

PLANNING COMMISSION MINUTES
January 19, 2017

PUBLIC HEARING

CASE NO. 16ZONE1032

Case No: 16zone1032
Request: Change in zoning from R-4 to R-5 on approximately 18 acres with a preliminary subdivision plan
Project Name: Thomas Station Subdivision
Location: 3403 Stony Brook Drive and TB 45 LOT 927

Owner: A. Thomas Consulting LLC
P.O. Box 99037
Louisville, Ky. 40269

AJ Thomas Jr. and
Sarah Thomas
3405 Stony Brook Drive
Louisville, Ky. 40299

Applicant: A. Thomas Consulting LLC
P.O. Box 99037
Louisville, Ky. 40269

AJ Thomas Jr. and
Sarah Thomas
3405 Stony Brook Drive
Louisville, Ky. 40299

Representative: Land Design and Development
Kevin Young/Ann Richard
503 Washburn Avenue, Suite 101
Louisville, Ky. 40222

Bardenwerper Talbott and Roberts PLLC
William B. Bardenwerper
1000 North Hurstbourne Parkway, 2nd floor
Louisville, Ky. 40223

Jurisdiction: Louisville Metro
Council District: 11-Kevin Kramer
Case Manager: Julia Williams, RLA, 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.

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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:

04:49:10 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223

Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Summary of testimony of those in favor:

04:55:05 Mr. Bardenwerper gave a power point presentation.

04:59:06 Mr. Young stated there will be 3.2 acres of open space for this development. Also, there will be a privacy fence in the back and they'll be preserving some trees. This will be a quality development featuring newer homes and less yard space. Drainage is being over-detained by 100%.

05:01:55 Mr. Bardenwer read the following additional binding element: Building materials shall be limited to brick, stone and cementitious (Hardy-plank type) siding except accents of other durable materials and front-facing garage doors shall be of different, instead of uniform, design and colors.

Deliberation

05:07:45 Planning Commission deliberation.

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

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On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, The site is located in the Neighborhood Form District. The Neighborhood Form is characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas; and

WHEREAS, The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages and incomes. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to large lot single family developments with cul-de-sacs, neo-traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero lot line neighborhoods with open space, and high density multi-family condominium-style or rental housing; and

WHEREAS, The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycles and transit; and

WHEREAS, the Louisville Metro Planning Commission finds, neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed R-5 zoning district supports a mix of housing choices and densities in the neighborhood. The proposed change in zoning constitutes an increase in density which will have limited impact on adjacent residential uses. Stony Brook is a primary collector. Streets are connected and sidewalks are provided. The proposed zoning district encourages a compact development pattern and efficient land use pattern. The proposal for residential uses is compatible with the surrounding residential uses in the neighborhood.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND**, to Metro Council, **APPROVAL** of Case No. 16ZONE1032, a change in zoning from R-4 to R-5 based on the staff report, testimony heard today and the applicant's finding of fact.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes

District Development Plan/Preliminary Subdivision Plan and Binding Elements

On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted.

WHEREAS, There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided 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 however, open space is being provided where significant caliper trees are located and being preserved; 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 will meet all required setbacks; and

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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 District Development Plan/Preliminary Subdivision Plan along with the binding elements on pages 13-15 of the staff report in addition to number 17 to read as follows: Building materials shall be limited to brick, stone and cementitious (Hardy-plank type) siding except accents of other durable materials and front-facing garage doors shall be of different, instead of uniform, design and colors; based on the staff report, testimony heard today and the applicant's findings **SUBJECT** to the following Binding Elements:

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. 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.
5. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, is requested:

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- a. The development plan must receive full construction approval from Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - 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.
6. 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.
7. 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.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
- a) Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
 - b) A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space) and other issues required by these binding elements.

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- c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
9. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
10. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
11. 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."
12. 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.
13. 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.
14. 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.
15. 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.
16. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

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17. Building materials shall be limited to brick, stone and cementitious (Hardy-plank type) siding except for accents of other durable materials and front-facing garage doors shall be of different, instead of uniform, design and colors.

The vote was as follows:

YES: Commissioners Brown, Carlson, Gazaway, Howard, Kirchdorfer, Lewis and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Peterson, Smith and Tomes