

PLANNING COMMISSION MINUTES
November 2, 2017

PUBLIC HEARING

CASE NO. 17ZONE1019

Case No: 17ZONE1019
Request: R-4 to C-M
Project Name: Orell Warehouse
Location: 6605 West Orell Road

Owner: CAT PB, LLC
Chris Thieneman
P.O. Box 991064
Louisville, Ky. 40299

Applicant: CAT PB, LLC
Chris Thieneman
P.O. Box 991064
Louisville, Ky. 40299

Representative: Cliff Ashburner, Dinsmore & Shohl, LLP
101 South 5th Street, Suite 2500
Louisville, Ky. 40202

Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler
Case Manager: Laura L. Mattingly, 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:

00:46:26 Ms. Mattingly 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, LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202
Chris Thieneman, 7650 Dixie Highway, Louisville, Ky. 40258

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Derek Triplett, Land Design and Development, 503 Washburn Avenue, Suite 101,
Louisville, Ky. 40222

Summary of testimony of those in favor:

00:55:47 Mr. Ashburner gave a power point presentation. The plan has changed and been modified extensively and may have to be refined more if necessary. There is no use for the property at this time.

01:07:17 Mr. Thieneman stated he has worked with the neighbors and Councilwoman Fowler. There was talk about extra berms and extra fencing.

The following spoke in opposition to this request:

Rob Sanders, 8508 Carmil Drive, Louisville, Ky. 40291
Martha Crisler, 7508 Pony Haven Drive, Louisville, Ky. 40214
Councilwoman Cindi Fowler, 14206 Pauleys Gap Road, Louisville, Ky. 40272

Summary of testimony of those in opposition:

01:25:00 Mr. Sanders stated his main concerns are buffering and truck traffic. Orell Rd. is a safety hazard and there should be signage directing trucks to another entrance and to not use Orell Rd. at all.

01:29:03 Ms. Crisler stated she is representing Conchita Crisler (mother). "Being a property manager, I am very concerned about the ability of renting our properties as this proposal goes forward." Also, there will be too many lights and heavy traffic (safety on Orell Rd.).

01:33:10 Councilwoman Fowler stated she would like to see this plan go forward but the entrance is a problem now and will be greater when trucks are added. The trucks need to be directed to the access easement.

01:35:22 Councilwoman Fowler remarked, "I am trying to dress that part of Dixie Hwy. up and make it a better place for people to live, drive and want to be." Traffic safety is a major issue.

Rebuttal

01:37:10 Mr. Ashburner stated, "Part of the reason this site makes sense is that Riverport is trying to develop a phase 5 nearby and there's a railroad that presents some access issues. This site doesn't have those issues and is a good opportunity

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close to existing infrastructure to develop a site like this.” The Land Development Code will cover issues involving garbage collections, loading/unloading and lighting. “Other issues discussed today will be brought up when we come back with the end use.”

01:47:19 Mr. Triplett stated, “We submitted some trip generation numbers to Mr. Dutrow and it was found that we were below the threshold for the study but we were going to go ahead and supply the road widening on Orell on our frontage without going through the traffic study process.” Peak hour generation rates were under 100.

Deliberation

01:48:30 Commissioner Carlson agrees with the zoning and form district changes. The issues are the Orell Rd. traffic, entrance and exit. Truck traffic should not use Orell Rd. at all.

Commissioner Howard doesn’t think the variances and waiver are necessary because there’s no use being proposed. There will be a negative impact for the neighbors waiting for trucks to maneuver on Orell Rd.

Commissioner Lewis stated she is troubled by truck traffic on W. Orell.

Commissioner Brown stated, “The only way to prohibit truck traffic is to not provide an access to Orell Rd. That would be difficult to monitor and enforce.”

Commissioner Ferguson said this case should come back to Planning Commission, not LD&T. Access depends on the end use.

Commissioner Lindsey stated she’s not comfortable with the waiver, variances, DDP or entrance because there’s no final use.

Commissioner Peterson said his main concern is the semi-truck traffic on Orell Rd. The trucks need to be restricted to Dixie Hwy. only.

Chairman Jarboe remarked, “I like the idea that the zoning is Commercial Manufacturing, but some of the other details haven’t been hashed out yet.”

