

PLANNING COMMISSION MINUTES
April 2, 2015

PUBLIC HEARING

CASE NO. 14ZONE1060

Request: Change in zoning from R-4 to R-6 and Detailed District
Development Plan

Project Name: Springs at Bunsen Parkway

Location: 9120 Blowing Tree Road

Owner: Margaret Thieneman and The Thieneman Family Limited
Partnership
3006 Corran Road
Louisville, Ky. 40205

Applicant: Continental 325 Fund LLC
Sara L. Johnson
W134N8675 Executive Parkway
Menomonee Falls, WI 53051

Representative: Bill Bardenwerper
1000 North Hurstbourne Parkway
Louisville, Ky. 40223

Jurisdiction: Louisville

Council District: 18 – Marilyn Parker

Case Manager: Christopher Brown, 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:

00:42:24 Mr. Brown discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Jim Lobb, Weber and Rose, 471 West Main Street, Suite 400, Louisville, Ky. 40202

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Summary of testimony of those in favor:

00:53:35 Mr. Bardenwerper stated that binding element number 8 will be deleted because it's a repeat of binding element number 15. Binding element number 16 (after renumbering) needs to be revised. The changes to the plan were made and distributed to Mr. Brown and Public Works.

00:56:17 Mr. Lobb represents Hurstbourne Acres. "I know the Hurstbourne Study and KIPDA anticipate that the connector between Bunsen and Taylorsville Rd. would not be the existing Blowing Tree Rd., but a separate road that runs parallel to that."

Mr. Lobb stated that Hurstbourne Acres does not want ingress or egress out of this development onto the existing Blowing Tree Rd.

The following spoke in opposition of this request:

No one.

Deliberation

01:09:37 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-6

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, The site is located in the Campus Form District and the Campus Form Districts typically contain a mixture of uses that are clustered for a single or predominant function, often of regional importance, such as a university, a hospital complex or an office development for corporate headquarters. A mixture of uses is encouraged and may include residential (e.g., student housing) or commercial, but the uses primarily should serve the people whom work or live on the Campus. The form should be compact and walkable, with multiple buildings, central gathering areas, extensive open space, internal shared parking, private walkways and roadways, and shared utilities and signage. Some Campus form districts may need significant buffering from abutting uses. Campuses may include entry roads as part of an internal system of interconnected streets; and

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WHEREAS, The proposal to rezone the subject site from R-4, Single Family Residential, to R-6, Multi-Family Residential would create an additional mix of residentially zoned property that could include possible housing associated with the office and commercial uses located to the east and south from Bunsen Parkway to the nearby Hurstbourne Parkway corridor. The Campus form district encourages a mix of uses, including residential, that are designed to support those individuals who live and work in the Campus. The proposed rezoning integrates into an area of mixed office and residential uses along Bunsen Parkway; and

WHEREAS, The applicant has demonstrated compliance with **Guideline 1, Community Form**, since the proposed rezoning integrates into an area of mixed residential and office uses at the terminus of Bunsen Parkway. There is existing single and multi-family residential in the vicinity that support the nearby office as well as commercial uses closer to Hurstbourne Parkway. The proposal is compact on the 19.42 acre site with private walkways connecting the various buildings on the property. There is a large open space area within the interior of the site as well as central gathering areas. ROW will be reserved for possible future expansions of Blowing Tree Road and Bunsen Parkway. Pedestrian connectivity will be provided from the site to both frontages at the entrance and emergency entrance with gate; and

WHEREAS, The applicant has demonstrated that the proposed R-6 zoning district will comply with **Guideline 2, Centers** and **Guideline 3, Compatibility**. The applicant has provided for all methods of transportation and easy access to the site for all modes of transportation. There is pedestrian connectivity to both street frontages at the entry points. There is no pedestrian connectivity proposed along the remaining frontage from Blowing Tree Road but it would be built with any future road expansion. No transit routes exist along either roadway connecting to the site. It is not currently an activity center but the expansion of surrounding roadways in the future could lead to additional activity and/or possibly transit connectivity. One full vehicular entryway will be provided with a secondary emergency access. The proposal incorporates residential use that could serve the surrounding office uses within the Campus Form District. The site is designed around a central open space feature as emphasized within the Campus Form District. The property is located within a transition zone between the neighborhood and campus form districts. It follows the required setbacks of the neighborhood form district as and incorporates into the surrounding developmental pattern; and

WHEREAS, The proposal has some issues in its compliance with **Guideline 5, Natural Areas and Scenic and Historic Resources**, of the Comprehensive Plan. The main home on the site is a potentially eligible historic resource as an example of rural agricultural resources. Historic Preservation staff recommends adaptive re-use of the structure instead of demolition. The circa 1910 house could be reused and incorporated

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into the proposal. The applicant has planned to demolish this structure. The applicant will be providing natural areas of tree canopy and the pond area within the property.

