

PLANNING COMMISSION MINUTES

February 20, 2025

PUBLIC HEARING

CASE NO. 24-ZONE-0088

Request: Change in zoning from R-4 to R-5 & PRD with Detailed District Development Plan and Binding Elements, and Major Preliminary Subdivision
Project Name: Windcrest Farms Section 3
Location: 9300 & 9308 Old Bardstown Road, 10313 & 10311 R Thixton Lane, Parcel ID 066600250000
Applicant: 9300 Old Bardstown Road LLC
Representative: Mindel, Scott & Associates
Jurisdiction: Louisville Metro
Council District: 22 – Kevin Bratcher
Case Manager: Dante St. Germain, AICP, Senior Planner

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 Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

00:26:02 Dante St Germain provided an overview of the request and presented a PowerPoint presentation. St Germain stated that the applicant wanted to make changes to binding element #20. St Germain responded to questions from Commission Members (see recording for details).

00:34:20 Laura Ferguson suggested adding “in the case file” after the words as shown in Exhibit 1, for binding element #20, for clarity (see recording for details).

The following spoke in favor of this request:

Kathy Linares, 5151 Jefferson Boulevard, Suite 101, Louisville, KY 40219

Diane Zimmerman, 12803 High Meadows Pike, Prospect, KY 40059

Summary of testimony of those in favor:

00:39:50 Kathy Linares spoke in support of the request and presented a PowerPoint presentation. Linares provided an overview of future lane and road improvements for Bardstown Road and near the proposed development. Linares proposed adding

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language to binding element #20 regarding a cost share contribution. Linares responded to questions from Commission Members (see recording for details).

00:54:36 Diane Zimmerman spoke in support of the request. Zimmerman responded to questions from Commission Members about the Traffic Impact Study (see recording for details).

00:59:05 Beth Stuber responded to Commission Members questions on the process of receiving the funds for cost share improvements (see recording for details).

The following spoke in opposition of this request:

Glenda Simpson, 11723 Blade Way, Louisville, KY

Summary of testimony of those in opposition:

01:05:47 Glenda Simpson spoke in opposition to this request and further development of the area due to traffic. Simpson expressed concern that developers continue to build without a current traffic study showing accurate data. Simpson requested holding a community meeting so residents could voice their concerns. Simpson also asked what is being done between the various counties sharing Bardstown Road to consider new development and to address the traffic issues (see recordings for details).

01:19:22 Dante St Germain asked Glenda Simpson which traffic study she was referring to during her testimony. Joe Haberman presented a traffic count document to the Commission Members that was submitted by Simpson. Simpson gave an overview of the document and stated that the traffic count from I265 to Thixton was not included in the Traffic Study presented by the applicant (see recording for details).

Rebuttal:

01:24:57 Diane Zimmerman stated that the state is preparing a study to determine what additional improvements are needed to improve conditions on Bardstown Road (see recording for details).

01:26:56 Kathy Linares stated there is a need for housing and believes this development is needed (see recording for details).

01:29:12 Dante St Germain addressed the opposition's request for a community meeting, stating that this type of request should be made before the hearing and there is a petition process, so it is too late to request a community meeting (see recording for details).

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Deliberation:

01:29:54 Planning Commission deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Office of Planning website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Change in zoning from R-4 Single Family Residential to R-5 Single Family Residential & PRD Planned Residential District

03:17:40 On a motion by Commissioner Mims, seconded by Commissioner Fischer, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposal is not for higher density or intensity use. The proposal is not substantially different in scale or intensity, or density compared with the development around it, and

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 2 because the proposal would permit new development providing residential uses, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 1 because the proposal is not for higher density or intensity zoning, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 2 because access to the development is through areas of similar intensity and density, and

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 3 because the site is easily accessible by car. Accessibility by bicycle, transit, pedestrians, and people with disabilities will be improved by redevelopment of the site. Transportation Planning has approved the proposal. No direct residential access to high-speed roadways is proposed, and

WHEREAS, the Planning Commission finds the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal. Louisville Water Company has approved the proposal. MSD has approved the proposal, and

WHEREAS, the Planning Commission finds the proposal meets Livability: Goal 1 because the site is largely cleared at this time and tree canopy will be provided with the

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development. No karst features are evident on the site. The site is not located in the regulatory floodplain, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 1 because the proposed zoning district would permit a variety of housing types within the same development. The proposal would support aging in place by providing smaller, lower-cost homes in an established neighborhood, thereby increasing housing choice for persons who may wish to remain in the neighborhood as they age, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 2 because the proposed zoning district would permit inter-generational mixed-income development. The site is connected to the neighborhood and the surrounding area, and

