

PLANNING COMMISSION MINUTES

June 7, 2018

PUBLIC HEARING

CASE NO. 18ZONE1009

Request: Change in zoning from R-4 to R-5 Single Family Residential
Project Name: Schaffer Lane Subdivision
Location: 6707 Schaffer Lane
Owner: The Roberson Trust
Applicant: Ball Homes
Representative: John Talbott - 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:52:14 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:

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

Rocco Pigneri, Ball Homes, 13301 Magisterial Drive, Louisville, KY 40223

Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40291

Summary of testimony of those in favor:

00:55:09 John Talbott, the applicant's representative, presented the applicant's case and showed a Power Point presentation (see recording for detailed presentation.) During the presentation, Mr. Talbott discussed an agreement made with an adjoining property owner, Mr. Shuler (sp), regarding a fence. He said the applicant has made a private agreement with Mr. Shuler to put up a privacy fence along his property line.

01:03:31 In response to a question from Commissioner Jarboe, Mr. Talbott said he did not think the applicant had planned to put up any fencing along the Tompkins Road (sp) side of the development.

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01:03:57 In response to a question from Commissioner Brown, Mr. Talbott said that a binding element regarding Mr. Shuler's fence is not needed because the applicant has made a contractual private agreement with Mr. Shuler to put up that fence. The fence will meet regulations regarding setback and height.

The following spoke in opposition to this request:

No one spoke.

Deliberation:

01:05:48 The Commissioners concurred that the request 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.

Rezoning

01:07:04 On a motion by Commissioner Howard, seconded by Commissioner Tomes, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's justification, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the intents of Guideline 1 – Community Form because the subject property which is located in the Neighborhood Form District, is characterized by predominately residential uses from low to medium/high density and that blend compatibility into the existing landscape and neighborhood areas with the provision for open space and greenways setback; pedestrian and bicycle accommodations are being provided; this proposed R-5 subdivision is a relatively low density one which will result in only a very slight increase in lots compared to the R-4 zoning currently allowed; the applicant also could have chosen the "alternative development incentives (ADI) regulation" or "conservation subdivision regulation", or it could have applied for "PRD" rezoning, but those regulations either require affordable components not appropriate for this location or are inappropriate based on other particular requirements of each of those regulations; and furthermore, R-5 is available, well-known, understood and easy to apply at this site, and there are other residential developments in the area that are zoned R-5, R-5A, or comparable; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 3 – Compatibility because the zone change and subdivision DDDP complies with all of the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 12, 14, 15, 16, 21, 22, 23 and 25 of Guideline 3 because this low density residential subdivision adds to the desired mixture of housing types, sizes and styles while still being design-compatible in terms of scale and building

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materials; 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; setbacks will include compatible side and rear yards, and the LDC tree canopy and landscape regulations will apply; sidewalks are being added throughout most of the development and buffers are also being provided; the design of the homes is high quality and will value the homes consistently with the surrounding residential areas; the detailed district development/preliminary subdivision plan (DDDP), PowerPoint and exhibit books presented at the Planning Commission Public Hearing further demonstrate the foregoing; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 4 and 5 – Open Space / Natural Areas and Scenic and Historic Resources. The zone change and subdivision DDDP comply with all applicable Intents and Policies 1, 2, 5, 6, and 7 of Guideline 4 and Policy 1 of Guideline 5 because this standard single-family subdivision includes protected perimeter open space at Shaffer Lane and also will protect some natural resources and features, notably trees buffering the site where possible to assure good transitions and buffers to neighboring properties; and the homeowners' association will maintain the open space area as shown on the DDDP; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 6 – Marketplace. The zone change and subdivision DDDP complies with all of the applicable Intents and Policies 2, 5, and 11 of Guideline 6 because this land is surrounded by like-kind subdivisions which makes this site an infill single-family residential site, appropriate for the area the larger community, where new single-family housing is in greatest demand; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 7 and 8– Circulation and transportation facility design; GUIDELINE 9 - Bicycle, Pedestrian and Transit; and GUIDELINE 12 – AIR QUALITY. The zone change and subdivision DDDP complies with all of the applicable Intents and Policies 1, 2, 4, 6, 9, 11, 13, 14, 15, 16, and 18 of Guideline 7; Policies 3, 5, 6, 7, 8, 9, 10 and 11 of Guideline 8; Policies 1, 3 and 4 of Guideline 9; and Policies 1, 2, 4, 6 and 8 of Guideline 12 because this subdivision is situated on a secondary collector street (Shaffer Lane) where sewer, water and other utilities already exist, and where road capacity exists; further, this DDDP has received the preliminary stamp of approval by Metro Transportation Planning and Public Works personnel, prior to its docketing for Planning Commission review; all of which assures that the applicable Public Works' standards are complied with, including regulatory standards of the Land Development Code (LDC); and

WHEREAS, the zone change and subdivision DDDP assures that both points of access into the proposed subdivision are designed to operate safely and, because of the distribution between these two streets, to function at relatively low volumes, as neighborhood serving streets are expected to function; thus, negative internal traffic impacts are avoided with this proposed subdivision; and, as noted, design of the site, as shown on the DDDP accompanying this application assures that matters such as corner clearances, driveway access, median openings, cross connections, and the like are provided as required; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guidelines 10 and 11 – Stormwater and Water Quality. The zone change and subdivision DDDP complies

