

PLANNING COMMISSION MINUTES
December 20, 2018

PUBLIC HEARING

CASE NO. 18ZONE1048

Request: Change in zoning from R-4 to PRD with a Detailed Plan
Project Name: Stewart-McMahan Blvd.
Location: 4115-4117 Taylorsville Road
Owner: Jeremy Brent Pearman
Applicant: Stewart Companies, LLC
Representative: Nick Pregliasco – Bardenwerper Talbott & Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 18 – Marilyn Parker

Case Manager: Joel 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:06:34 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.) He noted that the applicant provided renderings of the proposed structures yesterday. Staff recommends either deleting or amending binding element #12 in the staff report (“Final renderings shall be provided to Planning Commission staff for review and approval prior to the issuance of any permit...”) Those renderings have been submitted and reviewed; no LDC compliance issues were found. Mr. Dock suggested changing binding element #12 to read as follows:

“The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 20, 2018 Planning Commission public hearing.”

02:10:40 He noted that he would work with the applicant to change some sewer lines on the plan. The property to the east of the site is not connected to sanitary sewers at this time, and they would like the option to connect at a later date. The applicant has been working with them to provide some sewer connections. He said none of those issues impacts today’s review.

02:12:17 Commissioner Brown asked to see an exhibit on the left-turn lane geometry. Mr. Dock directed this question to the applicant.

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02:13:02 Commissioner Carlson asked that the applicant provide some information about vehicle maneuvering ability.

The following spoke in support of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY 40207

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

Grady Stewart, Stewart Companies, 857 Sparta Court, Lexington, KY 40504

Summary of testimony of those in support:

02:14:00 Nick Pregliasco, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:28:03 Kevin Young, an applicant's representative, discussed the site plan in more detail (trees, landscaping, and the detention basin.) He noted that the garages are one-story, not two story.

02:30:30 In response to an earlier question from Commissioner Brown, Mr. Young said the current geometrics of the left-turn lane allows for three cars to stack in the center turn lane.

02:31:07 Commissioner Carlson asked about the maneuverability of larger vehicles, not just the cars shown on the renderings, in the driving area. Mr. Young discussed the driveways and driving areas in more detail. See recording for detailed discussion. Commissioner Carlson suggested making a little more room in some areas.

02:36:11 Commissioner Jarboe, Commissioner Carlson and Mr. Young discussed fire vehicle maneuvering. Mr. Young said this plan has been shown to the Chief of the McMahon Fire Department.

02:37:34 Commissioner Daniels asked where visitors would park. Mr. Young said there are ten designated "Visitor" parking spaces.

02:38:45 Mr. Pregliasco concluded the rebuttal.

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02:40:49 In response to a question from Commissioner Jarboe, Mr. Young said the Frisbee golf baskets were included because part of the LDC requirements is to make open space usable.

02:41:13 In response to a question from Commissioner Carlson, Mr. Young discussed the height of the trees that were planned to screen the garages from the road (6-8 feet tall at planting.)

02:42:20 Steve Porter, representing the opposition, cross-examined the applicant's representatives. They discussed the width of the garages, some issues with the elevations presented today, and the locations of driveways/drive lanes.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Summary of testimony of those in opposition:

02:47:01 Steve Porter, representing the City of Cambridge, spoke in opposition. He said the primary problem is that there are too many units on a small piece of property. Is Taylorsville Road or McMahan the front street? Also, he said the setbacks along Taylorsville Road do not correspond to the adjacent properties. He said the design and setbacks are not compatible with the existing developments. He said reducing the number of units in the project could resolve this, and also resolve some of the issues raised about drive aisle width, turning, etc. He discussed landscaping and buffering issues. He asked Mr. Young if any of the large trees along Taylorsville Road will be saved. Mr. Young said he said the large trees will be removed – that is where the detention basin and part of the buildings will be.

The following spoke neither for nor against:

Cheri Tyler (sp), 2912 Cambridge Road, Louisville, KY 40220

Rob Hornung, 2907 McMahan Boulevard, Louisville, KY 40220

Summary of testimony of those neither for nor against:

02:54:57 Cheri Tyler, mayor of the City of Cambridge, expressed some concerns about the elevations being shown today because they are different from what had been shown previously. She asked how a garbage truck would be able to get back in the development, and where dumpsters would be. She said the City of Cambridge already has drainage problems, and she is concerned that this project could make it worse. She said the neighbors are very pleased that there will be no commercial development,

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but would like to see the setbacks increased and take out a few of the units to add some space.