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 3 because the proposal would encourage the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in the neighborhood, and within Louisville Metro. No existing residents would be displaced by the proposal. The proposal would permit innovative methods of housing; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Change in zoning from R-4 Single Family Residential to R-5 Single Family Residential & PRD Planned Residential District

The vote was as follows:

YES: Commissioners Fischer, Mims, Kern, Lannert, Steff, Benitez, Lohan, and Sistrunk

ABSENT: Commissioners Bond and Cheek

Major Preliminary Subdivision

01:41:49 On a motion by Commissioner Mims, seconded by Commissioner Fischer, the following resolution, based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision

The vote was as follows:

YES: Commissioners Fischer, Mims, Kern, Lannert, Steff, Benitez, Lohan, and Sistrunk

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ABSENT: Commissioners Bond and Cheek

Detailed District Development Plan with Binding Elements

01:42:29 On a motion by Commissioner Mims, seconded by Commissioner Fischer, the following resolution, based on the staff report, staff analysis, and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds the site is mostly cleared. Required tree canopy will be provided. An identified intermittent stream will be preserved with a buffer, and

WHEREAS, the Planning Commission finds 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 Planning Commission finds open space is being provided in compliance with the requirements of the Land Development Code, and

WHEREAS, the Planning Commission finds 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 Planning Commission finds the overall site design is in compliance with existing and planned future development in the area. The proposal would provide an increase in the variety of housing in the neighborhood by permitting both detached and semi-detached houses, and

WHEREAS, the Planning Commission finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **SUBJECT** to the following Binding Elements and add "in the case file" to binding element 20:

1. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.

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2. 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.
3. 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.
4. 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 trees and fences within buffer areas 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.
5. 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.
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. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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

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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 areas.”

8. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e., clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a) Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b) Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c) Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d) Location of construction fencing for each tree/tree mass designated to be preserved.
9. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
10. All street signs shall be installed by the Developer and shall conform with 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.
11. 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.
12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
13. 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.

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14. The applicant shall install signs, each to be located within the public right-of-way at the terminuses of Windcrest Farms Lane, and proposed streets A, C and D. These signs shall indicate that these streets shall, in the future, extend beyond the subject property and connect to roadways on adjacent properties. Such signage and location are subject to the prior approval by the Louisville Metro Public Works Department and shall be installed prior to release of bonds for the installation of the street infrastructure.
15. 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.
16. 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.
17. PRD Transfer of Infrastructure Binding Element Covenants, Conditions, and Restrictions ("CCRs") shall be prepared by the developer to be submitted to and reviewed and approved by Planning Commission legal counsel, prior to recording of the subdivision's Record Plat, for consistency with any binding elements that mandate inclusion in the CCRs, as well as the inclusion of the following requirements: (a) all road, drainage, sanitary sewer, water, other necessary infrastructure and other required landscaping and facilities shall be installed by the developer prior to turn-over of maintenance responsibilities to the Home Owners Association ("HOA"); (b) any shared water meters and property service connections for sanitary sewers shall be the sole responsibility of the HOA; (c) any water, sewer and drainage facilities that cross lot lines shall be included in blanket easements for purposes of both lot owner and HOA access and maintenance; and (d) where attached residences are proposed, easements shall be provided to provide for incidental encroachments, property maintenance and repair.
18. Above and below ground obstructions (including but not limited to fire hydrants, valves, utility poles, guy wires, pad transformers, splice and pull boxes, light standards, buildings, pools, ponds, trees, drainage culverts, and shrubbery) shall not be permitted on LG&E's right-of-way, easement, or lease area without LG&E's express prior written approval. Any obstructions allowed by LG&E are subject to future removal by LG&E for purposes of pipeline maintenance or construction and LG&E shall not be liable for their replacement. This restriction shall be clearly noted on the recorded plat of the development and shall be written into the CCRs. Purchasers of

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lots 134 through 155, and lots 174 and 175 shall be notified by the Developer of this restriction until such time as control of the development passes to the homeowners association; the homeowners association shall be responsible for notification thereafter. Purchasers of the affected lots shall also be informed as to the signs of a gas pipeline leak (smell of gas, bubbling after rain, discolored or dead grass over the pipeline) and referred to LG&E for more information.

19. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast survey shall be done in a manner consistent with Kentucky Blasting Regulations.
20. Applicant/Developer/Property Owner shall complete all required improvements to the Thixton Lane intersections with Old Bardstown Road and Bardstown Road as shown in Exhibit 1 in the case file, prior to the issuance of the Certificate of Occupancy for the 111st residential dwelling unit.

The vote was as follows:

YES: Commissioners Fischer, Mims, Kern, Lannert, Steff, Benitez, Lohan, and Sistrunk

ABSENT: Commissioners Bond and Cheek