

Planning Commission
Staff Report
December 2, 2021



Case No:	21-ZONE-0121
Project Name:	Derby City Gaming Hotel Addition
Location:	4520 Poplar Level Road
Owner(s):	Churchill Downs Inc.
Applicant:	Churchill Downs Inc.
Jurisdiction:	Louisville Metro
Council District:	21 – Nicole George
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from R-1 Single Family Residential to C-2 Commercial
- **Variance** from 5.7.1.B.1 to permit a building within the transition zone to exceed 45' (required: 45', requested: 85', variance of 40') (21-VARIANCE-0150)
- **Waivers**
 - #1 from 10.2.4.B.1 to permit encroachment into the required property perimeter Landscape Buffer Area (LBA) along the south-western property line and eliminate the planting requirement (21-WAIVER-0135)
 - #2 from 8.3.3.A.1 to permit more than 3 attached signs on the front façade of the building (21-WAIVER-0136)
 - #3 from 8.2.1.D.4.b to permit the changing image portion of a sign to exceed 60% of the overall sign (21-WAIVER-0157)
 - #4 from 8.2.1.D.1 to permit more than one changing image sign on a property (4 on the property) (21-WAIVER-0156)
 - #5 from 5.7.1.B.3 to not provide either the required type C buffer yard or the standards for primary façades established in the Neighborhood form district regulation in the transition zone (21-WAIVER-0150)
- **Approval** by the Planning Commission for changing image signs to exceed a rate of change of once per 20 seconds as permitted under 8.2.1.D.5
- **Conditional Use Permit** for an animal racetrack under 4.2.7 (21-CUP-0194)
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located on Poplar Level Road south of I-264 and consists of one parcel. The applicant proposes to rezone the property in order to continue utilizing it as a horse training facility, an off-track betting and game room facility, and to add a new 45,000 expansion of the gaming facility and hotel.

Poplar Level Road is a major arterial at this location. Commercial and industrial uses abut the site to the east along Poplar Level Road, while single-family residential uses are generally located to the west and south. I-264 is located to the north, along with industrial and commercial uses. Evergreen Cemetery is located to the west.

The site was rezoned in two cases from M-2 to R-1. The first was in 1965 to permit an animal racetrack with a Special Use Permit, under docket 9-69-65, which rezoned a portion of the site. The remainder of

the site was rezoned in 1973 under docket 9-153-72 to permit a horse barn to be constructed near the track. The related Conditional Use Permit was issued in 1974, under docket B-31-74, to permit the horse barn to be located on the site, with an associated variance approved under docket B-32-74 to allow the barn to be closer than 100 feet to the property line. In 1988, the site received a variance to allow a freestanding sign to encroach into the required front yard, under docket B-197-88. The Special Use Permit was modified in 2017 to permit the construction a new parimutuel historic race wagering facility and game room as an accessory to the existing animal racetrack and training facility, replacing a previous parimutuel wagering facility, under docket 17CUP1055

STAFF FINDING

Staff finds that the zoning proposal meets the guidelines of the Comprehensive Plan. The site plan meets the requirements of the Land Development Code and the guidelines of the Comprehensive Plan with the exception of the requested waivers and variance. The waivers are adequately justified and meet the standard of review. The variance is adequately justified and meets the standard of review. The request for a Conditional Use Permit has three listed requirements. The applicant requests relief from item A to allow structures to be located within 100 feet from the property lines.

TECHNICAL REVIEW

Plan 2040

Land Development Code (Louisville Metro)

MSD and Transportation Planning have provided preliminary approval of the proposal.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: KRS Chapter 100.213

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; OR
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; OR
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The site is located in the Suburban Workplace Form District

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

In order to provide adequate transportation access in suburban workplaces connected roads, public transportation and pedestrian facilities should be encouraged. Walkways to workplace-

serving uses are encouraged for workplace employees. Development within Suburban Workplace Form Districts may need significant buffering from abutting uses.

Following is staff's analysis of the proposed rezoning against the Goals, Objectives and Policies of Plan 2040.

