

**Planning Commission Minutes
July 20, 2017**

Public Hearing

Case No. 17ZONE1006

Request: Change in zoning from R-4 to R-5A, a Detailed District Development Plan, and a Major Preliminary Subdivision Plan.

Project Name: Villas of Beaumont

Location: 8602 Old Bardstown Road

Owner: Monsour Builders, Inc.

Applicant: SFLS, LLC

Representative: William Bardenwerper – Bardenwerper, Talbott & Roberts PLLC

Jurisdiction: Louisville Metro

Council District: 22 – Robin Engel

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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

An audio/visual recording of the Planning Commission public 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.

Agency Testimony:

01:18:28 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 the request:

William Bardenwerper, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway 2nd Floor, Louisville, KY 40223

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

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Summary of testimony of those in favor of the request:

01:24:09 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.)

01:34:37 Kathy Linares, another applicant's representative, answered a question from Commissioner Brown about the design of the driveways on the public roadway section. She added that the changes requested at the LD&T meeting have been updated in the file.

The following spoke in opposition to the request:

No one spoke.

The following spoke neither for nor against the request ("Other"):

Angeleta Hendrickson, Executive Director of Traditions at Beaumont, 10210 Long Home Road, Louisville, KY 40291

Summary of testimony of those in favor of the request:

01:35:37 Angeleta Hendrickson said she was present as an advocate for the residents of Traditions at Beaumont. She said the residents are mobile and active and there is much senior pedestrian activity. She expressed concern about construction traffic, safety issues, and noise. She suggested making construction traffic enter off Gentry Lane instead.

Rebuttal:

01:38:28 Mr. Bardenwerper said he could see if there was a way that the construction traffic could gain access using the Water Company property (see recording for detailed location and discussion about this.)

01:42:56 Commissioner Brown and Commissioner Carlson discussed speed humps as a safety measure.

01:44:08 Ms. Hendrickson said she thinks utilizing the Water Company tower access road is a great idea, and would take care of the construction traffic problem.

Deliberation:

01:44:59 Commissioners' deliberation.

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Zoning

01:46:46 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of **Guideline 1 - Community Form**. SFLS, LLC (“SFLS”) proposes a residential condominium community, consisting of 58 patio home style condominium units on 12.35 +/- gross acres at the Sanctuary Lane stub that runs from Old Bardstown Road through the Beaumont senior living community and also through the Glenmary Commons subdivision; and

WHEREAS, the Commission further finds that the subject property lies within the Neighborhood Form District and is located just west of Bardstown Road near the intersection of Long Home Road; direct access to the property via the site’s location near Old Bardstown Road ensures easy access to the Gene Snyder Freeway, to the Fern Creek town center just north of the Gene Snyder Freeway, and to a variety of significant emerging retail shopping along the Bardstown Road corridor south of the Snyder Freeway; this proposal will provide this area with new, attractive, housing choices for residents who desire to live in this community but prefer lower maintenance, less demanding condominium style living; residents of the proposed residential condominium community will include mostly “empty-nesters,” that is to say, a few young childless singles and mostly older, often retired, singles and couples; the expansion of services and infrastructure in this south Fern Creek/Cedar Creek area makes this area extremely popular, as demonstrated by the success of multiple communities now utilizing the “Glenmary” name; and

WHEREAS, the Commission further finds that SFLS proposes 2 and 4-plex patio home style buildings in which each unit will have a garage; SFLS proposes a gross density of 4.70 dwelling units per acre (the upper end of the low density range); buildings will be constructed of attractive building materials (brick and/or siding) and will feature architectural details similar to those in other nearby residential neighborhoods in order to ensure that the scale and appearance of the development will be compatible with the existing communities in this area; and

WHEREAS, the Commission further finds that the condominium council of co-owners will contract with professional groundskeepers for care of the common

