

PLANNING COMMISSION MINUTES
March 18, 2021

PUBLIC HEARING

20-ZONE-0105

Request: Change in Zoning from R-4 to R-5, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements, and associated Waiver

Project Name: Rollington Ridge

Location: 4308 Rollington Road

Owner: Arthur Meyer

Applicant: Pulte Homes

Representative: Land Design and Development

Jurisdiction: Louisville Metro

Council District: 17 – Markus Winkler

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 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:

00:52:35 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Derek Triplett, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Dan Hempel, 10350 Ormsby Park Place, Suite 103, Louisville, Ky. 40223

Summary of testimony of those in favor:

01:05:29 John Talbott gave a power point presentation. The proposal is for 81 lots to be built on 22+ acres.

01:14:22 Derek Triplett discussed the road improvements and the proposed development plan.

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01:24:52 John Talbott continued discussing the following: advancing equity; housing needs in the future; density; lots sizes; multiple elevations; cost of homes; and diversity of home styles.

01:40:49 Commissioner Carlson said, if you're looking at growth in the area, shouldn't you be looking at increasing the minimum road widths? Mr. Talbott said the road up to their entrance will be expanded. The people in Oldham Co. don't want the road improved. Mr. Triplett said they could provide improvements across the entire frontage of the property if necessary.

The following spoke neither for nor against the request:

Mary Dinkel, 4703 Red Bud Forest Place, Forest Springs North, Louisville, Ky. 40245
Michele Redmon, 4703 Red Bud Forest Place, Forest Springs North, Louisville, Ky. 40245

Summary of testimony of those neither for nor against:

01:48:04 Mary Dinkel asked if the proposed plan presented today is the final draft. Also, what is the average lot size of the proposed homes?

01:48:58 Michele Redmon asked (the Planning Commission) how many trees will be removed without requiring the builders to supplement them with more than small trees (take a long time to mature). Also, do the houses have garages or will there be parking on the street and are the streets wide enough for parking?

Mr. Talbott said this is a preliminary subdivision plan and can change. This plan has significant open space and tree canopy.

The following spoke in opposition to this request:

Rae Anne Pearson, 8006 Willington Road, Louisville, Ky. 40056
Jamie Hallac, 13200 Holly Forest Road, Louisville, Ky. 40245
Michael Hayes, 4423 Sycamore Forest Place, Louisville, Ky. 40245
Anne Proffitt, 4007 Altawood Court, Louisville, Ky. 40245
Dennis Walsh, 4303 Rollington Road, Louisville, Ky. 40245
Mary Dinkle, 4703 Red Bud Forest Place, Forest Springs North, Louisville, Ky. 40245

Summary of testimony of those in opposition:

01:52:37 Rae Anne Pearson gave a power point presentation and discussed the following: petition of 92 signatures; compatibility; diversity in Oldham Co.; density;

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Oldham Co. is largely rural area; creek; traffic; and this needs to be a responsible development.

02:18:32 Jamie Hallac stated he pays (HOA fees) for plowing and salting for the roads. If the roads are opened, will there be compensation for the use of the roads by others? How often does MSD measure the drop rates and if they do measure it, are there any penalties or liability for homes?

Mr. Hallac said he's concerned there may be drastic changes to the plan shown today. Also, opening up Holly Forest Rd. is a huge mistake and it will lower his property value.

02:33:05 Michael Hayes said the applicant has no justification for the zoning change from R-4 to R-5.

02:37:00 Anne Proffitt said she submitted a letter to the commissioners. The main concerns are density, traffic and the loss of nature.

02:41:17 Dennis Walsh read the letter he submitted into the record.

02:44:41 Mary Dinkel stated the only people that will benefit from this are the one's adjacent to Forest Springs North.

02:45:32 Jamie Hallac said the notification process is not adequate and favors the developer. The representation on the call today is not as good as it should be for many reasons. You need to change the requirements for notification.

02:51:33 Commissioner Carlson asked, what are the maximum number of lots at R-4 and R-5 zoning densities?

