

PLANNING COMMISSION MINUTES
November 18, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0119

Request: Change in zoning from R-4 & C-2 to R-6 & C-2, with Detailed District Development Plan and Binding Elements
Project Name: Crossings at South Park
Location: 10511 W Manslick Road
Owner: Estate of Chester L Cummings
Applicant: Marian Development
Representative: Dinsmore & Shohl LLC
Jurisdiction: Louisville Metro
Council District: 13 - Mark Fox
Case Manager: Dante St. Germain, AICP, Planner II

Notices of this public hearing 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:

04:55:37 Dante St. Germain presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation). The proposal is for a 192 unit multi-family development with a commercial use at the front of the parcel where the property is currently zoned C-2. The area at the rear is proposed to remain an open space and for tree canopy protection area. The proposed zoning and use are in compliance with the Land Development Code, the Fairdale Village Plan and Plan 2040.

05:05:00 Commissioner Howard questioned the need for proposed Binding Element 4.d. in the staff report. Dante St. Germain stated this was an error on her part and it should be eliminated.

The following spoke in support of the request:

Cliff Ashburner, Dinsmore & Shohl, 101 S. Fifth Street, Suite 2500, Louisville, KY 40202

Ashley Bartley, Qk4, 1046 E. Chestnut Street, Louisville, KY 40204

Summary of testimony of those in support:

Cliff Ashburner spoke on behalf of the applicant in support of the application and provided a PowerPoint presentation (see recording for details). The presentation

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included a rendering of the proposed buildings, which will be three story buildings. Ashburner also stated staff's request for a bench along the street frontage is a reasonable request.

Ashley Bartley spoke on behalf of the applicant and explained some of the environmental conditions on the site that influenced the site design.

Commissioner Carlson stated he felt the road going into the development was too straight and may encourage speeding through the development. Ashley Bartley stated there is parallel parking along the road which could do some traffic calming.

The following spoke in opposition to the request:

No one spoke.

Rebuttal:

05:27:00 Cliff Ashburner stated they have no problem with proposed Binding Element 9.

Deliberation:

05:27:55 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

05:32:30 On a motion by Commissioner Clare, seconded by Commissioner Seitz, the following resolution, based on the Standard of Review and staff analysis and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the zoning change to R-6 in the rear of the property is appropriate as this is a medium-density residential zoning district with commercial at the front, forming a mixture of uses in the Village Center form. The commercial use in the front of

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the property is part of a continuous commercial corridor along W Manslick Road, connecting to the central commercial district at the roundabout, permitting future residents easy access to neighborhood-serving goods and services. The Louisville Loop will pass through the front of the property as well, connecting the site to the larger Loop project; and

WHEREAS, the Louisville Metro Planning Commission finds that 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;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 1 because West Manslick Road is a primary collector at this location. The site is near an activity center at the roundabout;

Appropriate transitions will be provided;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 2 because the proposal would provide new development providing residential uses;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 3 because unstable soils and wet and highly permeable soils are present on the site. These soils will be mitigated on the site at construction;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Form: Goal 4 because:

No distinctive cultural features are evident on the site;

No historic assets are evident on the site;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Mobility: Goal 1 because the site is located close to an activity center at the roundabout;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Mobility: Goal 2 because access to the site is via W Manslick Road, a primary collector at this location;

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Mobility: Goal 3 because:

The proposal would encourage a mixture of compatible land uses connected to the Louisville Loop. The site is located near an activity center at the roundabout;

Transportation Planning has approved the proposal;

No direct residential access to high-speed roadways is proposed;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Community Facilities: Goal 2 because:

The relevant utilities have approved the proposal;

Louisville Water Company has approved the proposal:

MSD has approved the proposal;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Livability: Goal 1 because:

Tree canopy is being preserved as natural resource protection area in the rear of the lot for the protection of habitat for threatened and endangered bat species;

No karst terrain is evident on the site;

Regulatory floodplain is being mostly avoided by the applicant:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Housing: Goal 1 because:

The proposal would increase the variety of housing in the neighborhood by increasing the amount and variety of multi-family available;

The proposal would support aging in place by increasing the variety of ownership options and price points in an area which is connected to an activity center;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Housing: Goal 2 because:

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The proposal would encourage inter- generational mixed-income and mixed-use development which is connected with an activity center nearby;

The site is within proximity to an activity center providing neighborhood-serving goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is in compliance with Housing: Goal 3 because:

The proposal would increase the provision of fair and affordable housing by providing a variety of ownership options and unit costs in Louisville Metro;

No existing residents will be displaced by the proposal;

The proposal would permit innovative methods of housing;

now, therefore be it

RESOLVED that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to R-6 be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Sistrunk, Seitz, Peterson, Mims, Clare, and Howard
ABSENT: Commissioners Lewis, Brown, and Daniels.

Detailed District Development Plan with Binding Elements

05:34:20 On a motion by Commissioner Clare, seconded by Commissioner Seitz, the following resolution, based on the staff report and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that 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; because the site is heavily wooded and features unstable soils and hydric soils across the majority of the site. Tree canopy preservation will be provided and

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will be preserved as threatened and endangered bat habitat with the proposed binding element #9. The site must be developed in coordination with a geotechnical engineer due to the unstable soils;

WHEREAS, the Louisville Metro Planning Commission finds the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community because 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;

WHEREAS, the Louisville Metro Planning Commission finds the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development because open space is being provided in compliance with the requirements of the Land Development Code;

WHEREAS, the Louisville Metro Planning Commission finds 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 because 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;

WHEREAS, the Louisville Metro Planning Commission finds 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 because 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 by permitting medium-density multi-family housing in a neighborhood which features a variety of housing options; and

WHEREAS, the Louisville Metro Planning Commission finds 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 because the development plan conforms to applicable requirements of the Land Development Code and applicable guidelines of Plan 2040;

now therefore be it

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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 multi-family structures shall be substantially the same as depicted in the rendering as presented at the November 18, 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.
 - e. Final elevations/renderings for the commercial structure shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
8. No idling of trucks shall take place within 200 feet of residential structures. No overnight idling of trucks shall be permitted on-site.
9. The area to the north-east which is shown on the development plan as Tree Canopy Credit Area and Open Space Preservation for Natural Resource Protection shall be maintained in a wild state to the maximum extent possible in order to preserve habitat for threatened or endangered bat species. Vegetation, including canopy trees, understory trees and undergrowth, shall not be removed unless the vegetation constitutes a safety hazard or consists of invasive species, or is required to maintain the drainage easement. Any removal of vegetation shall be limited to only to safety hazards and invasive species, or the minimum absolutely necessary for maintenance of the easement.

The vote was as follows:

YES: Commissioners Peterson, Clare, Carlson, Sistrunk, Seitz, Mims, and Howard

ABSENT: Commissioners Lewis, Brown and Daniels.