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with all applicable Intents and Policies 1, 3, 6, 7, 9, 10 and 11 of Guideline 10 and Policies 3 and 5 of Guideline 11 because MSD requires that post-development peak rates of storm water runoff do not exceed pre-development peak flows, which is accomplished through on-site detention; new impervious areas will not have a negative impact on existing storm water systems; also, the DDDP has received MSD's preliminary stamp of approval; and at time of construction, the proposed subdivision will include water quality measures addressing the new MSD water quality standards and any new construction will comply with MSD's soil erosion and sediment control standards; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 13 – Landscape Character. The zone change and subdivision DDDP complies with the Intent and applicable Policies 1, 2, 4, 5 and 6 of Guideline 13 because the local LDC requiring tree canopies, certain kinds of interior and perimeter landscaping will be fully complied with, except as respects a parkway buffer setback encroachment on the proposed lot where the existing farm house exists today; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 1: Community Form because the subject site is surrounded by lower density subdivisions and would create an inter-connected slightly higher density development; the gross density proposed is 4.28 du/ac and the net density is 5.18 du/ac which is considered to be low density residential and similar to the maximum density of the existing zoning district which is 4.84 du/ac. The requested district would allow for lot sizes to be a minimum of 6,000 sq. ft.; the proposed lots are for single-family residential use only and will comply with LDC 5.4.2; and Neighborhood streets are designed to invite human interaction and easy access as sidewalks are provided throughout; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 2 – Centers because the proposed rezoning is for low-density (7.26 du/ac) single-family subdivision; The proposed density is higher than that of surrounding developments and utilizes the land area in a manner that compatible with adjacent R-4 districts, while also continuing the hierarchy of the street grid and infrastructure; the sharing of entrance and parking facilities to reduce curb cuts and surface parking is provided as the Subdivision will connect to an existing subdivision and provide future access to adjacent lands; utility easements to provide access for maintenance and to provide services in common for adjacent developments has been provided; Single-family lots will be served by a local road; and sidewalks are provided throughout the subdivision to allow for ease of access; 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 subdivision is for single-family residential use only; Residential development will occur in accordance with the residential site design standards of LDC 5.4.2.; while the density will be increased slightly by the proposed zoning change all lots will be restricted to single family use only. Buffer yards will be provided to larger tracts of single-family lands; the proposal will not create significant amounts of traffic as it is for single-family use and has appropriate connections to roadways and adjacent lands; lighting will not exceed what is necessary for single-family

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residential use and safety; 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 a smaller lot size pattern to surrounding low density residential subdivisions; the subject site is located along a collector level roadway; shopping and transit are available at Bardstown Road; smaller lot sizes are being proposed which aids in creating a variety of housing options to decrease the burdens of the cost of maintenance of land; surrounding uses are single family residential and compatible with the proposed development; 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 not required in this form district for standard subdivisions, 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 the site does not appear to contain any sensitive natural features, nor does the site appear to have any historic or architectural features of significance; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 7: Circulation because the proposal will contribute its proportional share of the cost of roadway improvements and other services and public facilities made necessary by the development through physical improvements to these facilities, contribution of money, or other means. Right-of-way will be dedicated and the site is within the SDC area; the proposal's transportation facilities are compatible with and support access to surrounding land uses, and contribute to the appropriate development of adjacent lands. The proposal includes at least one continuous roadway through the development from an adjacent subdivision to the collector roadway and a stub is provided to the East; and right-of-way dedication will be made; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 8: Transportation Facility Design because adequate stub streets are provided for future roadway connections that support and contribute to appropriate development of adjacent land. A Stub is provided to the east; the proposed zoning district is similar in intensity to surrounding areas and access to the site would not create a nuisance; the development provides for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site; and the collector roadway provides primary access, a connection to adjacent single-family is provided to the North and a stub is provided to the east; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 9: Bicycle, Pedestrian and Transit because the proposal provides, where appropriate, for the movement of pedestrians and bicyclists as sidewalks will be provided throughout; and

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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 natural corridors are hindered by surrounding development and the interstate. The subdivision does not decrease connection; and

WHEREAS, the Commission further finds that the proposal meets the intents of Guideline 14: Infrastructure because the precise location of utilities and service will be determined at the record plat stage in consultation with all utility providers; the Fern Creek fire department has expressed no concerns and The proposal has 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 proposed **Change in zoning** from R-4, Single-family Residential to R-5, Single-family Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NOT PRESENT: Commissioners Lewis and Smith.

ABSTAINING: Commissioner Robinson.

Major Preliminary Subdivision/District Development Plan

01:08:21 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that tree canopy requirements will be met. An area of in the southwest corner of the site will be reserved for detention and tree canopy preservation; 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 sidewalks and connections have been provided to existing networks; 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 being provided as an area of in the southwest corner of the site will be reserved for detention and tree canopy preservation; and

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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 and comply with the three-tiered approach for development recommended by the Fern Creek Small Area Plan; and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as demonstrated in *Attachment 3* of the staff report; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Major Preliminary Subdivision/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. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
3. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
4. All street signs shall be installed by the Developer, and shall conform to 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.
5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.

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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. 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.
8. 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.
9. 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.
10. 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.
11. 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, TPAs 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.
12. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than

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\$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.

13. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

The vote was as follows:

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

NOT PRESENT: Commissioners Lewis and Smith.

ABSTAINING: Commissioner Robinson.