

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

Request: Change in zoning from R-4 to PRD, with Detailed District Development Plan/Major Preliminary Subdivision and Binding Elements, and Waiver

Project Name: Crosby Farm Subdivision

Location: 9300 Old Bardstown Road & Parcel ID 066600250000

Owner: Quartz Enterprises Inc.

Applicant: Quartz Enterprises Inc.

Representative: Mindel Scott & Associates

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

Case Manager: Dante St. Germain, 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:

03:09:34 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kathy Linares, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

Kathy Linares gave a power point presentation. She listed some criteria they are meeting following the Comprehensive Plan 2040. The open space is very significant (~25%) (see recording for detailed presentation).

David Mindel said the Louisville Water Co. has run tests concerning low water pressure (see recording for detailed presentation).

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

Kathy Linares and David Mindel discussed the turning lane (see recording for detailed presentation).

The following spoke in opposition to this request:

Christy Justice, 9912 Tuscany Ridge Drive, Louisville, Ky. 40291
Kelly Bowman, 11111 Kaufman Farm Drive, Louisville, Ky. 40291
Tamara Guelda, 9218 Fairmount Road, Louisville, Ky. 40291

Summary of testimony of those in opposition:

Christy Justice stated the water pressure is very poor. Other issues include: traffic; blasting caused damage in past to foundation; erosion in driveway; and grading issues (see recording for detailed presentation).

Kelly Bowman stated she is very fearful of another development being done by Fisher Homes and the quality of their homes because of their haphazard approach to building. "Fisher Homes will wipe their hands clean of any responsibility and walk away like they've done with our neighborhood in the past." (see recording for detailed presentation).

Tamara Guelda is concerned about the traffic (horrific). There's a lot more retail being added to Old Bardstown Rd. (see recording for detailed presentation).

Rebuttal

David Mindel said the traffic will be helped by connectivity. There will be a storm line and pick up flow with catch basins and all that water will be going underground. There will be a pre-blast survey, which is required by the Ky. Dept. of Mining. Commissioner Carlson requests a binding element that would require the developer to offer a pre-blast survey to anyone within 500-feet of where blasting occurs.

Deliberation

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.

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

Zoning Change from R-4 Single Family Residential to PRD Planned Residential Development

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution based on the Plan 2040 Staff Analysis, testimony and evidence provided today was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not for higher density or intensity use; the proposal is not substantially different in scale or intensity or density compared with the development around it; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would permit new development providing residential uses; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is not for higher density or intensity zoning; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development is through areas of similar intensity and density; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the site is easily accessible by car. The proposal would increase the accessibility of the neighborhood by bicycle, pedestrians and people with disabilities. Bardstown Road is a transit corridor that can be reached by going through the connected neighborhoods to the intersection at Fairmount Road; Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the site is largely cleared at this time and tree canopy will be provided with the development; no karst features are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit a variety of housing types within the same development; the proposal would support aging in place by providing smaller, lower-cost homes in an established neighborhood, thereby increasing housing choice for persons who may wish to remain in the neighborhood as they age; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational mixed-income development. The site is connected to the neighborhood and the surrounding area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in the neighborhood, and within Louisville Metro; no existing residents would be displaced by the proposal; the proposal would permit innovative methods of housing.

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 PRD, Planned Residential Development on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Mims, Seitz and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Peterson and Sistrunk

Waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (21-WAIVER-0056)

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

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

WHEREAS, the waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property; and

WHEREAS, the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards; and

WHEREAS, the Louisville Metro Planning Commission further finds strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring excess rear yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (21-WAIVER-0056).

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Mims, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Peterson and Sistrunk

Detailed District Development Plan/Major Preliminary Subdivision with Binding Elements

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

WHEREAS, the site is lightly wooded and few natural resources exist on the site currently. Required tree canopy will be provided; and

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan; and

WHEREAS, open space is being provided in compliance with the requirements of the Land Development Code; 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 is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting semi-detached houses in an area predominantly developed with single-family and large-lot single-family residences; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040 with the exception of the requested waiver.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision Plan, **SUBJECT** to the following Binding Elements:

1. 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.
2. 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.
3. 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

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

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.

4. 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, maintenance of trees and fences within buffer areas and other issues required by these binding elements / conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

5. 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.

6. 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.

7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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 areas."

8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

approved tree preservation plan. The plan shall exhibit the following information:

- a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
- b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
- c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
- d. Location of construction fencing for each tree/tree mass designated to be preserved.

9. 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.

10. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

11. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.

12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.

13. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

14. The applicant shall install signs, each to be located within the public right-of-way at the terminuses of Streets B, C, D, E and F, and at the southern terminus of the Kaufman Farm Drive extension. These signs shall indicate that these streets shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department and shall be installed prior to release of bonds for the installation of the street infrastructure.

15. 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.

16. 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 larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

17. PRD Transfer of Infrastructure Binding Element 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.

18. Above and below ground obstructions (including but not limited to fire hydrants, valves, utility poles, guy wires, pad transformers, splice and pull boxes, light standards, buildings, pools, ponds, trees, drainage culverts, and shrubbery) shall not be permitted on LG&E's right-of-way, easement or lease area without

PLANNING COMMISSION MINUTES
August 19, 2021

PUBLIC HEARING

21-ZONE-0052

LG&E's express prior written approval. Any obstructions allowed by LG&E are subject to future removal by LG&E for purposes of pipeline maintenance or construction and LG&E shall not be liable for their replacement. This restriction shall be clearly noted on the recorded plat of the development and shall be written into the CCRs. Purchasers of lots 51, 85, 86, 87, 90 and 91 shall be notified by the Developer of this restriction until such time as control of the development passes to the homeowners' association; the homeowners association shall be responsible for notification thereafter. Purchasers of the affected lots shall also be informed as to the signs of a gas pipeline leak (smell of gas, bubbling after rain, discolored or dead grass over the pipeline) and referred to LG&E for more information.

19. The left-turn lane as shown on the development plan shall be constructed as depicted prior to issuance of the 60th Certificate of Occupancy.

20. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky Blasting Regulations.

The vote was as follows:

YES: Commissioners Carlson, Daniels, Howard, Mims, Seitz and Lewis
NOT PRESENT AND NOT VOTING: Commissioners Brown, Clare, Peterson and Sistrunk