

PLANNING COMMISSION MINUTES
June 20, 2019

PUBLIC HEARING

CASE NO. 19ZONE1036

Request: Change in zoning from R-4 to R-6 with Detailed District Development Plan and landscape waivers
Project Name: Episcopal Senior Living
Location: 7717, 7721, & 7727 St. Andrews Church Road
Owner: George E. Koppel Jr. Rev Trust
Applicant: Episcopal Retirement Services
Representative: Cliff Ashburner – Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 25 – David Yates

Case Manager: Joel P. Dock, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:28:49 Joel Dock presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

00:32:31 In response to a question from Commissioner Brown, Mr. Dock described the exact locations that Waiver #1 refers to.

The following spoke in support of this request:

Cliff Ashburner, Dinsmore & Shohl, 101 South 5th Street Suite 2500, Louisville, KY 40202

Mike Hill, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Kathy Ison-Lind, 3870 Virginia Avenue, Cincinnati, OH 45227

Summary of testimony of those in support:

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00:33:35 Cliff Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) He noted that, in response to a comment from Commissioner Brown at LD&T, the applicant has elected to use evergreen screening adjacent to Unit #1.

00:39:18 Commissioner Carlson asked if the applicant had considered extending the walking path up to the school property. Mr. Dock said that option had been considered; however, staff thought that the connectivity along the sidewalks worked well and did not need an additional connection.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

00:41:48 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

00:45:37 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on Plan 2040 Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Land Use & Development Goal 1: Community Form because the proposed district is located along TARC express route 54x which provides access to Downtown, as well as being located within 1.5 miles of Dixie Highway, a major public transit and commercial corridor; grocery and health services are available along Dixie Highway; and the proposed district will provide appropriate transitions through the use of open space and landscape buffering; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Form because the land is currently vacant and the proposed district will result in residential development; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Community Form because the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 4: Community Form because The site does not appear to contain distinctive cultural features or distinctive historic resources; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Mobility because the proposed district is located in a mixed intensity and density area that is 1.5 miles from Dixie Highway which provides primary and secondary activities and services; and Dixie Highway also provides for public transit service to employment and activity centers downtown or elsewhere on Dixie Highway; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Mobility because the proposed district is located in a mixed intensity and density area that is 1.5 miles from Dixie Highway. A variety of densities and intensities are present along St. Andrews Church Road from Dixie Highway. Access to the proposed district would not create a significant nuisance given these conditions; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Mobility because the proposed district is a minimal expansion to an existing R-6 district where housing at the density proposed is currently permitted; while the site is not directly connected for pedestrians from the site to Dixie Highway connectivity to express bus service is available to pedestrians. The district is consistent with adjacent uses and does not result in an expansion of density into lower intensity districts; existing roadway infrastructure appears adequate to support the proposed density; the proposal will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. Right-of-way will be dedicated to facilitate state improvement along the frontage; existing roadway infrastructure appears adequate to support the proposed density; necessary improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. Right-of-way will be dedicated to facilitate state improvement along the frontage; and no access to high speed roadways is provided. Access is shared between multiple occupants using a private drive; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Community Facilities because the proposal is located in an area served by existing utilities or planned for utilities as evidenced by adjacent development; the proposal would appear to have access to an adequate supply of potable water and water for fire- fighting purposes as evidenced by adjacent development; and the proposal will have an adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 1: Livability because the subject property does not contain any unique characteristics as the development area is mostly vacant of trees; the subject site is not located in an area of Karst Potential; the development site is not located in the floodplain; the proposed district encourages a variety of housing types. Development will reflect the pattern of the form district; the proposed district promotes housing options and environments that support aging in place as senior, independent, and assisted living are permitted within the district. The district is located within proximity to Dixie highway which provides primary and secondary goods and services. Grocery and healthcare services are provided along Dixie Highway. TARC express service is available along the frontage. Iroquois Park is located to the east of the development site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 2: Housing because the proposal district supports intergenerational and mixed-income development that is connected to the immediate neighborhood and not far from Dixie Highway and Iroquois Park; and the proposed district allows for a small expansion to an existing multi- family district to facilitate a larger development consistent with nearby districts and uses. The district is located within proximity to Dixie highway which provides primary and secondary goods and services. Grocery and healthcare services are provided along Dixie Highway. TARC express service is available along the frontage. Iroquois Park is located to the east of the development site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Land Use & Development Goal 3: Housing because The proposed district encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro; the district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro; the proposed district does not result in the displacement of current residents as the site is vacant; and the proposed district encourages the use of innovative design methods