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areas including the entrance frontage, buffers and open space areas, as is typical for planned condominium communities; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 2 – Centers**. The proposed development conforms with the overall Intents and specifically with applicable Policies 4, 5, 12 and 14 of Guideline 2 Comprehensive Plan for all the reasons listed above and because it will make efficient use of available property that lies within the Neighborhood Form District and is located in an extremely popular area where residents currently seek new housing options and have easy access to Bardstown Road commercial and employment centers; the variety of condominium style homes that will be available at the development will diversify housing options in this area; future residents will also support the businesses and services in nearby activity centers; future residents will find that the ease of access to the Fern Creek town center plus south Bardstown Road commercial corridor and, via I-265, other nearby activity centers is an amenity; the proposed development will connect to existing utilities available at the applicant's cost, eliminating the need for costly utility extensions and reducing the overall public costs for infrastructure; and the landscaped, signature entrance and well-defined internal streets provided, as well as the architectural building style and natural open spaces provided within the community will combine to provide residents with a sense of place and recreational space; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 3 – Compatibility**. The proposed development conforms with the overall Intents and specifically with applicable Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 of the Comprehensive Plan for all the reasons described above and because the proposal is a low gross density of 4.70+/- dwelling units per acre, the applicant is providing a new public street to assure adequate street infrastructure, and the buildings will be one-story in scale and constructed with attractive building materials and in modern design styles to blend easily with adjoining neighborhoods; perimeter landscaping is provided along all property lines; the subject property is adjoined on the north and south sides by residential land uses and on the west by vacant residential land; duplexes and four-plexes plus different unit types will be available to support a better choice for housing options in this area; many "empty nester" residents prefer housing that provides them access to all the positive attributes of a specific community, but do not desire to purchase and maintain single family homes, thus requiring alternatives that support a better mixture of residential density and intensity land uses; and

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WHEREAS, the Commission further finds that sidewalks will be provided where required; this patio home community will connect to adjoining residential community; handicap parking, access for the disabled and other safety measures will be provided in accordance with the law; odor and air quality concerns related to traffic congestion or delay will be mitigated by the fact that internal road and any required sidewalks will be efficiently organized to control traffic flow and prevent delays with provision of multiple street connections to adjoining communities, sidewalks, and safe access for automobiles, pedestrians and bicycles; refuse will be picked up on a regular basis; and lighting will be residential in character in conformance with Land Development Code regulations; and because all signage will be in conformance with Land Development Code regulations; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 4 and 5 – Open Space and Natural Areas / Scenic and Historic Resources**. The proposed development conforms with the overall Intents and specifically with applicable Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 of the Comprehensive Plan for all the reasons described above and because it will feature open spaces interspersed among the buildings that will be available for passive use by residents and will serve to provide natural areas and an overall positive appearance for the community; landscaping will also be provided along property perimeters, along street frontage and around buildings; setbacks and buffers along property lines will ensure good transitions between the proposed development and existing land uses; maintenance of landscaping, natural and open space areas will be done by professionals and contracted for by the condominium council of co-owners; this maintenance arrangement will result in a higher and more consistent level of maintenance of the open spaces than if the property were developed as a single-family subdivision; and no portion of the subject property has been designated as a natural, historic or scenic preservation site; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 6 – Economic Growth and Sustainability**. The proposed development conforms with the overall Intents and specifically with applicable Policies 1, 2 and 6 of Guideline 6 of the Comprehensive Plan because, as noted above, future residents will support and be supported by the businesses, services, schools and churches in and around nearby activity centers; this proposal also reduces public costs for land development by utilizing connections to existing infrastructure for water, sewer, electric and phone services; and the development, as proposed, will provide easy access to Bardstown Road and I-265 and several other roads in the area, and from there to greater Louisville employment and commercial centers; and

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WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 7, 8, and 9 – Circulation; Transportation Facility Design; and Bicycle, Pedestrian and Transit.** The proposed development conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 of the Comprehensive Plan because the proposed development connects to existing streets, which will improve the efficiency of roadway infrastructure in the area as well as support good connectivity among neighborhoods; Old Bardstown Road is adequate to handle the amount of traffic generated by this proposal; the Detailed District Development Plan (DDDP) filed with this application received the preliminary stamp of approval from Metro Public Works and Transportation Planning prior to Planning Commission review of this application at the LD&T committee meeting and public hearing, thus demonstrating compliance with all MPWTP standards for connectivity, internal circulation, driveway design, sight distances, corner clearances, and alternative modes of transportation; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guidelines 10, 11, and 12 – Flooding and Stormwater; Water Quality; and Air Quality.** The proposed development conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 of the Comprehensive Plan because no portion of the site lies within the 100 year floodplain, all drainage will comply with MSD requirements, and the DDDP received a preliminary stamp of approval by MSD prior to review at the Planning Commission Public Hearing; post-development peak flows of storm water run-off may not exceed pre-development conditions, which will be assured through the MSD review of the DDDP; water quality will also be part of the construction plan design; Louisville Water Company will provide water to the site; and a soil erosion and sediment control plan will also be implemented prior to construction; and

