

PLANNING COMMISSION MINUTES
April 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0121

Request: Change in Zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements, and Waiver
Project Name: Smyrna Parkway Apartments
Location: 9301-9309 Smyrna Parkway, Parcels 066202630000, 066202760000
Owner: Robert & Pauline Penrod
Applicant: GKG Investments LLC
Representative: Dinsmore & Shohl LLC
Jurisdiction: Louisville Metro
Council District: 23 – James Peden
Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

Dante St. Germain presented a power point presentation providing an overview of the project.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Mike Hill,

Summary of testimony of those in favor:

Cliff Ashburner spoke in support of the application. Mr. Ashburner provided a power point presentation containing details of the project and explaining why the proposed rezoning is appropriate.

Mike Hill spoke in support of the application. Mr. Hill provided details about the layout of the project.

Dante St. Germain presented her power point presentation again due to a technical difficulty with the video.

PLANNING COMMISSION MINUTES
April 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0121

Rebuttal

02:34:16 Mr. Ashburner said the only 2 issues are the binding element regarding consultation with the adjoining property owners, adding the landscape plan will be mailed to those property owners and they'll have a 14-day period to comment on it. The applicant will provide proof to Planning and Design staff (as to notification). Ms. St. Germain modified binding element 4e as follows (at end): The colors of siding shall vary as presented from building to building. Regarding landscaping, modification of existing binding element 4c as follows (at end): The landscape plan shall include, at a minimum, plantings as presented at the April 1, 2021 Planning Commission public hearing. A new binding element #7 to read as follows: Final design of the fence on the southern and eastern property lines shall be approved by Planning and Design Services staff. The applicant/developer shall consult with the affected neighbors prior to submitting a design by mailing the proposal to the affected property owners and providing for a 14-day comment period. Mr. Ashburner agreed.

Deliberation

02:38:00 Planning Commission deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from R-4 to R-6

On a motion by Commissioner Brown, seconded by Commissioner Daniels, 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 site is on Smyrna Parkway, a primary collector at this location. A commercial activity center is located to the north and the south; appropriate transitions between the site and the adjacent properties will be provided; and

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

PLANNING COMMISSION MINUTES
April 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0121

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or permeable soils, or severe, steep or unstable slopes are evident on the site; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near commercial uses in an activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Smyrna Parkway, a primary collector; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by bicycle, car, pedestrians, and people with disabilities; Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, no karst features are evident on the site; The site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing types in the neighborhood; the proposal would support aging in place by increasing the variety of housing, and price points and ownership options in the neighborhood; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income development; the site is within proximity to amenities providing neighborhood goods and services, and is located in an activity center; and

PLANNING COMMISSION MINUTES
April 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0121

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would increase the variety of ownership options and unit costs in Louisville Metro; the site is currently undeveloped and no existing residents will be displaced; the proposal would permit innovative methods of housing.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to R-6, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

Waiver from 5.9.2.A.1.a.v to omit a pedestrian connection between residential and adjacent non-residential uses (21-WAIVER-0015)

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 residents can reach the public sidewalk to move to the adjacent businesses; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the provision of safe and convenient pedestrian connections between compatible uses. This is provided by the public sidewalk network; 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 required direct connection would have to cross a drainage ditch on the adjacent property; 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 the applicant to provide a pedestrian bridge across the drainage ditch, which is on the adjacent property.

PLANNING COMMISSION MINUTES
April 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0121

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a waiver from 5.9.2.A.1.a.v to omit a pedestrian connection between residential and adjacent non-residential uses (21-WAIVER-0015).

The vote was as follows:

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

Detailed District Development Plan and Binding Elements

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, tree canopy exists on the site. The applicant has proposed a fee-in-lieu of preserving 20% of the existing canopy. No other natural resources or historic assets are evident on the site; and

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

WHEREAS, required common and recreational open space is being provided for the future residents of the development; 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 in compliance with the Land Development Code and is compatible with existing and projected future development in the vicinity. The site is located within an existing activity center, identified as a neighborhood node in the Highview Neighborhood Plan, providing neighborhood goods and services. The site plan provides required buffering between the development and existing adjacent single-family development; and

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

PLANNING COMMISSION MINUTES
April 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0121

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the 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.
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 development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor plat or legal instrument shall be recorded consolidating the parcels into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. The landscape plan shall include, at a minimum, plantings as presented at the April 1, 2021 Planning Commission public hearing.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the April 1, 2021 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. The colors of siding shall vary as presented from building to building.

PLANNING COMMISSION MINUTES
April 1, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0121

5. 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.

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 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.

7. Final design of the fence on the southern and eastern property lines shall be approved by Planning and Design Services staff. The applicant/developer shall consult with the affected neighbors prior to submitting a design by mailing the proposal to the affected property owners and providing for a 14-day comment period.

The vote was as follows:

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