

PLANNING COMMISSION MINUTES
April 20, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1075

Request: Change in zoning from RR to R-4
Project Name: Creek View, Section 3
Location: 11700 Mary Morley Drive
Owner: Premier Land Development Co.
Applicant: Premier Land Development Co.
Representative: Mindel, Scott, and Associates
Jurisdiction: Louisville Metro
Council District: 22 - Robin Engel
Case Manager: Joel Dock, 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.)

An audio/visual recording of the Planning Commission meeting 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.

Agency Testimony:

01:53:35 Joel Dock presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Kathy Linares, 5151 Jefferson Blvd., Louisville, KY 40219
David Mindel, 5151 Jefferson Blvd., Louisville, KY 40219

Summary of testimony of those in favor:

02:01:31 Kathy Linares spoke on behalf of the applicant and showed a brief presentation. The applicant is requesting approval of a Conservation Subdivision Plan and a change in zoning from RR to R-4. R-4 zoning surrounds the property on three sides. A significant portion of vegetation will be preserved on the site (see recording for detailed presentation).

02:08:31 David Mindel stated that Gosling Shoals Way will be extended through the subject site and will connect to Creek Brook Drive. This will provide another access point for the adjacent property to the west which will be developed in the future.

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02:09:22 Commissioners' deliberation

02:12:38 On a motion by Commissioner Peterson, seconded by Commissioner Howard, the following resolution was adopted:

Guideline 1: Community Form

WHEREAS, the Louisville Metro Planning Commission finds that this site is located within the Suburban Neighborhood Form District which is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas." This proposal is compatible as it falls into the low density range, less than 5 dwelling units per acre and in this case at 3.7 dwelling units per acre. Though the conservation subdivision regulations allow for higher density, the density proposed falls below the density allowed for the R-4 zone of a maximum of 4.84 dwelling units per acre, and

Guideline 2: Centers

WHEREAS, the Commission further finds that included in the goals of this guideline is to promote efficient uses of land and investment in existing infrastructure, to lower utility costs by reducing the need for extensions and provide an opportunity for a mixture of residential development that includes housing types and building styles that accommodate people of different ages and incomes that are compatible with the existing development pattern of the particular Form District, and to encourage vitality and sense of place in neighborhoods and the community.

This application complies with these goals in that as previously mentioned the site is located so as to be served by the existing regional sanitary sewer treatment plant. Sewers have already been constructed through the site to serve Section 3 of Primrose Meadows which is currently under construction and for both these reasons this proposal will utilize existing infrastructure. The homes proposed will be similar to those that exist in both Primrose Meadows the existing sections of Creek View, but with the smaller lots allowed in a conservation subdivision. Therefore, this proposal is consistent with the existing development pattern and will accommodate different needs with the smaller yards. The residential lots and open space proposed are easily accessible with the extension of sidewalks throughout the development and to the adjacent subdivision. The designated conservation area will further expand upon the open space provided in both of the adjacent subdivisions and provides an amenity and natural habitat that is a benefit to the neighborhood with the preservation of the existing wooded area in the 1.8 acres of open space, and

Guideline 3: Compatibility

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WHEREAS, the Commission further finds that this guideline is to allow a mixture of land uses and densities near each other as long as they are designed to be compatible with each other and to preserve the character of the existing neighborhoods. The proposed Creek View Section 3 addresses these guidelines by providing a mix of the existing residential styles and densities found in the 2 adjacent subdivisions.

Policies 1, 2, 3, 10, 21, 22 and 23 of this guideline specifically outline issues of compatibility relating to and including building materials, building height, design, density, screening, buffering and open space. Policies 14 and 15 recommend the development of appropriate/inclusive housing that is compatible with the site and building design of nearby housing, as well as, providing a variety of housing prices and encourages the use of clustering. These items are addressed with this proposal of similar home styles, with similar building materials being provided on smaller lots, with sidewalks along all road frontages and with the preservation of a relatively large open space and the provision of buffering for the adjacent large tract lots, and