The proposal to rezone the site to C-2 would bring a nonconforming site into compliance with the current Land Development Code. The site has been operating under a Special Use Permit, which at the time allowed animal racetracks under R-1 zoning, but the Land Development Code does not currently permit animal racetracks, game rooms or hotels in R-1. The proposed C-2 zoning is appropriate and permitted C-2 uses would provide an appropriate transition between the more industrial development along Poplar Level Road and the residential development behind the subject property. The site is located within the Suburban Workplace form, which is a form district appropriate for intensive commercial and industrial development.

The proposed zoning district is generally in compliance with the plan elements and CHASE principles of Plan 2040. All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM 5.7.1.B.1

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the building will be constructed to code and the excess height will not have any adverse safety impacts.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the building is set well back from Poplar Level Road and the most affected neighboring property is a cemetery.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the excess height will not impact sight lines, and the building will be constructed to building code.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed hotel addition will mostly affect a cemetery.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone because the lot is irregular in shape and the location of the proposed hotel is constrained by the existing development on the site.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the hotel could not be constructed within a 45' height limit.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 10.2.4.B.1

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

STAFF: The waiver will not adversely affect adjacent property owners as the conditions are generally existing and have caused no known adverse effects.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 recommends appropriate buffers between uses that are in different density categories. The conditions which require the LBA are existing as the LBA is being made necessary by the zoning change and the CUP. The use of the property will not appreciably increase with the zoning change.

- (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 providing the LBA would require the applicant to remove an existing drive lane which services the rear of the existing structure and will service the rear of the proposed hotel.

- (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 regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as providing the required LBA would severely impact the capacity to service the existing and proposed structures.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 8.3.3.A.1

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

STAFF: The waiver will not adversely affect adjacent property owners as the signage will face the rears of the most affected properties, which are commercially or industrially developed.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address attached signage.

- (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 five of the signs already exist and the two new proposed signs are needed to provide branding for the proposed hotel.

- (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 regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the portion of the site with the new signage is proposed to be used as a hotel, and the signage is needed to direct customers to the hotel. The other five signs are existing on the site and have not posed any known problems.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 8.2.1.D.4.b

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

STAFF: The waiver will not adversely affect adjacent property owners as the signage faces the rears of the most affected properties, which are commercially or industrially developed. The signs are visible from Popular Level Road from a bridge that crosses the railroad to the north of the site.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address attached signage.

- (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 signs exist and could not easily be reworked to incorporate the changing image portion into the whole of the signs.

- (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 regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the signs already exist on the site and reworking them to incorporate the changing image portion into a larger sign would require significant expense on the applicant's behalf for little benefit to the public.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 8.2.1.D.1

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

STAFF: The waiver will not adversely affect adjacent property owners as the three changing image signs on the façade face the rears of the most affected properties, which are commercially or industrially developed. The signs are visible from Poplar Level Road from a bridge that crosses the railroad to the north of the site. The freestanding changing image sign at the Poplar Level Road entrance has been present and has not created any known adverse effects.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the provision of signage which is compatible with the Form District pattern and contribute to the visual quality of their surroundings. The signs are existing and are compatible with a Suburban Workplace form.

- (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 signs exist and the attached signs are incorporated into the façade of the principal structure. The freestanding sign exists and is needed to direct traffic attempting to find the site to the entrance.

- (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 regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the signs already exist on the site. Removal of the freestanding sign would deprive the applicant of necessary signage on Poplar Level Road. Removal of the attached signs would impact the architectural interest of the game room and proposed hotel.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.7.1.B.3

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

STAFF: The waiver will not adversely affect adjacent property owners as the most affected property is a cemetery, where the required LBA/façade treatment would not provide much or any public benefit.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate transitions between uses which are incompatible in nature. The proposed hotel and existing game room are not incompatible with the cemetery, and a screening fence will still be provided.

- (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 provision of the LBA would require moving an existing building, and provision of the façade treatment would be an unnecessary expense to provide an interesting façade 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 regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant as the required LBA would require moving the existing building, and providing the façade treatment would require relocating the service area of the existing game room and the proposed hotel to another side of the building, negatively impacting adjacent properties which are occupied.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR APPROVAL BY THE PLANNING COMMISSION OF A CHANGING IMAGE SIGN RATE OF CHANGE IN EXCESS OF ONCE PER 20 SECONDS

Changing image signs with a rate of change in excess of the restrictions set forth in numbers 2 & 3 above shall require approval from the Planning Commission or designee. The Planning Commission review shall include at a minimum the following issues:

- a. Characteristics of the adjacent street (traffic speed, number of lanes, functional class, etc.)

