

PLANNING COMMISSION MINUTES

May 7, 2024

PUBLIC HEARING

CASE NO. 23-ZONE-0004

Request: Change in Zoning from R-4 to R-6 with District Development Plan
Project Name: Taylorsville Rd Multifamily
Location: 11311 Taylorsville Rd
Owner: Cross Valley Investments, LLC
Applicant: Cross Valley Investments, LLC
Representative: Bardenwerper, Talbott and Roberts
Jurisdiction: Louisville Metro
Council District: 11 – Kevin Kramer
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 Office of Planning offices, 444 S. 5th Street.)

Agency Testimony:

00:02:58 Jay Lockett provided an overview of the request and presented a PowerPoint presentation. Lockett responded to questions from Commission Members (see recording for details).

The following spoke in favor of this request:

Nick Pregliasco, 1000 N Hurstbourne Parkway, Suite 200, Louisville, KY 40223

Kent Gootee, 5151 Jefferson Boulevard, Louisville, KY 40219

Summary of testimony of those in favor:

00:07:16 Nick Pregliasco spoke in favor of the proposal and presented a PowerPoint presentation. Pregliasco stated that the applicant made changes to the development plan based on concerns from residents addressing building height and apartment-style units. The development now consists of two-story townhomes. Pregliasco addressed

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other concerns of residents in the community and discussed ways the proposed plan would eliminate those issues of concern (see recording for details).

00:37:38 Commissioner Mims asked about residents' concern of increased traffic to Ramblin Creek Road. Pregliasco responded that providing access to Taylorsville Road from the site would create alternative access to the site without creating more traffic to Ramblin Creek Road (see recording for details).

00:42:26 Commissioner Sistrunk asked Pregliasco to clarify his statement concerning violations of the Fair Housing Act, he couldn't exclude rentals and explain why it's not a condo association versus a rental townhome. Pregliasco explained that if a binding element excluding renters was added, that would be a violation of the Fair Housing Act. These units are being built as condos for sale, but owners will have the option of renting out their condos (see recording for details).

00:46:09 Commissioner Carlson suggested adding a blasting binding element to the development plan (see recording for details).

00:48:48 Commissioner Cheek asked Kent Gootee questions regarding enhanced landscaping and elevations for the site. Gootee discussed various landscape elevations anticipated along the roadways (see recording for details).

The following spoke in opposition of the request:

Clay Barkley, Ramblin Creek Homeowners Association, 730 West Main Street, Louisville, KY 40223

Warren Lynch, 3501 Ramblin Creek Road, Louisville, KY 40299

Holly Hile, 3608 Ramblin Creek Road, Louisville, KY 40299

Amy Berge, 3500 Ramblin Creek Road, Louisville, KY 40299

Bob Rountree, 3905 Landherr Drive, Louisville, KY 40299

Don Wenzel, 12109 Taylorsville Road, Louisville, KY 40299

Alan Lowe, 11400 Saratoga Ridge Drive, Louisville, KY 40299

Paul Quinn, 10815 Easum Road, Louisville, KY 40299

Nathaniel Van Meter, 5403 Chenoweth Run Road, Louisville, KY 40299

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James Hile, 3608 Ramblin Creek Road, Louisville, KY 40299

Nola Osborne, 12103 Buckhorn, Louisville, KY 40299

Marty Clark, 3504 Ramblin Creek Road, Louisville, KY 40299

Summary of testimony of those in opposition:

00:58:40 Clay Barkley spoke in opposition of the proposal and presented a PowerPoint presentation. Barkley, representing the Ramblin Creek HOA, stated that he is not opposed to middle housing development, but has concern with this specific plan because of traffic safety, lack of emergency access, and this plan not being a good fit for the location (see recording for details)

01:05:36 Warren Lynch spoke in opposition of the proposal. Lynch stated that the new development is too close to Blankenbaker Road, which is a dangerous road (see recording for details).

01:10:09 Holly Hile spoke in opposition of the proposal. Hile stated that 558 signatures were collected in opposition to the zoning change due to safety concerns and the increase in traffic congestion in the area (see recording for details).

01:13:42 Amy Berge spoke in opposition of the proposal. Berge also had concerns with the development creating traffic safety issues at this location (see recording for details).

