

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
September 2, 2021**

A meeting of the Louisville Metro Planning Commission was held at 1:00 p.m. on Thursday, September 2, 2021 via Webex.

Commission members present:

Lula Howard, Vice Chair
Rich Carlson
Jeff Brown
Ruth Daniels
Jim Mims
Patricia Seitz
Te'Andre Sistrunk
Patricia Clare

Commission members absent:

Marilyn Lewis, Chair
Rob Peterson

Staff Members present:

Emily Liu, Director, Planning & Design Services
Joe Reverman, Assistant Director, Planning & Design Services
Joe Haberman, Manager, Planning & Design Services
Brian Davis, Manager, Planning & Design Services
Julia Williams, Supervisor, Planning & Design Services
Michael Wilcher, Supervisor, Planning & Design Services
Joel Dock, Planning Coordinator, Planning & Design Services
Dante St. Germain, Planner II
Laura Ferguson, Legal Counsel
Beth Stuber, Transportation Planning
Pamela M. Brashear, Management Assistant

The following matters were considered:

PLANNING COMMISSION MINUTES
September 2, 2021

APPROVAL OF MINUTES

AUGUST 19, 2021 PLANNING COMMISSION REGULAR MEETING MINUTES

On a motion by Commissioner Carlson, seconded by Commissioner Seitz, the following resolution was adopted.

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on August 19, 2021.

The vote was as follows:

YES: Commissioners Carlson, Clare, Daniels, Mims, Seitz, Sistrunk and Howard
NOT PRESENT FOR THIS CASE: Commissioners Peterson and Lewis
ABSTAINING: Commissioner Brown

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

Request: Revised Major Preliminary Subdivision with Development Potential Transfer and Review of Land Disturbing Activity on Slopes, with associated Waiver

Project Name: Glenmary Farms

Location: 8000 & 8001 Dobson Lane, Parcel ID 005700790000

Owner: Glenmary Farms LLC

Applicant: Glenmary Farms LLC

Representative: Bardenwerper, Talbott & Roberts

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

Case Manager: Dante St. Germain, AICP, Planner II

Note: Commissioners not present for the previous hearing on this case need to review the video to vote today. Commissioners Brown and Howard have reviewed the case (video) and will vote today. Commissioner Clare did not review the recording.

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:

00:09:54 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

Beth Stuber said Dobson Ln. was visited - verified it's only 12 feet wide and very deteriorated. It will not hold up for construction traffic.

Commissioner Carlson said the homeowners will only have one way in and out of the subdivision. Dante St. Germain said the second access along Dobson, even though it's only emergency access, makes it a better condition than what it is now.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
David Mindel, BTM Engineering, 5151 Jefferson Boulevard, Louisville, Ky. 40219

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

Summary of testimony of those in favor:

John Talbott gave a power point presentation. This case is a subdivision approval (ministerial) and not a rezoning (discretionary). The property is zoned R-4, Single Family Residential and the owner has the legal right to develop it as a R-4 subdivision. The request is in compliance with the Land Development Code.

John Talbott stated, if the city is able to get the right-of-way, along with the designs and construction contract to expand and improve Dobson Ln., the applicant will contribute \$20,000 (see recording for detailed presentation).

John Talbott discussed issues from the previous meeting (see recording for detailed presentation).

The following spoke in opposition to this request:

Donald Cox, 500 West Jefferson Street, Louisville, Ky. 40202

Summary of testimony of those in opposition:

Donald Cox represents the Glenmary Homeowners' Association, HOA. The main concern is traffic – if Dobson Ln. were developed, there would be no problem (see recording for detailed presentation).

Donald Cox said deeds have been provided to show the right-of-way is 20 feet wide. It is a county road (see recording for detailed presentation).

Donald Cox said the Glenmary HOA has placed a substantial fence along Section 15 Glenmary Subdivision and Blacksmith Rd. (see recording for detailed presentation). Commissioner Brown asked if the fence is located on private property or the public right-of-way. Donald Cox said it's HOA property. Commissioner Brown said it's not on the plat (see recording for detailed presentation).

Rebuttal

John Talbott said the applicant has agreed as a binding element to all the emergency gate requirements. The city needs development and affordable homes. The Glenmary HOA didn't have the right to put up a fence because it's been dedicated (see recording for detailed presentation).

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

Acting Chair Howard asked if the guard rail is the same as the fence at the end of Blacksmith Rd. Dante St. Germain said the opposition provided a photograph – there is a fence and additional barrier at the end of the road (in the right-of-way) that has a sign saying it's the property of Glenmary HOA (see recording for detailed presentation).