WHEREAS, the Louisville Metro Planning Commission finds, the applicant has demonstrated compliance with **Guidelines 7, 8, and 9** of the Comprehensive Plan. ROW will be dedicated along Bunsen Parkway and ROW will be reserved along Blowing Tree Road to allow potential future roadway improvements. There is continuous connectivity throughout the site and access to both surrounding roadways. Cross access or dedication will be established for the Bunsen Parkway entrance. There is pedestrian connectivity to both street frontages at the entry points and throughout the site; and

WHEREAS, the Louisville Metro Planning Commission further finds, all other agency comments should be addressed to demonstrate compliance with the remaining Guidelines and Policies of Cornerstone 2020.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council, **APPROVAL** of the change in zoning from R-4 to R-6 based on the staff report, testimony and the applicant's justification for Case No. 14ZONE1060.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tomes, Turner and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioner Butler

ABSTAINING: No one

Landscape Waiver

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, The waiver will not adversely affect adjacent property owners since the required screening and planting materials will be provided by the applicant; and

WHEREAS, Guideline 3, policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, policies 21 and 22 calls for

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appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants. The waiver will not violate specific guidelines of Cornerstone 2020 since the intent of the buffer will be met with the required screening and planting materials; 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 to allow the buffering to be provided while meeting the parking requirements as well as area for ROW reservation; and

WHEREAS, the Louisville Metro Planning Commission further finds the 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 elimination of a parking row and the associated drive aisle adjacent to Blowing Tree Road.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Landscape Waiver from Chapter 10.2.10 to allow a variable width VUA LBA along the ROW reservation and dedication area for the possible Blowing Tree Road extension based on the staff report, the testimony heard today and the applicant's justification

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tomes, Turner and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioner Butler

ABSTAINING: No one

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Detailed District Development Plan

On a motion by Commissioner White, seconded by Commissioner Jarboe, the following resolution was adopted.

WHEREAS, There does not appear to be any environmental constraints on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site. There is a potentially eligible historic resource as an example of rural agricultural resources. Historic Preservation staff recommended adaptive re-use of the structure instead of demolition; 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 and the Kentucky Transportation Cabinet have approved the preliminary development plan; and

WHEREAS, Open space requirements have been met for the proposed development; 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; 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 and parking lots will meet all required setbacks; and

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 Detailed District Development Plan and the binding elements listed in the staff report with the following changes agreed to by the applicant's attorney and the City of Hurstbourne Acre's attorney: strike binding element number 8; binding element number 10 will be modified – The developer shall connect to the existing Blowing Tree Road for the sole purpose of allowing locked gate access for emergency responders.; binding element number 11 will be modified – The locked gate access on Blowing Tree Road shall not be modified to allow access to and from the site from Blowing Tree Road as a

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way of accessing Taylorsville Road; binding element number 12 will be stricken; binding element number 13 – The developer shall install MUTCD compliant barriers at the end of Blowing Tree Road, next to lot 123, to prevent current Blowing Tree Road from being extended formally or informally through to Bunsen Parkway; binding element number 17 (added by Commissioner Brown) – The hatched area within the future Bunsen Parkway Corridor shall be dedicated at the owner's expense within 60 days of written request from Public Works for the Kentucky Transportation Cabinet. These are based on the testimony heard today and the applicant's justification.

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 density of the development shall not exceed 14.62 dwelling units per acre **(284 units on 19.43 acres)**.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Develop Louisville 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

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implemented prior to occupancy of the site and shall be maintained thereafter.

5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 19th, 2015 Planning Commission meeting.
- ~~8. As noted and shown on the development plan, there shall be 45' right-of-way reservation for the Blowing Tree Rd extension from the current right-of-way terminus easterly to Bunsen Pkwy. Nothing can be built within this area to prevent or hinder the future extension.~~
9. The proposed zone change will affect a previously undocumented historic resource. Since this site is proposed to be developed, the applicant shall ensure that the site will be documented at the National Register level which includes photographs and a historic context. Staff can provide a list of preservation professionals that would be qualified to complete the type of documentation requested. All materials shall be completed and submitted to Historic Preservation Staff prior to ground disturbance and demolition.
10. The developer shall connect to the existing Blowing Tree Road for the sole purpose of allowing locked gate access for emergency responders

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11. The locked gate access on Blowing Tree Road shall not be modified to allow access to and from the site from Blowing Tree Road as a way of accessing Taylorsville Road.
12. ~~Apartment dwellers shall access the facility solely through a connection to Bunsen Parkway.~~
13. The developer shall install MUTCD compliant barriers at the end of Blowing Tree Road, next to lot 123, to prevent current Blowing Tree Road from being extended formally or informally through to Bunsen Parkway
14. The developer shall remove the graveled roadway that currently extends Blowing Tree Road north beyond Lot 123, and sod and landscape area.
15. Applicant shall dedicate the area shown as “reserved” on the detailed district development plan to public right of way prior to construction plan approval and agree to maintain the dedicated property until the earlier of such time as Louisville Metro Public Works agrees in writing to accept maintenance of the dedicated property or construction commences on the planned connector road running between Taylorsville Road and Bunsen Parkway (Stony Brook/Blowing Tree).
16. Property owner shall be responsible for the site entrance reconstruction within their property limits to accommodate the future Blowing Tree and Bunsen Pkwy extensions.
17. The hatched area within the future Bunsen Parkway Corridor shall be dedicated at the owner’s expense within 60 days of written request from Public Works for the Kentucky Transportation Cabinet.

The vote was as follows:

YES: Commissioners Blake, Brown, Jarboe, Kirchdorfer, Peterson, Proffitt, Tomes, Turner and White

NO: No one

NOT PRESENT AND NOT VOTING: Commissioner Butler

ABSTAINING: No one