

**PLANNING COMMISSION MINUTES**  
**September 19, 2019**

**PUBLIC HEARING**

**CASE NO. 19ZONE1028**

Request: Change in zoning from R-4 to PRD, Planned Residential District with design waiver and district development plan  
Project Name: Pirouette Avenue  
Location: 9418 Pirouette Avenue  
Owner: Corcoran Home Building & Remodeling  
Applicant: Corcoran Home Building & Remodeling  
Representative: Bardenwerper, Talbott, & Roberts, PLLC  
Jurisdiction: Louisville Metro  
Council District: 13 – Mark Fox

**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:**

01:46:20 Joel Dock presented the case via Power Point slide show (see staff report and recording for detailed presentation).

**The following spoke in favor of this request:**

Nick Pregliasco, 1800, North Hurstbourne Parkway, Louisville, Kentucky, 40223

**Summary of testimony of those in favor:**

00:00:00 Nick Pregliasco presented Power Point slide show and presented paper copies to Commissioners. Mr. Pregliasco detailed the site, adjacent properties, the retention basin, and the style of the proposed houses on the development (see recording for detailed presentation). Nick stated Ann Richards is present for questions.

00:00:00 Commissioner Carlson asked if there will be privacy fencing and/or landscape buffers along adjacent property lines. Nick Pregliasco stated while there is no fencing proposed the majority of existing adjacent property owners have fences for their property. Commissioner Carlson asked for the homeowners who do not have fencing for their property will there be one provided by this development. Mr. Pregliasco



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stated it can be discussed with the applicant and Ann Richards is present to give a detailed answer.

02:00:31 Ann Richards stated there are tree canopy requirements and when the landscape plan is created by staff trees can be strategically placed for this development. Commissioner Carlson and Ann Richards discussed fencing and landscape buffers (see recording for detailed presentation).

**The following spoke in opposition to this request:**

Harold Davis, 9319 Sissone Drive, Fairdale, Kentucky, 40118

**Summary of testimony of those in opposition:**

02:03:53 Harold Davis, opposition, stated this development would change the character of the neighborhood. The proposed project looks crowded. He noted the removal of existing trees. Mr. Davis spoke of the traffic/construction traffic, upkeep of the connecting roads, lack of guest overflow parking, the condition existing park in the subdivision.

02:13:00 Commissioner Jarboe asked who owns the existing park. Mr. Davis stated the lot was designated as neighborhood property when the neighborhood was developed, and no one specifically owns it.

**Rebuttal**

02:15:39 Nick Pregliasco spoke to the applicant prior to the meeting that the vacant "park" lot will be maintained by the applicant. Mr. Pregliasco also spoke with Ann Richards in regards to the tree canopy and there will be an effort made to preserve existing tree canopy during development. He noted the comment in increase traffic and the additional parking for the development (see recording for detailed presentation).

02:19:18 Commissioners discussed the mitigation of the waiver, fences, and the maintenance of the park in the existing neighborhood (see recording for detailed presentation).

**Deliberation**

02:31:04 Planning Commission deliberation (see recording for detailed presentation).



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**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.**

**Change in Zoning**

02:35:47 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution, based on the applicants findings, Plan 2040 Staff Analysis, testimony heard today, and the applicants commitment to maintain the Tree Line Estates lot 25A open space to help fulfill their obligation under the comprehensive plan for maintaining open space, was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because the proposed district is for lowdensity residential. It is not a high density use necessitating location near major transportation facilities. However, TARC service (route #6) and employment and activity centers are within the vicinity, Appropriate transition between uses that are substantially different in scale and intensity or density of development have been provided as open space forms provides a transition to an adjacent CM district to the north; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because an existing residential lot is being developed for residential purposes; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because The Louisville MSD has preliminarily approved the development plan which may impact wet or permeable soils; and

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

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposed district is for lowdensity residential. It is not a high density use necessitating location near major transportation or commercial facilities. However, TARC service (route #6) and employment centers are within the vicinity; and



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**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because Access to the site is obtained through areas of similar density; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposed district is for lowdensity residential on a vacant lot within an existing development. All multi-modal options are available or are being accommodated on the site or within the area, Existing roadway infrastructure is adequate to support the proposed density, The developer will developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development as public walks and roads will be provided with connectivity to adjacent public ways, Transportation facilities will be provided as public walks and roads will be provided with connectivity to adjacent public ways, Public roadways and sidewalks will be provided, No access to high speed roadways will be provided; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because the proposal is located in an area served by existing utilities or planned for utilities as evidenced by adjacent development, the proposal would appear to have access to an adequate supply of potable water and water for firefighting purposes as evidenced by adjacent development, the Louisville MSD has preliminarily approved the development plan. The development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because Tree canopy will be provided as required by the Land Development Code, No Karst features have been identified by the applicant which may impact erosion or other vulnerable features, The Louisville MSD has preliminarily approved the development plan. ACOE and KDOW approval will be a prerequisite to constriction plan approval to ensure the integrity of the regulatory floodplain; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing, because the proposal incorporates a variety of housing styles into the area by providing an alternative housing type for single-family residential occupancy; and