Commissioner Carlson asked if there could be more lots added later on as greater land is acquired. David Mindel said the other lots have pretty good size houses on them and it's unlikely they would be developed in the future because of the economics.

Deliberation

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.

Waiver from 7.3.30.E to allow a drainage easement to overlap a rear yard by more than 15% (21-WAIVER-0081)

On a motion by Commissioner Mims, seconded by Commissioner Seitz, 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

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.

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 7.3.30.E to allow a drainage easement to overlap a rear yard by more than 15% (21-WAIVER-0081).

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Mims, Seitz, Sistrunk and Howard
NOT PRESENT AND NOT VOTING: Commissioners Peterson and Lewis
ABSTAIN: Commissioner Clare

Major Preliminary Subdivision with Development Potential Transfer and review of land-disturbing activity on slopes greater than 20%

On a motion by Commissioner Mims, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and at the August 5, 2021 Planning Commission meeting was adopted.

WHEREAS, the applicant must demonstrate to the Commission that the design and configuration of the potential building construction is the minimum disturbance of slopes greater than 20%; and

WHEREAS, the applicant has placed a note on the plan indicating that compatible utilities shall be placed in a common trench unless otherwise required by the applicable agencies; and

WHEREAS, the Louisville Metro Planning Commission finds, a geotechnical report was required and provided by the applicant. The applicant must demonstrate compliance with all other provisions to the Commission; and

WHEREAS, the Louisville Metro Planning Commission further finds the activity is in keeping with the Comprehensive Plan as Plan 2040 encourages the conservation of natural resources, including steep slopes and streams. The majority of the slopes on the property will be preserved in a conservation easement, as will the stream buffer. Without the development potential transfer provision being applied to the site, more of the slopes would be disturbed by home building activities.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision with Development Potential Transfer and review of land-disturbing activity on slopes greater than 20%, **SUBJECT** to the following Conditions of Approval:

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

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

2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.

3. 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.

4. 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."

5. All street signs shall be installed by the Developer and shall conform to the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

6. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.

7. Open space/conservation 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.

8. 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.

9. 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 larvacide approved by the Louisville Metro Health Department. Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

10. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

11. 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.

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 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.

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

- 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.
- d. A grant of conservation easement in a form acceptable to the Planning Commission legal counsel.

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. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

15. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

16. Due to the significant amount of karst activity on this site. further exploration is needed to determine whether or not Lots 85, 86, 93, 94, 95 and 72 are buildable due to the existence of karst features on the lot near where a building pad would be. The determination must be made before approval of construction plans. Any karst features found on site must be shown on the record plat.

17. The developer will comply with the steep slope regulations.

18. The applicant shall follow the gate requirements for emergency access to residential area criteria.

19. The developer shall contribute \$20,000 towards planning/designing of the road. The developer shall pay the \$20,000 within 60 days of written request from Metro Public Works (or from the applicable government agency), provided such request occurs no later than December 31, 2024.

The vote was as follows:

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-RSUB-0007

YES: Commissioners Mims, Seitz, Sistrunk and Howard

NO: Commissioners Brown, Carlson and Daniels

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Lewis

ABSTAINING: Commissioner Clare

**PLANNING COMMISSION MINUTES
September 2, 2021**

PUBLIC HEARING

CASE NO. 21-AMEND-0008

Request: Amendment to Binding Elements
Project Name: S English Station Road Multi-Family Binding Element
Amendment
Location: 1007 S English Station Road
Owner: Sunshine English Development LLC
Applicant: Sunshine English Development LLC
Representative: Bardenwerper, Talbott & Roberts
Jurisdiction: Louisville Metro
Council District: 20 – Stuart Benson
Case Manager: Dante St. Germain, AICP, Planner II

THIS CASE WAS WITHDRAWN

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

Request: Change in zoning from R-6 to UN, amendment to record plat, variance, waiver and development plan
Project Name: De Luna Villaflor Subdivision
Location: 3133 Bushmill Park
Owner(s): Equity Trust Company
Applicant: Brentwood Properties
Representative(s): Miller-Wihry
Jurisdiction: Louisville Metro
Council District: 17 – Marcus Winkler
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:50:42 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report (see recording for detailed presentation).

The following spoke in favor of this request:

Clarisa De Luna, 11200 Cherry Lane, Louisville, Ky. 40223

Summary of testimony of those in favor:

Clarisa De Luna stated the HOA has approved all the plans. Commissioner Carlson asked Ms. De Luna if she would you be willing to raise the fire hydrant next door, even if there's a fee. Ms. De Luna said she wants to understand the costs of the subdivision improvements but will cooperate as much as she can (see recording for detailed presentation).

