

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

STATEMENT OF COMPLIANCE WITH ALL APPLICABLE GOALS, GUIDELINES AND POLICIES OF THE CORNERSTONE 2040 COMPREHENSIVE PLAN

Applicant/Owner: MIVE Property, LLC c/o Mike Schnell

Project Name/Location: Outer Loop apartments/6001 Outer Loop

Proposed Use: Multifamily Residential

Request: Zone change from R-4 to R-6

Engineers, Land Planners and
Landscape Architects: Blomquist Design Group

INTRODUCTION

The Applicant is proposing a 252 unit multi-family community at 6001 Outer Loop situated on vacant ground between two institutional uses (St. Athanasius Church and school and Okolona Church of Christ) near the commercial node activity center at Shepherdsville Road and Outer Loop. The subject property is proposed to be rezoned from R-4 Single Family Residential to R-6 Multi-Family Residential. As set forth below, this proposal complies with the applicable provisions of Plan 2040 and the Highview Neighborhood Plan.

COMMUNITY FORM

Goal 1 – Guide the form and design of development to respond to distinctive physical, historic and cultural qualities.

This proposal complies with Goal 1 and Policies 3.1.3, 7, 9, 10, 11, 12, 17 and 19 as it is located in the Neighborhood Form District which is characterized by predominantly residential uses that vary from low to high density... located on minor or major arterial. Outer Loop is a major arterial and a transit corridor near an activity center. The apartments will also provide additional diversity of housing types which will provide housing choice for differing ages, incomes, and abilities, as is encouraged. Appropriate transitions to adjacent institutional and single family residential uses are accomplished by the required buffers which includes privacy fencing and landscaping. The residential uses to the north are substantially below the elevation of the proposed apartments which are oriented to provide privacy. Lighting will be directed down away and specifically will be shielded to eliminate light trespass on to residences. The fencing will also eliminate the glare from auto headlights using the parking areas and drive lanes and will reduce the potential of apartment residents who could otherwise have direct pedestrian access to the properties to the north.

Goal 2 – Encourage sustainable growth and density around mixed-use centers and corridors.

This proposal complies with Goal 2 and Policies 6, 9 and 17 as it is located very near an activity center resulting in an efficient land use and cost effective existing infrastructure and constitutes new development of a residential use in an appropriate area. Further, the design and location of utility easements are done in a manner to promote ease of access for maintenance and repair.

Goal 3 – Enhance neighborhood by protecting and integrating open space, watershed and other natural resources.

This proposal complies with Goal 3 and Policies 1, 2, 3, 8, 9 and 10 as it provides open spaces required by the Land Development Code as well as recreational amenities for the residents compatible with the pattern of development in the Neighborhood Form District. It respects the natural topography of the site as it is located on a hill above the single family residences to the north and is across a major arterial from single family residences to the south. It avoids the steep slopes to the north. The site preserves trees where appropriate and in compliance with the Land Development Code. And the site has no wet or highly permeable soils.

Goal 4 – Promote and preserve the historic and archaeological resources that contribute to our authenticity.

This proposal complies with Goal 4 and Policies 2 and 3 as there are no distinctive cultural features or historic structures on the site.

MOBILITY

Goal 1 – Implement an accessible system of alternative transportation modes.

This proposal complies with Goal 1 and Policies 1.1, 1.3, 1.4, 1.5, 1.6, 3 and 4 as sidewalks in and through the site connect to existing sidewalks on Outer Loop providing connection to churches, schools and retail goods and services in the nearby activity center permitting higher density at this location with local TARC bus routes. This location will also have the effect of reducing vehicle miles travelled.

Goal 2 – Plan, build and maintain a safe, accessible and efficient transportation system.

This proposal complies with Goal 2 and Policies 4 and 5 as access to the site is via the Outer Loop a major arterial and provides two access points situated to provide adequate sight distances relative to the Outer Loop. As a result of the access directly to the Outer Loop major arterial, the development would not be accessed through areas of lower intensity.

