

PLANNING COMMISSION MINUTES
September 29, 2016

PUBLIC HEARING

CASE NO. 16ZONE1022

Request: R-4, R-7, OR-3, M-1, M-2, and M-3 to C-2 with waivers
Project Name: Bellarmine Athletic Fields
Location: 3408, 3416, 3420 and 3430 Newburg Road and 4300
Champions Trace Lane

Owner: Bellarmine University LLC
Robert L. Zimlich
2001 Newburg Road
Louisville, Ky. 40205

WMC2 LLC.
P. Anthony Hammond
3430 Newburg Road, Suite 158
Louisville, Ky. 40218

Kentucky Association of Electric Cooperatives Inc.
Christopher S. Perry
4515 Bishop Lane
Louisville, Ky. 40218

Applicant: Bellarmine University LLC
2001 Newburg Road
Louisville, Ky. 40205

Representative: Heritage Engineering LLC.
John Campbell
603 North Shore Drive, Unit 204
Jeffersonville, In. 47130

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

Jurisdiction: Louisville Metro
Council District: 10- Pat Mulvihill
**Case Manager: Julia Williams, RLA, AICP, Planning
Supervisor**

NOTE: COMMISSIONER BROWN ARRIVED TO HEAR THIS CASE AT 2:07 P.M.

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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:

00:20:56 Mrs. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Nick Pregliasco, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Bob Zimlich, 2807 Alice Avenue, Louisville, Ky. 40220
Linda Chesser, 4308 Conaem Drive, Louisville, Ky. 40213

Summary of testimony of those in favor:

00:33:13 Mr. Pregliasco gave a power point presentation. Bellarmine continues to expand but has used all its space. They're landlocked and have to go to an off-site facility. The new site was chosen because it's across from 2 other athletic fields.

Mr. Pregliasco stated that the stadium will not be built until a joint use parking agreement is put in place.

00:48:26 Mr. Zimlich, Chief Financial Officer of Bellarmine, explained what's in the current medical building and the time the games will be played. The school presently has shuttles running to Bishops Lane and students practicing at the proposed new field will be included in the loop. The church will be the new locker room for the wrestling team.

01:03:57 Mr. Pregliasco agrees to a binding element stating that lights and the PA system will not go beyond 10:00 p.m., excluding overtime.

01:04:32 Ms. Chesser, Mayor of Watterson Park, notified some residents who may not have received the notice cards (renters). The proposal will be an improvement to the area; however, there are some concerns regarding noise, lighting and parking.

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Deliberation

01:09:50 The commissioners agree that the land use is appropriate for the site and will be an asset to the community.

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, R-7, OR-3, M-1, M-2 and M-3 to C-2

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

WHEREAS, The site is proposed to be located in the Suburban Workplace Form District. A Suburban Workplace is a form characterized by predominately industrial and office uses where the buildings are set back from the street in a landscaped setting. Suburban workplaces often contain a single large-scale use or a cluster of uses within a master planned development. New larger proposed industrial uses are encouraged to apply for a planned development district; and

WHEREAS, In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-serving uses are encouraged for workplace employees. Development within suburban workplace form districts may need significant buffering from abutting uses; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal features buildings setback from the roadway in an open space setting. The proposal is located in an area with mixed development that includes residential, office, and industrial. Other athletic facilities in a C-2 zone are also located nearby. The proposal indicates an extension of Champions Trace Lane, but only as a private roadway in the middle of two rights of way for the same named road. Sidewalks are provided throughout. The building materials are similar to what is found in the mixed office, residential, and industrial area. The proposal is not a non-residential expansion into a residential area. Where there is some residential located adjacent to the site, the area is highly mixed use and most of the lots involved in the proposal are already non-residential. Buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided. The proposal is for a high intensity zoning district located along a transit corridor and within a mixed use activity center; and

WHEREAS, the Louisville Metro Planning Commission further finds all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

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RESOLVED, that the Louisville Metro Planning Commission does hereby recommend to the Louisville Metro Council, **APPROVAL** of Case No. 16ZONE1022, a change in zoning from R-4, R-7, OR-3, M-1, M-2 and M-3 to C-2 based on the staff report, applicants' materials provided and the testimony heard today.

