

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 6, 2020**

A special meeting of the Louisville Metro Planning Commission was held on January 6, 2020 at 6:30 p.m. at the South Central Regional Library, 7300 Jefferson Boulevard, Louisville, KY 40219.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown
Richard Carlson
Ruth Daniels
Jim Mims
David Tomes

Commission members absent:

Lula Howard
Robert Peterson

Staff Members present:

Emily Liu, Director, Planning and Design Services
Joe Reverman, Assistant Director, Planning and Design Services
Brian Davis, Planning and Design Manager
Dante St. Germain, Planner II
Beth Stuber, Engineering Supervisor
Laura Ferguson, Legal Counsel
Tony Kelly, MSD

Others Present:

The following matters were considered:

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PUBLIC HEARING

CASE NO. 19-ZONE-0016

Request: Zoning Map Amendment from R-4 Single Family Residential to R-5A Multi-Family Residential with a Detailed District Development Plan
Project Name: Smith Watterson Trail Condos
Location: 4303-4305 Stony Brook Drive, 8601-8607 Watterson Trail
Owner: John & Mary Smith
Applicant: John & Mary Smith
Representative: Land Design & Development
Jurisdiction: Jeffersontown
Council District: 11 – Kevin Kramer

Case Manager: **Dante St. Germain, 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 applicant.

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:

Dante St. Germain presented an overview of the staff report and outlined the requests to the Planning Commission via a powerpoint presentation. This is a continuation of a night hearing from November 4, 2019. The applicant is proposing a zoning map amendment from R-4 to R-5A to develop 21 units on the 2.14 acre site.

Fred McWhorter, 4109 Brook Farm Place, asked staff to show the slide which showed the existing zoning in the area.

Beth Leak, 8900 Collingwood Road, asked staff to clarify who owned the property and to provide additional details about the plan. Dante St. Germain responded John & Mary Smith are the owner and applicants of record and that the applicant would provide additional details about the proposed project during their presentation.

The following spoke in favor of this request:

Kevin Young, Land Design & Development, 502 Washburn Avenue, Suite 101, Louisville, KY 40222

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Summary of testimony of those in favor:

Kevin Young, Land Design and Development, presented on behalf of the applicant. Mr. Young presented a powerpoint presentation detailing the proposed development. Mr. Young summarized the changes which have been made to the plan since the November meeting, which include adding an access point to Watterson Trail as a right in/right out only, and reducing access on Stony Brook Drive to just a right in only. There will be post delineators installed at the Watterson Trail entrance to eliminate left turns to and from that entrance. Mr. Young explained how he believes this development provides a different type of housing that isn't available in the immediate area and is in keeping with Plan 2040.

Questions by the Planning Commission of Those Who Spoke in Favor

Commissioner Rich Carlson asked about direct driveway to and from the street. Commissioner Jeff Brown explained the existing lots were created before that rule took effect.

Commissioner Jim Mims said he is struggling to understand and justify the access to the property. He asked if there would be concern about whether the entrance could be mistakenly used to make a turn it is designed to prohibit. He also asked if there were plans for the properties to the east that are owned by the applicant. Kevin Young said the post delineators would help deter traffic from going the wrong way out the Watterson Trail entrance, and the deceleration lane into the Stony Brook Drive entrance would be designed to prohibit wrong way turns. In regards to the question about queueing length, Mr. Young there is adequate sight distance at the point of the entrance but there isn't room to create a queueing area for westbound traffic to provide the clearance needed to make the turns. Mr. Young stated the four properties to the east have been offered to the city of Jeffersontown to be used at their discretion.

Commissioner Marilyn Lewis asked for clarification about the delineators. Kevin Young said currently the plan is to only have them on Watterson Trail. Commissioner Lewis also asked about timing of the development of the 10-foot multi-use path. Kevin Young said those details are being worked out at this time.

The following spoke as other (neither for nor in opposition to the proposal):

Jeff Marean, 9014 Lethborough Drive, Jeffersontown, KY 40299
Chris Reece, 4207 Stony Brook Drive, Louisville, KY 40299

Summary of testimony of those who spoke neither for nor in opposition:

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Jeff Marean, 9014 Lethborough Drive, had some questions about the creek, and Dante St. Germain stated it is currently described as an intermittent stream. Mr. Marean believes there are too many units for the site. He asked if the creek would be relocated on the site. Kevin Young said no. He asked if there had been any environmental studies conducted on the site and the creek.

Chris Reece, 4207 Stony Brook Drive, would like to see the site developed but sees problems with the right in/right out entrances. He believes the development puts too much traffic on Collingwood Road and the neighborhood streets around the development.