Goal 3 – Encourage land use and transportation patterns that connect Louisville Metro and support future growth.

This proposal complies with Goal 3 and Policies 2, 5, 6, 9, 10 and 21 as the site is located on a transit corridor easily accessible and adequate by and for all modes of transportation serviceable to persons with disabilities. A traffic study will be performed which is anticipated to indicate no adverse effects on the transportation network. The site is easily accessible by all forms of transportation and is near employment centers. Property is being dedicated to public right-of-way on Outer Loop and the proposed direct access is not to or from a high speed roadway.

COMMUNITY FACILITIES

Goal 2 – Plan for community facilities to improve quality of life and meet anticipated growth.

This proposal complies with Goal 2 and Policies 1, 2 and 3 because the site has access to existing utilities including electric, gas, water and sewer services. Emergency, fire and police services are readily available in this location.

LIVABILITY

Goal 1 – Protect and enhance the natural environment and integrate it with the built environment as development occurs.

This proposal complies with Goal 1 and Policies 5, 7, 10, 15, 17, 18 and 21 as landscaping will utilize approved natural species and respects the topography of the site to avoid steep slopes. Appropriate landscaping will be introduced pursuant to the Land Development Code. The Detention Basin shall ensure proper water storage and detainment to mitigate negative impacts to the watershed and that water quality goals are met. A karst study has been performed and no karst features were identified. The site avoids negative impacts to the regulatory floodplain as it is not located in a regulatory floodplain.

HOUSING

Goal 1 – Expand and ensure a diverse range of housing choices.

Goal 2 – Facilitate the development of connected, mixed-use neighborhoods.

This proposal complies with Policies 1, 2, and 3 of Goal 1 and Policies 1 and 2 of Goal 2 as it adds to the diversity of housing types in the area with housing options for persons of differing ages, incomes, and abilities. It is located on a transit corridor along the major arterial of the Outer Loop and the commercial node activity center at the Shepherdsville Road intersection, easily accessible via all modes of transportation and pedestrian access to nearby schools, churches, retail stores and services that support an inter-generational and mixed-income development.

Goal 3 – Ensure long-term affordability and livable options in all neighborhoods.

This proposal complies with Goal 3 and Policies 1, 2 and 3 because it provides fair and affordable housing for those who prefer a maintenance free life-style in a quality environment

with amenities convenient to shops, services, churches and schools without the financial and maintenance burdens of private ownership. No existing residents will be displaced by this development.

HIGHVIEW NEIGHBORHOOD PLAN

This proposal complies with the recommendation LU7 to locate multi-family development in areas within, or immediately adjacent to, neighborhood activity centers/modes as it is less than 2000 feet from the intersection of Outer Loop and Shepherdsville Road with an activity center. This location is extremely convenient for teachers and students of St. Athanasius, Moore High School and Smyrna Elementary School, places of worship and the goods, services and employment opportunities in the area.

* * *

For all of the above-stated reasons and the information provided on the Detailed District Development Plan this proposal complies with the applicable Goals and Policies and Plan 2040 and the Highview Neighborhood Plan.

Respectfully submitted,

John C. Talbott
BARDENWERPER, TALBOTT & ROBERTS, PLLC
Bardenwerper Talbott & Roberts, PLLC
1000 N. Hurstbourne Parkway, Second Floor
Louisville, KY 40223
(502) 426-6688

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer all of the following questions. Use additional sheets if needed. A response of yes, no, or N/A is not acceptable.

