

**PLANNING COMMISSION MINUTES
MAY 10, 2018**

PUBLIC HEARING

CASE NO. 18ZONE1011

Request: Change in zoning from R-5A to PRD and a Revised Detailed District Development Plan
Project Name: Moss Creek
Location: 6110 Goalby Drive
Owner: Moss Creek Enterprises, LLC
Applicant: Moss Creek Enterprises, LLC
Representative: Dinsmore & Shohl, LLP
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell

Case Manager: Joel Dock, 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:

02:30:22 Joel Dock presented the case and showed a Power Point presentation (see staff report and recording for detailed presentation.)

The following spoke in favor of this request:

Clifford Ashburner, Dinsmore & Shohl, 101 South Fifth Street Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:32:30 Clifford Ashburner, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

02:35:22 Mr. Ashburner pointed out two issues with binding elements in the staff report:
Proposed adding one sentence to binding element #, to read as follows:
11. The structures shall appear substantially similar to the renderings submitted at the July 21, 2005 and May 20, 2015 public hearing. All condominium structures shall be principally faced on all four sides with brick but may also feature accent treatments, gable details, cornices and so forth of other possible building materials such as vinyl. **Structures on Lot 11 shall appear substantially similar to the building elevations submitted at the May 10, 2018 public hearing.**

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Eliminate BE #13 regarding signature entrances.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

02:37:42 The Commissioners concur that the proposal is justified.

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 from R-5A, Multi-family Residential to PRD, Planned Residential Development

02:39:53 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Staff Analysis, evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that that the proposal meets the intents of Guideline 1: Community Form because The PRD district supports a mix of choices and allows for the incorporation of a new style of housing to this multi-family development; the PRD zoning district allows for a maximum density of 7.26 du/ac. It is located in area with a limited impact on surrounding properties and is in a location that provides access to commercial services; the housing style proposed does not appear to be venture too far from the previously approved multi-family layout. The new style will add to the diversity of opportunity for potential home owners and/or tenants and will be compatible with nearby development; and the majority of the streets on this site have been constructed and sidewalks are provided throughout the development to enhance pedestrian connectivity; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers because the proposed change in zoning constitutes an increase in density which will have limited impact on adjacent residential uses. Greenwood Road is a minor arterial; an activity center serves the development at the intersection of Greenwood and Terry Roads; proposed rezoning is for low-density (7.26 du/ac) attached unit development; the proposed PRD 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; proposed rezoning is for low-density (7.26 du/ac) attached unit development; proposed rezoning is for low-density (7.26 du/ac) single-family subdivision; connections or stubs to adjacent properties are provided where possible to encourage cross access and support the development of adjacent lands; utility easements are provided and would allow for extensions to adjacent developments; parking is adequately accounted for on the subject site. The proposed

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units will provide individual driveways and garages to serve the units; and sidewalks within the development allow for connection to an activity center serves the development at the intersection of Greenwood and Terry Roads; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3: Compatibility because The proposal is generally compatible within the scale and site design of nearby existing development and with the form district's pattern of development. The proposed PRD is allows for the integration of single- family residence within a multi-family development; the proposed building materials increase the new development's compatibility; the style of the proposed use allows for a transition from multi-family to adjoin single-family lots and provides buffering and landscaping previously proposed; traffic will be no greater than previously would have existed from the proposed multi-family use on-site; light trespass requirements of the Land Development Code will adequately mitigate adverse impacts of lighting.; the proposal includes a variety of housing types, including, but not limited to, single family detached, single family attached, multi-family, zero lot line, average lot, cluster and accessory residential structures, that reflect the form district pattern. The proposal introduces single- family attached units onto a multi-family development; the proposed land use is a lower density than that of the existing; the PRD district supports a mix of choices and allows for the incorporation of a new style of housing to this multi-family development; the addition of the proposed units and zoning district allows for a wider choice in housing options for population in the area; appropriate transitions will be provided to adjacent uses; the proposed land use is less dense than the existing zoning district and its impact would be limited; setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards; and residential site design standards of LDC 5.4.2 are applicable; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 4: Open Space because open space is being provided to meet the needs of the proposed district; open space design is consistent with the pattern of development in the Neighborhood Form District; and tree canopy is being provided as required; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 5: Natural Areas and Scenic and Historic Resources because tree canopy is being provided as required and the site does not appear to contain any sensitive natural features; staff of Historic Preservation has reviewed the preliminary development plan and found that the proposed zoning change will not affect any known cultural or historic resources; and the site does not appear to contain any sensitive natural features related to soils and permeability; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the majority of the streets on this site have been constructed and sidewalks are provided throughout the development; the majority of the streets on this site have been constructed and sidewalks are provided throughout the development support access to surrounding land uses, and contribute to the appropriate development of adjacent lands; and the majority of the streets on this site have been constructed and sidewalks are provided throughout the development; and