Rebuttal

02:54:18 Mr. Talbott said the lot sizes range from 6250 square feet to 14,000 square feet. Regarding contributions for salting the roads, the new developments will not contribute and vice versa. There will be stubs for connectivity. There will be garages on all the homes and there is a significant amount of open space. The density is well below the requirements.

Mr. Talbott stated a lot of people don't like change. This plan is in compliance with the Comprehensive Plan 2040 – a guide for growth and development. The plan is also in compliance with MSD's requirements.

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03:13:03 Mr. Triplett answered Commissioner Carlson's question: R-4 maximum density of 4.84 units per acre – 109 lots and the R-5 maximum density of 7.26 units per acre – 164 lots. A second way to look at it, dividing the area that's currently devoted to lots within the subdivision (14.4 acres) yields: R-4 maximum density of 70 lots and R-5 maximum density - 104 lots.

Commissioner Carlson asked for an answer regarding widening the road for the entire frontage of the development. Dan Hemphill said he has no issue widening if Public Works requires it.

Commissioner Carlson requests a binding element stating you shall not exceed 4.35 dwelling units per acre. Mr. Hempel said he plans on building what is shown today. Commissioner Howard suggests a slight amendment – The density shall be between 4.36 and not more than 4.84 to allow for small changes.

Deliberation

03:31:04 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-5

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not for higher density or intensity zoning; the proposed zoning district is not of a substantially different scale, intensity or density compared with nearby existing development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal is for a zoning district that would permit a new residential development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly

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permeable soils, or severe, steep or unstable slopes are evident on the site. The 100-foot stream buffer will provide protection for the slopes that do exist on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site; no historic assets are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is not for a higher density or intensity zoning district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is through areas of similar intensity and density of development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would improve mobility and reduce vehicle miles traveled, as the site is located relatively close to an activity center at Westport Road. The site is readily accessible by bicycle and car, and the improvements to the sidewalk network will improve accessibility by people using transit, and by pedestrians and people with disabilities; Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the preserved tree canopy around the 100-foot stream buffer being provided on the site will recognize and incorporate the unique characteristics of the identified general landscape type and native plant community; no karst features are evident on the site; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the variety of housing types in the neighborhood will be increased by providing lots that are smaller than those already present, providing a lower price point and reduced lot maintenance requirements for future residents; the proposal will support aging in place by increasing the variety of housing options in the neighborhood; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational mixed-income development; the subject site is located relatively close to Westport Road, a multi-modal transportation corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district change would permit the construction of single-family housing, increasing the variety of ownership options and unit costs in dispersed locations throughout Louisville Metro; the subject site is currently undeveloped. There are no residents currently using the site to be displaced.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the 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 Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Waiver from LDC 7.3.30.E to allow rear yards of lots to overlap with a drainage easement more than 15% (20-WAIVER-0110)

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards; and

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WHEREAS, the Louisville Metro Planning Commission further finds 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 excess rear yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from LDC 7.3.30.E to allow rear yards of lots to overlap with a drainage easement more than 15% (20-WAIVER-0110).

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis

Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements

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

WHEREAS, tree canopy exists on the site. The applicant has proposed a fee-in-lieu of preserving 20% of the existing canopy. A perennial stream crosses the western corner of the site. The applicant proposes to provide the required 100-foot stream buffer around the stream, which will also preserve slopes around the stream. No other natural resources are evident on the site; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, no open space requirements are pertinent to the request. The applicant is providing open space around the stream; and

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; and

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WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is in compliance with the Land Development Code and is compatible with existing and projected future development in the vicinity. The proposed zoning district change will not represent a significant change in density or intensity compared with the existing development in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision, **SUBJECT** to the following Binding Elements and Condition of Approval:

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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. 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.
4. 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.

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5. The applicant shall submit a Tree Preservation Plan for approval by Planning and Design staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
6. 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.
7. 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."
8. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
9. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for "Street B" and "Court B". Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
10. 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.
11. 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.

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12. 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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.

b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.

c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

13. 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.

14. The density of the development shall not exceed 4.84 dwelling units per acre.

Condition of Approval

1. The applicant shall update the streets and sidewalks note 12 to reflect the widening across the entire frontage of the site.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Peterson, Seitz, Sistrunk and Lewis