

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

Project Name: The Woods of Farnsley Moorman
Location: 6635 Woods Mill Drive
Owner(s): Corcoran Home Building & Remodeling
Applicant: Corcoran Home Building & Remodeling
Representative(s): Land Design & Development; Bardenwerper, Talbott & Roberts, PLLC
Project Area/Size: 13.2 acres
Jurisdiction: Louisville Metro
Council District: 14 – Cindi Fowler
Case Manager: Joel P. 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 meeting 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:

01:15:38 Joel Dock presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223
Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:21:45 Nick Pregliasco spoke on behalf of the applicant and showed a brief presentation.

01:29:43 Kevin Young with Land Design and Development spoke about the request and stated that trees have already been planted along Moorman Road so that a significant buffer will be established by the time buildings are constructed on this side of the site.

01:31:30 Commissioners' deliberation

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

01:34:29 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

Change in zoning from R-5A Multi-family Residential to PRD Planned Residential Development

WHEREAS, the Louisville Metro Planning Commission finds that the Woods of Farnsley Moorman residential community dates back to 2003 when a condominium development was approved for this site in case #9-45-01VLW and case #10-21- 01; no greater number of homes is planned now than the number of condo units approved and set forth in the binding elements found in the Planning Commission's April 3, 2003 minutes, and

WHEREAS, the Commission further finds that this application is intended to save the Woods of Farnsley Moorman condominium community that has a good deal of the infrastructure already installed but where condominium construction came to a screeching halt when the catastrophic housing Recession occurred, which somewhat lingers to this day; the previous developer/builder ended up losing its development rights to its lender, at which point the lender tried various ways to find new builders to complete the Woods of Farnsley Moorman as a condominium community; however, that was just about impossible, in large part because the problem with condominium construction resulted from federal lending rules that were applied nationwide, not just in those states (such as Florida, Arizona and Nevada) where the real condominium crisis occurred, and

WHEREAS, the Commission further finds that because very little changes in what is now being presented to the Planning Commission over what was originally approved, the modest concessions that are being requested in terms of a waiver for the maximum number of contiguous units resulting from this being originally designed as an attached housing community, represent no negative impacts on the greater community or anyone living nearby and consistent with what was approved and built; complete demonstration with all applicable Guidelines and Policies of the Comprehensive Plan is being fully demonstrated, as further evidenced by the revised detailed district development plan (RDDDP) and preliminary subdivision plans filed with this application and as further explained at the LD&T meeting and the Public Hearing in this case, and

WHEREAS, the Commission further finds that as part of this discussion, it is important again to know that the number of homes currently under consideration at Woods of Farnsley Moorman consist of only four additional homes than originally approved, and the traffic and transportation analysis approved at the time, considering existing infrastructure, can still accommodate both what is approved and what is proposed, and

PLANNING COMMISSION MINUTES

April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

WHEREAS, the Commission further finds that the subject property lies within the Neighborhood Form District and is located on Moorman Road; the proposed PRD Subdivision is essentially the same as the originally approved Woods of Farnsley Moorman partially developed condominium development; gross density will be well less than allowed and below the high density range; the new proposed buildings will blend compatibly with the original constructed portion of the Woods of Farnsley Moorman development, and

WHEREAS, the Commission further finds that perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC); all buffering and other compatibility issues were addressed with the original RDDDP approval and as partially constructed, with only modest changes being made as part of this proposed RDDDP, and

WHEREAS, the Commission further finds that the application complies with the overall Intents of and specifically with Policies 1, 4, 5, 6, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because the proposal is very similar to the originally approved, and partially constructed, condominium development part of the prior rezoning; this proposal will allow the stalled condominium development to again move forward and be fully constructed; all condominium owners agreed to the partition of the remaining property from the condominium regime evidenced by their signatures on the partition documents as recorded; future residents will also support the businesses and services in nearby activity centers to the east and along Dixie Highway; and parking is compact and will be provided on the individual lots in the subdivision in driveways and garages; internal open space areas are included on the RDDDP, and

