

PLANNING COMMISSION MINUTES
July 19, 2018

PUBLIC HEARING
CASE NO. 17ZONE1035

Request: Change in zoning from R-4 to R-5A and OR-1 for multi-family and office development with waivers and detailed district development plan

Project Name: Allen-Brooke Meadows

Location: 6305 Campground Road

Owner: David Mattingly

Applicant: David Mattingly

Representative: Milestone Design Group, Inc.

Jurisdiction: Louisville Metro

Council District: 1 – Jessica Green

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:

00:54:14 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Mark Madison, 108 Daventry Lane, Suite 300, Louisville, Ky. 40223
David Mattingly, 8508 Glaser Lane, Louisville, Ky. 40291

Summary of testimony of those in favor:

01:02:07 Mr. Mattingly stated the project will be an affordable alternative to apartment homes. Also, there will be lots of green space with yards and garages for the tenants.

Mr. Mattingly said he didn't know the property was in close proximity to the Louisville Loop but had always intended to have access to the park.

01:04:28 Mr. Madison gave a power point presentation. The leasing office/management will be on site. People will have the option to buy as well. It's a low

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intense project and complies with the Comprehensive Plan. Also, the owner will grant an easement and contribute \$4600.

The following spoke in opposition to this request:

Jo Anne Schletter, 4423 Wilshire Avenue, Louisville, Ky. 40216
Eunice Farrow, 4315 Lees Lane, Louisville, Ky. 40216
Melanie Elkins, 4105 Lees Lane, Louisville, Ky. 40216

Summary of testimony of those in opposition:

01:18:23 Ms. Schletter stated the pictures are deceiving as it's a very busy intersection at Campground Rd. The applicant needs to provide sidewalks.

01:12:19 Ms. Farrow stated she's against rental property. The sidewalk is needed to get to the park.

01:24:45 Ms. Elkins stated she's concerned about traffic and environmental hazards.

Rebuttal

01:27:20 Mr. Madison stated they submitted a trip generation summary, but it was decided by Metro Public Works and the Dept. of Highways that the project doesn't need additional study. It's a low density development. The corner is elevated but will be brought down per Metro Public Works. It was suggested by staff to request the sidewalk waive because Louisville Loop has its own plans. The project is not government assistance. Regarding environmental concerns, there's a park and there was farm land - there's been no indication for contamination. If there are any issues, the owner will be obligated to handle them.

Deliberation

01:31:08 Planning Commission deliberation. The commissioners agree on the following: traffic is not an issue; rental property is not an issue; nice housing opportunity for the area; applicant has worked with Metro Public Works for connectivity; efficient use of land; attractive project (won't detract from neighborhood); Louisville Loop work is positive aspect; and no issues with environmental issues, if so Mr. Mattingly will be liable.

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.

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Zoning Change from R-4 to R-5A and OR-1

On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the Cornerstone 2020 Staff Analysis and testimony heard today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal complies with Guideline 1 of Cornerstone 2020. The subject site is not located within a neighborhood center; however, the scale would appear to be appropriate and service areas are located on Cane Run Road which is accessible by bike, foot, or car. Cane Run provides TARC service to Downtown, Riverport, and Lyndon. The proposed office use is classified as low-intensity use and is intended to serve the owner/developer of the project. The residential component will have limited impact as it is at the edge of the low-density single-family community. Camp Ground Rd and Lees Lane are primary collectors serving Cane Run Road.

WHEREAS, the Commission further finds that the proposal complies with Guideline 2 of Cornerstone 2020. The proposed development is compact and results in an efficient land use pattern and cost-effective infrastructure investment as 38 dwellings are being provided in combination with drainage detention, vehicle use areas, and walks. The proposal incorporates a new housing type into an existing single-family area and does so while also incorporating an office use. The proposal includes a combination of multi-family with an office use. The development utilizes the land in an effective manner. 36 of the 38 units utilize a single access point from Camp Ground Road which balances safety, traffic, transit, pedestrian, environmental and aesthetic concerns. Utilities will be provided as necessary. The proposal is designed to support easy access by bicycle, car and transit and by pedestrians and persons with disabilities as walks and trails have been provided on-site. Parking for each units is located upon private driveways.

