

Board of Zoning Adjustment

Staff Report

October 16, 2017



Case No:	17CUP1055
Project Name:	Trackside
Location:	4520 Poplar Level Road
Owner(s):	Churchill Downs, Inc.
Applicant:	Churchill Downs, Inc.
Jurisdiction:	Louisville Metro
Council District:	21 – Dan Johnson
Case Manager:	Jon Crumbie, Planning & Design Coordinator

REQUEST(S)

- Modification of an approved Conditional Use Permit to allow the construction of a pari-mutuel wagering building and related improvements
- Landscape waiver to reduce the required landscape buffer area along the rear of the property adjacent to Evergreen Cemetery.

Location	Requirement	Request	Waiver
Rear Property Line	25 feet	15 feet	10 feet

CASE SUMMARY/BACKGROUND

Prior of 1963, there were two zoning ordinances, one for the City of Louisville and one for Unincorporated Jefferson County. The first “unified” ordinance in our records is from January, 1963. In this ordinance “race tracks” for animals appears as a use permitted with a special use permit. These permits were the predecessor of Conditional Use Permits. Special Use Permits were reviewed and issued by the Planning Commission. After 1966, Special Use Permits were eliminated in state law, and Conditional Use Permits became the responsibility of the Board of Zoning Adjustment.

The applicant has long owned this property, once used as a harness racing track and related pari-mutuel wagering facility, presently used as a thoroughbred training track. The proposed replacement wagering building is smaller than the one recently demolished because of deteriorated condition. Also the parking will be reduced in size and improved and enhanced, as will the entrance and drive lanes with new landscaping and fence screening.

STAFF FINDING / RECOMMENDATION

The proposal meets the applicable policies of the Comprehensive Plan and there were no previous conditions of approval for the special use permit granted. Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Board of Zoning Adjustment must determine if the proposal meets the standards established in the Land Development Code for a modified conditional use permit and landscape waiver.

Related Cases

9-69-65

Change in zoning from M-2 to R-1 and Special Use request to establish a harness race track on property located on the northeast side of Breitenstein Avenue, if extended, 17-¹/₂ southeast of Howard Street, fronting on Breitenstein Avenue, if extended 1830' more or less and extending northeast to a depth of 1450' more or less before narrowing to 122' at the south end and extending an additional 892' to Poplar Level Road, with a frontage thereon of 122' and containing 79.4 acres. The Louisville and Jefferson County Planning and Zoning Commission recommended denial on May 6, 1965. Fiscal Court overturned the decision.

9-153-72

Change in zoning from M-2 to R-1, on condition the necessary Conditional Use permit and Variance allowing race track building to be less than 100 feet from all property lines are granted by the Louisville and Jefferson county Board of Zoning Adjustment, and if it is suggested that the Board require in their action that the proposed development be separated from adjoining residential property by suitable screening. This request was approved by Fiscal Court on May 11, 1973.

B-31-74

An application for modification of a Conditional Use Permit for a race track to allow the construction of new barns and other facilities. This proposal was approved by the Board of Zoning Adjustment on April 10, 1974.

B-31-74

An application for variance from the requirements of the Zoning Regulations to permit a horse barn to be less than 100 feet from property lines as required by Section 30C of the Zoning District Regulations. This proposal was approved by the Board of Zoning Adjustment on April 10, 1974.

B-197-88

A modification of the Conditional Use Permit for the proposed extension of the existing racetrack, the proposed addition of a small restroom facility to the existing grandstand which is undergoing renovations for an Intertrack Wagering facility and to replace the existing sign. This proposal was approved by the Board of Zoning Adjustment on September 21, 1992.

TECHNICAL REVIEW

There are no outstanding technical review items.

INTERESTED PARTY COMMENTS

A neighborhood meeting was not required for this proposal, but the applicant held one on July 17, 2017. 23 people attended the meeting.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with the applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with the applicable policies of the Comprehensive Plan.

2. Is the proposal compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting, appearance, etc?

STAFF: The proposal is compatible with the general character of the surrounding neighborhoods in terms of scale, intensity, traffic, noise, drainage and appearance.

3. Are necessary public facilities (both on-site and off-site), such as transportation, sanitation, water, sewer, drainage, emergency services, education, recreation, etc. adequate to serve the proposed use?

STAFF: The proposal has been reviewed by MSD and Transportation Planning and both have approved the plan.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

Special Use Permit standards from the 1963 regulations:

1. All buildings and structures shall be at least 100 feet from all property lines. **The proposed building is approximately 75 feet from the rear property line.**
2. A minimum of 1 off-street parking space shall be provided for each 5 seats in the grandstand.
3. Parking areas and drive shall be surfaced with a hard and durable material and properly drained.
4. Except in districts where signs are allowed, one sign, not to exceed 100 square feet in area, may be located at each of the major entrances. Sign facing a residential district shall be a non-flashing type.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the applicant will be adding a wood privacy fence and landscaping requirements will be met.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact

caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the property line is adjacent to a cemetery.

