

PLANNING COMMISSION MINUTES
December 3, 2015

PUBLIC HEARING

CASE NO. 15ZONE1040

Case No: 15zone1040
Request: Change in zoning from R-5A to R-6
Project Name: Moss Creek
Location: 7801 & 7900 Moss Creek Drive
Owner: Moss Creek Enterprises, LLC
Applicant: Moss Creek Enterprises, LLC
Representative: Land Design & Development, Inc.; Dinsmore and Shohl
Jurisdiction: Louisville Metro
Council District: 12 – Rick Blackwell
Case Manager: Julia Williams, RLA, AICP, 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 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:

01:39:41 Julia Williams presented the case and showed a Powerpoint presentation (see recording and staff report for detailed presentation).

The following spoke in favor of this request:

Cliff Ashburner, 101 S. 5th Street, Suite 2500, Louisville, KY 40202
David Greenberg, 143 W. Market Street, Louisville, KY 40202

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Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

Summary of testimony of those in favor:

01:43:04 Cliff Ashburner spoke on behalf of the applicant (see recording for detailed presentation).

01:51:11 David Greenberg spoke on behalf of the applicant and explained the materials that will be used in construction (see recording for detailed presentation).

01:52:12 Commissioners' deliberation

01:54:06 In response to questions from Commissioner Turner and Vice Chair Proffitt, Cliff Ashburner and Kevin Young explained where dumpsters would be located and about their landscaping plan.

01:55:08 On a motion by Vice Chair Proffitt, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

Change in Zoning from R-5A to R-6;

WHEREAS, the Louisville Metro Planning Commission finds that the proposed R-6 zoning district supports a mix of housing choices and densities in the neighborhood. 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. The proposed change in zoning will allow for higher density dwellings that are similar to the adjacent homes within the overall Moss Creek development. 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 proposed R-6 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. 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 designed to balance safety, traffic and pedestrian considerations. Sidewalks are provided throughout the development to enhance pedestrian connectivity, and

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WHEREAS, the Commission further finds that the proposed R-6 zoning district constitutes an increase in density, which will generally be compatible with the scale and site design of nearby existing residential developments. The building materials are similar to what is found in the area. Buffers are provided between the R-6 and the adjacent R-4 zoned lots. Transportation Planning has not indicated that traffic will be an issue. Light trespass requirements of the Land Development Code will adequately mitigate adverse impacts of lighting. The R-6 zoning district encourages affordable and inclusive housing. The proposed change in zoning constitutes an increase in density which will have limited impact on adjacent residential uses. Buffers are provided between the R-6 and the adjacent R-4 zoned lots. Setbacks, lot dimensions and building heights of will be compatible with nearby developments, and

WHEREAS, the Commission further finds that open space requirements of the Land Development Code are provided on the site to meet the needs of the community. There are no natural features on the site that would be adversely affected by development of the property, and

WHEREAS, the Commission further finds that 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. Soils are not an issue with the proposal, and

WHEREAS, the Commission further finds that roadway improvements are not necessary for this development. Connections or stubs to adjacent properties have been provided where possible to encourage cross access and support the development of adjacent lands. Dedication of ROW is not necessary for this proposal, and

WHEREAS, the Commission further finds that the primary access is proposed from interior roadways from Greenwood Road where it will not create a nuisance to other residential uses in the neighborhood, and

WHEREAS, the Commission further finds that sidewalks are provided throughout the development to enhance pedestrian connectivity, and

WHEREAS, the Commission further finds that MSD has preliminarily approved the plans, and

WHEREAS, the Commission further finds that there are no natural corridors for habitat or migration on the site, and

WHEREAS, the Commission further finds that there are existing utilities in the area. The site has existing access to an adequate supply of potable water and water for fire-

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fighting purposes. The Health Department has no issues with the proposal; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 15ZONE1040 does hereby **RECOMMEND APPROVAL** to Metro Council a change in zoning from R-5A to R-6, based on the presentation here today, discussion in business session and the justification provided by the staff report.

The vote was as follows:

YES: Commissioners Peterson, Jarboe, Turner, Tomes, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners White and Lewis

ABSTAINING: No one

01:56:08 On a motion by Vice Chair Proffitt, seconded by Commissioner Kirchdorfer, the following resolution was adopted:

Revised Detailed District Development Plan;

WHEREAS, the Louisville Metro Planning Commission finds that there does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site, 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, and Metro Public Works has approved the preliminary development plan, and

WHEREAS, the Commission further finds that the open space requirements meet Land Development Code requirements, 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

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WHEREAS, the Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks, and

WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission in Case Number 15ZONE1040 does hereby ~~RECOMMEND APPROVAL~~ to Metro Council **APPROVE** the Revised Detailed District Development Plan, based on the staff report, the plan presented today by Land Design and Development and the discussion and presentation, and **SUBJECT** to the following Binding Elements:

Binding Elements

All binding elements from the approved General Development Plan are applicable to this site, in addition to the following:

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 outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:

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- a. The development plan must receive full construction approval from Develop Louisville, 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.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
5. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
 6. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
 7. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the December 3, 2015 Planning Commission meeting.

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The vote was as follows:

YES: Commissioners Peterson, Jarboe, Turner, Tomes, Brown, Kirchdorfer, Vice Chair Proffitt and Chair Person Blake

NO: No one

NOT PRESENT: Commissioners White and Lewis

ABSTAINING: No one