STAFF: The adjacent street from which the signs are visible is Poplar Level Road, a major arterial with five lanes.

- b. Proximity to another changing image sign or sign with a video display

STAFF: The nearest changing image sign is the freestanding sign at Poplar Level Road, approximately 2,000 feet away.

c. Dimensions of the proposed signs

STAFF: The signs are approximately 29' x 9'.

d. Number of lines of text

STAFF: The signs are fully LED changing image without specific lines of text.

e. Proximity to residential development

STAFF: The nearest residential development is shielded from view of the signs by the game room building.

f. Legibility of text

STAFF: The text is not legible from Poplar Level Road, only the animation and glow of the signs.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

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

STAFF: The proposal meets all applicable policies of the Comprehensive Plan.

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

STAFF: When appropriately managed, the proposed use is compatible with surrounding development and land uses.

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

STAFF: The subject property is served by existing public utilities and facilities. Transportation Planning and MSD have reviewed and approved the proposal.

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

Animal Racetracks may be allowed in the C-2, C-M, M-1, M-2, M-3, and EZ-1 Districts upon the granting of a Conditional Use Permit and compliance with the listed requirements:

A. Setbacks - All buildings, structures, facilities, or storage areas shall be at least 100 feet from any property lines.

STAFF: The applicant requests relief from Item A to allow existing barns and other horse-related structures to be within 100 feet of the property line.

B. Except in districts where signs are allowed, one sign, not to exceed 100 square feet in area and not to exceed 10 feet in height, may be located at each of the major entrances.

STAFF: The signage relating to the animal racetrack is relatively small and located at the entrance to Breitenstein Avenue at Durrett Lane. The main signage for the site is related to the gaming facility.

C. Animal racetracks located within one-half mile of residentially used or zoned property shall provide information on sound levels resulting from loudspeakers and hours of operation. The Board may establish conditions necessary to protect nearby residents.

STAFF: The racetrack is used for training purposes and no races with an audience take place.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: No natural resources are evident on the site. The site is currently fully developed with an animal racetrack, a game room, and related parking. The expansion will take place within the area of existing parking. Required tree canopy will be provided.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: 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.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: No open space requirements are pertinent to the request.

- (d) 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;

STAFF: 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.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design is compatible with existing and projected future development of the area. The site will be developed at an appropriate intensity and scale for the form district and the area.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Land Development Code, with the exception of the requested variance and waivers, and conforms with the Comprehensive Plan.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-1 to C-2
- **APPROVE** or **DENY** the **Variance**
- **APPROVE** or **DENY** the **Waivers**
- **APPROVE** or **DENY** the **Increased Rate of Change for Changing Image Signs**
- **APPROVE** or **DENY** the **Conditional Use Permit**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan with Binding Elements**