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**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Housing because the proposal provides intergenerational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area as an additional housing type is being added to the areas current mixture, The proposed district is located immediately adjacent to an employment center, the interstate, TARC route #6 connecting to Downtown, and the village center of Fairdale which provide services and amenities; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Housing because the proposal incorporates another housing options into the area that encourages the provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro, The proposed district is located on an infill lot within an existing residential area, The incorporation of this district in the area encourages a variety of housing types and occupancy types within the area which increases the ability to provision clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested change in zoning from R-4 to PRD, Planned Residential District on property described in the attached legal description be **APPROVED**

**The vote was as follows:**

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

**Waiver**

02:36:31 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, the waiver will not adversely affect adjacent property owners as the additional attached units allows for a greater concentration of footprint which allows for an increase of usable open space and a decrease in impervious area and disturbance; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the waiver will not violate specific guidelines of Plan 2040 as Land Use and Development Goal 1:



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Community Form calls for a mixture of densities as long as their designs are compatible and that setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet Form District guidelines. The proposal will roughly contain similarly front yard setbacks consistent with the R-5 zoning district to accommodate driveway depth. The additional attached units do not impact the integrity of the design and building materials proposed which consist of gable roofs, brick, and front facing garages, entryways and windows; 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 the additional unit allows for a greater concentration of footprint which allows for an increase of usable open space and a decrease in impervious area and disturbance; 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 proposed waiver does not impact the public health, safety, or welfare or adjacent property owners, and conforms to the community form policies of Plan 2040; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE Waiver** of Land Development Code, section 5.3.1 to allow more than 4 contiguous attached dwelling units

**The vote was as follows:**

**YES: Commissioners Peterson, Howard, Brown, Carlson, Lewis, and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Tomes, Daniels, and Smith**

**ABSTAINING: No one.**

**Development Plan and Binding Elements**

02:37:09 On a motion by Commissioner Brown, seconded by Commissioner Lewis, the following resolution, based on the Standard of Review and Staff Analysis and testimony heard today, was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds, 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 provided. The Louisville MSD has preliminarily approved the development plan. The development has adequate means of sewage treatment and



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disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD). ACOE and KDOW approval will be a prerequisite to construction plan approval to ensure the integrity of the regulatory floodplain Tree canopy will be provided as required by the Land Development Code; and

**WHEREAS**, the Louisville Metro Planning Commission further finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as The developer will developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development as public walks and roads will be provided with connectivity to adjacent public ways. The proposal is located immediately adjacent to an employment center, the interstate, TARC route #6 connecting to Downtown, and the village center of Fairdale which provide services and amenities; and

**WHEREAS**, the Louisville Metro Planning Commission further finds sufficient open space to meet the minimum requirements of the Planned Residential District has been provided. 58,438 sq. ft. of open space is provided with walks and picnic area; and

**WHEREAS**, the Louisville Metro Planning Commission further finds 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 further finds the development tis compatible with existing land uses and the future growth of the area as the proposal will roughly contain similarly front yard setbacks consistent with the R-5 zoning district to accommodate driveway depth. The additional attached units do not impact the integrity of the design and building materials proposed which consist of gable roofs, brick, and front facing garages, entryways and windows; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan. The proposal incorporates a variety of housing styles into the area by providing an alternative housing type for single-family residential occupancy. The proposal may provide inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area as an additional housing type is being added to the areas current mixture. The proposed district is located immediately adjacent to an employment center, the interstate, TARC route #6 connecting to Downtown, and the village center of Fairdale which provide services and amenities. The incorporation of this district in the



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area encourages a variety of housing types and occupancy types within the area which increases the ability to provision clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development/Preliminary Subdivision Plan **ON CONDITION** that a note is added to the face of the plan that a damage bond will be required prior to issuance of the work order for the subdivision construction, and subject proposed 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.



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- b. 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.
  - c. 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, 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.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 19, 2019 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 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. 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 recording of the subdivision’s Record Plat, for consistency with 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



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- 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.
8. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
  9. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity, unless approved by the Louisville Metro Planning Commission. A note to this effect shall be placed on the record plat.
  10. An 8 foot privacy-style fence shall be provided along the rear of lots 1-10.

**The vote was as follows:**

**YES: Commissioners Peterson, Brown, Lewis, Howard, Carlson, and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioners Tomes, Daniels, and Smith**