The following spoke in opposition to this request:

Jeff Disney, 3306 Freys Hill Road, Louisville, Ky. 40241

Summary of testimony of those in opposition:

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

Jeff Disney said he lives in the Park Place Subdivision.

Jeff Disney read a letter from his attorney. The main objection is that the planned improvement to the lot proposed by the owner seeking the zoning change would be to place multiple residences on an individual lot, which is not in keeping with the plan for Park Place Subdivision. Also, if approved, it would be subject to the Deed of Restrictions (see recording for detailed presentation).

Rebuttal

Clarisa De Luna said the Homeowners' Association has reviewed and approved the plan (see recording for detailed presentation).

Deliberation

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-6 to UN

On a motion by Commissioner Brown, seconded by Commissioner Seitz, 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 proposed district allows for a variety of housing styles and lotting patterns that support alternate forms and styles of housing adjacent to similar development that is within proximity to major transit, goods and services, and recreational amenities; appropriate transition between uses that are substantially different in scale and intensity or density of development are not necessary as adjacent uses are similar in density and scale and do not require transition; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, additional residential options are being provided in an area containing a wide variety of options; and

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not appear to contain any environmental constraints such as wet or highly permeable soils, severe, steep or unstable slopes/soils; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not contain distinctive cultural or natural features; the site does not contain distinctive historic resources; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed district allows for a variety of housing styles and lotting patterns that support alternate forms and styles of housing adjacent to similar development that is within proximity to major transit, goods and services, and recreational amenities; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal will include sidewalks to encourage land uses that are accessible; the development will have no adverse impact on the transportation network; existing transportation facilities in addition to the required sidewalks to be provisioned provide adequate service; no access to high speed roadways is proposed or provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, subject properties are served by existing utilities, including water and sewage disposal; the development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as Metropolitan Sewer District MSD review and approval has been received; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site does not contain unique characteristics as it is an infill lot within an existing development.; any hazard present, which there do not appear to be, will be mitigated as required by MSD or other agency responsible for the issuance of a building permit; no negative impacts to the floodplain are expected due to existing conditions; and

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed district allows for a variety of housing styles and lotting patterns that support alternate forms and styles of housing adjacent to similar development that is within proximity to major transit, goods and services, and recreational amenities; the proposed district supports and promotes housing options and environments that support aging in place as the proposal provides another option to provision senior, affordable, or intergenerational housing; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal allows for consistent redevelopment on an infill lot to encourage inter-generational, mixed income and mixed-use development that is connected to the neighborhood and surrounding area; the proposed district is located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed district allows for the continuation of housing options in an area that supports a variety of residential options. It encourages the provision of fair and affordable housing by allowing for a variety of ownership options and unit costs throughout Louisville Metro; the proposed zoning district does not result in the displacement of residents; and the proposed district encourages a variety of housing types and occupancy types within the area to increase the production of fair and affordable housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-6, Multi-Family Residential to UN, Urban Neighborhood on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Lewis

Variance from Land Development Code (LDC), section 5.3.1.C to reduce the side yard setback on both sides of the shared lot line between lots 1 & 2

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

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

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles or deprive adjacent property owners of access to maintain their properties; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the setback and attachment of homes is the pattern of development along the road frontage; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the setback does not impede the safe movement of pedestrians or vehicles deprive adjacent property owners of access to maintain their properties; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the variance allows development to occur which is consistent with the neighborhood; and

WHEREAS, the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or the same zone as the innovative subdivision regulations are no longer present in the land use regulations and the existing development was developed under those standards; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as it would deprive the applicant the ability to build homes consistent with adjacent development; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance from Land Development Code (LDC), section 5.3.1.C to reduce the side yard setback on both sides of the shared lot line between lots 1 & 2.

