

PLANNING COMMISSION MINUTES
February 21, 2019

PUBLIC HEARING
CASE NO. 18ZONE1069

Request: Change in zoning from R-4 to R-5 and a District Development Plan/Preliminary Subdivision Plan
Project Name: Blue Lick Road Subdivision
Location: 10505 Blue Lick Road and 3617 Mud Lane
Owner: Multiple Owners
Applicant: Pulte Homes
Representative: Mindel, Scott and Associates; Bardenwerper, Talbott and Roberts PLLC
Jurisdiction: Louisville Metro
Council District: 13- Mark Fox
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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:20:14 Mr. Dock discussed the case summary, standard of review and staff analysis from the staff report.

03:25:37 Mr. Kelly, MSD, stated the volume of water will increase and the detention basin will release at a rate so it doesn't overwhelm the downstream conditions any worse than it is today. The applicant has performed an ecological study and know what they're getting into. One corridor is in the local regulatory flood plain and they will be permitted to pipe.

The following spoke in favor of this request:

John Talbott, Bardenwerper, Talbott and Roberts, PLLC, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Curtis Mucci, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

03:28:28 Mr. Talbott gave a power point presentation. There are no variances or waivers being requested. Mud Ln. and Blue Lick Rd. will not be connected. Most of the

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tree canopy will be preserved. Some neighbors want some of the trees cleared (adjacent to Mud Ln.) for better visibility. There will be stubs to accommodate future developments.

03:38:27 Commissioner Brown asked what type of buffering will be provided between the lots and the Blue Lick bus compound. Mr. Mucci said there will be a 15 ft. buffer yard so any trees greater than 4 inch caliper will be preserved. Commissioner Brown suggested increasing it because there will be idling buses. Mr. Mucci said there will be a strip of trees and a small section of trees on the bus compound as well.

03:39:26 Commissioner Carlson asked if there's enough right-of-way for the Blue Lick Rd. expansion. Mr. Talbott said yes.

03:40:41 Mr. Mucci added, regarding the buffer yard, 15 ft. is required but the plan has a variable open space strip that is 25 ft. to 40 ft. on the back of the lots.

03:41:01 Mr. Talbott said there's a horse buried on the property.

The following spoke neither for nor against the request:

Thomas Hines, 3715 Mud Lane, Louisville, Ky.

Summary of testimony of those neither for nor against:

03:41:43 Mr. Hines stated he has a horse farm and wants to know if the applicant is going to provide a fence (safety reasons). Mr. Talbott said they don't plan on putting up a fence as it's not required.

Deliberation

03:45:05 Planning Commission deliberation.

03:47:09 Mr. Dock explained the fence regulations.

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 Carlson, the following resolution based on the Cornerstone 2020 Staff Analysis, testimony heard today and the applicant's finding of facts was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because structures will be setback as required by the Land Development, neighborhood form district design standards for residential development. A standard R-4 subdivision is permitted by right in the underlying zoning district. The proposed district allows for a more suitable lotting pattern for housing that supports nearby employment centers within the form district. Public sidewalks and connectivity to adjacent lands for future development is provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed is generally compatible within the scale and site design of nearby existing development as adjacent subdivision layouts to the north of the subject site are consistent with proposed layout. Building design will be compliant with residential site design standards contained in LDC 5.4.2. The proposal is compatible with adjacent residential areas as adjacent subdivision layouts to the north of the subject site are consistent with proposed layout. Abutting uses are primarily residential. Open space and tree canopy is being provided adjacent to a JCPS bus compound. The proposal does not appear to require any traffic mitigation measures. Lighting will comply with LDC 4.1.3. The proposal allows for the introduction of a variety of housing types in the community where it would otherwise be homogenous R-4 development. The proposal is for medium density residential consistent with the adjacent development to the north and located within proximity to employment centers. The proposal allows for the introduction of a variety of housing types in the community which may include housing for the elderly or persons with disabilities. The proposal allows for the introduction of a variety of housing types in the community which may include appropriate/inclusive housing. The proposal provides appropriate transitions between uses that are substantially different in scale and intensity or density of development as open space has been provided adjacent to the JCPS bus compound and protected waterway provides transitions from the employment center. The proposal mitigates the impacts caused when incompatible developments unavoidably occur adjacent to one another as open space has been provided adjacent to the JCPS bus compound and protected waterway provides transitions from the employment center. Structures will be setback as required by the Land Development, neighborhood form district design standards for residential development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space guideline because open space is provided in a manner that does not serve the community as it is to the rear of lots and does not function. The lotting pattern is compatible as well. There is no established pattern of open space within the nearby workplace form; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Natural Areas and Scenic Historic Resources guideline because historic resources are present on the subject property. All proper documentation prior to demolition will be provided; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Circulation guideline 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 through physical improvements to these facilities, contribution of money, or other means. 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 the development does not inappropriately provide stub roadways in environmentally constrained areas or to areas that encroach upon industrial expansion of the workplace to the south of the existing extent. Connectivity of each section would result in further environmental degradation. The proposal includes the dedication of rights-of-way for street, transit corridors, bikeway and walkway facilities within or abutting the development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Transportation Facility Design guideline because adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land as the development does not inappropriately provide stub roadways in environmentally constrained areas or to areas that encroach upon industrial expansion of the workplace to the south of the existing extent. Access is through areas of similar intensity and density. The development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site as the development does not inappropriately provide stub roadways in environmentally constrained areas or to areas that encroach upon industrial expansion of the workplace to the south of the existing extent. Connectivity of each section would result in further environmental degradation; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because the proposal provides, where appropriate, for the movement of pedestrians, bicyclists and transit users around and through the development as sidewalks are provided along all road frontages and connections have been made to adjacent land. TARC service is not available; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater guideline because the proposal's drainage plans have been approved by MSD. As a result of channelization of water flow from Mud Lane there is a likelihood that the peak flow will not increase on properties to the North of the subdivision but the duration of flow will increase. In the event of heavy rainfall and

