

PLANNING COMMISSION MINUTES
June 30, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0044

Request: Change in Zoning from R-4 to R-5 with a District Development Plan, a Waiver and a Variance
Project Name: Alston Trace
Location: 3200-3208 Maldon Ct, 5714, 5716, 5718-5746 Maldon Dr
Owner: Alston Trace LLC
Applicant: Alston Trace LLC
Representative: Dinsmore and Shohl
Jurisdiction: Louisville Metro
Council District: 1 – Angela Bowens
Case Manager: Jay Lockett, 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:

01:16:02 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Ann Richard, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

Cliff Ashburner gave a power point presentation discussing the project. There will be 33 lots and the proposal would allow for 47 lots on the property. There will be a 2nd access point that opens to the neighborhood. The proposal will be a different housing type in the sense it will be single family with an attached garage and no on-street parking (see recording for detailed presentation).

Ann Richard said the scale of the plan is 50 scale and the pavement width is 24-feet.

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Rebuttal

Cliff Ashburner stated he agrees with staff that the proposal should be approved in the form of the recommendation, the approval of the waiver, variance and plan.

Deliberation

Planning Commission deliberation (see recording for detailed presentation).

Came out of deliberation to allow the applicant representative to speak again. Cliff Ashburner requests withdrawal of the variance. The commissioners accept the withdrawal request (see recording for detailed presentation).

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 Single Family Residential to R-5 Single Family Residential

On a motion by Commissioner Brown, seconded by Commissioner Carlson, 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 subject site is directly served by transit along Terry Rd. There is a major commercial center including a Wal-Mart within 1500 feet of the subject site, and other commercial uses along Cane Run Rd and Terry Rd at a similar distance. The subject site is within a mile of various employment opportunities along Cane Run Rd and Greenbelt Highway; the site is adjacent to residential uses of a similar intensity; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed zoning change would allow for additional housing options in the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site does not have potential for hydric soils; and

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

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, Transit service is available along Terry Rd adjacent to the subject site. A wide variety of commercial options and employment opportunities exist in the vicinity of the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, the site utilizes existing streets for access; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would allow for additional housing options within an area near employment opportunities and a commercial corridor; adequate roadways exist adjacent to and near the subject site. The applicant will need to provide sidewalks in the adjacent right-of-way; adequate transportation facilities exist to serve the site; the proposed zoning is compatible with existing and proposed transportation networks in the area; the site is accessed via existing local roadways. No direct access to Terry Rd will be permitted; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, Utility services will be coordinated; water service will be coordinated with appropriate agencies; sewer service will need to be coordinated with MSD. MSD has approved the preliminary development plan; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site does not have any distinctive landscape characteristics; the site is not in a karst prone area; the subject site is not within floodplain areas; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the development and will fit within the residential development pattern of the district, which has a variety of residential zoning districts, densities and housing types; the proposed zoning district will help promote aging in place by providing additional housing type options. The site is close to a variety of commercial uses; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would promote mixed income and intergenerational development by allowing for additional housing types in an area with access to a variety of commercial services, amenities and employment opportunities; Terry Rd provides ready access to a transportation network that provides safe and convenient access to employment opportunities, services and amenities; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning encourages the provision of fair and affordable housing by allowing for a variety of ownership options, lotting patterns and unit sizes; the proposed zoning district would not displace current residents; the proposed zoning would allow for a variety of lotting patterns, ownership options and home sizes allowing for 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-4, Single Family Residential to R-5, Single 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, Price and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Cheek and Sistrunk

Waiver from 7.3.30.F to allow rear yards to overlap drainage easements by more than 15% for lots 5-16, 20-27 and 35-47

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

WHEREAS, the waiver will not adversely affect adjacent property owners as the rear yards overlap with easements that will only affect the property owners of the new lots; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as all lots will still have adequate private yard area; and

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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 locating of sewer and drainage infrastructure is largely dictated by topography and grading considerations. Some of the drainage infrastructure has already been installed within the development area; and

WHEREAS, the Louisville Metro Planning Commission further finds the 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 move the easement and existing infrastructure or extend the rear yards, either of which would reduce the usability of the property.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver from 7.3.30.F to allow rear yards to overlap drainage easements by more than 15% for lots 5-16, 20-27 and 35-47.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Price and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Cheek and Sistrunk

Detailed District Development Plan/Major Preliminary Subdivision Plan with abandonment of Conditions of Approval adoption of new Binding Elements

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

WHEREAS, there do not appear to be any environmental constraints or historic resources on the subject 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, there are no open space requirements pertinent to the current proposal; 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

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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 existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways except where waivers have been approved. Buildings and parking lots will meet all required setbacks except where variances are requested; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision Plan with abandonment of Conditions of Approval and adoption of the new 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. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
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. All street signs shall be installed by the Developer and shall conform with 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

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any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

5. Open space 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.
6. 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.
7. 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 larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
8. 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.
9. 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.
10. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.

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3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

11. 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.

12. If proposed, the signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Daniels, Howard, Mims, Price and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Cheek and Sistrunk