

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

Request:	Change in Zoning from R-4 to R-5 and R-6 with a Detailed District development Plan with Binding Elements and Preliminary Subdivision Plan
Project Name:	South Pope Lick Residential
Location:	1704, 1806, and 1808 R S Pope Lick Road
Owner:	Jeffery and Melissa Windhorst, LRH Family LLC, & Morris Hockersmith
Applicant:	Ball Homes
Representative:	Mindel Scott and Assoc.; Bardenwerper Talbott and Roberts PLLC
Jurisdiction:	Louisville Metro
Council District:	11-Kevin Kramer
Case Manager:	Julia Williams, AICP, Planning Supervisor

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:

00:21:51 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Adam Kirk, 137 McCléllan Springs Drive, Georgetown, Ky. 40324
Rocco Pigneri, Ball Homes, 13301 Magisterial Drive, Louisville, Ky. 40223

Summary of testimony of those in favor:

00:32:15 John Talbott gave a power point presentation discussing the following: diversity of housing stock; 3 lots of property; 2 neighborhood meetings and changes to the plan; and Activity Center (see recording for detailed presentation).

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

00:37:55 David Mindel discussed the following: development plan; garages against the right-of-way; moved entrance back; cul-de-sac; walkout houses; preservation of trees; providing corridor for future Urton Ln.; detention; power line through site; and open space (see recording for detailed presentation).

00:40:16 John Talbott explained the breakdown of the lots and regulations on the 2 entrances (see recording for detailed presentation).

00:44:00 Adam Kirk explained the trip generation from the Traffic Impact Study he performed (see recording for detailed presentation).

00:52:00 John Talbott discussed the proposed binding elements (see recording for detailed presentation).

00:54:35 Rocco Pigneri discussed the buildings (interior and exterior), clubhouse and pools (see recording for detailed presentation).

00:56:47 John Talbott discussed the finding of facts (see recording for detailed presentation).

01:14:11 Julia Williams read the following proposed binding element regarding the future Urton Ln. corridor: The applicant shall provide language in the deed restrictions notifying lot and/or house purchasers that a future roadway corridor is planned in the area of the subdivision. The form of such restrictions shall be approved by Planning Commission counsel. The area reserved for future road corridor shown on the approved development plan shall also be shown on the record plat (see recording for detailed presentation).

Rebuttal

01:35:40 John Talbott agrees to the binding element proposed by Julia Williams. The issue of the Bluegrass intersection has never come up before today (see recording for detailed presentation).

John Talbott said this is a good plan and it meets the elements of the Comprehensive Plan (see recording for detailed presentation).

Deliberation

01:40:23 Planning Commission deliberation.

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

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-5 and R-6

On a motion by Commissioner Mims, seconded by Commissioner Cheek, 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 proposal is located approximately 2 miles from the closest transportation facility (I-64). It is located adjacent to an existing employment center (Blankenbaker Station) and within the Suburban Workplace Form where additional employment is planned to be located. Transit is located along Bluegrass Parkway; All buffers are being provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the proposal includes development on steep slopes. Most of the areas of steep slopes are in open space lots; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, there are no cultural features evident on the site; the proposal is not located on a historic site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is located within the Suburban Workplace Form and is adjacent to an employment center. The site is not currently served by transit and is not located near a Marketplace Corridor. The proposal is located near an existing activity center that has been created within the employment center. The proposal is not currently served by transit; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed residential zoning districts are located near an existing and expanding employment center. The site is easily accessible by car and bicycle. Sidewalks are provided throughout the development; Transportation Planning preliminarily approved the proposal; roadway improvements along S Pope Lick Road are required as well as a contribution for a signal at Tucker Station Road. A Connection to the future Urton Lane is provided; the proposal is for residential access to a secondary collector level roadway; and

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the site will be served by existing and proposed utilities; an adequate water supply exists for the site; MSD preliminarily approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, residential is compatible with the existing employment center as it provides housing closer to the employment center and within the workplace district for current and future employees; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy is being preserved on the R-6 lot as well as the open space on the R-4 portion. Trees are being preserved along Pope Lick Creek; the proposal will not have a negative effect on groundwater; the stream and its buffer are being provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal permits a variety of housing types, both single and multi-family; the proposal supports aging in place by allowing residents to move from single family and multi-family and still be located nearby; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal allows for multi-generational housing to be located where there are future connections to the rest of the neighborhood; the proposed district is located where it will provide 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 encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The district expands opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable housing in dispersed locations throughout Louisville Metro; the proposed zoning district does not result in the displacement of residents; the proposed district encourages a variety of housing types and occupancy types within the area to increase the production of fair and affordable housing.

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-4 to R-5 and R-6 on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Cheek, Clare, Mims, Pennix, Price, Sistrunk and Howard

NO: Commissioner Brown

NOT PRESENT AND NOT VOTING: Commissioner Lewis

ABSTAINING: Commissioner Carlson

Detailed District Development Plan/Subdivision Plan

On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution was adopted.

WHEREAS, there do not appear to be any historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. Environmental constraints will mostly be preserved in open space; 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, open space requirements are being met on the site; 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 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. Buildings and parking lots will meet all required setbacks; 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.

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Subdivision 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. 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded dedicating additional right-of-way to S Pope Lick Road to provide a total of 40 feet from the centerline. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit. If necessary, the dedication can be shown on the record plat for the first section.
 - 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
 - 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.
 - f. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 1, 2022 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.
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

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

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. 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."

8. 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 dedication of the record plat.

9. 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."

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

11. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for "Street A". Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0083

12. 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.

13. 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.

14. The applicant shall provide language in the deed restrictions notifying lot and/or house purchasers that a future road corridor is planned in the area of the subdivision. The form of such restrictions shall be approved by Planning Commission counsel. The area reserved for future road corridor shown on the approved preliminary plan shall also be shown on the record plat.

15. 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.
3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

16. 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.

17. No residential structures shall be permitted within 250 feet of the edge of pavement of the Gene Snyder Freeway's nearest travel lane.

18. The Developer shall contribute a sum, not to exceed \$ 30,000, as a sharing of cost for a signal to be erected at the intersection of Tucker Station Rd and S Pope Lick Road. Payment of the cost share shall be made prior to recording of the first record plat for this subdivision.

**PLANNING COMMISSION MINUTES
December 1, 2022**

PUBLIC HEARING

CASE NO. 22-ZONE-0083

19. Applicant shall build no more than 50% of the single-family units and 50% of the multifamily units prior to a left-turn lane being built for the eastbound Tucker Station Road/S. Pope Lick Intersection.

20. In the event applicant does not build a left-turn lane for the eastbound Tucker Station Road/S. Pope Lick intersection, applicant shall contribute \$30,000 towards the road construction improvements for the Tucker Station Road/S. Pope Lick Road intersection.

The vote was as follows:

YES: Commissioners Cheek, Clare, Mims, Pennix, Price, Sistrunk and Howard

NO: Commissioner Brown

NOT PRESENT AND NOT VOTING: Commissioner Lewis

ABSTAINING: Commissioner Carlson