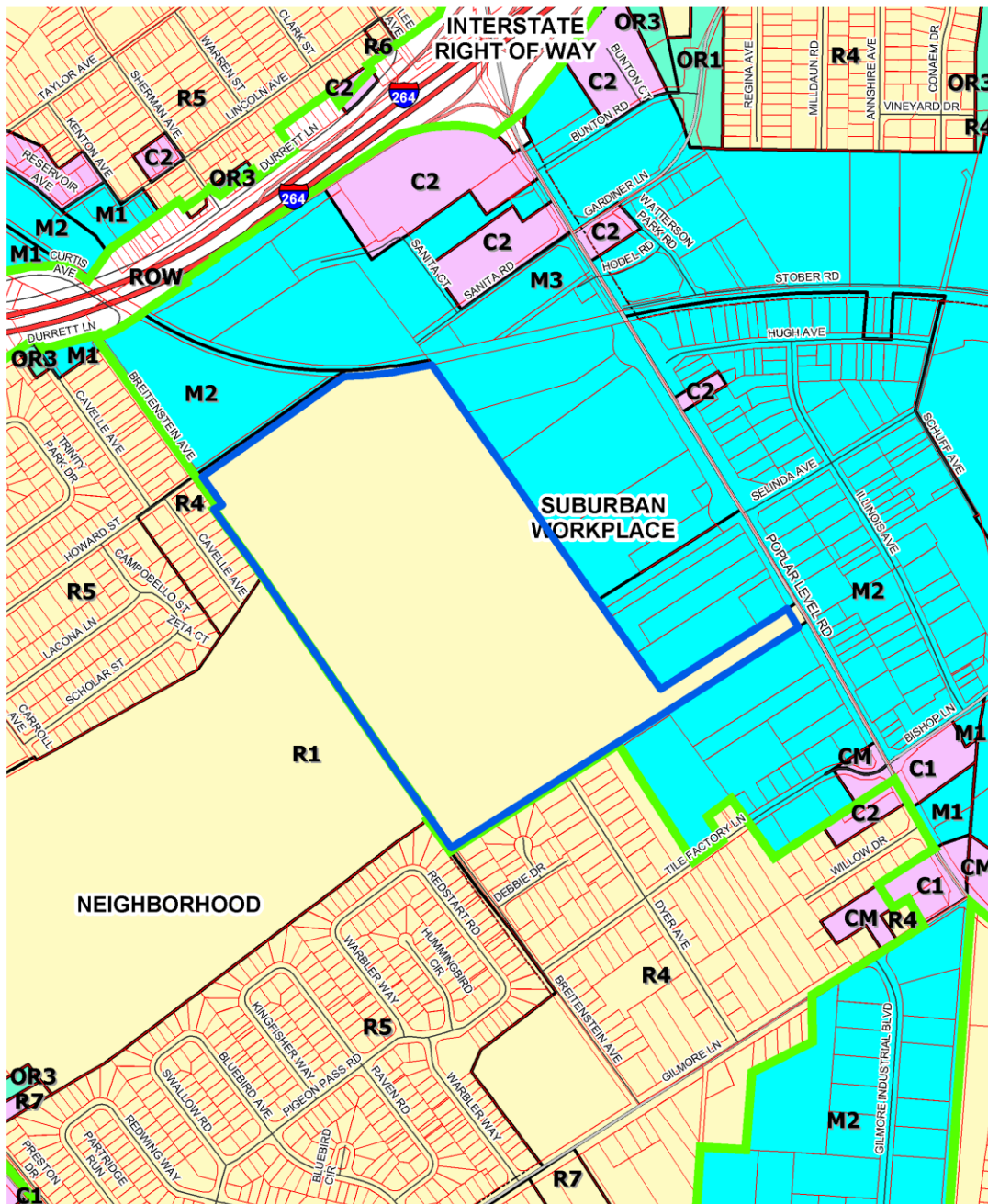
NOTIFICATION

Date	Purpose of Notice	Recipients
10/28/2021	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 21
11/18/2021	Hearing before PC	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 21
11/16/2021	Hearing before PC	Sign Posting on property
11/20/2021	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map



4520 Poplar Level Road

feet



720

Map Created: 8/11/2021



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2. Aerial Photograph



4520 Poplar Level Road

feet



720

Map Created: 8/11/2021



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3. Staff Plan 2040 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Suburban Workplace: Non-Residential