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WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because the majority of the streets on this site have been constructed and sidewalks are provided throughout the development. Stub streets have been provided to connect to existing infrastructure; the PRD portion of this multi-family development site are through areas of similar intensity; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the majority of the streets on this site have been constructed and sidewalks are provided throughout the development to promote the movement of pedestrians, bicyclists and transit users around and through the development; 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

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13: Landscape Character because there are no natural corridors for habitat or migration on the site; 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 site has existing 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-5A, Multi-family Residential to PRD, Planned Residential Development be approved.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.

Revised Detailed District Development Plan and Binding Elements

02:40:28 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, evidence and testimony heard today, was adopted:

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WHEREAS, the Louisville Metro Planning Commission finds that there are no features of historic significance on the property and no apparent natural resources. Open space, landscaping, and tree canopy are being provided as required; 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 the majority of the streets on this site have been constructed and sidewalks are provided throughout the development to enhance pedestrian connectivity; and

WHEREAS, the Commission further finds that open space, landscaping, and tree canopy are being provided as required; 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 housing style proposed does not appear to be venture too far from the previously approved multi-family layout. The new style will add to the diversity of opportunity for potential home owners and/or tenants. Setbacks, lot dimensions and building heights are compatible with those of nearby developments that meet form district standards. Residential site design standards of LDC 5.4.2 are applicable; 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 Revised 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. The density of the development shall not exceed 7.0 7.9 dwelling units per acre (195 221 units on 27.9 acres).
3. Except for for-sale/development advertisement and signature entrance signs permitted by the Land Development Code, no outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site, except a signature entrance.

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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, or site disturbance permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
6. If a clearing, grading or site construction permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
7. 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.
8. 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.
9. The applicant shall provide documentation showing that the development complies with all the regulations from Chapter 4, Part 1, Section 3, Lighting, prior to the issuance of a construction permit. These regulations include the following items: Mounting Height Limit, Luminaire Shielding, Canopy Lighting Level, and Light Trespass.
11. The structures shall appear substantially similar to the renderings submitted at the July 21, 2005 and May 20, 2015 public hearing. All condominium structures shall be

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principally faced on all four sides with brick but may also feature accent treatments, gable details, cornices and so forth of other possible building materials such as vinyl. Structures on Lot 11 shall appear substantially similar to the building elevations submitted at the May 10, 2018 public hearing.

12. The address number shall be displayed on all structures prior to requesting a certificate of occupancy for that structure. Street signs shall also be installed prior to the issuance of a certificate of occupancy.
13. Street trees and screening along the development's perimeter shall be as depicted on the colored site plan and other landscape elevations presented at the July 21, 2005 public hearing.
14. There shall be no construction entrance other than at Greenwood Road.

The vote was as follows:

YES: Commissioners Brown, Howard, Smith, Carlson, Peterson, Ferguson, Jarboe, and Tomes.

NOT PRESENT: Commissioner Lewis.