02:57:28 Rob Hornung said he is not opposed to the development, but is concerned about what it was going to do to his property. He expressed concerns about the setback, and the proposed location of a sidewalk that is currently a drainage ditch. He also expressed many concerns about flooding and drainage; location of utilities; entrance/vehicle access points; garbage collection and dumpster location; pedestrian traffic flow; cutting down trees; planting trees underneath the power lines; the location of the turn lane (it is "on a blind corner"), and his preference that some other type of landscaping be used besides pine trees.

Rebuttal:

03:08:36 Mr. Young discussed the stopping the fence at the back corner of Mr. Hornung's house, if that is what he wants. He said the applicant is not going to use pine trees but evergreens, because the Code does not allow pine trees anymore. He explained that the overgrowth along McMahan Boulevard would have to be cleared to increase sight distance. The power lines will have to be raised. He discussed storm drainage and said there is no intent to raise the site. MSD will monitor all drainage and flood mitigation measures. Mr. Young said that the proposed sidewalk will accommodate the drainage ditch, and that the detention basin has been designed to handle water runoff and decrease runoff from other sites onto Mr. Hornung's property.

03:11:36 Commissioner Lewis and Mr. Pregliasco discussed trash collection procedures. Mr. Pregliasco said there is no plan for dumpsters. He disputed that there are too many units on the site.

03:15:57 Commissioner Jarboe asked what was meant by the setbacks on McMahan are "technically" being met? Mr. Pregliasco pointed out a portion of the property that is considered "infill" and discussed the setbacks for infill development. See recording for his detailed presentation.

Deliberation:

03:21:45 Commissioners' deliberation.

03:22:03 Commissioner Brown and Mr. Dock discussed binding element #12.

03:23:09 Mr. Dock recommended that the Commission adopt a new binding element regarding enhanced landscaping being substantially the same as that presented at today's hearing, to read as follows:

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Landscaping shall be substantially similar to that shown on the applicant's exhibit presented at the December 20, 2018 Planning Commission public hearing.

03:24:02 Commissioner Brown read an additional binding element into the record regarding a left-turn lane, to read as follows:

Applicant shall provide an 11-foot dedicated left-turn lane into the site, with 75-foot storage length, and 50-foot bay taper length, prior to issuance of the timing of the first certificate of occupancy, construction plans, bond and permit for work in the right-of-way required prior to issuance of building permit.

03:24:44 Kevin Young agreed to this binding element.