The following spoke in opposition to this request:

Ray Wolken, 4412 Brook Farm Place, Louisville, KY 40299
Kathryn Brown, 8513 Watterson Trail, Louisville, KY 40299
Steve Heavrin, 8800 Brook Willow Drive, Louisville, KY 40299
Pat Strehl, 4214 Brook Farm Place, Louisville, KY 40299
Larry Jones, 9011 Collingwood Road, Louisville, KY 40299
Cathy Snyder, 8908 Collingwood Road, Louisville, KY 40299
Bettie Carter, 4219 Brook Farm Place, Louisville, KY 40299
Derek Licciardi, 4400 Blue Wisteria Court, Louisville, KY 40299
Tim Shaugnessy, 9712 Southern Breeze Lane, Jeffersontown, KY 40299
Fred McWhorter, 4109 Brook Farm Place, Jeffersontown, KY 40299
Charles Knipfler, 8803 Brook Willow Drive, Jeffersontown, KY 40299
Tammy Heavrin, 8800 Brook Willow Drive, Louisville, KY 40299
Judith Mize, 8909 Collingwood Road, Jeffersontown, KY 40299
Paula Abell, 4118 Brook Farm Place, Louisville, KY 40299
Don Snyder, 8908 Collingwood Road, Louisville, KY 40299

Summary of testimony of those in opposition:

Ray Wolken, 4112 Brook Farm Place, spoke in opposition to the project.

Kathryn Brown, 8513 Watterson Trail, spoke in opposition to the project. Ms. Brown has concerns about the traffic and the creek. She says the creek is never dry and that the level of the creek rises quickly when it rains. The creek erodes the land in the area now and believes there shouldn't be any development upstream from her until the current problems are solved. There is also a small bridge that crosses the stream on a property downstream from the development where debris collects and causes water to backup.

Steve Heavrin, 8800 Brook Willow Drive, spoke in opposition to the project. He is concerned about the traffic, which is already dangerous. There is already additional traffic pressure caused by other single family development in the area. Watterson Trail is narrow and doesn't have shoulders, which does not help the traffic safety situation.

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Pat Strehl, 4214 Brook Farm Place, spoke in opposition to the project. He pointed out the distances from the intersection to each of the proposed entrances. He does not believe there is adequate distance. If the Stony Brook entrance is approved it should have delineators as well. Drainage is an issue in the area.

Larry Jones, 9011 Collingwood Road, spoke in opposition to the project. He believes the development is not appropriate for the size of the site. He believes the proposed entrance design will be confusing for emergency services. He thinks six single family homes, for which the site got approval to do many years ago, is the right type of development for the site.

Cathy Snyder, 8908 Collingwood Road, spoke in opposition to the project. Her property backs up to the development. She does not believe the project has enough parking on the site. Ms. Snyder has concerns about the creek as well as traffic that is already in the area.

Bettie Carter, 4219 Brook Farm Place, spoke in opposition to the project. The Stony Brook/Watterson intersection is dangerous so additional development should not be approved to add traffic and/or further complicate this intersection. Ms. Carter offered some potential binding elements which she believes the developer should be required to do if the project is approved.

Derek Licciardi, 4400 Blue Wisteria Court, spoke in opposition to the project. He does not believe delineators are appropriate for Watterson Trail.

Tim Shaughnessy, 9712 Southern Breeze Lane, spoke in opposition to the project. He believes the development is proposing too much in regards to the size of the site.

Fred McWhorter, 4109 Brook Farm Place, spoke in opposition to the project. Mr. McWhorter stated there is a significant amount of traffic already in the area and the existing topography adds to the amount of danger. He believes the development is too ambitious for the site.

Charles Knipfler, 8803 Brook Willow Drive, spoke in opposition to the project. He does not believe the roads can handle the development.

Tammy Heavrin, 8800 Brook Willow Drive, spoke in opposition to the project. She has concerns about flooding in the area because the creek is never dry. She asked if street lighting would create lighting issues on adjoining properties. She doesn't think there is

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appropriate sight distance at the San Marcos/Watterson intersection where eastbound traffic will have to go.

Judith Mize, 8909 Collingwood Road, spoke in opposition to the project. Ms. Mize provided pictures of a recent wreck that was at the intersection of Stony Brook Drive and Watterson Trail. She said many local residents walk on Collingwood, so putting additional traffic on this road, which does not have sidewalks, will endanger these pedestrians.

Paula Abell, 4118 Brook Farm Place, spoke in opposition to the project. She believes the intersection is dangerous and this development will not improve the safety of it.

Don Snyder, 8908 Collingwood Road, spoke in opposition to the project. He agrees with everything that has been stated by others in opposition. He does not believe the property is conducive to the type of development that is being proposed.

Questions by the Planning Commission of Those Who Spoke in Opposition

Commissioner Vince Jarboe asked Tony Kelly about the bridge situation mentioned in the testimony. Mr. Kelly said that is a private bridge and MSD would need to get approval from the property owner to eliminate the bridge, as well as approval from the Corps of Engineers to do work in the floodplain.