WHEREAS, the Commission further finds that 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, 21, 22 and 23 of Guideline 3 because this residential subdivision is almost the same as the original condominium development originally approved and anticipated and adds to the mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building materials with the neighboring properties and with the partially development Woods of Farnsley Moorman condominium property; 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 or as originally proposed; setbacks will include compatible side and rear yards, and the tree canopy and landscape regulations will apply; and the RDDDP/preliminary subdivision plan, presented with this application and at the public hearing, demonstrate all that, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all applicable Intents and Policies 1, 2, 3, 4, 5, 6, and 7 of Guideline 4 and Policies 1

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

and of Guideline 5 because, unlike most standard single-family subdivisions, this one includes some 3.3 acres of open space on a site just 13 acres in size, conserving some natural resources and features, providing for passive outdoor activities off residents' individual home lots; that assures for better buffers and a far superior neighborhood feel; the homeowners association will maintain these open areas; and there are no historic resources on the site, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all of the applicable Intents and Policies 2, 3, and 11 of Guideline 6 because this proposed subdivision helps to ensure the availability of residential building lots where lots are in demand; the existing condominium regime has been stalled forever, and no parties came forward to acquire the developer rights to continue the existing condominium development while the property was owned/controlled by the Bank; now the applicant controls the site which is surrounded by like-kind subdivisions, which makes it an infill single-family residential site, appropriate for the area in a community where new single-family housing is in demand; this property is also in a somewhat older area of town in need of new residential housing to serve the businesses on Dixie Highway corridor; and all owners agreeing to partition this property from the condominium regime also keeps those owners from having exceptionally high assessments to maintain a large property in a regime without sufficient units to pay for the maintenance of same, and

WHEREAS, the Commission further finds that the proposed subdivision complies with all of the applicable Intents and Policies 1, 2, 4, 6, 9, 11, 12, 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 because the original approved condominium development had private roads, many of which were built many years ago; the current proposed subdivision uses these partially developed existing roads as previously recorded via private access easements; sidewalks are already constructed along the frontage of the property and through the developed portion of the condominium regime; sidewalks will be installed in the subdivision as shown on the proposed RDDDP/subdivision plan; where sidewalks have been constructed, where public transit could exist, although probably doesn't (as that is determined by TARC alone, not the applicant and not the Planning Commission), where sewer, water and other utilities already exist, where road capacity exists, and in close proximity to jobs and shopping in all directions; further, this subdivision has been reviewed by Metro Transportation Planning Services personnel, who gave their stamp of preliminary approval prior to its docketing for Planning Commission review; that assures that all of these applicable Public Works standards are complied with, including Policies of the 2020 Land Development Code (LDC); and all required right of way was previously dedicated and will meet at Public Works and Transportation Planning requirements, and

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

WHEREAS, the Commission further finds that the proposed subdivision will assure that both existing Tierney Avenue access and new subdivision streets continue and are constructed to operate safely and function pretty much as previously approved because a low traffic-generating use is proposed here; thus, all negative traffic impacts are avoided with this development; and, as noted, design of the site, as shown on the RDDDP/preliminary subdivision plan accompanying this application assures that corner clearances, driveway access, median openings, cross connections, etc. are provided as required -- that is, except as some disconnectivity to existing adjoining properties and streets is desired and as may be allowed in order to assure that no, or limited, cut-through traffic adversely affects this proposed subdivision or within adjoining ones as previously approved, and

WHEREAS, the Commission further finds that the proposed subdivision 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 because MSD will require that post-development peak rates of stormwater runoff do not exceed pre-development peak flows, which is accomplished through on-site detention; thus, new impervious areas will not have a negative impact on existing stormwater systems; also, MSD has given its stamp for preliminary approval the RDDDP before it was 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; and any new construction will have to comply with MSD's soil erosion and sediment control standards, and

WHEREAS, the Committee further finds that the proposed subdivision complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requires tree canopies, certain kinds of landscaping for certain kinds of uses and screening and buffering of incompatible uses; and the LDC will be fully complied with, and

WHEREAS, the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5A Multi-family Residential to PRD Planned Residential Development Family be **APPROVED**.

