

**PLANNING COMMISSION MINUTES**  
**November 1, 2018**

**PUBLIC HEARING**

**CASE NO. 18ZONE1061**

Request: Change in zoning from R-4 to R-5 with a District Development Plan and setback variances  
Project Name: Factory Lane  
Location: 13501 and 13505 Factory Lane  
Owner: Joe Kroll Builder, LLC  
Applicant: Master-Craft Homes, LLC  
Representative: Clifford Ashburner – Dinsmore & Shohl, LLP  
Jurisdiction: Louisville Metro  
Council District: 17 – Glen Stuckel

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

**Agency Testimony:**

04:39:02 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

**The following spoke in support of this request:**

Clifford Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

**Summary of testimony of those in support:**

04:42:33 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

**The following spoke neither for nor against ("Other"):**

No one spoke.

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**The following spoke in opposition to this request:**

No one spoke.

**Rebuttal:**

There was no rebuttal, since no one spoke in opposition.

**04:47:58** 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.**

**Change in zoning from R-4, Single-family Residential to R-5, Single-family Residential**

**04:50:47** On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Cornerstone 2020 Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1: Community Form because the proposal supports the creation of a mix of residential housing choices and densities for the neighborhood as the area contains a wide variety of densities and intensities; the proposed district introduces additional options for single-family development; the proposal does not introduce a high density use. The maximum density permitted is 7.26 du/ac.; the proposal does not introduce a new housing style as the area contains a mix of housing options within the extent of existing and planned developments; 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 as connectivity and pedestrian accommodations have been made; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility 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 wide variety of densities and intensities; residential development will occur in accordance with the residential site design standards of LDC 5.4.2.; the proposal is compatible with adjacent residential areas as

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the development to the immediate west is a multi-family development and the development surrounding to the north and east is a conservation subdivision , and the proposed district is a single- family subdivision; traffic impacts will be minimal and consistent with other single-family development in the area. Access is obtained from a collector level roadway feeding an arterial and the interstate within less than 1-mile; lighting will be in compliance with LDC 4.1.3; the proposed district incorporates itself into an area which provides a wide range of housing styles; the subject site is located along a collector roadway and within proximity to activity centers; the proposed district incorporates itself into an area which provides a wide range of housing options; surrounding uses are multi- and single- family residential which are compatible with the proposed development; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. The proposed setbacks add to the variety of styles and setbacks which aid in creating variability and sense of place that is not homogenous; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because the proposal is not required to provide additional open space; and the proposal integrates natural features into the pattern of development as the subject site is mostly clear of vegetation and there are no additional environmental features; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because the site does not appear to contain any sensitive natural features; the subject site may contain historic resources (structure built 1930 – PVA). Any historic resources will be documented prior to demolition; and the site does not appear to contain wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation 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; right-of-way will be dedicated and the site is within the System Development Charge area; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development from an adjacent subdivision to the collector roadway; and the proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities abutting the development and connecting to adjacent development; and

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**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land. A Stub is provided to the east; the proposed zoning district is similar in intensity to surrounding areas and access to the site would not create a nuisance; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site. The collector roadway provides primary access, a connection to adjacent subdivision is provided; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as sidewalks will be provided throughout; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 10: Flooding and Stormwater because the proposal's drainage plans have been approved by MSD; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because the subdivision does not have a significant impact on natural corridors; and

**WHEREAS**, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the precise location of utilities and service will be determined at the record plat stage in consultation with all utility providers; the proposal has access to an adequate supply of potable water and water for fire- fighting purposes; and the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams; now, therefore be it

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

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**CASE NO. 18ZONE1061**

**Variance of Land Development Code, section 5.3.1.c to reduce the required front/street side yard setback from 25' to 15' for interior lots and from 40' to 30' along Factory Lane**

04:52:03 On a motion by Commissioner Howard, seconded by Commissioner Robinson, 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 requested variance will not adversely affect the public health, safety or welfare as the setback does not allow future development to impact sight lines for vehicles or pedestrians along public ways; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as an existing home and an adjacent home are setback at a similar distance from the roadway pavement of Factory Lane and the interior lot setback adds to the variety of styles and setbacks in the area which aid in creating variability and sense of place that is not homogenous; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the setback does not allow future development to impact sight lines for vehicles or pedestrians along public ways; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed setback adds to the variety of styles and setbacks in the area which aid in creating variability and sense of place that is not homogenous; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the development could conform to the requirements; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as variability in setbacks adds to the variety of styles and setbacks in the area which aid in creating variability and sense of place that is not homogenous; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance of Land Development Code, section 5.3.1.c to reduce the required front/street side yard setback from 25' to 15' for interior lots and from 40' to 30' along Factory Lane.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

**Major Preliminary Subdivision/District Development Plan**

04:52:58 On a motion by Commissioner Howard, seconded by Commissioner Robinson, 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 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. A potential historic resource will be documented prior to demolition. The site contains no other significant natural resources; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as connectivity and pedestrian accommodations have been made throughout the development and to adjacent sites; and

**WHEREAS**, the Commission further finds that the proposal provides open space that helps meet the needs of the proposed development and community as no open space provisions are required for the proposal; and

**WHEREAS**, the Commission further finds that 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

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**WHEREAS**, the Commission further finds that the overall site design and land use is compatible with the area as the area contains a wide variety of densities and intensities; and

**WHEREAS**, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan as 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 wide variety of densities and intensities. The proposal supports the creation of a mix of residential housing choices and densities for the neighborhood and introduces additional options for single-family development. 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 as connectivity and pedestrian accommodations have been made; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Major Preliminary Subdivision/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 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

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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 larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
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.



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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. An Individual Historic Resource Survey Form shall be completed for any historic resources on the subject site. The documentation must occur prior to the issuance of a demolition permit or ground disturbance at the site. The documentation shall be submitted to Urban Design/Historic Preservation Staff upon completion.

**The vote was as follows:**

**YES: Commissioners Peterson, Robinson, Tomes, Daniels, Howard, Carlson, and Jarboe.**

**NOT PRESENT: Commissioners Lewis, Smith, and Brown.**

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**STANDING COMMITTEE REPORTS**

**Land Development & Transportation Committee**

No report given.

**Site Inspection Committee**

No report given.

**Planning Committee**

No report given.

**Development Review Committee**

No report given.

**Policy & Procedures Committee**

No report given.

**CHAIRPERSON/DIRECTOR'S REPORT**

No report given

**ADJOURNMENT**

The meeting adjourned at approximately 6:15 p.m.

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Chairman

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Division Director