

PLANNING COMMISSION MINUTES
July 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0017

Project Name: 9418 Pirouette Avenue
Location: 9418 Pirouette Avenue
Owner(s): Corcoran Home Building and Remodeling
Applicant: Corcoran Home Building and Remodeling
Representative(s): Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction: Louisville
Metro Council District: 13 – Mark Fox
Case Manager: Joel P. Dock, AICP, Planner II
Presented By: Julia Williams, Planning Supervisor

NOTE: COMMISSIONER DANIELS RETURNED AT ~5:00 AND VOTED ON THIS CASE
COMMISSIONER SISTRUNK LEFT ~5:00 AND DID NOT VOTE ON THIS CASE

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.)

NOTE: This case was continued from the June 22, 2021 Planning Commission meeting and the discussion will be limited to the tree canopy and any plan changes.

Agency Testimony:

04:12:08 Julia Williams discussed the updates (see recording for detailed presentation).

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Summary of testimony of those in favor:

Nick Pregliasco gave a power point presentation. The only change is the tree canopy area and additional binding element modifications.

The following spoke in opposition to this request:

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Jessica Norris, 411 Echappe Lane, Fairdale, Ky. 40118
James Norris, 411 Echappe Lane, Fairdale, Ky. 40118

Summary of testimony of those in opposition:

Jessica Morris stated the tree canopy doesn't block the view from her back yard and the apartment.

James Morris had questions about the tree line (see recording for detailed presentation).

Rebuttal

Mr. Pregliasco said there is now a tree canopy preservation area behind the Norris home that was not there before (see recording for detailed presentation).

Deliberation

Planning Commission 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 Change from PRD to R-6

On a motion by Commissioner Brown, seconded by Commissioner Mims, 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 proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale where demand and adequate infrastructure exists or is planned; all required landscape buffers and setbacks will be provided as required to provide an appropriate transition between the proposed district and lower intensity residential properties; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, a vacant lot is proposed for development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, jurisdictional wetlands are present at the entrance to the site. ACOE approval will be required prior to construction plan approval to minimize the potential for property damage or environmental degradation; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy; the site does not contain any apparent historic or cultural resources; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale to support transit-oriented development and an efficient public transportation system; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, vehicular access to the site will cross through a small segment of lower intensity zones before reaching the subject site. This would not appear to create a significant nuisance based on the limited travel required on local roads; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal will provision all necessary improvements to facilitate accessibility by bike, car, foot, or transit. Except for a short sidewalk gap at New Cut Road and Pirouette Avenue, the existing public network supports a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities; all improvements to the transportation network required of the development will be provided; development of the site will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Connectivity to provide appropriate access within, and through, the district will be provided; a sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property; there do not appear to be any long-range plans which impact the development proposal; no direct residential access to high speed roadways will be provided; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposal is in an area served by existing utilities or planned for utilities; the proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes; MSD has reviewed and approved the proposed development to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy; the subject property is not located within a karst prone area per LOJIC and no further karst investigation was required of the applicant; areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the current zoning district supports a variety of housing types, including attached, zero-lot, and clustering. The proposed district expands opportunities for multi-family, accessory apartments and a mixing of housing styles that reflect the pattern of the form district; the current PRD district supports housing options that support aging in place. The proposal expands upon available types and styles for provisioning housing for aging adults near shopping and transit routes; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the existing PRD districts supports mixed-income development. The proposal expands upon the ability to provision a wider range of housing for differing income levels; the subject site is within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as being within proximity to amenities providing neighborhood goods and services. The proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district expands upon available opportunities to build fair and affordable housing and expand opportunities for people to live in quality, variably priced housing in locations of their choice. A wider range of income levels could be accommodated for when the zoning district provides greater flexibility for multi-family, two-family, attached, clustering, and

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co-housing then is currently available in the PRD district; the proposed district is located on an infill lot within an existing residential area. The proposed residential use will allow for an increase in the residential population in this neighborhood resulting in no displacement; the existing PRD district provides flexibility from the traditional standards of single-family residential site design, but it is limited in its ability to include multi-family, accessory apartments, and/or co-housing. The proposed district encourages a wider range of flexibility in design options.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change from PRD, Planned Residential Development to R-6, Multi-family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Clare, Daniels, Howard, Mims and Lewis

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Seitz and Sistrunk

Revised Detailed District Development Plan and Binding Elements

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

WHEREAS, 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 will be provided. All required landscape buffers and setbacks will be provided to offer an appropriate transition between the proposed district and lower intensity residential properties abutting the site. Minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy. Areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Connectivity in compliance with the Land Development Code has been demonstrated on the revised development plan; and

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WHEREAS, the proposal meets or exceeds the minimum requirements for open space, tree canopy, and landscaping; and

WHEREAS, Metropolitan Sewer District approval will be required to will ensure the provisioning 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 proposal is compatible with the overall site design, land uses, and future development of the area as the site is located within proximity to the Fairdale Village Center, similar densities of development, and all necessary improvements to facilitate accessibility by bike, car, foot, or transit. A sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan and the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Revised 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 require a public hearing by the Planning Commission with final approval by the Louisville Metro Council; any changes/additions/alterations not so approved 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:

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- a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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 building permit. 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 June 3, 2021 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
 - e. A minor subdivision plat or legal instrument in a form acceptable to the Planning Commission legal counsel shall be recorded to create the 30' Public Access Way as shown on the development plan. A copy of the recorded instrument shall be submitted to the Planning and Design Services.
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. Open space to comply with LDC Chapter 5, Part 11 shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission.
8. An 8-foot privacy-style fence shall be provided and maintained in good condition at all property lines abutting existing residences.

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9. Any substantial change in the development plan i.e. density, elevation of units, or change in use shall require approval of the Louisville Metro Council after a public hearing by the Planning Commission.

10. Prior to the issuance of a Certificate of Occupancy, construction plans for a roughly 60' gap in the public sidewalk at New Cut Road and Pirouette Avenue shall be reviewed and approved by Louisville Metro Department of Public Works and Transportation Planning, and the sidewalk shall be installed.

11. Prior to developer requesting a Certificate of Occupancy ("CO") on the first apartment building, developer shall request Metro Public Works ("Public Works") to inspect the road infrastructure within the 30' Public Access Easement leading from Pirouette Avenue to the stub connection to the north property line to determine what amount of bond, if any, the developer shall be required to post prior to CO issuance. The access roadway to the stub connection at the north property line shall be built to the terminus at the north property line prior to release of said bond, if applicable the developer can request a bond release and Public Works to inspect the road infrastructure for the access roadway for same whenever the road infrastructure construction is complete.

12. The 30' Public Access Easement access roadway connection to the north property line shall remain open and available to thru traffic. Developer shall plant trees on either side of the 30' Public Access Easement a maximum of 50' apart with the trees staggered such that there shall be a tree approximately every 25' along the 30' Public Access Easement.

13. Building 5 on the development plan shall not have balconies on the second floor on the southeast side of the building facing the adjoining residential lots.

The vote was as follows:

YES: Commissioners Brown, Clare, Daniels, Howard, Mims and Lewis

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Seitz and Sistrunk