

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

Request: Change in zoning from R-4, R-5, R-7 and M-2 to PRD, Planned Residential Development and district development plan with sidewalk waiver
Project Name: Forest Creek Subdivision
Location: 4826-4838 Valla Road and unaddressed lots to the rear of 4800-4838 Valla Road
Owner: AH Land Trust
Applicant: Creek Alley Contracting, LLC
Representative: AL Engineering, Inc.
Jurisdiction: Louisville Metro
Council District: 2 – Barbara Shanklin
Case Manager: Joel Dock, 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:

00:32:41 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Barry Baxter, 117 West Main Street, LaGrange, Ky. 40031
Fred Levein, 154 Thierman Lane, Louisville, Ky. 40207

Summary of testimony of those in favor:

00:36:32 Mr. Baxter submitted the affidavit for public notice into the record.

Mr. Baxter gave a power point presentation. This will be a down zoning as the current multi-family zoning is not compatible with the surrounding area. Access will be from Forest Dr., not Valla Rd. There will be detention and keeping away from the creek.

00:44:44 Mr. Levein is a real estate broker representing the Owner Age Land Trust and Creek Alley Contracting. The developer is down zoning and relocated a road for construction traffic.

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

00:45:48 Commissioner Brown asked if there will be additional screening provided for the lots that back up to Valla Rd. (lots 19-27)? Mr. Baxter said there's an issue with fencing, but there's some existing growth. There will be no access from any of these lots on Valla Rd.

The following spoke in opposition to this request:

Paul Beamus, Jr., 4823 Valla Road, Louisville, Ky. 40213
Jim Lynch, 4822 Valla Road, Louisville, Ky. 40213

Summary of testimony of those in opposition:

00:47:08 Mr. Beamus stated he doesn't want any access through Valla Rd. because it's a private road. He requests a barrier or fence.

00:48:30 Mr. Lynch is concerned about access from the potential new neighbors back yards to Valla Rd. He requests a barrier as well.

00:51:56 Mr. Beamus said he wouldn't want a wooden fence because it will rot.

Rebuttal

00:52:34 Mr. Baxter said they want the proposal to be attractive so a chain link fence is not an option. Some trees will be preserved and underbrush cleaned out but some will remain. A nice vinyl fence could be a viable option. Commissioner Carlson suggests making the homeowners association responsible for maintaining the fence.

00:55:08 Mr. Dock stated, if you add a binding element, make it a maximum of 48 inches within the setback along Valla Rd.

Deliberation

00:57:15 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 R-4, R-5, R-7 and M-2 to PRD, Planned Residential Development

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal supports the creation of a mix of residential housing choices and densities for the neighborhood as PRD allows for reductions in lot sizes and variability in type at the same density as R-5. The proposal is not high density. PRD allows for reductions in lot sizes and variability in type at the same density as R-5. The development will be for single-family detached homes consistent with the area which contains a variety of districts and styles. Neighborhood streets are designed to invite human interaction and easy access through the use of connectivity, and design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Valla Road is a private road and connectivity from Poplar level is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the area contains a diversity of multi-family and single family development. Building material and design will be as required by the form district design guidelines. The proposal is compatible with adjacent residential areas as the area contains a diversity of multi-family and single family development. Traffic impacts will be no greater than the existing underlying zoning districts. Lighting will be compliant with LDC 4.1.3. The PRD district allows a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern. The proposal is located adjacent to an activity center having employment and providing goods and services. The PRD district allows for greater variety in options which may include housing for the elderly or persons with disabilities. The PRD district allows for greater variety in options which may include appropriate/inclusive housing that is compatible with site and building design of nearby housing. The proposal is compatible with the scale and density of adjacent uses. Setbacks and lot dimensions comply with the form district design standards; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because the proposal provides open space that helps meet the needs of the community as a component of the development and will provide for the continued maintenance of that open space. Open space design is consistent with the pattern of development in the Neighborhood Form District. The proposal integrates natural features into the pattern of development as the protected waterway has been preserved and will provide floodplain compensation and open space; and

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because the proposal 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 as the protected waterway has been preserved and will provide floodplain compensation and open space. The subject site does not appear to contain significant historic resources. Preliminary approval has been received by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Road improvements will be made to facilitate the proposed development. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. Public access is provided to Poplar Level Road. No other access to adjacent lands or public ways is necessary as connectivity to Indian Trail has significant topographic and natural challenges and a school is located to the west. Further, Roads to the immediate east are private. Right of way is being closed and created to facilitate development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because no stub streets are being provided due to the desire to not connect to Valla Road, a private road. Access to the site is not from areas of lower intensity or density. The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as sidewalks have been provided to connect to major roadway provided transit service; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because no natural corridors are present; and

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because utilities would appear to be available based on existing development. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, R-5, R-7 and M-2 to PRD, Planned Residential Development on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Lewis, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Howard, Peterson, Robinson and Smith

Waiver of Land Development Code, section 5.8.1 to not provide sidewalks on both sides of the roadway serving the development

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the proposed waiver will impact only those users within the proposed subdivision which has limited access to only one public roadway and no through traffic will impact the safety of users within the development; and

WHEREAS, the Louisville Metro Planning Commission finds, Cornerstone 2020 calls for the provision, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development, provides bicycle and pedestrian connections to adjacent developments and to transit stops, and is appropriately located for its density and intensity. Due to the width of proposed public rights-of-way a sidewalk appears to only be feasible on one side of the roadway. Connectivity to a major arterial with transit service is being made available; and

WHEREAS, the Louisville Metro Planning Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the width of the proposed public right-of-way appears to only be sufficient to provide a sidewalk on one side of the roadway.

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

WHEREAS, the proposal 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 as the protected waterway has been preserved and will provide floodplain compensation and open space; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as sidewalks have been provided to connect to major roadway provided transit service. Public access is provided to Poplar Level Road. No other access to adjacent lands or public ways is necessary as connectivity to Indian Trail has significant topographic and natural challenges and a school is located to the west. Further, Roads to the immediate east are private; and

WHEREAS, the proposal provides open space that helps meet the needs of the proposed development and community. Provisions for continued maintenance will be provided; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development as the area contains a diversity of multi-family and single family development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan as demonstrated in the Findings of fact for the change in zoning.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver of the Land Development Code, section 5.8.1 to not provide sidewalks on both sides of the roadway serving the development and the 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

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

- 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 further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
 3. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
 4. All street signs shall be installed by the Developer, and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
 5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
 6. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission. A note to this effect shall be placed on the record plat.
 7. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
 8. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae breed or have the potential to breed are required to be treated with a mosquito larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

PLANNING COMMISSION MINUTES

February 21, 2019

PUBLIC HEARING CASE NO. 18ZONE1051

9. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
10. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
11. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these binding elements / conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
13. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. A road closure approval for Forest Drive shall be approved and recorded prior to requesting a record plat.
15. No access to Valla Road shall be permitted, unless approved by the Planning Commission or designee.

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1051

16. A four board horse style fence no greater than 48 inches in height shall be installed at the boundary of the easement along Valla Rd. located to the rear of lots 19-27. Maintenance shall be the responsibility of the Forest Creek HOA.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Lewis, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Howard, Peterson, Robinson and Smith