WHEREAS, the Commission further finds that the proposal complies with Guideline 3 of Cornerstone 2020. Building materials are consistent with common materials and design found throughout the community. Because an office use is low-intensity and immediately abutting this small office proposal are industrial zoning districts the impact of the office use on the residential zoning districts would be minimal as traffic would be limited and scale would not be out of character. There would not appear to be any odor or emissions associated with the development. Traffic produced would be minimal and would not result in a significantly greater demand on the roadway network than exists for the industrial uses and districts to the North. Further, roadways are primary collectors fronting the subject site and traffic for increased housing units would not be directed through residential community to the Southwest. Lighting will be in compliance with LDC 4.1.3. Camp Ground and Lees Lane are Primary collector roadways providing access to Cane Run Road where expressways and public transportation is accessible. The proposal provides appropriate transitions between uses that are

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substantially different in scale and intensity or density of development such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions, or setback requirements. Buffers have been provided where appropriate. The proposal is not incompatible with the surrounding area as the attached sidewall concept is substantially the same as single-family living. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. Parking located adjacent to residences have been mitigated by appropriate landscaping. The proposal includes screening and buffering of parking and circulation areas adjacent to the street, and uses design features or landscaping to fill gaps created by surface parking lots. No surface lots are provided on the residential component and the parking for the office use is minimal. And signage will be in compliance with Ch.8 of the LDC.

WHEREAS, the Commission further finds that the proposal complies with Guideline 4 of Cornerstone 2020. The subject property is located and connects to an immediately adjacent park. Any open space provided on the subject site would be above and beyond what is necessary to ensure the well-being of future residents. The proposal integrates natural features into the pattern of development through tree preservation along the adjacent park.

WHEREAS, the Commission further finds that the proposal complies with Guideline 5 of Cornerstone 2020. The proposal respects the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural system. There are no historic resources on site. And MSD construction approval will be required, which may include ACOE approval.

WHEREAS, the Commission further finds that the proposal complies with Guideline 7 of Cornerstone 2020. The proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means as sidewalks are provided and contributions to the Louisville Loop are being made. The proposal promotes mass transit, bicycle and pedestrian use and provides amenities to support these modes of transportation as sidewalks are provided and contributions to the Louisville Loop are being made. The proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands as the developer is helping to facilitate the construction of the Louisville Loop. Tthe proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development as the developer is helping to facilitate the construction of the Louisville Loop. Adequate parking is provided. And cross access is being provided to the adjacent park through the development site.

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WHEREAS, the Commission further finds that the proposal complies with Guideline 8 of Cornerstone 2020. Stub streets aren't necessary for the proposal as it is surrounded by industrial use and public park. Access to the development site is from a collector level road though areas of similar intensity. And the hierarchy of streets is not impacted as a private road is being provided to serve dwellings and no connection to abutting property is required.

WHEREAS, the Commission further finds that the proposal complies with Guideline 9 of Cornerstone 2020. The proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as the Loop will eventually be connected through the property and walks are provided to preserve pedestrian access.

WHEREAS, the Commission further finds that the proposal complies with Guideline 10 of Cornerstone 2020. The proposal's drainage plans Have been approved by MSD.

WHEREAS, the Commission further finds that the proposal complies with Guideline 12 of Cornerstone 2020. The proposal has been reviewed by APCD and found to not have a negative impact on air quality.

WHEREAS, the Commission further finds that the proposal complies with Guideline 13 of Cornerstone 2020. The proposal includes additions and connections to a system of natural corridors that can provide habitat areas and allow for migration as park connection is being made.

WHEREAS, the Commission further finds that the proposal complies with Guideline 2 of Cornerstone 2020. Utilities appear to be available. The proposal has access to an adequate supply of potable water and water for fire-fighting purposes. And the proposal has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4, Single Family Residential to R-5A, Multi-family Residential and OR-1, Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Lewis, Peterson, Smith, Tomes and Jarboe

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Howard and Robinson

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On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution based on the standard of review and staff analysis was adopted.

Waiver of Land Development Code (LDC), section 10.2.13 to omit interior landscaping requirement

WHEREAS, the waiver will not adversely affect adjacent property owners as the proposed vehicle use areas function similarly to neighborhood streets which do not contain interior landscape areas; and

WHEREAS, 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 waiver will not violate these specific guidelines as vehicle use areas function similarly to neighborhood streets which do not contain interior landscape areas. The minimum tree canopy requirements and perimeter buffering will be provided; 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 proposed vehicle use areas function similarly to neighborhood streets which do not contain interior landscape areas; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions would create an unnecessary hardship on the applicant as the proposed vehicle use areas function similarly to neighborhood streets which do not contain interior landscape areas and the provision of interior landscape areas would be inconsistent with the design of the project and typical residential street design.

