

PLANNING COMMISSION MINUTES
November 17, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0004

Request: Change in Zoning from R-4 to R-6, Waivers and Revised Detailed District Development Plan with Binding Elements
Project Name: Echappe and Pirouette
Location: 423 Echappe Lane and 9418 Pirouette Avenue
Owner: Treeline LLC, Corcoran Home Building & Remodeling LLC
Applicant: Corcoran Home Building & Remodeling LLC
Representative: Bardenwerper, Talbott & Roberts; Land Design & Development
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Julia Williams, AICP, Planning Supervisor

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:

02:07:20 Julia Williams discussed the case summary, standard of review and staff analysis from the staff reports (see video of PowerPoint presentation). The applicant is requesting a rezoning on a property that adjoins a previously approved rezoning/development plan (20-ZONE-0117). The proposal is to add two buildings containing a total of 32 units on 1.71 acres. This would bring the total number of units for the entire development to 152 units on 10.6 acres.

Commissioner Carlson asked about the elimination of a binding element that talked about trees being planted along the entrance road. Julia Williams stated the access easement, that was providing access to the subject tract, went away, so the requirement for trees along that easement went away as well.

Commissioner Mims asked if the property flag going out to Echappe that is proposed for rezoning, and if so, why. Williams stated that piece is not needed in order for the development to meet the density of the proposed zoning district. Williams also stated the MSD pump station and the access to said pump station are on that that piece of the property, so there is no proposed development on this portion of the site.

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The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts, 1000 N. Hurstbourne Parkway, 2nd Floor, Louisville, KY 40223

Matthew Corcoran, 14103 Lake Forest Lane, Louisville, KY 40245

Summary of testimony of those in favor:

02:13:00 Nick Pregliasco spoke in support of the applications and presented a PowerPoint presentation (see video). Pregliasco said they will still plant trees along the entrance road. The previously approved portion of the site remains relatively the same. The two new buildings on the portion to be rezoned are all that is really changing.

In response to a question from Commissioner Carlson, the total number of units was not correct on the plan, it should be 160 total units.

02:18:40 Julia Williams presented two binding elements:

Trees shall be planted in substantially similar locations as shown on the landscape exhibit presented at the November 17, 2022 Planning Commission public hearing.

There shall be no permanent vehicular access from the subject site to Echappe Lane should the MSD pump station be eliminated. Access to Echappe Lane shall only be for tree clearing.

02:21:22 Matthew Corcoran answered a question regarding the potential use of Echappe to move some construction equipment onto the site, clear trees, and help pipe an existing drainage ditch

Summary of testimony of those in opposition:

None

Rebuttal

None

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Deliberation

02:23:56 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 to R-6

02:24:11 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Planning Commission finds the proposal is in compliance with Land Use & Development Goal 1: Community Form because the proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale where demand and adequate infrastructure exists or is planned,

the proposal is in compliance with Land Use & Development Goal 1: Community Form because all required landscape buffers and setbacks will generally be provided as required to provide an appropriate transition between the proposed district and lower intensity residential properties,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 2: Community Form because a vacant lot is proposed for development,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 3: Community Form because jurisdictional wetlands are present at the entrance to the site. ACOE approval will be required prior to construction plan approval to minimize the potential for property damage or environmental degradation,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 4: Community Form because minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy and the site does not contain any historic or cultural resources,

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WHEREAS, the proposal is in compliance with Land Use & Development Goal 1: Mobility because the proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale to support transit-oriented development and an efficient public transportation system,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 2: Mobility because vehicular access to the site will cross through a small segment of lower intensity zones before reaching the subject site. This would not appear to create a significant nuisance based on the limited travel required on local roads,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 3: Mobility because the proposal will provision all necessary improvements to facilitate accessibility by bike, car, foot, or transit. Except for a short sidewalk gap at New Cut Road and Pirouette Avenue, the existing public network supports a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities,

All improvements to the transportation network required of the development will be provided,

Development of the site will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Connectivity to provide appropriate access within, and through, the district will be provided,

A sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property,

There do not appear to be any long-range plans which impact the development proposal,

No direct residential access to high-speed roadways will be provided,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 2: Community Facilities because the proposal is in an area served by existing utilities or planned for utilities,

The proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes,

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MSD has reviewed and approved the proposed development to ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 1: Livability because minimum requirements for tree canopy will be provided, including preservation of 20% of the existing canopy,

The subject property is not located within a karst prone area per LOJIC and no further karst investigation was required of the applicant,

Areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 1: Housing because the current zoning district supports a variety of housing types, including attached, zero-lot, and clustering. The proposed district expands opportunities for multi-family, accessory apartments and a mixing of housing styles that reflect the pattern of the form district,

The current R-6 district supports housing options that support aging in place. The proposal expands upon available types and styles for provisioning housing for aging adults near shopping and transit routes,

WHEREAS, the proposal is in compliance with Land Use & Development Goal 2: Housing because the existing R-6 district supports mixed-income development. The proposal expands upon the ability to provision a wider range of housing for differing income levels,