01:21:08 Bob Rountree, representing Landherr Estates HOA, spoke in opposition of the proposal and presented a PowerPoint presentation. Rountree stated that the development is not a good fit for the location and should be rezoned as R-5A instead of R-6. R-6 could allow the owner to increase the number of units at a future date. Rountree also discussed lack of sewer access along northern Taylorsville Road, issues with land use and concern with traffic congestion (see recording for details)

01:52:30 Don Wenzel spoke in opposition of the proposal. Wenzel had questions on why waivers to provide access to Ramblin Creek Road should be avoided if it improves public safety. Wenzel also asked that a Traffic Study be provided which shows how this plan helps traffic on Ramblin Creek Road. Wenzel asked the Commission Members to elaborate on their jurisdiction regarding traffic, transportation, and safety when a state highway is impacted by a proposal (see recording for details).

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01:56:20 Alan Lowe spoke in opposition of the proposal. Lowe questioned the stability of the east side of the site and discussed the need for a geo-technical study (see recording for details).

01:59:37 Paul Quinn spoke in opposition of the proposal. Quinn enquired about the date of the Traffic Study and if a study had been conducted on previous dumping in the area (see recording for details).

02:01:54 Nathaniel Van Meter spoke in opposition to the proposal. Van Meter expressed concern about the proposed development increasing traffic on Taylorsville Road (see recording for details).

02:03:55 James Hile spoke in opposition to the proposal. Hile stated that he believes the Traffic Study is dated because the City of Jeffersontown recently reached out to the community about the impact of traffic. Hile also questioned why other areas that have the infrastructure already in place are not being looked at for development (see recording for details).

02:10:55 Nola Osborne spoke in opposition to the proposal. Osborne expressed concern about the sewer and sink hole issues (see recording for details).

02:13:00 Commissioner Carlson asked Clay Barkley for clarity on issues with emergency access on Taylorsville Road. Commissioner Mims asked if any research was done looking at crashes at the intersection (see recording for details).

02:18:41 Marty Clark spoke in opposition to the proposal. Clark stated that the state owns approximately 300 feet of Ramblin Creek Rd going towards Taylorsville Road, and the remainder is a private road maintained by the residents. Clark also asked why the zoning change request is for a R-5 instead of a R-6 (see recording for details).

02:22:03 Beth Stuber, Office of Planning, responded to Commission Members questions. Stuber reported the outcome from her review of traffic accidents (crashes) in the area over the last eight years. Stuber stated that residents can control access to the private area of Ramblin Creek Road by adding a gate, speed bumps or signage without Metro approval. Stuber also stated that a Traffic Study was not justified because usage of the roads did not meet the requirements for a study to be completed (see recording for details).

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Rebuttal:

02:33:51 Nick Pregliasco spoke in rebuttal to the opposition. Pregliasco agreed to change the zoning request from R-6 to R-5A based on the proposed development plan consisting of 43 units. Pregliasco discussed possible ways the new development will provide access points. Pregliasco agreed to remove access to Ramblin Creek Road so that the sole access will be from Taylorsville Road. Pregliasco also responded to other issues, stating that a Geo-Tech Survey is not required because there will be no development along the steep slopes of the site, they will be required to reduce any drainage issues to 50%, and dumping and blasting will be addressed with the construction planning stage. Pregliasco stated there will be additional binding elements proposed and 3e will be removed. Pregliasco and Gootee responded to Commission Members questions (see recording for details).

02:51:46 Laura Ferguson, Assistant County Attorney, read the blasting binding element as, "All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur at the offered pre-blast service. Any homeowner who opts to have pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast surveys shall be done in a matter consistent with the Kentucky blasting regulations."

02:53:20 Jay Luckett read the following proposed binding element, "If during site disturbance karst features are discovered, a geotechnical report shall be completed by a qualified professional. The report shall detail construction techniques and mitigation for any features found and shall be submitted to the Office of Planning prior to requesting additional permits."

02:58:10 Bob Rountree asked Commission Members how a plan can be approved with so many open issues that have not been addressed. Commission Members responded that this is the preliminary planning part of the process which consists of approval from Transportation, Public Works, and the Metropolitan Sewer District. The issues will be addressed during this phase before the construction phase begins (see recording for details).

03:04:36 James Hile asked who would be held responsible for any infrastructural damage to his property due to blasting on the site. Hile also asked why the easement drainage retention pond isn't factored into the 5A zoning numbers. Luckett responded that the density is based on parcel size and the number of units per acreage. Commissioner Mims responded to the question about blasting, stating that the blasting survey would allow residents within 500 ft to submit a claim for damages.

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Commissioner Carlson stated that a statement could be added to the binding element that density does not exceed 43 units. Lockett responded to a question about making changes to the sidewalk adjacent to Ramblin Creek Road, that it could potentially be changed but would first need approval from Public Works. Laura Ferguson suggested adding a condition to the plan (if approved) that the applicant requests offsite construction of that sidewalk to Public Works (see recording for details).