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by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide affordable housing than the current district; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject Property is located in the Neighborhood Form District, which the Comprehensive Plan states is a form “characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas. The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to . . .high density multi-family housing” Here, the proposal is consistent with the Neighborhood Form District as it will bring a new multi-family development that is affordable for senior citizen to an area of the neighborhood that already contains numerous multi-family developments . The proposed new construction will be consistent with the scale of the neighborhood as all proposed buildings will be single-story. The proposal is also consistent with the pattern of development in the surrounding area. There are numerous multi-family developments in the immediate area, including Cardinal Oaks Condominiums immediately to the south of the subject property. Other multi-family developments include Brookview Apartments one half-block to the west, and The Oak at St. Andrews and Renaissance St. Andrews developments across St. Andrews Church Road. Doss High School borders the Property to the east. The 43 proposed single-story apartments will be designed to blend into the existing landscape and neighborhood areas; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Mobility Plan Element because the subject property will be accessed via Carina! Oaks Drive, an existing private drive off St. Andrews Church Road. St. Andrews Church Road provides direct access to major arterial Dixie Highway to the west, and Manslick and New Cut Roads to the east. The proposal includes pedestrian sidewalks throughout the development and connections to the existing pedestrian sidewalks along St. Andrews Church Road. Public transit is available via the TARC stop for TARC Route 54X (express service to downtown Louisville) at the front of the Property at the intersection of St. Andrews Church Road and Cardinal Oaks Drive; and

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WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is and will remain well served by the existing community facilities in the neighborhood, including nearby Iroquois Park and Doss High School, as well as the commercial center along Dixie Highway. The subject property is adequately served by all utilities, including water and sewer; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Economic Development Plan Element. The proposal will create a new 43-unit affordable senior housing facility on what is currently an undeveloped vacant site. The proposed facility will complement the existing multi-family developments in the area and bring new affordable housing options to the area. The Property is conveniently located nearby the commercial center along Dixie Highway. The scale and site layout of the property will be consistent with the neighborhood and other multi-family developments on and near St. Andrews Church Road while contributing to the development of the neighborhood; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Livability Plan Element. The proposal will connect to the existing sidewalk network along St. Andrews Church Road. Public transit is easily available via the TARC stop for TARC Route 54X (express service to downtown Louisville) at the front of the Property at the intersection of St. Andrews Church Road and Cardinal Oaks Drive. The proposal includes open space and will improve the tree canopy by planting over 27,000 square feet of new canopy. The proposal will not have any material adverse impact on any natural features; and

WHEREAS, the Commission further finds that the proposal complies with the intent and applicable policies of the Housing Plan Element. The proposal expands and ensures a diverse range of housing choices in the neighborhood as it will create 43 units of apartment-style affordable senior housing. The proposal will create affordable and livable apartment-style housing options in the place of the lots that are currently vacant; 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 to R-6, multi-family on property described in the attached legal description be **APPROVED**

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

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NOT PRESENT: Commissioners Robinson, Smith, and Howard.

- **(Waiver #1) Waiver of Land Development Code (LDC), section 10.2 to reduce Landscape buffer along west property line from 25' to 8'**
- **(Waiver #2) Waiver of LDC, section 10.2 to allow easement/LBA overlap greater than 50% along east property line**

00:45:36 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, the applicant's justification, and evidence and testimony heard today, was adopted:

(Waiver #1) WHEREAS, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as all plant material and screening will be provided as required; and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The landscaping along the west property line will be variable and widen as it nears the back of the lot in an area of open space and detention. All plant material and screening will be provided. The reduction will not eliminate the ability to separate uses with appropriate landscaping techniques; 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 multiple units and parking facilities would be impacted by the full application of the LBA and all planting and screening material will provided; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as appropriate transitions will be provided through the installation of planting and screening material, as well as a variable width nearing the rear of the property; and

WHEREAS, the Commission further finds that the waivers will not adversely affect adjacent property owners. To the west is a commercial property that does not have the LDC-required buffer. In this area, the applicant proposes a variable LBA with a minimum width of 8'. The waiver to allow the overlap of the 50' Louisville Water Company

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easement with the required 25' LBA to the east will allow the efficient use of the property and will allow for the buffering to be installed entirely within the easement; and

WHEREAS, the Commission further finds that neither waiver will violate the Comprehensive Plan/Plan 2040. Plan 2040 supports both infill development and the provision of fair and affordable housing. Allowing the use of the subject property as proposed will support both of these concepts. The applicant will provide buffering on both the east and west property lines, buffering the proposed development from the adjacent commercial uses; and

WHEREAS, the Commission further finds that the extent of the waivers is, in each case, the minimum necessary to allow for the efficient use of the subject property. The proposed development will contain income- and age-restricted housing, a need in our community. The adjacent commercial properties, were they developed today, would be required to provide the landscaping that the applicant is providing. Although the applicant is providing the buffering, it requires the relief requested in order to cost-effectively develop the subject property; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the subject property. As stated, the commercial uses on either side of the subject property should have provided the required buffer but did not. The subject property is relatively small and adding a large buffering requirement would prevent the efficient use of these infill parcels; and

(Waiver #2) WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners as all plant material and screening will be provided as required; and

WHEREAS, the Commission further finds that Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. The request does not reduce or eliminate the provision of the buffer and associated planting and screening material; 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 full width and planting material will be provided, and the overlap creates additional open space; and

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WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as all plant material and screening will be provided as required; and

WHEREAS, the Commission further finds that the waivers will not adversely affect adjacent property owners. To the west is a commercial property that does not have the LDC-required buffer. In this area, the applicant proposes a variable LBA with a minimum width of 8'. The waiver to allow the overlap of the 50' Louisville Water Company easement with the required 25' LBA to the east will allow the efficient use of the property and will allow for the buffering to be installed entirely within the easement; and

WHEREAS, the Commission further finds that neither waiver will violate the Comprehensive Plan/Plan 2040. Plan 2040 supports both infill development and the provision of fair and affordable housing. Allowing the use of the subject property as proposed will support both of these concepts. The applicant will provide buffering on both the east and west property lines, buffering the proposed development from the adjacent commercial uses; and

WHEREAS, the Commission further finds that the extent of the waivers is, in each case, the minimum necessary to allow for the efficient use of the subject property. The proposed development will contain income- and age-restricted housing, a need in our community. The adjacent commercial properties, were they developed today, would be required to provide the landscaping that the applicant is providing. Although the applicant is providing the buffering, it requires the relief requested in order to cost-effectively develop the subject property; and

WHEREAS, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the subject property. As stated, the commercial uses on either side of the subject property should have provided the required buffer but did not. The subject property is relatively small and adding a large buffering requirement would prevent the efficient use of these infill parcels; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of Land Development Code (LDC), section 10.2 to reduce Landscape buffer along west property line from 25' to 8' AND the requested Waiver of LDC, section 10.2 to allow easement/LBA overlap greater than 50% along east property line.

The vote was as follows:

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YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.

Detailed District Development Plan

00:46:43 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, 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 subject site does not appear to contain any natural resources or structures of historic significance. The development infills an existing lot between a multi-family development and the public roadway; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as sidewalks are being provided throughout the development with connections to the public network. The network is proposed to be improved by the state for a multi-use path. Vehicular connectivity is being provided from local roads; and

WHEREAS, the Commission further finds that sufficient open space to meet the needs of the development has been provided. The development will contain open areas for passive recreation and leisure, as well as providing benches, picnic tables, and a gazebo. Detention basins will be landscaped around the perimeter to increase outdoor enjoyment and aesthetics; and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 development is compatible with existing land uses and the future growth of the area as the development is located along a future multi-use path and infills an area between a current multi-family development and the public roadway. Development along St. Andrews Church Road will be oriented to focus on the roadway with internal walks connecting to public ways. Parking lots are located away from roadway, internal to the subject site; and

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WHEREAS, the Commission further finds that the proposed development plan conforms to the Comprehensive Plan. It is compact and results in an efficient land use pattern and cost-effective infrastructure investment as the proposed structures occupies a large majority of the lot while also providing for open space. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as the development is located along a future multi-use path with express bus service. The orientation and design is compatible with the character of the area as provided in item 'e' above. The proposal encourages fair and affordable housing and expands opportunities for people to live in quality, variably priced housing; 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. 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.
 - 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.

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- e. An access easement shall be secured to serve the development from Cardinal Oaks Drive. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the 6/20/19 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.
- 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.
 - 5. 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.

The vote was as follows:

YES: Commissioners Tomes, Peterson, Daniels, Brown, Lewis, Carlson, and Jarboe.

NOT PRESENT: Commissioners Robinson, Smith, and Howard.