

PLANNING COMMISSION MINUTES
July 21, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0049

Request: Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements, Variance, and Alternative Plan for Connectivity
Project Name: 805 S English Station Road Multi-Family
Location: 805 S English Station Road
Owner: James Lee & Laurie Greiner
Applicant: Sunshine English Station Development LLC
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 11 - Kevin Kramer
Case Manager: Dante St. Germain, AICP, Planner II

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:28:04 Dante St, Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

00:34:31 In response to questions from Commissioner Mims, Ms. St. Germain discussed the applicant's proposed Alternative Plan for Connectivity (see recording.)

00:36:46 In response to a question from Commissioner Brown, Ms. St. Germain said a previously-discussed dumpster has been relocated.

00:37:03 In response to a question from Commissioner Carlson, Ms. St. Germain said the applicant should have more information about proposed materials for the privacy fence.

The following spoke in support of the request:

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway
2nd Floor, Louisville, KY 40223

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Derek Triplett, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40223

W. Damon Garrett, 2104 Club Vista Drive, Louisville, KY 40245

Summary of testimony of those in support:

00:37:35 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

00:47:40 Derek Triplett, an applicant's representative, gave more details about the plan, specifically landscaping and buffering.

00:50:50 Mr. Talbott concluded the presentation. He noted that the neighbors of Lake Village were "adamantly opposed" to any kind of road connection; that is why the applicant proposed the Alternative Plan for Connectivity. He discussed in detail the reasons for the lack of connectivity and how the applicant has tried to work around this (see recording.) He said that the applicant was not required to do a traffic study, but did one anyway.

01:01:12 In response to a question from Commissioner Price, Damon Garrett, the applicant, said there will be a clubhouse, but the proposed pool has been eliminated.

01:01:42 In response to questions from Commissioner Carlson, Mr. Garrett said the proposed privacy fence will be constructed of wood. The residential association will be responsible for its maintenance.

The following spoke in opposition to the request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Robert Lescinski, 912 Ridge Point Drive, Louisville, KY 40299

Summary of testimony of those in opposition:

01:02:22 Robert Lescinski, a Lake Village resident, said he and other residents have experienced flooding and drainage issues. He said there is a spring on the site that is continually fed; it is not intermittent. He said MSD is not doing its "due diligence" to remove stormwater. He said water damage and erosion have caused structural damage to the units in his neighborhood.

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01:08:31 Steve Porter said he signed up in "Opposition" but said that many of his clients' objections appear to have been resolved. He said concerns include connectivity, the dumpster (which has been moved); the privacy fence (has been agreed to); and a lighting binding element (agreed to by developer).

01:10:43 In response to a question from Commissioner Price, Mr. Porter discussed some aspects of Item B in his proposal (see recording.)

01:11:36 Mr. Porter resumed and concluded his presentation. He also elaborated in his answer to Commission price regarding lighting.

01:13:02 In response to questions from Commissioner Clare, Ms. St. Germain said that MSD has reviewed the plan and has approved the preliminary plan. She said that, if there are specific conditions that are discovered on the ground after the approval of the preliminary plan, these will be addressed at the construction phase.

01:13:39 Commissioner Mims asked if any springs were mapped, and how they are being handled by the design. Commissioner Clare asked specifically about water flow towards the south (towards Ridge Point). Mr. Triplett used the site plan to discuss water flow (see recording for detailed discussion.) He noted that there were no springs mapped on the site and no karst features were observed. He discussed the detention basin being put in on the subject site.

01:17:22 Mr. Lescinski asked if gutters were planned along South English Station Road to make sure that stormwater gets to the drains. Commissioner Lewis said that would be addressed by the applicant during rebuttal.

Rebuttal:

01:19:02 Mr. Talbott delivered rebuttal (see recording for detailed presentation.)

01:23:03 In response to a question from Commissioner Price, Mr. Triplett said there are no plans for gutters or drainage systems along the South English Station Road frontage. He offered to give his contact information to Mr. Lescinski to address any of his concerns during the construction phase.

01:23:57 Mr. Talbott requested that proposed binding element #4 (shown on recording) should read as follows:

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4. Enhanced landscaping and 4-Board fence substantially similar to that as shown at Planning Commission Hearing along road frontage of S. English Station Road.