The vote was as follows:

YES: Commissioners Carlson, Howard, Jarboe, Peterson, Smith, Tomes and Turner

NOT PRESENT AND NOT VOTING: Commissioners Kirchdorfer and Lewis

ABSTAINING: Commissioner Brown

RDDDP and AMENDMENT TO BINDING ELEMENTS

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

WHEREAS, There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site; and

WHEREAS, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, There are no open space requirements pertinent to the current proposal; 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. Buildings and parking lots will meet all required setbacks; and

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

WAIVERS of section 10.2.4. (Waivers 1-3)

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1. Waiver from 10.2.4.A to permit an existing building to encroach into the required 25' Landscape Buffer Area along the west property line.
2. Waiver from 10.2.4.A to eliminate the 10' Landscape Buffer Area and required plantings along the west property line where the site is adjacent to M-1 and M-3 zoning.
3. Waiver from 10.2.4 to allow encroachments into the 10' LBA along the east property line where the site is adjacent to OR-3 zoning and to partially provide landscaping in some areas of that buffer and into the 25' LBA adjacent to R-7 zoning.

WHEREAS, The waiver will not adversely affect adjacent property owners since buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided; and

WHEREAS, 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. Buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land since buffers are provided where adjacent to the residential uses. There are encroachments into the buffers but the screening and planting materials will still be provided. One of the

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encroachments involves an existing structure that will be re-purposed and used as a portion of the athletic facility.

WAIVER #4

4. Waiver from 10.2.10 to permit the encroachment of existing pavement into the Vehicle Use Area Landscape Buffer Area along Newburg Road.

WHEREAS, The waiver will not adversely affect adjacent property owners since the encroachments are existing and the planting and screening requirements will still be met; and

WHEREAS, The waiver will not violate Guideline 3, Compatibility, of Cornerstone 2020, which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for screening and buffering of parking areas adjacent to streets. The waiver will not violate Guideline 13, Landscape Character, which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs. The purpose of vehicle use area landscape buffer areas is to improve the appearance of vehicular use areas and property abutting public rights-of way. The encroachments are existing and the planting and screening requirements will still be met; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachments are existing and there are no plans for construction in those areas; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 since the encroachments are existing and the planting and screening requirements will still be met.

RESOLVED, that the Louisville Metro Planning Commission does hereby **GRANT** the requested waivers and **APPROVE** the Revised District Development Plan for 9-48-92 with removal of binding elements for a portion of the site, the Revised District Development Plan for 9-54-90 with removal of binding elements for a portion of the site, the District Development Plan for Case No. 16ZONE1022 and binding elements as discussed today based on the information provided today, testimony by staff and the applicant, materials submitted by the applicant, applicant's and staff's finding of facts **SUBJECT** to the following Binding Elements:

Proposed 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

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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. The development shall not exceed 70,000 square feet of gross floor area. The stadium seating shall not exceed 1,500 seats.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. A minor subdivision plat or legal instrument shall be recorded consolidating and creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
 - d. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - e. A crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining property owners of the office building to the east and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to issuance of a building permit.
6. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be

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implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

7. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line excluding actual games at the stadium which shall end by 10:00 p.m. unless a game goes into overtime. Stadium lighting will also be shut off at that time.
8. A legal instrument providing for the long-term use of the (off-site parking spaces or joint-use parking spaces), as shown on the approved general district development plan and in accordance with (Section 9.1.5 Off-Site Parking or Section 9.1.6 Joint Use Parking), shall be submitted and approved by the Planning Commission legal counsel and recorded in the County Clerk's office. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to the issuance of a building permit for the stadium as shown on the plan.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 29, 2016 Planning Commission meeting.
11. No idling of trucks shall take place within 200 feet of single-family residences. No overnight idling of trucks shall be permitted on-site.

The vote was as follows:

YES: Commissioners Carlson, Howard, Jarboe, Peterson, Tomes and Turner
NOT PRESENT AND NOT VOTING: Commissioners Kirchdorfer, Lewis and Smith
ABSTAINING: Commissioner Brown