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 to C-M

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

WHEREAS, the proposal does include public sidewalks and pedestrian connections; and

WHEREAS, the proposal includes improved access and landscaping along Dixie Hwy.; and

WHEREAS, while the use is not compatible with those along the corridor as it is not commercial in nature, the site design and buffering from adjacent uses increases its compatibility; and

WHEREAS, the proposal is requesting an expansion of the Suburban Marketplace Corridor, but this expansion is justified due to the site design and buffering that decreases the chances of the disruption of the established residential area to the south. Additionally, the proposal includes a private access easement that connects the site directly to Dixie Hwy and relieves the more residential roadway of truck traffic; and

WHEREAS, the proposed development complies with the intent of Guideline 1. The subject property is in the Neighborhood form District, which can accommodate workplaces, such as offices or commercial centers. Here, where the site is located adjacent to C-2 commercial property and has been used for commercial uses in the past, the reuse of the subject property as a warehouse is appropriate; and

WHEREAS, the applicant proposes to change the form district applicable to the subject property from Neighborhood to Suburban Marketplace Corridor. The subject property has been commercial for many years, operated as a go cart track and driving range and should have been mapped as part of the Suburban Marketplace Corridor some time ago. The property is adjacent to the commercial uses fronting the west side of Dixie Highway and has access to Dixie Highway via a private access easement. The proposed use will not fit on other properties in the corridor, necessitating the expansion of the corridor in this case. The applicant, as detailed below, will address the surrounding land use with appropriate transitions; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guideline 2. The subject property is part of an activity center along Dixie Highway north of W. Orell Road and was a former amusement use including a go cart track and driving range. The proposed development includes access to Dixie Highway and W. Orell Road and will contain buffering where there are adjacent, residentially used and zoned properties. The proposed development will be one of only a few workplaces in

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this section of Dixie Highway, giving those who reside in nearby neighborhoods the opportunity to work close to home; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guideline 3. The proposed development has been designed with access on Dixie Highway and W. Orell Road near the commercial properties along Dixie Highway. The applicant has also agreed to examine buffering along the residentially used and zoned properties to the south of the subject property and along the rear of the commercial properties along Dixie Highway. The applicant will comply with all Land Development Code requirements on lighting and noise and will examine the impact of traffic on W. Orell Road and its intersection with Dixie Highway. The subject property is adjacent to Dixie Highway and will have access to the transit improvements planned along the corridor. The applicant has further modified its proposal to rezone the property to C-M to allow for more commercial development on the subject property should the proposed development not come to fruition; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guidelines 4 and 5. The proposed development will include the required amount of outdoor amenity space. There are no known scenic or historic resources on the subject property; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guideline 6. The subject property is located adjacent to Dixie Highway near its intersection with I-265. The subject property formerly was part of an amusement-type use, including a go cart track and golf driving range, and this reinvestment in previously developed property will help to spur other investments in the area; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guidelines 7 and 9. The applicant will work with Louisville Metro Public Works and the Kentucky Transportation Cabinet to evaluate the impact the proposed development will have on the area street network. Further, the applicant is locating near existing transit that is proposed for improvement. The proposed development will also provide bicycle parking and sidewalks where required; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guidelines 10 and 11. The proposed development will comply with MSD requirements regarding the regional drainage system. These compliance measures will address both quantity and quality storm water leaving the site; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposed development complies with the intent and applicable policies of Guideline 12. The proposed development is located near a major arterial and close to I-265, which will

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connect it with area interstate highways. The proposed development includes bicycle parking. The proposed development is a workplace investment in an area with few but a growing number of workplaces. Locating workplaces near neighborhoods is one way to cut down on transportation-related air pollution; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development complies with the intent and applicable policies of Guideline 13. The proposed development will be designed to meet both the tree canopy and landscape buffer area requirements where they will do the most good. The applicant will design the landscape buffers for the proposed development to be sensitive to the impacts that the proposed use will have on the adjacent residences and commercial properties along Dixie Highway.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of the zoning change from R-4 to C-M based on the staff report, testimony heard today and the applicant's finding of facts.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Lindsey, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Smith

Form District Change from Neighborhood to Suburban Marketplace Corridor

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

WHEREAS, the proposal does include public sidewalks and pedestrian connections; and

WHEREAS, the proposal includes improved access and landscaping along Dixie Hwy.; and

WHEREAS, while the use is not compatible with those along the corridor as it is not commercial in nature, the site design and buffering from adjacent uses increases its compatibility; and

WHEREAS, the proposal is requesting an expansion of the Suburban Marketplace Corridor, but this expansion is justified due to the site design and buffering that

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decreases the chances of the disruption of the established residential area to the south. Additionally, the proposal includes a private access easement that connects the site directly to Dixie Hwy and relieves the more residential roadway of truck traffic; and

WHEREAS, the proposed development complies with the intent of Guideline 1. The subject property is in the Neighborhood form District, which can accommodate workplaces, such as offices or commercial centers. Here, where the site is located adjacent to C-2 commercial property and has been used for commercial uses in the past, the reuse of the subject property as a warehouse is appropriate; and

