

PLANNING COMMISSION MINUTES
August 5, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0003

Request: Change in zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements
Project Name: Lodges at Prospect
Location: 7312 River Road
Owner: Eastwood Construction and Development
Applicant: AGS Development LLC
Representative: Dinsmore & Shohl
Jurisdiction: Louisville Metro
Council District: 16 – Scott Reed
Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:15:55 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

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

Scott Kremer, Studio Kremer Architects, 1231 South Shelby, Louisville, Ky. 40203

Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, Ky. 40223

Summary of testimony of those in favor:

Cliff Ashburner gave power point presentation discussing the following: preserved trees with additional plantings; no garages - carport buildings; open space; sidewalks connecting to River Rd. There will be single loaded parking areas with 73% tree canopy increasing to 83%. The meandered mulch path was designed to avoid trees (see recording for detailed presentation).

Scott Kremer stated he is working on architectural design. There will be more greenery than shown in rendering. The building has a lodge feel - dark siding, brick, stone, cedar,

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2-stories, semi-rural look. There are no variances or waivers and the proposal meets Plan 2040 (see recording for detailed presentation).

Cliff Ashburner said it's about 100 feet from building to building. Water quality units will be provided. The property is not in the flood plain.

Mark Madison discussed the storm water detention basin and access into the creek. MSD has checked and is fine with the resolution (see recording for detailed presentation).

The following spoke in opposition to this request:

Amanda Weinert, 6511 Mayfair Avenue, Prospect, Ky. 40059
Morgan Ward, Stites and Harbison, 400 West Market Street, Suite 1800, Louisville, Ky. 40202
Meme Sweets Runyion, 1201 Story Avenue, Louisville, Ky. 40206

Summary of testimony of those in opposition:

Amanda Weinert stated a waiver was approved by metro government for the right-of-way setback. Commissioner Brown explained that is not a Planning Commission waiver but allowed to be waived by the directors of Public Works and Planning and Design Services.

Amanda Weinert said the proposal doesn't comply with Plan 2040 and there are mistakes in the staff report.

Amanda Weinert gave a power point presentation showing the neighborhood context. Access is one way in and out for the entire development and will be nuisance. There are parking issues, construction trucks, no shoulders, steep drop-offs and traffic issues. Houses in the area are diverse and affordable. Other issues include: Residents being displaced; no infrastructure – sewers; mass, scale and density; not pedestrian-friendly; and stormwater and flooding (see recording for detailed presentation).

Morgan Ward, attorney for River Fields gave a power point presentation. River Rd. is the county's only scenic by-way. River Fields counted trees on site (164) - should be more than 73%. Mature trees will be removed and replaced with new ones. Google area map shows a lot more trees. The proposal is not in compliance with Plan 2040 (see recording for detailed presentation).

Meme Sweets Runyion stated the site plan is not accurate. The Ohio River Corridor Plan was not in staff report. The area should always remain single family and the

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neighborhood protected. No multi-family has ever been built in the proposed area on River Rd. The proposal does not comply with Plan 2040 (see recording for detailed presentation).

Rebuttal

Cliff Ashburner said the sidewalk does go nowhere but the Land Development Code (LDC) says it has to be done. Morgan Ward and Meme Sweets Runyon trespassed on the proposed property to count trees. The tree count/numbers came from LOJIC – the LDC says to use it. The young trees will grow into old trees and need to be planted. This development was designed for this site (see recording for detailed presentation).

Deliberation

Planning Commission deliberation (see recording for detailed presentation).

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 R-6

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is near an existing activity center across River Road; appropriate transitions between the site and adjacent single-family development will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would allow for the new construction of residential buildings; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no severe, steep or unstable slopes are evident on the site. Wet or highly permeable soils will be mostly avoided by site disturbance; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near an existing activity center across River Road; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via River Road, a minor arterial at this location. Traffic into the site will be routed a short way up Mayfair; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal would increase the mixture of compatible land uses in the neighborhood; Transportation Planning has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy along River Road will be preserved by the development; No karst terrain is evident on the subject site; the site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing in the neighborhood; the proposal would support aging in place by increasing the variety of ownership options and price points in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would encourage intergenerational mixed-income development by increasing the variety of housing in the neighborhood. The site is connected to the neighborhood and surrounding area; the site is located in proximity to amenities providing neighborhood goods and services and is near an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would encourage the

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provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro; the proposal would permit the use of innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to R-6, Multi-Family Residential on property described in the legal description be **APPROVED**.

The vote was as follows:

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

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, tree canopy will be preserved on the site, and the hydric soils on the site will be mostly avoided by the development. No other natural resources are evident on the 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, required common and recreational open space is being provided to meet the needs of the proposed development. The site is relatively small and the open space is central to the site; 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 is compatible with existing and projected future development of the area. The site is close to an existing neighborhood commercial activity center, and the site design is oriented so that parking is located interior to the lot. Required screening between the parking and

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the adjacent single-family development will shield the single-family homes from headlights; and

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

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following 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 August 5, 2021 Planning

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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. 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.

6. 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.

7. Developer shall provide construction documents to Public Works and Assets for the portion of sidewalk from the north of the subject site to the Louisville Water Company property prior to the issuance of the first Certificate of Occupancy.

The vote was as follows:

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