Waiver of Section 5.9.2.A.1.a.ii of the Land Development Code to not provide a stub connection to the adjoining property

Explanation of Waiver:

1. The waiver will not adversely affect adjacent property owners because the only properties that the connection would potentially serve are single family lots to the north and a potential connection with the local road of Briscoe Ridge Lane. A connection to any of these properties would be of no practical use to the subject property as any residents of the subject site would be heading away from the Outer Loop. It would also position higher intensity development through what is exclusively single family homes and lots. Moreover, the local road is substandard and merely serves three single family lots. Making a connection to Briscoe Ridge Lane would disrupt these single family homes, in addition to the other single family lots. Currently all of the lots to the north have access to Briscoe Lane, with connections to Shepherdsville Road, in addition to other transportation connections and road network. This direct access to Briscoe Lane would be the most direct access for the few residents, rather than through the proposed private streets on the subject site.
2. The waiver will not violate the Comprehensive Plan because there are no new potential impacts to be mitigated by this request to not provide a connection.
3. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because providing the connection has a very large impact single family residences to the north, the owners of which do not want the connection. In addition, stub connection provides little, if any, benefit to the development of the subject site where its traffic is more appropriately directed to the major arterial of the Outer Loop. Further, due to the nature of the connection through the private streets and parking lot of the subject site, this is very different from a subdivision proposal in which a publicly dedicated right of way is proposed.

4. Strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because of the significant changes required to the current proposed development plan to make the connection, resulting in the loss up to 24 units. Thus, there is very limited benefit, if any, to either of the properties by providing the connection, and a very large detriment to the subject property and the neighbors to the north which are less intense of development than the subject site.

BARDENWERPER, TALBOTT & ROBERTS, PLLC

ATTORNEYS AT LAW

1000 N. HURSTBOURNE PARKWAY • BUILDING INDUSTRY ASSOCIATION OF GREATER LOUISVILLE BLDG. • SECOND FLOOR • LOUISVILLE, KENTUCKY 40223
(502) 426-6688 • (502) 425-0561 (FAX) • WWW.BARDLAW.NET

PROPOSED FINDINGS OF FACT REGARDING COMPLIANCE WITH ALL APPLICABLE GOALS OF THE 2040 PLAN 20-ZONE-0120

The Louisville Metro Planning Commission, having heard testimony before its Land Development & Transportation Committee, the Public Hearing held on June 17, 2021 and having reviewed evidence presented by the applicant and the staff's analysis of the application, make the following findings:

WHEREAS, the Applicant is proposing a 252 unit multi-family community at 6001 Outer Loop situated on vacant ground between two institutional uses (St. Athanasius Church and school and Okolona Church of Christ) near the commercial node activity center at Shepherdsville Road and Outer Loop; the subject property is proposed to be rezoned from R-4 Single Family Residential to R-6 Multi-Family Residential; and as set forth below, this proposal complies with the applicable provisions of Plan 2040 and the Highview Neighborhood Plan; and

WHEREAS, this proposal complies with Community Form Goal 1 and Policies 3.1.3, 7, 9, 10, 11, 12, 17 and 19 as it is located in the Neighborhood Form District which is characterized by predominantly residential uses that vary from low to high density located on Outer Loop which is a major arterial and transit corridor near the activity center; the apartments will provide additional diversity of housing types which will provide housing choice for differing ages, incomes, and abilities, as is encouraged; appropriate transitions to adjacent institutional and single family residential uses are accomplished by the required buffers which includes privacy fencing and landscaping; the residential uses to the north are substantially below the elevation of the proposed apartments which are oriented to provide privacy; lighting will be directed down away and specifically will be shielded to eliminate light trespass on to residences; the fencing will also eliminate the glare from auto headlights using the parking areas and drive lanes and will reduce the potential of apartment residents who could otherwise have direct pedestrian access to the single-family properties to the north; and

WHEREAS, this proposal complies with Community Form Goal 2 and Policies 6, 9 and 17 as it is located very near an activity center resulting in an efficient land use and cost effective existing infrastructure and constitutes new development of a residential use in an appropriate area; further, the design and location of utility easements are done in a manner to promote ease of access for maintenance and repair; and