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improper maintenance of the outlet along Mud Lane there is also potential for back-up of this flow onto properties on the Southside of Mud Lane, as well as a potential for lots around the open space area to flood in the event that floodplain basins fill to capacity. MSD will monitor the situation closely at the time of construction plan submittal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because natural corridors for protected waterway to the east of the proposed development is being preserved; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Infrastructure guideline because the proposal is located in an area served by existing utilities or planned for utilities. The proposal will have access to an adequate supply of potable water and water for fire-fighting purposes. The proposal will have adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams. MSD will monitor the situation closely at the time of construction plan submittal.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the subject property is located in the Suburban Workplace Form District, which is characterized by predominately residential uses from low to high density. This proposed R-5 subdivision is a low density one, although developed in accordance with a zoning district other than standard R-4. This means that actual gross density of 3.63 du/acre achieved is lower than the potential gross density under R-4 which could be as high as 4.84 du/acre. The purpose of the change is zoning is not to increase density, but to provide the more marketable smaller lot width lot with more open space in the development. The applicant could have chosen the "alternative development incentives (ADI) regulation" or "conservation subdivision regulation", or it could've applied for "PRD" rezoning. But those regulations either require affordable components not appropriate for this location or were not available for us when planning on this site began. Furthermore, R-5 is available, well-known, understood and easy to apply at this site, and there are other residential developments in the area that are zoned R-6 and R-5A; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Compatibility guideline because the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 21, 22 and 23 of Guideline 3 for these reasons.

This low density residential subdivision adds to the desired mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials. The proposed subdivision does not involve any known nuisances, such as odors, noises, lighting, aesthetics or traffic different than what already exists in the greater area. Setbacks will include compatible side and rear yards, and the LDC tree

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canopy and landscape regulations will apply. The detailed district development/preliminary subdivision plan (DDDP), neighborhood meeting Power Point and home design elevations filed with and to be later reviewed with this application demonstrate all that; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Open Space and Natural Areas and Scenic Historic Resources guideline because the proposed subdivision and its DDDP comply with all applicable Intents and Policies 1, 2 3, 4, 5, 6, and 7 of Guideline 4 and Policies 1 and of Guideline 5 for these reasons.

Unlike most standard single-family subdivisions, this one includes some meaningful interior and perimeter open space, conserving some natural resources and features, assuring good transitions to neighboring properties and providing for passive outdoor activities off residents' individual home lots. That assures for better buffers and a far superior neighborhood look and feel. The homeowners association will maintain these open areas.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Economic Growth and Sustainability guideline because the proposed subdivision complies with all of the applicable Intents and Policies 2, 5, and 11 of Guideline 6 for these reasons:

This proposed subdivision helps to ensure the availability of residential building lots where lots are in high demand, meaning near the many businesses along Blue Lick Road, Mud Lane and Preston Highway. This land is surrounded by like-kind subdivisions. That makes it an infill single-family residential site, appropriate for the area in the larger community, where new single- family housing is in greatest demand; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Guideline 7 and 8 - Circulation and Transportation Facility Design; Guideline 9 - Bicycle, Pedestrian and Transit; Guideline 12 – Air Quality because the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 4, 6, 9, 11, 13, 14, 15, and 18 of Guideline 7; Policies 4, 5, 7, 8, 9, 10 and 11 of Guideline 8; Policies 1, 2, 3 and 4 of Guideline 9; and Policies 1, 2, 3, 4, 6, and 8 of Guideline 12 for these reasons; and

This subdivision is situated on a primary collector street (Mud Lane), where sewer, water and other utilities already exist, where road capacity exists, and in close proximity to jobs and shopping in all directions, especially as noted hereinabove. Further, this DDDP will be reviewed by Metro Transportation Planning personnel, who must stamp the preliminary plan for approval prior to its docketing for Planning Commission review.

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That assures that all of these applicable Public Works standards are complied with, including regulatory standards of the Land Development Code (LDC).

In that regard, the proposed subdivision will assure that both existing Mud Lane and Blue Lick Road accesses and new subdivision streets are constructed to operate safely and to function at relatively low volumes, as neighborhood serving streets are expected to function. Thus, all negative traffic impacts are avoided with this development. And, as noted, design of the site, as shown on the DOOP accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Flooding and Stormwater and Air Quality guidelines because the proposed DDDP complies with all applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 for these reasons.

MSD will require that post-development peak rates of stormwater runoff do not exceed pre- development peak flows. That is accomplished through on-site detention. Thus, new impervious areas will not have a negative impact on existing stormwater systems. Also, MSD will have to stamp for preliminary approval the DDDP before it is set for Planning Commission review. And at time of construction, the proposed subdivision will need to include water quality measures to address the new MSD water quality standards. Any new construction will have to comply with MSD's soil erosion and sediment control standards; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Landscape Character guideline because the proposed subdivision complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 for these reasons.

The local LDC requires tree canopies, certain kinds of interior and perimeter landscaping. Accordingly, the LDC will be fully complied with.

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, Daniels, Lewis, Tomes and Jarboe
NOT PRESENT AND NOT VOTING: Commissioners Howard, Peterson, Robinson and Smith

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District Development Plan/Preliminary Subdivision Plan

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

WHEREAS, the site contains natural features that may be significantly impacted by the proposed subdivision, specifically a water corridor that flows from Mud Lane to the open space area that separates the two sections. The channelization of water flow from Mud Lane will likely not increase the peak flow on properties to the North of the subdivision, but the duration of flow will increase. In the event of heavy rainfall and improper maintenance of the outlet along Mud Lane there is also potential for back-up of this flow onto properties on the Southside of Mud, as well as a potential for lots around the open space area to flood in the event that floodplain basins fill to capacity; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided.

WHEREAS, open space is not required of the proposed development. The proposal does provide open areas in locations of stream corridors; and

WHEREAS, 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. The site contains natural features that may be significantly impacted by the proposed subdivision, specifically a water corridor that flows from Mud Lane to the open space area that separates the two sections. The channelization of water flow from Mud Lane will likely not increase the peak flow on properties to the North of the subdivision, but the duration of flow will increase. In the event of heavy rainfall and improper maintenance of the outlet along Mud Lane there is also potential for back-up of this flow onto properties on the Southside of Mud, as well as a potential for lots around the open space area to flood in the event that floodplain basins fill to capacity. MSD will monitor this situation closely at the time of construction plan approval; and

WHEREAS, the Louisville Metro Planning Commission finds, the proposal is generally compatible within the scale and site design of nearby existing development as adjacent subdivision layouts to the north of the subject site are consistent with proposed layout. Future building design will be compliant with residential site design standards contained in LDC 5.4.2. Structures will be setback as required by the Land Development Code, neighborhood form district design standards for residential development; and

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WHEREAS, the Louisville Metro Planning Commission further finds the plan generally conforms to the comprehensive plan as demonstrated in the Cornerstone 2020 Staff Analysis included as Attachment 3 of the staff report.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the District Development Plan/Preliminary 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. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - 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.
3. 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.
4. 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

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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.

5. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 21, 2019 Planning Commission meeting.
6. 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."
7. 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.
8. 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.
9. 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.
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.
 3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

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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.

The vote was as follows:

YES: Commissioners Brown, Carlson, Daniels, Lewis, Tomes and Jarboe

NOT PRESENT AND NOT VOTING: Commissioners Howard, Peterson, Robinson and Smith