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
1	Community Form: Goal 1	6. Discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential.	✓	The proposed zoning district would not constitute a non-residential expansion into a residential area, as the site is located in the Suburban Workplace form and has been in non-residential nonconforming use for many years.
2	Community Form: Goal 1	7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned.	✓	The site is located along Poplar Level Road, a major arterial at this location, and is near existing industrial and commercial uses.
3	Community Form: Goal 1	8. Encourage industries to locate in workplace Form Districts or in areas readily served by infrastructure and transportation facilities, including transit, rather than isolated industrial sites.	NA	The proposal is not for industrial zoning.
4	Community Form: Goal 1	15. When reviewing proposals for siting hazardous uses and uses with air, noise and light emissions, ensure disadvantaged populations are not disproportionately impacted.	✓	The proposed zoning district would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC requirements.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
5	Community Form: Goal 1	16. Consider impacts on human health, quality of life and the environment including prevailing meteorological conditions and the potential to transport noxious odors, particulates and emissions when reviewing new developments and redevelopments. Special attention should be paid to air and water quality when residences, schools, parks or vulnerable populations will be impacted. Mitigate impacts to areas that are disproportionately affected.	✓	The proposed zoning district would not permit uses creating noxious odors, particulates or emissions.
6	Community Form: Goal 1	17. Mitigate adverse impacts of traffic from proposed development on nearby existing communities.	✓	Traffic to the site is routed via Poplar Level Road, a major arterial at this location.
7	Community Form: Goal 1	18. Mitigate adverse impacts of noise from proposed development on existing communities.	✓	The most affected property is likely to be Evergreen Cemetery.
8	Community Form: Goal 1	21. Require that industries which handle hazardous or flammable materials or are potentially offensive such as junkyards, landfills and quarries are sited to protect public health, safety and welfare and are located away from residential areas and population centers.	NA	The proposed zoning district would not permit uses which handle hazardous or flammable materials, or are similar to junkyards, landfills or quarries.
9	Community Form: Goal 2	1. Locate activity centers in appropriate areas in all Form Districts. Design and density should be compatible with desired form, adjacent uses, and existing and planned infrastructure.	✓	The site is located in the Suburban Workplace form and is a part of the commercial and industrial corridor at Poplar Level Road.
10	Community Form: Goal 2	5. Locate retail commercial development in activity centers where it can be demonstrated that sufficient population exists or is anticipated to support it.	✓	The proposal would permit retail uses. The site is located in an existing activity center.
11	Community Form: Goal 2	6. Encourage a more compact development pattern in activity centers that result in efficient land use and cost-effective infrastructure investment.	✓	The proposed zoning district would encourage a more compact pattern of development.
12	Community Form: Goal 2	7. Encourage activity centers to include a mixture of compatible land uses in order to reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place.	✓	The proposed zoning district would encourage a mixture of compatible land uses in an existing commercial corridor and activity center.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
13	Community Form: Goal 2	8. Encourage residential land uses in designated centers. Encourage residential and office uses above retail and other mixed-use multi-story retail buildings.	✓	The proposed zoning district would permit residential and office uses above retail and other mixed-use multi-story retail buildings.
14	Community Form: Goal 2	9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses.	✓	The proposal would permit new development providing commercial uses.
15	Community Form: Goal 2	10. Encourage outlot development in underutilized parking lots of existing development to promote utilization of existing infrastructure provided specific criteria for elements such as location, scale, signs, parking, lighting, and landscaping are met. Outlot development shall encourage street-level retail with residential units above.	✓	The proposed parking lot has been reviewed and it is not underutilized.
16	Community Form: Goal 3	9. Encourage development that respects the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems.	NA	No natural features are evident on the site.
17	Community Form: Goal 3	10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation.	✓	No severe, steep or unstable slopes are evident on the site. Highly permeable soils are being avoided by development.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
18	Community Form: Goal 3	11. Encourage land uses within the Ohio River Corridor that are appropriate for and related to river corridor activities and that are consistent with the goals and objectives of the Ohio River Corridor Master Plan. Reserve appropriate riverfront sites such as the Upper River Road industrial area for river-related development. Allow development of commercial leisure businesses related to the river, such as boating services and restaurants in appropriate locations. Encourage new development in the Ohio River corridor and along key greenway and street connections to provide for public access in new riverfront development and to maintain views of the river from public rights-of-way.	NA	The site is not located in the Ohio River Corridor.
19	Community Form: Goal 3	12. When reviewing proposed developments consider changes to flood-prone areas and other features vulnerable to natural disasters such as sinkholes and landslides. Ensure appropriate measures to protect health, safety and welfare of future users of the development.	✓	The site is not located in a flood-prone area. No karst features are evident on the site.
20	Community Form: Goal 4	1. Preserve buildings, sites, districts and landscapes that are recognized as having historic or architectural value and ensure that new land uses are compatible in height, massing, scale, architecture style and placement when located within the impact area of such resources.	NA	No historic assets are evident on the site.