WHEREAS, the applicant proposes to change the form district applicable to the subject property from Neighborhood to Suburban Marketplace Corridor. The subject property has been commercial for many years, operated as a go cart track and driving range and should have been mapped as part of the Suburban Marketplace Corridor some time ago. The property is adjacent to the commercial uses fronting the west side of Dixie Highway and has access to Dixie Highway via a private access easement. The proposed use will not fit on other properties in the corridor, necessitating the expansion of the corridor in this case. The applicant, as detailed below, will address the surrounding land use with appropriate transitions; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guideline 2. The subject property is part of an activity center along Dixie Highway north of W. Orell Road and was a former amusement use including a go cart track and driving range. The proposed development includes access to Dixie Highway and W. Orell Road and will contain buffering where there are adjacent, residentially used and zoned properties. The proposed development will be one of only a few workplaces in this section of Dixie Highway, giving those who reside in nearby neighborhoods the opportunity to work close to home; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guideline 3. The proposed development has been designed with access on Dixie Highway and W. Orell Road near the commercial properties along Dixie Highway. The applicant has also agreed to examine buffering along the residentially used and zoned properties to the south of the subject property and along the rear of the commercial properties along Dixie Highway. The applicant will comply with all Land Development Code requirements on lighting and noise and will examine the impact of traffic on W. Orell Road and its intersection with Dixie Highway. The subject property is adjacent to Dixie Highway and will have access to the transit improvements planned along the corridor. The applicant has further modified its proposal to rezone the property to C-M to allow for more commercial development on the subject property should the proposed development not come to fruition; and

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WHEREAS, the proposed development complies with the intent and applicable policies of Guidelines 4 and 5. The proposed development will include the required amount of outdoor amenity space. There are no known scenic or historic resources on the subject property; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guideline 6. The subject property is located adjacent to Dixie Highway near its intersection with I-265. The subject property formerly was part of an amusement-type use, including a go cart track and golf driving range, and this reinvestment in previously developed property will help to spur other investments in the area; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guidelines 7 and 9. The applicant will work with Louisville Metro Public Works and the Kentucky Transportation Cabinet to evaluate the impact the proposed development will have on the area street network. Further, the applicant is locating near existing transit that is proposed for improvement. The proposed development will also provide bicycle parking and sidewalks where required; and

WHEREAS, the proposed development complies with the intent and applicable policies of Guidelines 10 and 11. The proposed development will comply with MSD requirements regarding the regional drainage system. These compliance measures will address both quantity and quality storm water leaving the site; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposed development complies with the intent and applicable policies of Guideline 12. The proposed development is located near a major arterial and close to I-265, which will connect it with area interstate highways. The proposed development includes bicycle parking. The proposed development is a workplace investment in an area with few but a growing number of workplaces. Locating workplaces near neighborhoods is one way to cut down on transportation-related air pollution; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development complies with the intent and applicable policies of Guideline 13. The proposed development will be designed to meet both the tree canopy and landscape buffer area requirements where they will do the most good. The applicant will design the landscape buffers for the proposed development to be sensitive to the impacts that the proposed use will have on the adjacent residences and commercial properties along Dixie Highway.

RESOLVED, that the Louisville Metro Planning Commission does hereby
RECOMMEND, to Metro Council, **APPROVAL** of the form district change from

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Neighborhood to Suburban Marketplace Corridor based on the staff report, testimony heard today and the applicant's finding of facts.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Lindsey, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Smith

General Development Plan and Binding Elements

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

WHEREAS, there does not appear to be any significant natural or historical resources on site and this proposal does not appear to affect any scenic views; 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, the proposal has provided the required amenity area for the office portion of the use; 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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Additionally, the applicant has agreed to increase the landscaping adjacent to the homes to the south and the roadway. Setbacks, while not code compliance, appear to be reasonable and compatible with surrounding uses; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan generally 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 Development Plan and the proposed binding elements with the revision to

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binding element number 7 to read as follows: The applicant shall submit a Detailed District Development Plan to be approved by Planning Commission prior to construction plan approval that addresses the following elements: building design use, access to W. Orell Rd. specifically pertaining to truck traffic, landscaping adjacent to the single family residences to the south and landscaping along the private access easement and the 6 foot berm. Notification of the meeting shall include anyone who spoke at the Planning Commission public hearing for Case No. 17ZONE1019; based on the staff report and testimony heard today.

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways for any work within the state right-of-way.
 - c. 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
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the

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proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. No overnight idling or idling of trucks while loading or unloading equipment shall be permitted on-site.
7. The applicant shall submit a Detailed District Development Plan to be approved by Planning Commission prior to construction plan approval that addresses the following elements: building design use, access to W. Orell Rd. specifically pertaining to truck traffic, landscaping adjacent to the single family residences to the south and landscaping along the private access easement and the 6 foot berm. Notification of the meeting shall include anyone who spoke at the Planning Commission public hearing for Case No. 17ZONE1019.

The vote was as follows:

YES: Commissioners Brown, Carlson, Ferguson, Howard, Lewis, Lindsey, Peterson, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioner Smith