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

03:28:22 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Cornerstone 2020 Staff Checklist, and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1: Community Form** because the proposed district allows for the introduction of non-standard single-family housing options; thus, increasing housing choice amongst available single-family options. The area contains a variety of densities within close proximity to the subject site; the proposed district is for low-density development comparable to the R-5 single-family district and allows for single-family development options; while the PRD district is not actively present in the immediate vicinity at this time, a wide variety of residential districts are present and housing choices vary. The units have been oriented to an active presence along McMahan Blvd and internal open space with garages oriented towards internally roadways.; streets are designed to invite human interaction and easy access through the use of connectivity and design elements. The streets are designed to serve vehicles and sidewalks are provided for pedestrians with directly access to each dwelling. The mixing of vehicles and pedestrians has been avoided by the proposed design and the site has been designed for safe multi-modal interaction; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3: Compatibility** because the proposal is compatible with the scale and site design of nearby development as the area contains a variety of multi-unit and multi-story development; renderings in compliance with the Land Development Code will be provided to staff for review and approval prior to issuance of any permits. The orientation of the units indicates that doors and windows will be provided facing McMahan Blvd and internal open spaces; the proposal is compatible with adjacent residential areas, and if it introduces a new type of density, the proposal is designed to be compatible with surrounding land uses through the use of techniques to mitigate nuisances and provide appropriate transitions between land uses. The proposal does not introduce a new type of density as the density proposed is a single-family density at 7.26 du/ac and a variety of densities are present in the area; access to the subject site is from an arterial roadway and traffic will be no more than is common for single-family development; lighting will be complaint with LDC 4.1.3.; the proposed district allows for a variety of housing types consistent with the variety of options already available in the area; the proposal is for low-density development at a level that does not exceed the permitted density of the R-5, single-family district; the PRD district allows for greater flexibility in housing style than is typical of standard single family development. This allows for a greater variety of needs to be served, including persons with disabilities or the elderly; The PRD district allows for greater flexibility in housing style than is typical of standard single family development. This allows for a greater variety of needs to be served, including inclusive or affordable housing; the proposed use and district are no more intense than an R-5, single-family zoning district. No additional transitions or mitigation is needed to separate single-family homes from abutting single-family homes; the proposed use and district are no more intense than an R-5, single-family zoning district. No additional transitions or mitigation is needed to separate single-family homes from abutting single-family homes; setbacks and lot dimensions are reduced for PRD to allow for the provision of alternative housing styles. The overall size of the development with respect to density is consistent with an R-5 zoning district; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 4: Open Space** because the proposal provides open space that helps meet the needs of the community as a component of the development and provides for the continued maintenance of that open space as an internal park and exterior open space has been provided as amenities for future residents; standard single family development does not have an open space requirement in the Neighborhood Form. Any required or provided open space exceeds expectations for standard single-family development. The proposal is an alternative form of single-family housing; the property does not appear to have any significant natural features. Tree canopy will be provided as required; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 5: Natural Areas and Scenic and Historic Resources** because 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 systems. The property does not appear to have any significant natural features. Tree canopy will be provided as required; there are two structures on site that were constructed prior to 1950 and follow the historic pattern of large lot residential development along Taylorsville Road. These structures may be eligible for nomination to National Register. A 30-day hold may be placed on the demolition permit; the proposal has been reviewed and approved by MSD. Any impacts on this project to wet or highly permeable soils will be the responsibility of MSD in approving the final design. The site contains no other environmental features; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 7: Circulation** because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development as public sidewalks will be provided; 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 no site connections to adjacent roadways are required and the site has primary access to an arterial roadway; and no additional right-of-way was required of this development; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 8: Transportation Facility Design** because no stub streets have been required of this development; access is through arterial roadways from commercial areas and will not impact adjacent residential; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site as primary access for multiple dwelling is provided from an arterial roadway; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 9: Bicycle, Pedestrian and Transit** because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as internal and external sidewalk networks have been provided; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 10: Flooding and Stormwater** because the proposal's drainage plans have been approved by MSD; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13: Landscape Character** because no natural corridors are present; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14: Infrastructure** because the proposal is located in an area served by existing utilities or planned for utilities; 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; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested Change-in-Zoning from R-4, Single-family Residential to PRD, Planned Residential Development on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

Detailed District Development Plan with binding elements

03:29:17 On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis and the evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the minimum tree canopy required will be provided and the site does not contain other significant natural features (steep slopes, water courses or flood plains). Residences construction prior to 1950 is present and the demolition of these structures may require review for National Register eligibility; and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided as internal and external sidewalks have been provided with connectivity to each single-family dwelling; and

WHEREAS, the Commission further finds that sufficient open space to meet the needs of the development is provided as open space, landscaping, and tree canopy requirements are being met. The streets are designed to serve vehicles and sidewalks

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are provided for pedestrians with direct access to each dwelling. The mixing of vehicles and pedestrians has been avoided by the proposed design and the site has been designed for safe multi-modal interaction; and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. The units have been oriented to have an active presence along McMahan Blvd and internal open space with garages oriented towards internally roadways is provided. Streets are designed to invite human interaction and easy access through the use of connectivity and design elements. The proposed use and district are no more intense than an R-5, single-family zoning district. The proposal is an alternative form of single-family housing. The area contains a mixture of densities and style, including multi-unit and multi-story structures; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in Cornerstone 2020 Staff Analysis for the change in zoning request and to requirements of the Land Development Code; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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

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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. 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, 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.
 - e. A reciprocal access agreement or other legal instrument in a form acceptable to Planning Commission's Legal Counsel shall be recorded allowing for pedestrian and vehicular access as shown on the approved development
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

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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 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 shall 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. Final renderings shall be provided to Planning Commission staff for review and approval prior to the issuance of any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit).
11. Landscaping shall be substantially similar to that proposed at the December 20, 2018 Planning Commission public hearing, with material to be 8-10 feet high at time of planting.
12. Applicant shall provide an 11-foot wide dedicated left turn lane into the site, with a 75 foot storage length, and 50 foot bay taper length prior to the timing of the issuance of the first certificate of occupancy. Construction plans, bond and permit for work in the right of way required prior to the issuance of any building permit.

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The vote was as follows:

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