Guidelines 4: Open Space

Guideline 5: Natural Areas

WHEREAS, the Commission further finds that these guidelines are closely related, with Open Space identifying the intent to ensure well-designed permanently protected open space that meets community needs, while with Natural Areas the intent is to protect natural areas/features and locate development in areas that do not have severe environmental limitations. This proposal complies with both by the clustering the homes on smaller lots, by providing open space that shall be maintained by the homeowners association and by proposing to permanently protect the existing trees, the most significant resource on this site, and

Guidelines 7: Circulation

Guideline 8: Transportation Facility Design

Guideline 9: Alternative Forms of Transportation

WHEREAS, the Commission further finds that is provided with new developments for the safe movement of people and by all types of transportation modes, as possible. This proposal complies with these with the extension of Gosling Shoals Way, the stub of same to provide for potential future development of the adjacent property, with the proposed Court "A" and with the provision of sidewalks along all street frontages. The roads and sidewalks will be designed in accordance with Metro Public Works standards, shall provide for the safe movement vehicles and bicycles on the roads and for pedestrians on the walks, and

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Guideline 10: Flooding and Storm Water

WHEREAS, the Commission further finds that storm water and through drainage is addressed with the proposed storm sewer and with proper grading to direct the water to the existing detention basin in the adjacent Primrose Meadows Subdivision Section 2. This plan has received preliminary approval and will be further reviewed at construction design by the Metropolitan Sewer District (MSD). This site is not located within a flood area per the Flood Insurance Rate Map #21111C0130E for Louisville and Jefferson County, Kentucky, and

Guideline 13: Landscape Character

WHEREAS, the Commission further finds that the intent of this guideline is to protect and link urban woodland fragments in conjunction with greenways planning, promote tree canopy as a resource, enhance visual quality and buffer incompatible land uses. As a Conservation subdivision this proposal will preserve 30% of the land area comprising this development in an open space that will be managed and preserved by the Home Owners Association. Being located next to an existing conservation subdivision, it connects with and expands upon the open space in that development, and

Guideline 14: Infrastructure

WHEREAS, the Commission further finds that the intent of this guideline pertains to the provision of adequate community facilities to serve the use. This subdivision will extend the existing available utilities to meet its needs. The extension of utilities shall be reviewed by and coordinated with the appropriate agencies, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

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

The vote was as follows:

Yes: Ferguson, Peterson, Smith, Tomes, Howard, Carlson, Brown, and Jarboe

Absent: Lewis

Abstain: None

No: None

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02:13:43 On a motion by Commissioner Peterson, seconded by Commissioner Tomes, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Conservation Subdivision Plan, **SUBJECT** to the following binding elements:

Binding Elements

1. The development shall be in accordance with the approved Preliminary Conservation Subdivision Plan, 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 shall occur without approval of the Planning Commission.
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 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
 - b. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance

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- c. 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
 - d. A geotechnical report in accordance with Land Development Code, section 4.9.5 shall be submitted to Planning Commission staff for review and incorporation into the record of this case
5. 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.
6. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
7. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
8. Preserved Conservation Areas for which credit (partial or full) is received for purposes of calculating the allowed lot yield bonus shall be permanently prohibited from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Planning Commission's Legal Counsel and duly recorded in the office of Jefferson County Clerk. The record plat shall not be recorded until documentation has been received and reviewed by Planning Commission Staff.

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9. A Conservation Area Management Plan shall be implemented in accordance with Land Development Code, section 7.11.8 B & C. The legal restrictions and ownership and Management Plan shall be subject to review and approval by the Planning Director or the Planning Commission Legal Counsel. The record plat shall not be recorded until documentation has been received and reviewed by Planning Commission Staff.

10. 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.

11. The developer agrees to surrender the Mary Morley Lane access easement to the current owner of the lot immediately adjacent to the southern edge of the property (Tax Block 92 Lot 98) prior to recording of the record plat. The developer further agrees to not use the current access easement of Mary Morley Lane during the construction of the development and will also advise all subcontractors and material suppliers not to use that access.

The vote was as follows:

Yes: Ferguson, Peterson, Smith, Tomes, Howard, Carlson, Brown, and Jarboe
Absent: Lewis
Abstain: None
No: None