21	Community Form: Goal 4	2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features.	NA	No distinctive cultural features are evident on the site.
22	Mobility: Goal 1	4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system.	✓	The site is located in an activity center and an employment center.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
23	Mobility: Goal 3	2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers.	✓	The proposed zoning district would encourage a mixture of compatible land uses. The site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities.
24	Mobility: Goal 3	3. Evaluate developments for their ability to promote public transit and pedestrian use. Encourage higher density mixed-use developments that reduce the need for multiple automobile trips as a means of achieving air quality standards and providing transportation and housing choices.	✓	The proposed zoning district would encourage higher density mixed-use development in an existing activity and employment center.
25	Mobility: Goal 3	4. Encourage development of walkable centers to connect different modes of travel. Siting of these multi-modal centers shall consider the effects of the following: 4.1. nodal connections identified by Move Louisville; 4.2. impact on freight routes; 4.3. time of operation of facilities; 4.4. safety; 4.5. appropriate linkages between neighborhoods and employment; and 4.6. the potential for reducing travel times and vehicle miles traveled.	✓	Transportation Planning has approved the proposal.
26	Mobility: Goal 3	5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality.	✓	Transportation Planning has approved the proposal.
27	Mobility: Goal 3	6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development.	✓	Transportation Planning has approved the proposal.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
28	Mobility: Goal 3	9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location.	✓	Transportation Planning has approved the proposal.
29	Mobility: Goal 3	10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel.	✓	Transportation Planning has approved the proposal.
30	Community Facilities: Goal 2	1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions.	✓	The relevant utilities have approved the proposal.
31	Community Facilities: Goal 2	2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water.	✓	Louisville Water Company has approved the proposal.
32	Community Facilities: Goal 2	3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD).	✓	MSD has approved the proposal.
33	Economic Development: Goal 1	1. Limit land uses in workplace Form Districts to compatible uses that meet the needs of the industrial subdivision or workplace district and their employees.	✓	The site is located in a Workplace Form. The proposal would encourage compatible land uses which meet the needs of the industrial subdivision or workplace district and their employees.
34	Economic Development: Goal 1	2. Encourage industries, to the extent possible, to locate in industrial subdivisions or adjacent to an existing industry to take advantage of special infrastructure needs.	NA	The proposal is not for industrial zoning.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
35	Economic Development: Goal 1	3. Locate commercial uses generating high volumes of traffic on a major arterial street, at the intersection of two minor arterials, or at a location with adequate access to a major arterial and at locations where nuisances and activities of the proposed use will not adversely affect adjacent areas.	✓	The proposed zoning district would permit commercial uses generating high volumes of traffic. The site is located on Poplar Level Road, a major arterial at this location.
36	Economic Development: Goal 1	4. Utilize industrial sites near the airport and the Ohio River to support the growth and development of uses whose infrastructure and production needs require such a location or for land uses that support airport-oriented or river-oriented industrial uses.	NA	The proposal is not for industrial zoning. The site is not located near the airport or the Ohio River.
37	Economic Development: Goal 1	5. Require industrial developments to locate with the appropriate transportation connectivity, near an arterial street or within existing industrial subdivisions.	NA	The proposal is not for industrial zoning.
38	Livability: Goal 1	17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project.	✓	No karst features are evident on the site.
39	Livability: Goal 1	21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events.	NA	The site is not located in the floodplain.
40	Livability: Goal 1	24. Ensure, to the extent feasible, that critical facilities and those that store or use hazardous wastes are located outside the regulatory floodplain. Where essential community facilities must be located within a floodplain (e.g., pumping stations), ensure that these facilities are designed, located and operated in a manner that minimizes loss of services during flood events as well as limits, to the extent possible, floodplain disturbance.	NA	The site is not located in the floodplain.

#	Plan 2040 Plan Element	Land Use & Development Policy	Staff Finding	Staff Analysis
41	Housing: Goal 1	2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities.	✓	The proposed zoning district would permit housing in an existing activity center, and would also support aging in place by permitting an existing activity center to expand adjacent to housing.
42	Housing: Goal 2	1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.	✓	The proposal would permit mixed-income and mixed-use development that is connected to the neighborhood and surrounding area.
43	Housing: Goal 2	2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers.	✓	The proposed zoning district would permit housing in proximity to a multi-modal transportation corridor. It would also permit commercial and employment opportunities in an activity center near existing housing.
44	Housing: Goal 3	2. As neighborhoods evolve, discourage displacement of existing residents from their community.	✓	No existing residents will be displaced by the proposal.
45	Housing: Goal 3	3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing.	✓	The proposed zoning district would permit innovative methods of housing.

4. 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 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 2, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
6. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
7. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
8. 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.