WHEREAS, the Commission further finds that air quality will remain at good levels because, as noted above, the proposed internal road system, multiple street connections to adjoining neighborhoods and controlled entrance will distribute traffic to reduce air quality impacts relating to congestion or delays; condominium units generate much less traffic on a per unit basis than single family homes, and condominium residents generally do not have as large an impact on morning and evening peak hour traffic; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 13 – Landscape Character.** The proposed development conforms with the overall Intents and applicable Policies of Guideline 13 of the Comprehensive Plan for all the reasons described above and because

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landscaping will be provided around buildings, along internal streets, and along property perimeters as noted above and in accordance with the LDC; and tree canopy requirements will be met also in accordance with the LDC; and

WHEREAS, the Commission further finds that the proposal meets the intents of **Guideline 14 – Infrastructure**. The proposed development conforms with the overall Intents and applicable Policies of Guideline 14 of the Comprehensive Plan because, as noted above, water, sewer, electric and phone connections are available by nearby connection to ensure a reduced cost for infrastructure; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; 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-4 Single-Family Residential to R-5A, Multi-Family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Lindsey, Ferguson, Tomes, Carlson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.

ABSTAINING: No one.

Detailed District Development Plan and Major Preliminary Subdivision Plan

01:47:59 On a motion by Commissioner Carlson, seconded by Commissioner Lindsey, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that natural resources are being preserved on-site as a stub street is being routed elsewhere for the purpose of preserving a pond which allows for a natural habitat for wildlife. Tree canopy is being provided as required and there are no features of historical significance on the site; and

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WHEREAS, the Commission further finds that the provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community are provided as an internal network of roadway connections and walks are provided to abutting sites and the hierarchy of streets is maintained; and

WHEREAS, the Commission further finds that the provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development is provided through the preservation of roughly one-acre of land, tree canopy, and pond in the Southwest corner; and

WHEREAS, the Commission further finds that 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 Commission further finds that the proposal is compatible with respect to the overall site design (location of buildings, parking lots, screening, landscaping) and land use as the development is compatible in type and scale to surrounding uses, appropriate transitions are being made to abutting development, and renderings demonstrate that the proposed material and design is consistent with the surrounding area; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as the number of units proposed is similar to what would have been permitted under the existing R-4 zoning district, but the type of housing proposed necessitates a zoning change; attached side and/or rear wall without individual lots for units. Renderings provided demonstrate consistency with the surrounding area and no adverse impact on abutting properties would be generated as appropriate transitions are provided. The impact of this site on the single-family development in the PRD zoning district to the east is minimal as the subject site is being developed at a low-density; and

WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 and the Land Development Code are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Detailed District Development Plan **AND** a Major Preliminary

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Subdivision Plan for extension of public right-of-way, **SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. 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.
3. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits and Transportation Planning Review 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
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. A major subdivision plat creating the lots, easements, and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits
4. 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.

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5. 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.
6. The site shall be developed in accordance with the tree preservation areas delineated on the tree preservation/landscaping plan. Any modification of the tree preservation plan requested by the applicant may be approved by the designated DPDS staff if the changes are in keeping with the intent of the approved tree preservation plan
7. The following note shall be provided within the deed restrictions for the subject site prior to recording of the record plat:
 - a. Tree Canopy Protection Areas (TCPAs) are individual trees and/or groupings of trees (trees may be existing or proposed) designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code (LDC), and are to be permanently protected. There shall be no disturbance or removal of any trees in the TCPAs identified on the tree preservation/landscape plan on file in the offices of the Planning Commission. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of preliminary plan approval. No further clearing, grading, construction or other land disturbing activity shall take place beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved preliminary subdivision plan.
8. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.

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- 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 noise barriers, maintenance of WPAs, TCPAs 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.
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.

The vote was as follows:

YES: Commissioners Brown, Lindsey, Ferguson, Tomes, Carlson, and Jarboe.

NO: No one.

NOT PRESENT: Commissioners Lewis, Smith, Peterson, and Howard.

ABSTAINING: No one.