

PLANNING COMMISSION MINUTES
November 18, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0113

Request: Change in zoning from R-4 to R-5A, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name: 14015 Old Henry Trail Rezoning
Location: 14015 Old Henry Trail
Owner: One Fourteen LLC
Applicant: One Fourteen LLC
Representative: Land Design and Development
Jurisdiction: Louisville Metro
Council District: 19 - Anthony Piagentini
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:

01:19:50 Dante St. Germain presented the case and showed a Power Point presentation. She answered questions from the Commissioners. See staff report and recording for detailed presentation and discussion.

The following spoke in support of the request:

Kevin Young, Land Design & Development, 503 Washburn Ave # 101, Louisville, KY 40222

Summary of testimony of those in support:

01:29:30 Kevin Young, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation and discussion.)

The following spoke in opposition to the request:

Mary Dries, 15510 Champion Lakes Place, Louisville, KY 40245

Steve Pence, 14309 Willow Falls Court, Louisville, KY 40245

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Gary Stephan, 15004 Sycamore Falls Drive, Louisville, KY 40245

Summary of testimony of those in opposition:

01:42:52 Steve Pence discussed ways he feels that this plan does not comply with the Old Henry Road Sub-Area Plan (see recording.)

01:49:28 Mary Dries discussed the landscaping and berms along Old Henry Road and requested that this developer do the same. She requested real stone and real brick on the structures, not veneer. She said this area already has many apartment developments but could use more patio homes and single family homes.

01:56:38 Gary Stephan also discussed ways in which he feels this development does not comply with the Old Henry Road Sub-Area Plan, and also showed a Power Point presentation. He reiterated that other developments in the area have followed the Neighborhood Plan. He requested at least 200 feet of setback, more generous screening, buffering, and landscaping (see recording.)

Rebuttal:

02:10:57 Mr. Young presented rebuttal (see recording.)

02:14:53 Mr. Pence and Mr. Young discussed the Neighborhood Plan, specifically regarding density and landscaping (see recording for discussion.)

02:17:30 The Commissioners discussed the detention basin, density, and other issues with Mr. Young.

Deliberation:

02:25:10 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

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02:36:46 On a motion by Commissioner Mims, 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 proposal meets Community Form: Goal 1 because the site is located along Old Henry Road, a minor arterial at this location, and relatively near an employment center and a growing activity center; and the proposed zoning district and the surrounding development are not substantially different in scale or intensity; and

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

WHEREAS, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes 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 Old Henry Road, a minor arterial at this location. Traffic into the site will travel only a short way down Old Henry Trail; and

WHEREAS, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is easily accessible by car. The site is not easily accessible by bicycle, transit, 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 tree canopy will be provided on the site utilizing native species; no karst features are evident on the site; and the site is not located in the floodplain; and

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WHEREAS, the Commission further finds that the proposal meets Housing: Goal 1 because the proposal would increase the variety of housing types and price points in the neighborhood; and the proposal would support aging in place by increase the variety of ownership options and price points in the neighborhood, allowing aging populations to downscale without leaving their neighborhood; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would encourage inter- generational mixed-income development that is connected to the neighborhood and surrounding area; and the proposal is not for higher density zoning. The site is in proximity to an employment center and a growing activity center; and

WHEREAS, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would encourage 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 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 be **APPROVED**.

The vote was as follows:

YES: Commissioners Mims, Peterson, Howard, Carlson, Daniels, Seitz, and Sistrunk.

NO: Commissioners Brown and Clare.

ABSENT: Commissioner Lewis.

Waiver

02:38:26 On a motion by Commissioner Mims, 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 waiver will not adversely affect adjacent property owners as the applicant is not requesting a waiver for the planting requirement and the required parkway plantings will be provided; and

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WHEREAS, the Commission further finds that the waiver will not violate specific guidelines of Plan 2040 as the required parkway plantings will be provided along Old Henry Road and Old Henry Trail; and

WHEREAS, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the site drains naturally toward the location of the proposed detention basin and making the lot drain toward another location would require extensive regrading; and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring re-grading the lot, which would be costly and would require the removal of the remainder of the trees on the lot; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver from 10.3.5.A.7 to permit a retention or detention basin to occupy more than 50% of the width of a parkway buffer area.

The vote was as follows:

YES: Commissioners Mims, Peterson, Howard, Carlson, Daniels, Seitz, and Sistrunk.

NO: Commissioners Brown and Clare.

ABSENT: Commissioner Lewis.

Detailed District Development Plan with Binding Elements

02:40:31 On a motion by Commissioner Mims, 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 site is lightly wooded and few natural resources exist on the site currently. Required tree canopy will be provided; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

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has been provided, and Metro Public Works has approved the preliminary development plan; and

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 by permitting medium-density multi-family housing in a mixed-density neighborhood which already provides multi-family housing; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040 with the exception of the requested waiver; 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:

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. 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 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.

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.

The vote was as follows:

YES: Commissioners Mims, Peterson, Carlson, Daniels, Seitz, Sistrunk, and Howard.

NO: Commissioners Brown and Clare.

ABSENT: Commissioner Lewis.