Rebuttal

Kevin Young provided rebuttal on behalf of the applicant. Mr. Young said the project is located at the intersection of two collector level roadways, and the access points have been reviewed by all the appropriate agencies. A floodplain compensation basin is being provided on site to help remedy the flooding situation. The proposal provides 30 percent open space. The units have been designed with Watterson Trail in mind to help keep the character of the area. He believes the project is in compliance with the goals and objectives of Plan 2040 because it provides a variety of housing in the area.

Commissioner Deliberation

Commissioner Deliberation (see recording for detailed presentation).

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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 Map Amendment from R-4 Single Family Residential to R-5A Multi-Family Residential

On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution based on the staff report and testimony heard today, was adopted:

WHEREAS, the proposal is in compliance with Plan 2040 Community Form: Goal 1 because the site is located approximately one-half (1/2) mile from S Hurstbourne Parkway, a transit corridor, and the proposal includes the required buffer yards between the proposed higher zoning district and the lower-intensity zoning district surrounding the property,

WHEREAS, the proposal is in compliance with Plan 2040 Community Form: Goal 2 because the proposal is for a residential zoning district,

WHEREAS, the proposal is in compliance with Plan 2040 Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are apparent on the site,

WHEREAS, the proposal is in compliance with Plan 2040 Community Form: Goal 4 because no distinctive cultural features are apparent on the site,

WHEREAS, the proposal is in compliance with Plan 2040 Mobility: Goal 1 because the proposal is for a medium density zoning district, and will not permit higher density or intensity uses,

WHEREAS, the proposal is in compliance with Plan 2040 Mobility: Goal 2 because access to the site would be achieved from Watterson Trail, a primary collector,

WHEREAS, the proposal is in compliance with Plan 2040 Mobility: Goal 3 because the subject site will be served in the future by a multi-use path constructed by the City of Jeffersontown, making the site easily accessible by bicycle, car, and pedestrians; no direct residential access to high-speed roadways is proposed, access to the site is to be achieved from Watterson Trail, which has a 35 mph speed limit,

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WHEREAS, the proposal is in compliance with Plan 2040 Community Facilities: Goal 2 because relevant utilities have approved the proposal,

WHEREAS, the proposal is in compliance with Plan 2040 Livability: Goal 1 because much of the existing vegetation around Fern Creek will be preserved; no karst features are evident on the subject site; the site is located in a local regulatory floodplain and partially in the FEMA 100-year floodplain, and MSD has approved the proposal,

WHEREAS, the proposal is in compliance with Plan 2040 Housing: Goal 1 because the proposal would permit an increased variety of housing types in the neighborhood; the proposal will increase the options for housing in the neighborhood, supporting aging in place,

WHEREAS, the proposal is in compliance with Plan 2040 Housing: Goal 2 because the proposed zoning district would allow for inter-generational and mixed-income development, and the site is connected with the neighborhood and surrounding area; the subject site is located approximately one-half (1/2) mile from a transportation corridor and a center that provides amenities, and

WHEREAS, the proposal is in compliance with Plan 2040 Housing: Goal 3 because the proposal would increase the variety of ownership options and unit costs throughout Louisville Metro; no existing residents will be displaced by the proposed zoning district change; the proposed zoning district would allow for innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown the change in zoning from R-5 Single Family Residential to R-5A Multi Family on properties described in the attached legal description be **APPROVED**.

YES: Commissioners Brown, Carlson, Daniels, Lewis, Mims, Peterson, and Jarboe

No: None

NOT PRESENT AND NOT VOTING: Commissioners Howard and Peterson

Detailed District Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution based on the staff report and testimony heard today, was adopted:

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WHEREAS, there do not appear to be any historic resources on the subject site. Fern Creek and much of the existing tree canopy around the creek are proposed to be preserved. No development on steep slopes is proposed.

WHEREAS, Metro Public Works has approved the preliminary development plan. However, efficiency in vehicular transportation in connection with the surrounding community is questionable.

WHEREAS, sufficient scenic and recreational open space is being provided.

WHEREAS, 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 overall site design and land uses are compatible with the existing and future development of the area. The proposal is for medium-density residential zoning in an existing residential community.

WHEREAS, the development plan conforms to applicable guidelines and policies of the Land Development Code. The vehicular connections remain problematic, as traffic attempting to enter the site from southbound Stony Brook Drive will still be routed through surrounding neighborhoods, and vehicles wishing to travel east on Watterson Trail must detour through the neighborhoods to make the turn at San Marcos Road.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the City of Jeffersontown **APPROVE** the 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

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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 the City of Jeffersontown, 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. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 6, 2020 Planning Commission hearing. 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

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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.

YES: Commissioners Brown, Carlson, Daniels, Lewis, Mims, Peterson, and Jarboe

No: None

NOT PRESENT AND NOT VOTING: Commissioners Howard and Peterson

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ADJOURNMENT

The meeting adjourned at approximately 8:50 p.m.

Chair

Planning Director