- (d) Either:
(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR
(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of land or would create an unnecessary hardship on the applicant as the drive lane is an existing condition.

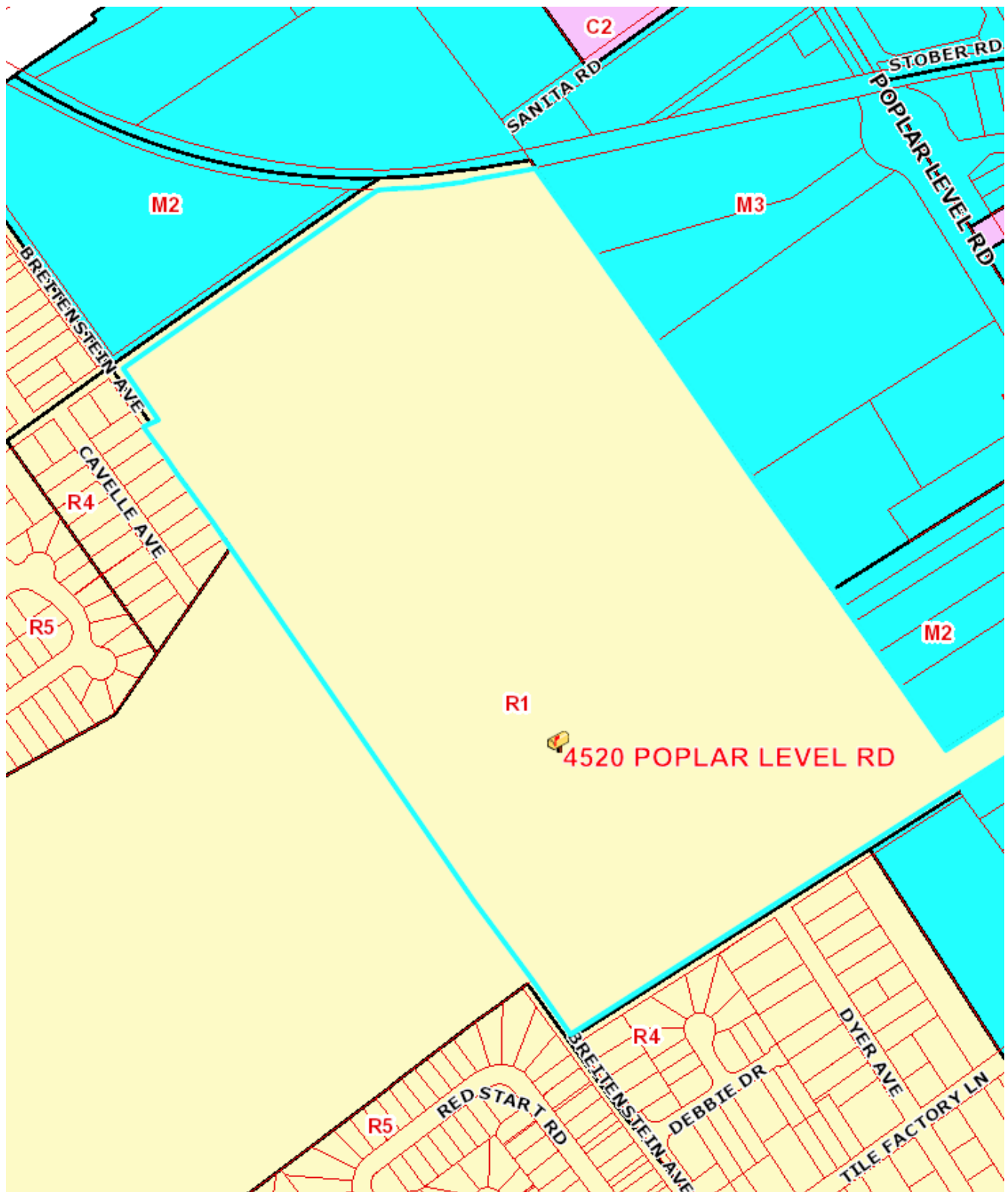
NOTIFICATION

Date	Purpose of Notice	Recipients
9/28/17	Public Hearing for BOZA	Registered Neighborhood Groups and subscribers in Council District
9/28/17	Public Hearing for BOZA	Sign Posting

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Proposed Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Proposed Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for pari-mutuel wagering facility without further review and approval by the Board.