The vote was as follows:

Yes: Ferguson, Tomes, Howard, Carlson, Brown, Peterson, and Jarboe

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None

01:35:13 On a motion by Commissioner Brown, seconded by Commissioner Peterson, the following resolution was adopted:

**Major Preliminary Subdivision Plan &
Revised Detailed District Development Plan**

WHEREAS, the Louisville Metro Planning Commission finds that the design of the proposed subdivision respects the environmental features on site. ACOE approval and permit has been provided and incorporated into the record of this case for potential wetlands, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation has been provided. An internal network of walkways will allow for the movement of pedestrians within the site and to an abutting open space. Sidewalk will be provided where previously absent along Moorman Road. The nearest transit stop is route 18 located one-half mile from the subject site near Valley Station Shopping Center and operates during peak weekday hours, and

WHEREAS, the Commission further finds that open space is being provided as required per the PRD, Planned Residential Development standards. Over three acres of open space is being provided on the thirteen acre site, and

WHEREAS, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure in coordination with the ACOE 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. Renderings provided by the applicant appear to be consistent with design of nearby structures and the previous proposal to create a multi-family development with attached units. Appropriate transitions are provided between abutting development, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as Guideline 3, Policy 1 calls for compatibility of all new development and redevelopment with the scale and site

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 3 encourages residential character that is compatible with adjacent residential areas. Allow a mixture of densities as long as their designs are compatible. Adjacent residential areas in different density categories may require actions to mitigate nuisances and provide an appropriate transition between the areas. The immediately surrounding neighborhood is primarily single-family residential lots of varying sizes over 6,000 square feet. The proposal adds diversity to the housing stock in the area through the creation of smaller lots that minimize maintenance commonly associated with homeownership and residential lots, and

Waiver of Land Development Code, section 5.3.1.D.1.b.vi to exceed four contiguous attached units

WHEREAS, the Commission further finds that the waiver will not adversely affect adjacent property owners because the originally approved, and partially constructed, Woods of Farnsley Moorman condominium development had up to 6 contiguous units throughout the development, which this proposal is intended to finish; four of the five currently constructed condominium regime buildings, which this property is a part of have 6 contiguous units, the last existing building has 4 contiguous buildings; and the just continues the existing development scheme, and

WHEREAS, the Commission further finds that the waiver will not violate the Comprehensive Plan for all the reasons set forth in the Detailed Statement of Compliance with all applicable Guidelines and Policies of the Cornerstone 2020 Comprehensive Plan filed with the original rezoning application and approved detailed district development plan for Woods of Farnsley Moorman, and

WHEREAS, the Commission further finds that the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because the waiver request is to continue the development as it was originally approved as a condominium regime and will match the existing constructed buildings; the only reason this requires a waiver is because of the change of ownership from a condominium regime to a PRD subdivision where the owners own their lot and home rather than the interior enclosed space, otherwise, the waiver is not required, and

WHEREAS, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because it would prohibit the applicant from continuing to construct the buildings as they were originally constructed by virtue of the change of ownership to lots from condominium units, and

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

WHEREAS, the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Major Preliminary Subdivision Plan, **(2)** the Revised Detailed District Development Plan, and **(3)** the Waiver of Land Development Code, section 5.3.1.D.1.b.vi to exceed four contiguous attached units, **SUBJECT** to the following binding elements:

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. There shall be no direct vehicular access to Moorman Drive
3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
4. There shall be no outdoor storage on the site.
5. Outdoor lighting shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible off-site.
6. 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.
7. 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.

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

- 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 permit for building or any clearing/grading activities. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. 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, except that grading/clearing and foundation only permits may be issued to ensure the accuracy of property lines as they relate to common side walls for residential units.
8. 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.
9. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line or permitted on the site.
10. 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.
11. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
12. 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.

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

13. 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.
14. 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 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.
15. 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.
16. Moorman Road pavement width shall be widened to 12 feet from center adjacent to the subject property, and a 6-8 foot earthen shoulder shall be constructed along the frontage of the subject property, as required by the Director of Metro Public Works.

PLANNING COMMISSION MINUTES
April 6, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1053

These improvements shall be completed prior to requesting a certificate of occupancy for any structure on the subject property.

The vote was as follows:

Yes: Ferguson, Tomes, Howard, Carlson, Brown, Peterson, and Jarboe

Absent: Smith, Gazaway, and Lewis

Abstain: None

No: None