Waiver of LDC, section 10.2.4 to encroach upon the 50' LBA along the northeast boundary

WHEREAS, the waiver will not adversely affect adjacent property owners as the adjacent use would typically require the LBA but as the site is already developed the provision of the LBA must be provided on the subject site. All landscaping material and screening will be provided as required; and

WHEREAS, 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,

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suburban, and rural areas. The adjacent use contains a residential use and vacant space prior to reaching a lumber yard. All landscaping material will be provided as required and the majority of the buffer is preserved; 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 majority of the buffer and planting material will be provided; 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 the adjacent use would typically require the LBA but as the site is already developed the provision of the LBA must be provided on the subject site. All landscaping material and screening will be provided as required.

Waiver of LDC, section 5.8.1.B to eliminate the required sidewalk along Lees Lane

WHEREAS, the waiver will not adversely affect adjacent property owners as the area is not currently connected with sidewalks and the developer will be helping to improve the conditions of the adjacent property owners through contributions to the Louisville Loop in the area; and

WHEREAS, the Louisville Metro Planning Commission finds, Guideline 9, Policy 1 of Cornerstone 2020 calls for new development and redevelopment to provide, where appropriate, for the movement of pedestrians, bicyclists and transit users. The Louisville Loop is planned in the area requested for the sidewalk to be waived. The Louisville Loop provides for a greater variety of users and accessibility than a standard sidewalk. The developer has agreed to help facilitate the future Louisville Loop project in the area by grading the areas of the future Loop, both within the subject site and along the frontage, and provide a monetary contribution of \$4,600 and an easement through the development site to connect the Loop path along Lees Lane to the Riverside Gardens Park as shown on the development plan; and

WHEREAS, the Louisville Metro Planning Commission further finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as any standard sidewalk constructed would be removed for the eventual construction of the Louisville Loop and the developer has agreed to certain conditions through the change in zoning process.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of Land Development Code (LDC), section 10.2.13 to omit interior landscaping requirement as shown on the development plan; a waiver of LDC, section 10.2.4 to encroach upon the 50' LBA along the northeast boundary as shown on the development plan; and a waiver of LDC, section 5.8.1.B to eliminate the required

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sidewalk along Lees lane ON CONDITION of the adoption of binding element number 8 of the detailed district development plan.

The vote was as follows:

YES: Commissioners Brown, Lewis, Peterson, Smith, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Carlson, Howard and Robinson

Development Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Tomes, the following resolution based on the standard of review and staff analysis was adopted.

WHEREAS, minimum tree canopy requirements will be met and the subject site connects through tree canopy areas to an adjacent public park; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as a sidewalk will provided along Camp Ground Road, contributions will be made for the Louisville Loop, internal street are consistent with common street design, and walks have been provided through the development to the public park; and

WHEREAS, the subject property is located and connects to an immediately adjacent park. Any open space provided on the subject site would be above and beyond what is necessary to ensure the well-being of future residents; and

WHEREAS, 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 Louisville Metro Planning Commission finds, the overall site design and land uses are compatible with the surrounding area as appropriate transitions have been made. Buffers have been provided where appropriate. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in the *Cornerstone 2020 Staff Analysis* for the change in zoning request contained in *Attachment 3* of the staff report.

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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 Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways
 - c. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan and dedicating the right-of-way as shown on the approved district development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
 - d. 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.
 - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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

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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. A general cross access agreement or other legal instrument in a form acceptable to Planning Commission's Legal Counsel shall be recorded allowing for pedestrian access from Campground Road through the development site along designated pathways to Riverside Gardens Park.
8. Louisville Loop:
 - a) Developer shall grade for a multiuse path within the limits shown on the approved development plan for the construction of the Louisville Loop. Grading shall occur no sooner than construction plan approval but be completed prior to the issuance of the first certificate of occupancy. For the grading plan, the developer will provide heir site grading plan to Public Works who will update the grading plan to include grading for the Louisville Loop trail. The final grading plan that includes the Louisville Loop Trail and site development will be returned to the applicant's engineer for final review and revisions as it relates to the overall site design. Public Works will have final review and comments during the site construction plan approval process.
 - b) Developer shall contribute \$4,600 for the construction of the Louisville Loop across the Lees Ln frontage. Contribution is required to be paid to Public Works prior to construction plan approval.
 - c) Developer shall grant an easement for a multiuse path within the limits shown on the approved development plan to accommodate the construction of the Louisville Loop. Easement shall be granted at developer's expense within 60-day of written request from Public Works but no sooner than construction plan approval.
9. In the event that the property is to be developed under a condominium regime, Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to certificate of occupancy, for consistency with

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any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements:

- (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA");
- (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA;
- (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and
- (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.

The vote was as follows:

YES: Commissioners Brown, Lewis, Peterson, Smith, Tomes and Jarboe

NO: No one

NOT PRESENT AND NOT VOTING: Commissioners Carlson, Howard and Robinson