

PLANNING COMMISSION MINUTES

October 5, 2023

PUBLIC HEARING

CASE NO. 23-ZONE-0063

Request: Change in Zoning from R-5 to R-5A, Revised Detailed District Development Plan with Binding Elements, and a Variance
Project Name: Watterson Gardens
Location: 7009 S. Watterson Trail
Owner/Applicant: Watterson Gardens, LLC
Representative: Mindel Scott
Council District: 23 – Jeff Hudson
Case Manager: Jay Lockett, AICP, Planning Supervisor

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.)

Agency Testimony:

01:40:45 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing a townhouse-style residential development. The site was previously rezoned to R-5, but that development was never constructed. The applicant is providing right-of-way and will grade along the proposed future expansion of Watterson Trail.

Commissioner Mims asked about a timeframe for the proposed Watterson Trail project. Lockett said the project is currently not in the long-term plan.

The following spoke in favor of this request:

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

David Mindel, Mindel Scott, 5151 Jefferson Boulevard, Louisville, KY 40219

Brian Wacker, 9300 Bates Road, Louisville, KY 40228

Summary of testimony of those in favor:

01:47:50 Kathy Linares spoke in support of the application and presented a PowerPoint presentation (see video for details). The property is located within the

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Highview plan area, and while not on an area identified for multi-family, it is on a larger road, which the Highview plan encourages. The proposed layout includes 86 units. The proposed units will bring a different type of unit to the area. A traffic study was completed and the proposed development will not be having a significant impact on the roadway network.

02:03:55 Commissioner Mims asked if a turn lane was requested at the proposed entrance. Linares said it was not requested. Mims also asked about the design of the proposed buildings. Luckett stated he believes the applicant has provided enough variation in the proposed renderings to satisfy the design requirements of the Land Development Code.

02:08:36 Commissioner Carlson expressed concern about whether the repeated use of the same building meets the Highview plan. Linares stated she did not interpret the plan that way. David Mindel said he believes there is enough variation in the number of units and size of buildings throughout the proposed development to satisfy the spirit of the Highview plan. Brian Wacker said he has a variety of colors and materials that are complementary and is willing to use them in this development. In response to a question from Commissioner Cheek, Wacker clarified that the garage door widths will vary. In a response to a question from Commissioner Fischer, Linares said the number of units in the buildings will vary throughout the site.

Deliberation:

02:22:00 Planning Commission deliberation.

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.

Zoning Change from R-5 to R-5A

02:27:42 On a motion by Commissioner Mims, seconded by Commissioner Cheek, 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 subject site is located along Watterson Trail, a primary collector. Outer Loop and Fegenbush Ln form a core intersection within the Highview Planned Development District and is about 2,600 feet to the south via Watterson Trail. Transit service as well as a wide variety of services and employment opportunities are

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available in PD area. Adequate transitions in the form of buffering and screening will be provided adjacent to uses of a lower intensity,

WHEREAS, the proposal meets Community Form: Goal 2 because the proposed zoning change would allow for additional housing options in the area,

WHEREAS, the proposal meets Community Form: Goal 3 because a small portion of the site along the northern portion of the site has a potential for hydric soils. That area is mostly contained within proposed open space and is generally undisturbed,

WHEREAS, the proposal meets Community Form: Goal 4 because the subject site does not have any distinctive cultural features. The site does not have historic resources,

WHEREAS, the proposal meets Mobility: Goal 1 because the site is approximately 650 feet from the Highview Town Center Planned Development District, which contains a wide variety of services, amenities and employment opportunities. Transit service is available about 3,500 feet from the site in the PD area,

WHEREAS, the proposal meets Mobility: Goal 2 because the site proposes private access directly from Watterson Trail,

WHEREAS, the proposal meets Mobility: Goal 3 because the proposed zoning district would allow for additional housing options within an area near employment opportunities and a commercial corridor. Transportation Planning has approved the preliminary development plan. The applicant will provide the necessary right-of-way and grading to facilitate future expansion of S Watterson Trail,

WHEREAS, the proposal meets Community Facilities: Goal 2 because utility services will be coordinated. Water service will be coordinated with the appropriate agencies. MSD has approved the preliminary development plan,

WHEREAS, the proposal meets Livability: Goal 1 because the applicant has indicated preservation of trees in the southern part of the site. A karst survey was performed and no karst features were found. The subject site is not within floodplain areas,

WHEREAS, the proposal meets Housing: Goal 1 because the proposed zoning would allow for a variety of housing types. The development and will fit within the residential development pattern of the general vicinity, which has a variety of residential zoning districts, densities and housing types. The proposed zoning district will help promote aging in place by providing additional housing type options. The site is close to a variety of commercial uses,

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WHEREAS, the proposal meets Housing: Goal 2 because the proposed zoning district would promote mixed income and intergenerational development by allowing for additional housing types in an area with access to a variety of commercial services, amenities and employment opportunities. The site has access to a transportation network that provides safe and convenient access to employment opportunities, services and amenities, and

WHEREAS, the proposal meets Housing: Goal 3 because the proposed zoning encourages the provision of fair and affordable housing by allowing for a variety of housing types, ownership options, lotting patterns and unit sizes. No residents would be displaced with this proposal. The proposed zoning would allow for a variety of lotting patterns and unit types, allowing for production of fair and affordable 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-5 to R-5A on property described in the legal description.

The vote was as follows:

YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare

Variance

02:28:50 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

WHEREAS, the requested variance will not adversely affect public health safety or welfare as the site will be constructed according to all applicable building codes and safety requirements,

WHEREAS, the requested variance will not alter the essential character of the general vicinity, as there are a variety of residential setbacks in the area,

WHEREAS, the requested variance will not cause a hazard or nuisance to the public since the building will be constructed according to the building code, including all safety and health related provisions,

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WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations since it will allow for adequate space to provide appropriate buffers and an access drive for the proposed development,

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity,

WHEREAS, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant, however strict compliance may require turning the access drive and buildings to face the rears towards S Watterson Trail, and

WHEREAS, the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought, as the applicant is requesting approval prior to construction; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance.

The vote was as follows:

YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare

Detailed District Development Plan

02:29:35 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, there are no significant natural or historic resources on the subject site,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

WHEREAS, all required open space provisions of the Land Development Code have been met on the preliminary development plan,

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in

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order to prevent drainage problems from occurring on the subject site or within the community, and

WHEREAS, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested. The buildings need additional animating features, window or architectural elements on the ends to ensure a consistent architectural interest and quality, and

WHEREAS, the development plan conforms to applicable requirements 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:

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. 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, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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 other legal instrument shall be recorded dedicating right-of-way and creating the lot lines as shown.

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- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. Final elevations/renderings shall be substantially similar to the elevations shown at the Planning Commission public hearing on October 5, 2023. The mix of colors and materials shall vary across buildings. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
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.
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.

The vote was as follows:

YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis
NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare