

**PLANNING COMMISSION MINUTES**  
**November 18, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0112**

Request: Change in zoning from R-6 to R-7 multi-family residential  
Project Name: The Willard  
Location: 9500 Golders Green Circle  
Owner: Preston Crossing, LLC  
Applicant: Preston Crossing, LLC  
Representative: Mindel Scott  
Jurisdiction: Louisville Metro  
Council District: 24 - Madonna Flood  
**Case Manager: Joel Dock, AICP, Planning Coordinator**

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:**

07:14:00 Joel Dock presented the case and showed a PowerPoint presentation (See staff report and recording for detailed presentation). The proposal is a rezoning from R-6 to R-7 that is necessitated by a construction error that resulted in there being more units than was previously approved. The zoning change is needed to bring the site into compliance in terms of density. There will not be any additional construction. Typically staff would not encourage rezoning as a method of rectifying a situation like this; however, the proposal meets the standards of Plan 2040 and the Land Development Code.

**The following spoke in support of the request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40222

Nathan Wright, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40218

Brent Hackworth, Highgates, 7301 Monty Circle, Louisville, KY 40219

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**Summary of testimony of those in support:**

John Talbott spoke on behalf of the applicant in support of the application and provided a PowerPoint presentation (see recording for details). The developer has constructed a number of developments around the community over the past couple of years and this is the only instance of an error like this happening. The building in question is internal to the site so there is a limited amount of impact on surrounding properties. The applicant is agreeable to a binding element to limit the density within the development.

Nathan Wright spoke on behalf of the applicant in support of the application. The site plan is dedicating more tree preservation area than the previously approved area, as well as some additional recreation open space and amenities throughout the site.

Brent Hackworth spoke on behalf of the applicant in support of the application. Hackworth stated there are currently 165 tenants with only one vacancy. There are five units that are designated to have lower rents and are available for veterans and other special populations.

Commissioner Carlson asked if there was a way to redesign the units to reduce the number of units by two to bring it back into compliance with the R-6 density. John Talbott explained the vacant unit is not in the building in question, and the additional units are justified from the standpoint that Louisville currently has a housing shortage. This was an honest mistake, does not have an adverse effect on adjoining properties, and this request should be approved.

**The following spoke in opposition to the request:**

No one spoke.

**Deliberation:**

07:42:50 Commissioners' deliberation. Commissioner Carlson requested the proposed binding element to limit density also include language to limit the total square footage of buildings on the site. John Talbott agreed to this binding element.

**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**

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07:49:46 On a motion by Commissioner Clare, 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 proposal meets Land Use & Development Goal 1: Community Form because:

The proposed district is located near Preston Highway, a major arterial roadway which provides access to the interstate and transit. However, TARC route #28 currently terminates north of I-265 at St. Rita Drive. Employment centers are nearby, and goods and services are also nearby. Infrastructure supports an expansion of transit;

Landscaping requirements between the current and proposed district are equivalent and the site is currently developed just above the R-6 density. Future development would be limited without a significant redevelopment of the site. Tree canopy and landscaping would be reconsidered at the time of redevelopment. Additional height is permitted (maximum 45' with exceptions) in the R-7 district but that would require additional stories to be added to current structures where many are 3-stories or 35'. The additional height permitted would be located adjacent to an activity center where it would still remain as a transition between higher and lower intensity/density zones;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because The site is built out and current development appears to avoid areas where wet or highly permeable soils, severe, steep or unstable slopes are present. Any expansion of the site where additional buildings could be proposed might be in this area at the rear where tree canopy, drainage features, and a stream are present. A review of future development must consider the impact on this area of the development site and the impacts of added impervious surfaces;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because The proposed district is located near Preston Highway, a major arterial roadway which provides access to the interstate and transit. However, TARC route #28 currently terminates north of I-265 at St. Rita Drive. Employment centers are nearby, and goods and services are also nearby to support transit-oriented development and an efficient public transportation system. Infrastructure supports an expansion of transit;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because Access from Preston Highway is through areas of higher intensity and density;

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because:

The proposal increases the theoretical density surrounding employment centers and goods and services nearby to support transit-oriented development and an efficient public transportation system. Infrastructure supports an expansion of Transit. This encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities;

Primary access to the site from Preston Highway increases demand for public transit near employment and activity centers which supports transit-oriented development;

