVID-19 restrictions are lifted.

The following spoke in favor of this request:

Cliff Ashburner, 101 South Fifth Street, Suite 2500, Louisville, Kentucky, 40202

Summary of testimony of those in favor:

00:25:20 Cliff Ashburner, representing the applicant, stated he has submitted a sound study that evidences no impact for this site, and it will be presented at the public hearing (see recording for detailed presentation.) Mr. Ashburner noted the proposed location for the night hearing will be able to accommodate those who wish to attend.

The following spoke in opposition to this request:

James Jones, 6326 Winding Stream Drive, Louisville, Kentucky, 40272

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
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CASE NO. 20-ZONE-0034

Misty Pack, 6204 Winding Stream Drive, Louisville, Kentucky, 40272

Summary of testimony of those in opposition:

00:28:24 James Jones stated the night hearing should have both neighbors and commissioners present at the night hearing. Mr. Jones expressed concerns with people who cannot be present at the meeting may have technology limitations that may prevent them from speaking. He would like this meeting to be held in person when it is safe to do so (see recording for detailed presentation.)

00:29:32 Misty Pack detailed the petition process and the library neighborhood meeting. Ms. Pack expressed concerns with using online video meetings. Misty asked that commissioners and staff be present at the night hearing (see recording for detailed presentation.)

The following spoke in neither for nor against to this request:

Cindy Fowler, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

00:31:44 Cindy Fowler expressed concerns with hosting a virtual night hearing and would like everyone who wishes to speak be able to in front of Planning Commissioners. Ms. Fowler asked that this process be fair to everyone who wishes to speak and be heard (see recording for detailed presentation.)

00:34:57 Commissioner Peterson asked for the status of Policy and Procedures Committee at this time. Commissioner Lewis replied Policy and Procedures Committee will have a meeting on September 11, 2020 to approve the final iteration of the policy for night hearing (see recording for detailed presentation.) Brian Davis noted discussions regarding meeting requirements and the proposed location of the night hearing (see recording for detailed presentation.)

Rebuttal:

00:37:21 Cliff Ashburner stated if it would please the public for this case to be heard after the final Policy and Procedures Committee meeting and the night hearing date can be set at that time (see recording for detailed presentation.)

Commissioner Deliberation:

00:40:37 Commissioner Lewis asked for the impact of waiting to hear this case again to set a public hearing date after the Policy and Procedures Committee comes to

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
September 10, 2020

NEW BUSINESS

CASE NO. 20-ZONE-0034

a resolution at their meeting Brian Davis replied the date can be changed and staff would have to contact the venue to see if it's available at a later date (see recording for detailed presentation.)

00:41:30 Commissioner Carlson asked if this case can be heard at the September 17, 2020 Planning Commission Meeting. The Policy and Procedures Committee would have a recommendation for new night hearing protocols by that date. Commissioners, Staff, and Cliff Ashburner discussed forwarding this case to Planning Commission (see recording for detailed presentation.)

00:47:14 Commissioners discussed setting a date for this hearing (see recording for detailed presentation.)

An audio/visual recording of the Land Development & Transportation Committee meeting 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.

00:47:48 On a motion by Commissioner Carlson, seconded by Commission Peterson, the following resolution was adopted:

RESOLVED, that the Louisville Metro Land Development and Transportation Committee does hereby **CONTINUE** this case to the Louisville Metro Planning Commission on September 17, 2020.

The vote was as follows:

YES: Commissioners Carlson, Brown, Peterson, and Lewis.

NO: No one

ABESNT: Commissioner Daniels.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
August 13, 2020

NEW BUSINESS

CASE NO. 20-ZONE-0034

Request: Change in form district from NFD to SMCFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements – NIGHT HEARING REQUEST

Project Name: RaceTrac

Location: 11800 – 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Dante St. Germain, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Discussion

00:05:53 Dante St. Germain stated this case is being heard today to discuss night hearing options after receiving a petition and 351+ signatures for a night hearing. Ms. St. Germain noted options for night hearings was discussed at the Policy and Procedures Committee meeting on August 7, 2020 with no action taken (see recording for detailed presentation.).

00:08:13 Brian Davis stated staff is requesting to amend bylaws to help direct and address night hearing petitions during the state of emergency. The Policy and Procedure Committee will be meeting on August 14, 2020 to discuss night hearings and public meetings during this time.

00:09:05 Commissioner Carlson asked while there is no final decision on night hearings, does the Policy and Procedures Committee have a general idea proposed? Brian Davis replied Policy and Procedures Committee drafted ideas when it would be appropriate to host meetings and the governor's recommendation for meeting at public venues. The Committee was tasked to expand on these topics and present their conclusions at the next meeting. Mr. Davis noted the venue location of a night hearing must be large enough to accommodate people with social distancing (see recording for detailed presentation.)