The subject site is within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as being within proximity to amenities providing neighborhood goods and services. The proposed district is located near employment centers, Jefferson Memorial Forest, I-265, and TARC route #6 connecting to Downtown (although trips are limited at the nearest stop to the subject site), as well as the village center of Fairdale, and

WHEREAS, the proposal is in compliance with Land Use & Development Goal 3: Housing because the proposed district expands upon available opportunities to build fair and affordable housing and expand opportunities for people to live in quality, variably priced housing in locations of their choice. A wider range of income levels could be accommodated for when the zoning district provides greater flexibility for multi-family, two-family, attached, clustering, and co-housing,

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The proposed district is located on an infill lot within an existing residential area. The proposed residential use will allow for an increase in the residential population in this neighborhood resulting in no displacement, and

The existing R-6 district provides flexibility from the traditional standards of single-family residential site design, but it is limited in its ability to include multi-family, accessory apartments, and/or co-housing. The proposed district encourages a wider range of flexibility in design options, therefore be it

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

The vote was as follows:

YES: Commissioners Clare, Pennix, Carlson, Cheek, Howard, Sistrunk, Mims, Brown, and Lewis

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioner Price.

ABSTAINING: No one.

Waiver from 10.2.4 to permit over 50% overlap of an easement with an LBA (22-WAIVER0184)

02:24:45 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners since the area will remain as existing due to necessary MSD access,

WHEREAS, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compat-

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ible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. The area of the waiver is remaining unchanged due to MSD access to a pump station,

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the area will remain as existing due to necessary MSD access, and

WHEREAS, the 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 since area of the waiver is remaining unchanged due to MSD access to a pump station, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from Section 10.2.10 of the Land Development Code.

The vote was as follows:

YES: Commissioners Clare, Pennix, Carlson, Cheek, Howard, Sistrunk, Mims, Brown, and Lewis

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioner Price.

ABSTAINING: No one.

Detailed District Development Plan and Binding Elements

02:25:20 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

WHEREAS, 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. All required landscape buffers and setbacks will be provided to offer an appropriate transition between the proposed district and lower intensity residential properties abutting the site. Minimum requirements for tree canopy will be provided, including

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preservation of 20% of the existing canopy. Areas of the subject site that contain local or FEMA floodplain are in the north corner of the site where detention will be located to minimize disturbance,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. Connectivity in compliance with the Land Development Code has been demonstrated on the revised development plan,

WHEREAS, the proposal meets or exceeds the minimum requirements for open space, tree canopy, and landscaping,

WHEREAS, Metropolitan Sewer District approval will be required to will ensure the provisioning 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 proposal is compatible with the overall site design, land uses, and future development of the area as the site is located within proximity to the Fairdale Village Center, similar densities of development, and all necessary improvements to facilitate accessibility by bike, car, foot, or transit. A sidewalk gap at New Cut Road and Pirouette Avenue will be closed by the developer prior to occupancy of the subject property, and

WHEREAS, the proposed development plan conforms to the Comprehensive Plan and the Land Development Code, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** Louisville Metro Council **APPROVE** the Detailed District Development Plan **ON CONDITION** the number of units is corrected on the plan and **SUBJECT** to the following Binding Elements:

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 require a public hearing by the Planning Commission with final approval by the Louisville Metro Council; any changes/additions/alterations not so approved shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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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 Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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 building permit. 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 17, 2022 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
- e. 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. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.

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

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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. Open space to comply with LDC Chapter 5, Part 11 shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission.

8. An 8-foot privacy-style fence shall be provided and maintained in good condition at all property lines abutting existing residences.

9. Any substantial change in the development plan i.e. density, elevation of units, or change in use shall require approval of the Louisville Metro Council after a public hearing by the Planning Commission.

10. Prior to the issuance of a Certificate of Occupancy, construction plans for a roughly 60' gap in the public sidewalk at New Cut Road and Pirouette Avenue shall be reviewed and approved by Louisville Metro Department of Public Works and Transportation Planning, and the sidewalk shall be installed.

11. Trees shall be planted in substantially similar locations as shown on the landscape exhibit presented at the November 17, 2022 Planning Commission public hearing.

12. Building 5 on the development plan shall not have balconies on the second floor on the southeast side of the building facing the adjoining residential lots.

13. Developer shall notify the Planning Commission and its staff when construction of the project is complete. Developer shall, at its own cost and expense, conduct a traffic count complying with Public Works standards at the intersection of Pirouette Avenue and Glissade Drive. If a four-way stop is warranted and approved by Public Works after review of said traffic count, Developer shall fund construction of the four-way stop. Developer's obligations under this binding element shall cease five years after construction of the project is complete.

14. There shall be no permanent vehicular access from the subject site to Echappe Lane should the MSD pump station be eliminated. Access to Echappe Lane shall only be for tree clearing.

The vote was as follows:

YES: Commissioners Clare, Pennix, Carlson, Cheek, Howard, Sistrunk, Mims, Brown, and Lewis

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NO: No one.

NOT PRESENT AND NOT VOTING: Commissioner Price.

ABSTAINING: No one.