Considering the current limitations that may be imposed by the built-out conditions on the subject site, the roadway network appears sufficient to handle an increase in traffic potentially resulting from the R-7 density;

Considering the current limitations that may be imposed by the built-out conditions on the subject site, the roadway network appears sufficient to handle an increase in traffic potentially resulting from the R-7 density.. The district encourages a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. An increase in density from the built conditions will require a review of any needed improvements;

An increase in density from the built conditions will require a review of any needed improvements;

No access to high speed roadways is proposed or provided;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because:

Utilities are available in the area to serve the development;

Potable water and water for firefighting is available;

MSD review and approval will be necessary in the event that any future impervious development is added to the land;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because:

The site is built out and current development appears to avoid sensitive areas of the

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environment. Any expansion of the site where additional buildings could be proposed might be in these areas at the rear where tree canopy, drainage features, and a stream are present. A review of future development must consider the impact on this area of the development site and the impacts of added impervious surfaces;

MSD review and approval will be necessary if any future impervious development is added to the land. Current development generally avoids stream courses;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because:

The current and proposed district encourage a variety of housing types and styles and allow for accessory dwellings. The proposed district allows for a greater density but existing development conditions may limit revision to the site. Both districts are capable of being designed compatibly with the form district and the site currently reflects the pattern the neighborhood form;

The current and proposed district both promote housing to support aging in place as those aging may remain in their communities as they move from single-family homes but remain nearby to activities;

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because:

The current and proposed zoning support mixed-income and mixed-use development that is connected to the neighborhood and surrounding area. Provisioning additional density may be limited by the built environment but would remain connected to the neighborhood;

The proposed district is located near Preston Highway, a major arterial roadway which provides access to the interstate and transit. However, TARC route #28 currently terminates north of I-265 at St. Rita Drive. Employment centers are nearby, and goods and services are also nearby to support transit-oriented development and an efficient public transportation system. Infrastructure supports an expansion of Transit; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because:

The current and proposed districts promote fair and affordable housing at dispersed locations throughout Louisville Metro by allowing for increased density near major transportation, activity, and employment centers;

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The proposed zoning district allows for 2 dwelling units built in error to remain. The built conditions of the site may limit future development and any future development of the subject site will require review by agencies and be subject to the standard of review, including a comprehensive plan analysis;

The current and proposed districts allow for the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing. The site is built for multi-family housing in 2- and 3-story structures;

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-6 to R-7 on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Carlson, Sistrunk, and Howard**

**NO: None**

**NOT PRESENT: Commissioners Seitz, Lewis, Brown, and Daniels.**

**Revised Detailed District Development Plan**

07:51:40 On a motion by Commissioner Clare, 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 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;

**WHEREAS**, the Louisville Metro Planning Commission finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided;

**WHEREAS**, the Louisville Metro Planning Commission finds that outdoor amenities are provided and canopy is preserved;

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**WHEREAS**, the Louisville Metro Planning Commission finds that 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; because 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;

**WHEREAS**, the Louisville Metro Planning Commission finds that The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area because the development plan is compatible with the overall site design and future use of the area as it is located in an area of transition between higher and lower intensities/densities; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the development plan conforms with Plan 2040 and the Land Development Code. No relief has been requested and all requirements of the Land Development have been met.

now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Revised 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 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.

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4. Within 6-months of final action by the Louisville Metro Council:
  - a. A revised plan for screening and landscaping (buffering/landscaping) shall be submitted for review and approval. Any changes made thereon shall be implemented in a during the firstplanting season following approval and shall be maintained thereafter.
  - b. A revised Tree Preservation Plan in accordance with Chapter 10 of the LDC shall bereviewed and approved.
  - c. Any improvements and/or revisions to any open spaces, new or existing, as shown on the approved development plan shall be made within 6-months of final action by Louisville MetroCouncil.
5. A certificate of occupancy must be received from the appropriate code enforcement departmentprior 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 thissite 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.
7. The materials and design of proposed structures shall be substantially the same as depicted inthe rendering as presented at the October 10, 2013 Land Development and Transportation meeting.
8. Density shall not exceed 17.59 dwelling units per acre nor a gross building square footage of 245,989 square feet unless approved by the Planning Commission.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Carlson, Sistrunk, and Howard**  
**NOT PRESENT: Commissioners Seitz, Lewis, Brown, and Daniels**