The vote was as follows:

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

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Lewis

Waiver of LDC, section 7.8.60.B to allow less than 25' of frontage on a public or private street and more than 20 lots on a private street

On a motion by Commissioner Brown, seconded by Commissioner Seitz, 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 roadway pavement is 18' wide and the width of the lots are consistent with adjacent lots and home development; and

WHEREAS, the waiver will not violate related guidelines of Plan 2040 as Mobility Goal 1, Policy 1. promotes healthy lifestyles and reduce congestion, new development and redevelopment should provide for the movement of pedestrians, bicyclists and transit users, where appropriate. The proposal will allow for development which is consistent with these goals and would allow for infill development that is contextual appropriate in this area that can be safely accessed; 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 innovation subdivision standards under which the existing development occurred is no longer available for application in the Land Development Code; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as no individual would be capable of developing the few remaining infill lots consistently with the remainder of the neighborhood without the granting of this waiver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of LDC, section 7.8.60.B to allow less than 25' of frontage on a public or private street and more than 20 lots on a private street.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Lewis

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

Detailed District Development Plan with Amendment to Record Subdivision Plat

On a motion by Commissioner Brown, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today 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 conserved as the site is an infill lot that does not contain these sensitive features; and

WHEREAS, safe pedestrian and vehicular connectivity is being provided as required by the Land Development Code; and

WHEREAS, the provision of sufficient open space (scenic and recreational) to meet the needs of the proposal will be provided by rear and front yards; 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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with nearby development as the proposal provides for attached units consistently with the existing development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to Plan 2040 and generally conforms with the Land Development Code as the requested relief as been adequately justified to allow for development in an area where the standards applied to the existing development are no longer available.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with Amendment to Record Subdivision Plat **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

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

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 Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

b. A minor subdivision plat creating the lots as shown on the approved district development plan shall be recorded prior to issuance of any building permits, except that grading/clearing and foundation only permits may be issued to ensure the accuracy of property lines as they relate to common side walls for residential units. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.

c. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 2, 2021 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.

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

The vote was as follows:

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

CASE NO. 21-ZONE-0053

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Lewis

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

3741 S. HURSTBOURNE BE APPEAL

Request: Binding Element Appeal – 3741 S Hurstbourne Parkway – Docket
No. 9-29-88
Case Manager: Laura Ferguson, Jefferson County Attorney's Office

Binding Element Notice of Violation issued 4/30/2019 for BE #1 & BE# 3.

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.
3. The site shall be maintained free of rubbish, trash and debris.

Discussion:

02:23:05 Laura Ferguson gave a power point presentation. The binding element citation was issued on July 22, 2021 and appealed by the tenant August 2, 2021.

Laura Ferguson discussed the zoning and enforcement history (see recording for detailed presentation).

Mike Wilcher said the zoning officer, John Mullarkey, visited the site this morning and there were no 'FOR SALE' signs on the vehicles. This case is still open because there are complaints still being received via the councilman's office on a regular basis and the original fine has not been paid (see recording for detailed presentation).

Commissioner Sistrunk asked if the inspections are scheduled. Mike Wilcher said yes, if there are additional complaints. The owner/tenant was not informed but they were aware.

Commissioner Carlson asked how many times (during inspections) were the owner/tenant not in compliance. Mike Wilcher said the site was inspected 11 times and 2 citations were issued. There were vehicles for sale on several occasions (see recording for detailed presentation).

Commissioner Mims asked if the 2019 fines were paid. Laura Ferguson said no. The owner should have paid, not the tenant. Mike Wilcher added, this is the same occupant/tenant that received the last notice of violation citation and the first one was never paid.

PLANNING COMMISSION MINUTES
September 2, 2021

PUBLIC HEARING

3741 S. HURSTBOURNE BE APPEAL

Commissioner Mims asked if the owner received notifications. Laura Ferguson said notices were sent to both the owner and tenant via certified mail (see recording for detailed presentation).

Commissioner Carlson asked, who is ultimately responsible, the property owner or tenant? Laura Ferguson said it would be the property owner (see recording for detailed presentation).

Ishpreet Chawla is the tenant of the property at 3741 S. Hurstbourne Parkway. He has been managing the place for 1 year. The car parked there for sale was by a customer. It has now been resolved and will never happen again. Commissioner Mims said Mr. Chawla has an option to try and change the binding element. Ishpreet Chawla said he only wants to run a gas station (see recording for detailed presentation).

Commissioner Brown asked if this is the 2nd offense. Laura Ferguson said yes and discussed several options of how to handle it (see recording for detailed presentation).

Commissioner Clare asked if the commission should be looking at the previous citation (unpaid fine) as well as the citation today. Laura Ferguson said no, the previous citation will be handled with a separate process (lien, court, etc).

Deliberation

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.

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

RESOLVED, that the Louisville Metro Planning Commission does hereby find there was enough evidence presented that the violation did occur and does hereby **UPHOLD** the citation with a civil fine in the amount of \$2,000.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioners Peterson and Lewis

**PLANNING COMMISSION MINUTES
September 2, 2021**

STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 4:07 p.m.

DocuSigned by:

Lula Howard

Chair

7FEAC7453...

DS

[Signature]

Planning Director