Deliberations:

01:25:01 Commissioners' deliberation.

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

01:38:37 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposal is not for higher density or intensity zoning; and appropriate transitions will be provided; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would permit new development providing residential uses; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no severe, steep or unstable slopes, or wet or highly permeable soils are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic assets are evident on the site; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via S English Station Road, a primary collector at this

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location. Access to the site does not lead through areas of significantly lower intensity; and

WHEREAS the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car and bicycle. Increased density in the area may attract future transit and will increase accessibility by pedestrians and people with disabilities; Transportation Planning has approved the proposal; and no direct residential access to high-speed roadways is proposed; and

WHEREAS, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; and MSD has approved the proposal; and

WHEREAS, the Commission further finds that the proposal meets Livability: Goal 1 because required tree canopy and landscaping will be provided by the development; no karst features are evident on the site; and the site is not located in the regulatory floodplain; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposed zoning district would increase the variety of housing types in the neighborhood; and the proposed zoning district would support aging in place by increasing the variety of housing in the neighborhood; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income development that is connected to the neighborhood and the surrounding area; and the proposal is not for higher density zoning; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would increase the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro; no existing residents will be displaced by the proposal; and the proposed zoning district would permit the use of innovative methods of housing; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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YES: Commissioners Mims, Sistrunk, Brown, Clare, Howard, Carlson, Daniels, Cheek, Price, and Lewis.

Variance from 5.1.12.B.2.A to permit a structure to be closer to the street than allowed by the minimum infill front yard setback (required 45', requested 23', variance of 22') (22-VARIANCE- 0077)

01:39:28 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety or welfare as the decreased setback will not create a visual obstruction or impact sight lines; and

WHEREAS, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the setbacks along S English Station Road are not uniform; and

WHEREAS, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the affected structure will be constructed according to building code, including all fire codes; and

WHEREAS, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested setback would still provide the minimum required front yard in the proposed zoning district and form district, and the setbacks along S English Station Road are not uniform such that the reduced setback will be very noticeable to the public right-of-way; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from 5.1.12.B.2.A to permit a structure to be closer to the street than allowed by the minimum infill front yard setback (required 45', requested 23', variance of 22') (22-VARIANCE- 0077)

The vote was as follows:

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YES: Commissioners Mims, Sistrunk, Brown, Clare, Howard, Carlson, Daniels, Cheek, Price, and Lewis.

Alternative Plan for Connectivity

01:40:22 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposed Alternative Plan for Connectivity does not meet multiple recommendations in Plan 2040 which encourages connectivity between compatible uses; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Alternative Plan for Connectivity be **DENIED**.

The vote was as follows:

YES: Commissioners Mims, Sistrunk, Brown, Clare, Carlson, Daniels, Price, and Lewis.

NO: Commissioners Howard and Cheek.

Detailed District Development Plan

01:41:27 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that no natural resources are evident on the site. The site is mostly cleared at this time and contain no known slopes, water courses, flood plains, unusual soils, air quality concerns, scenic views, or historic assets; and

WHEREAS, the Commission further finds that 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

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WHEREAS, the Commission further finds that open space is being provided in compliance with the requirements of the Land Development Code; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan, **SUBJECT** to the following binding elements, and **ON CONDITION** that the Louisville Metro Council approves the proposed Alternative Plan for Connectivity. If that plan is not approved, the applicant must come back to the Planning Commission with a revised plan to address connectivity.

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.

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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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 21, 2022 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. 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. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey, including any photos and/or videos. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
8. All exterior lighting, whether freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground.

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9. No lighting shall have a correlated color temperature (CCT) exceeding 2700 degrees Kelvin.
10. No parking lot light fixtures shall be more than fourteen feet high, measured from ground level.
11. Enhanced landscaping and 4-Board fence shall be substantially similar to that as shown at Planning Commission Hearing along road frontage of S. English Station Road.
12. Faux doors on backs of units facing S. English Station Road to be added.
13. Placement of dumpster as shown on development plan.
14. 8-foot privacy fence along north and east R-4 properties with some additional landscaping as shown on development plan.

The vote was as follows:

YES: Commissioners Mims, Sistrunk, Brown, Clare, Howard, Carlson, Daniels, Cheek, Price, and Lewis.