Deliberation:

03:19:55 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-5A Multifamily Residential

03:24:52 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the site is located along Taylorsville Rd. a major arterial roadway. The site has ready access to employment opportunities as well as a variety of services and amenities in the area.

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 2 because adequate buffering and transition will be provided adjacent to existing residential development. The development will allow for additional housing on previously developed land.

WHEREAS, the Planning Commission finds the proposal meets Community Form: Goal 3 because the while site has some areas of steep slopes in the rear, they are generally being left undisturbed except as necessary to install utility infrastructure.

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 1 because the subject site is along Taylorsville Rd, a major arterial roadway which provides access to a wide variety of services, amenities and employment opportunities.

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WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 2 because the site is served by existing public roadways and would not create additional access through areas of lower intensity.

WHEREAS, the Planning Commission finds the proposal meets Mobility: Goal 3 because the applicant will install required sidewalks along Taylorsville Rd and Ramblin Creek Rd.

WHEREAS, the Planning Commission finds the proposal meets Community Facilities: Goal 2 because all necessary utilities are available at the subject site. Utility service will be coordinated with all appropriate agencies.

WHEREAS, the Planning Commission finds the proposal meets Livability: Goal 1 because the development will preserve areas of mature trees along the steepest parts of the site.

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 1 because the proposal would permit additional housing options in an area with access to services, amenities and employment opportunities.

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 2 because residents would not be displaced by the proposal.

WHEREAS, the Planning Commission finds the proposal meets Housing: Goal 3 because the proposed zoning would permit multiple housing types that provide a variety of ownership options and occupancy types, which furthers the goal of providing fair and affordable housing in the area.

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-5A multifamily residential

The vote was as follows:

YES: Commissioners Mims, Fischer, Cheek, Carlson, and Howard

NO: Commissioner Sistrunk

ABSENT: Commissioner Kern

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Revised Detailed District Development plan with binding elements

03:26:31 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

WHEREAS, the Planning Commission finds there are areas of mature trees and steep slopes at the rear of the subject site. The applicant is proposing to preserve existing trees and slopes in the rear, except to install necessary drainage infrastructure, 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 Transportation Planning and KYTC have approved the preliminary development plan, and

WHEREAS, the Planning Commission finds all open space requirements of the Land Development Code will be met on the subject site, 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 and land uses are compatible with the existing and future development of the area, and

WHEREAS, the Planning Commission finds 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 does hereby **APPROVE** the Revised Detailed District Development plan **ON CONDITION** that a revised plan be submitted removing the Ramblin Creek Road access, revising the zoning district to R-5A, and the applicant to request offsite construction of the sidewalk along Ramblin Creek Road to Metro Public Works and with the following binding elements

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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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to those shown at the May 7, 2024, Planning Commission public meeting. 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

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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.

6. Prior to requesting a permit for demolition or ground disturbance on the subject site, an Individual Historic Resource Survey Form (available from the Kentucky Heritage Council, the State Preservation Office) shall be completed by a Secretary of the Interior-qualified professional for each building proposed for demolition. The form includes photographs of all elevations and significant architectural features. All forms shall be provided to Planning and Design Services' Urban Design/Historic Preservation staff.
7. The applicant shall create an elevated planting area along Ramblin Creek Road for plantings as shown at the 5/7/24 Planning Commission Public Hearing. The planting area shall be close to the same elevation as the finish floor elevation of the first building facing Ramblin Creek Road to create a planting space within the viewshed of Ramblin Creek Road to provide the optimum screening of said building. Planting shall consist of evergreen and deciduous trees selected from the LDC Appendix 10A Preferred Plant List and planted in manner to match the color side rendering shown at the 5/7/24 the Public Hearing.
8. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur at the offered pre-blast service. Any homeowner who opts to have pre-blast survey conducted shall be provided copies of all materials resulting from that survey including any photos and/or videos. Any blast surveys shall be done in a matter consistent with the Kentucky blasting regulations.
9. If during site disturbance karst features are discovered, a geotechnical report shall be completed by a qualified professional. The report shall detail construction techniques and mitigation for any features found and shall be submitted to the Office of Planning prior to requesting additional permits.
10. The density shall not exceed 43 units on the site.

The vote was as follows:

YES: Commissioners Mims, Fischer, Cheek, Carlson, and Howard

NO: Commissioner Sistrunk

ABSENT: Commissioner Kern