00:12:44 Commissioner Carlson asked if the Council Representative for that district could recommend meeting locations.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
August 13, 2020

NEW BUSINESS

CASE NO. 20-ZONE-0034

00:13:12 Commissioner Peterson asked if churches in the area could be used as a potential meeting location. Brian Davis replied staff has verified the petition, but a location cannot be set until the Policy and Procedures Committee comes to a resolution for night hearing procedures (see recording for detailed presentation.) Mr. Davis noted potential venues would have to accommodate large crowds and have the technology available for those who wish to speak in person and virtually.

The following spoke in favor of this request:

Cliff Ashburner, 101 South Fifth Street, Suite 2500, Louisville, Kentucky, 40202

Summary of testimony of those in favor:

00:14:35 Cliff Ashburner, representing the applicant, stated the applicant wishes to move forward with petition for a night hearing. Mr. Ashburner detailed the updates for the sound buffering issues discussed at the previous LD&T meeting and the sound study that will be available when the night hearing is scheduled.

The following spoke in opposition to this request:

Stephen Puricelli, 6318 Winding Stream Drive, Louisville, Kentucky, 40272

Summary of testimony of those in opposition:

00:17:51 Stephen Puricelli stated he would like to continue the request for a night hearing and would prefer an in-person option to allow the public to be heard before a decision is finalized.

The following spoke in neither for nor against this request:

Cindi Fowler, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

00:18:57 Cindi Fowler, Council District Representative, stated she would like to make sure the public is allowed to have the opportunity to be heard.

Rebuttal:

00:20:29 Cliff Ashburner asked the Committee to continue this case to give the Policy and Procedures Committee time to come to a resolution on how to direct a blended hearing (see recording for detailed presentation.)

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
August 13, 2020

NEW BUSINESS

CASE NO. 20-ZONE-0034

00:21:20 Commissioner Lewis asked Brian Davis if he can recommend a date for this continuance. Brian Davis replied if Policy and Procedures Committee agrees to draft some standards the proposed standards will have to be presented at a Planning Commission meeting, this case can be continued to August 20th or September 3rd to give time for Planning Commission to act on those policies. Commissioner Lewis and Brian Davis discussed the process for noticing for this case (see recording for detailed presentation.)

Commissioner Deliberation:

00:23:20 Commissioner's deliberation (see recording for detailed presentation.) Joe Reverman, Brian Davis, and Cliff Ashburner discussed the continued date for a previously petitioned night hearing, September 10th (see recording for detailed presentation.) Jeff Brown asked if the Traffic Study will be reviewed prior to the next LD&T meeting. Cliff Ashburner stated the draft will be reviewed and submitted to staff before the next LD&T meeting.

An audio/visual recording of the Land Development & Transportation Committee meeting 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.

00:28:45 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, was adopted:

RESOLVED, that the Land Development & Transportation Committee does hereby **CONTINUE** planning case 20-ZONE-0034 to the September 10, 2020 Land Development and Transportation meeting.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Peterson, Brown, and Lewis.

NO: No one.

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 9, 2020

NEW BUSINESS

CASE NO. 19-ZONE-0034

Request: Change in form district from NFD to SMCFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements

Project Name: RaceTrac

Location: 11800 – 11908 E Orell Road, 11705 Dixie Highway

Owner: Herman & Karl Gohl, Catherine & Charles Grissett, Kathy Gibson

Applicant: RaceTrac Petroleum Inc.

Representative: Dinsmore & Shohl

Jurisdiction: Louisville Metro

Council District: 14 – Cindi Fowler

Case Manager: Dante St. Germain, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:21:50 Dante St. Germain presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Ms. Germain detailed the applicant's development plan for a new refilling and convenience store. Dante noted there have been interested party comments submitted to staff concerns about traffic and accidents at the intersection.

The following spoke in favor of this request:

Cliff Ashburner, 101 South Fifth Street, Suite 2500, Louisville, Kentucky, 40202
Jon Henney, 111 West Main Street, Suite 201, Louisville, Kentucky, 40202
Brian Chism, 2424 Airway Court, Bowling Green, Kentucky, 42103

Summary of testimony of those in favor:

01:25:14 Cliff Ashburner, representing the applicant, presented a Power Point pdf slide show (see recording for detailed presentation.) Mr. Ashburner detailed the subject property, street views, proposed plan, traffic studies. He noted the need for a right turn lane at the entrance on Dixie Highway. Cliff detailed Table 2. Peak Hour Level of Service table (see recording for detailed presentation.)

01:35:47 Commissioner Carlson asked if there have been any discussions about a masonry sound wall to be installed. Cliff Ashburner replied there was a request to build a concrete wall along the rear portion of the property, but he has concluded it is not

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 9, 2020

NEW BUSINESS

CASE NO. 19-ZONE-0034

feasible. The proposed fenced will be solid and have screening. Mr. Ashburner stated he is willing to work with residents for additional screening. Commissioner Carlson asked how long the proposed landscaping would take to grow into what was presented in the slide show. Cliff Ashburner replied Jon Henney would be able to answer this question.

01:35:27 In response to Commissioner Carlson's questions, Jon Henny stated in the renderings there are existing trees along E. Orell that will be preserved, and they will be adding additional trees along the fence line. Commissioner Carlson asked if this site would provide a large fueling station for semi trucks. Jon Henney referenced the proposed plan. Commissioner Carlson and Jon Henney discussed the entrances and exits for the site. Commissioner Carlson asked there be a sound wall installed to help mitigate traffic noise from semi trucks.

01:40:24 Commissioner Lewis asked Cliff Ashburner if the Thornton's gas station across the street has the capacity for semi trucks fueling. Cliff Ashburner replied it does not. Commissioner Lewis asked if this site will be used for fueling semi trucks only, no over night parking. Cliff Ashburner replied yes.

01:43:36 Brian Chism stated he is in support of this rezoning case.

The following spoke neither for nor against the request:

Cindi Fowler, 601 W. Jefferson Street, Louisville, KY 40202

Summary of testimony of those neither for nor against:

01:44:08 Cindi Fowler stated this proposed development has created concerns with neighbors on East Orell and traffic noise. Ms. Fowler did request there be a brick wall along East Orell and that the developer consider to construct a wall to prevent traffic noise. Cindi Fowler asked Cliff Ashburner if there was a fee in leu on sidewalks. Cliff Ashburner replied there is a proposed fee in leu on the East Orell portion of the property which will be spent within this district. Cindi Fowler, Cliff Ashburner, and Commissioners discussed petitioning this case for a night hearing (see recording for detailed presentation.)

The following spoke in opposition to this request:

Stephen Puricelli, 6318 Winding Stream Drive, Louisville, Kentucky, 40272
Mist Pack, 6204 Winding Stream Drive, Louisville, Kentucky, 40272
Steven Porter, 2406 Tucker Station Road, Louisville, Kentucky, 40299

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 9, 2020

NEW BUSINESS

CASE NO. 19-ZONE-0034

Summary of testimony of those in opposition:

01:50:00 Stephen Puricelli stated he originally bought his property because this site was zoned as residential and this site is on a lower elevation to the surrounding neighborhoods. The adjacent neighborhoods can view into this site regardless if there is a 6 foot fence. Mr. Puricelli noted there is a separate diesel bay for semi truck drivers which will increase noise. This proposed development is not like the Thornton's gas station across the street.

01:53:39 Misty Pack stated the adjacent neighborhoods are new and would have not bought her property if the adjacent site was originally zoned as commercial. Ms. Pack expressed concerns with lighting, noise, smells, and the dangers of having a gas station in close proximity to family homes and the elementary school (see recording for detailed presentation.)

01:56:06 Steve Porter asked for the hours of operation and the purpose of the extra green space between the proposed buildings and Orell road. Mr. Porter stated there was a petition of opposition with over 800 signatures and the group who organized the opposition petition has not submitted a petition for a night hearing. Steve suggested to the Commission if there is a petition for a night hearing the meeting should held in this neighborhood (see recording for detailed presentation.)

01:58:06 Dante St. Germain stated the petition of opposition submitted by neighbors via Change.org does not qualify as a petition for a night hearing because there are no addresses for Planning and Design to verify. An electronic petition is acceptable for a night hearing, but it has to be from a platform that collects addresses not just city and state information (see recording for detailed presentation.)

Rebuttal:

01:59:43 Cliff Ashburner stated there is no limit for the hours operations outside of the store closing it's doors at a certain hour but still serving though a drive through. Mr. Ashburner noted the extra green space behind the building will be made up of additional screening, existing trees, and the screen fencing. Cliff detailed the zoning history of this site (see recording for detailed presentation.) He stated concerns with having a large gathering for an in person public night hearing.

02:05:13 Commissioner Lewis and Dante St. Germain discussed the process for the petition and scheduling of night hearings (see recording for detailed presentation.)

02:06:28 Cindi Fowler requested a proposed night hearing be in the evening and in her district for neighbors to attend to speak at the public hearing (see recording for detailed presentation.)

LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES
July 9, 2020

NEW BUSINESS

CASE NO. 19-ZONE-0034

Deliberation

02:08:53 Committee deliberation (see recording for detailed presentation.) 02:08:53
Commissioners and Emily Liu discussed hosting in person meetings and hosting virtual meetings via WebEx to allow citizens to speak. Joe Reverman, Commissioners, Emily Liu, Cliff Ashburner, and Steve Porter discussed setting a date for a public hearing and the process for a night hearing petition (see recording for detailed presentation.)

An audio/visual recording of the Land Development & Transportation Committee meeting 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.

The Committee by general consensus placed this case on the August 20, 2020 Planning Commission Hearing online via Cisco Webex.

Planning Commission recessed at approx. 3:35 p.m.

Planning Commission resumed at approx. 3:45 p.m.