WHEREAS, this proposal complies with Community Form Goal 3 and Policies 1, 2, 3, 8, 9 and 10 as it provides open spaces required by the Land Development Code as well as recreational amenities for the residents compatible with the pattern of development in the Neighborhood Form District; it respects the natural topography of the site as it is located on a hill above the single family residences to the north and is across a major arterial from single family residences to the south; it avoids the steep slopes to the north; and the site preserves trees where appropriate

and in compliance with the Land Development Code; and the site has no wet or highly permeable soils; and

WHEREAS, this proposal complies with Community Form Goal 4 and Policies 2 and 3 as there are no distinctive cultural features or historic structures on the site; and

WHEREAS, this proposal complies with Mobility Goal 1 and Policies 1.1, 1.3, 1.4, 1.5, 1.6, 3 and 4 as sidewalks in and through the site connect to existing sidewalks on Outer Loop providing connection to churches, schools and retail goods and services in the nearby activity center permitting higher density at this location with local TARC bus routes; and this location will also have the effect of reducing vehicle miles travelled; and

WHEREAS, this proposal complies with Mobility Goal 2 and Policies 4 and 5 as access to the site is via the Outer Loop (a major arterial) and provides two access points situated to provide adequate sight distances relative to the Outer Loop; and as a result of the access directly to the Outer Loop major arterial, the development would not be accessed through areas of lower intensity; and

WHEREAS, this proposal complies with Mobility Goal 3 and Policies 2, 5, 6, 9, 10 and 21 as the site is located on a transit corridor easily accessible and adequate by and for all modes of transportation serviceable to persons with disabilities; a traffic study will be performed which is anticipated to indicate no adverse effects on the transportation network; the site is easily accessible by all forms of transportation and is near employment centers; and property is being dedicated to public right-of-way on Outer Loop and the proposed direct access is not to or from a high speed roadway; and

WHEREAS, this proposal complies with Community Facilities Goal 2 and Policies 1, 2 and 3 because the site has access to existing utilities including electric, gas, water and sewer services; and emergency, fire and police services are readily available in this location; and

WHEREAS, this proposal complies with Livability Goal 1 and Policies 5, 7, 10, 15, 17, 18 and 21 as landscaping will utilize approved natural species and respects the topography of the site to avoid steep slopes; appropriate landscaping will be introduced pursuant to the Land Development Code; the Detention Basin shall ensure proper water storage and detainment to mitigate negative impacts to the watershed and that water quality goals are met; a karst study has been performed and no karst features were identified; and the site avoids negative impacts to the regulatory floodplain as it is not located in a regulatory floodplain; and

WHEREAS, this proposal complies with Housing Policies 1, 2, and 3 of Goal 1 and Policies 1 and 2 of Goal 2 as it adds to the diversity of housing types in the area with housing options for persons of differing ages, incomes, and abilities; it is located on a transit corridor along the major arterial of the Outer Loop and the commercial node activity center at the Shepherdsville Road intersection, easily accessible via all modes of transportation and pedestrian access to nearby schools, churches, retail stores and services that support an inter-generational and mixed-income development; and

WHEREAS, this proposal complies with Housing Goal 3 and Policies 1, 2 and 3 because it provides fair and affordable housing for those who prefer a maintenance free life-style in a quality environment with amenities convenient to shops, services, churches and schools without the financial and maintenance burdens of private ownership; and no existing residents will be displaced by this development; and

WHEREAS, this proposal complies with the recommendation LU7 of this Highview Neighborhood Plan to locate multi-family development in areas within, or immediately adjacent to, neighborhood activity centers/modes as it is less than 2000 feet from the intersection of Outer Loop and Shepherdsville Road with an activity center; this location is extremely convenient for teachers and students of St. Athanasius, Moore High School and Smyrna Elementary School, places of worship and the goods, services and employment opportunities in the area; and

WHEREAS, the design of this medium scaled proposal complies with the recommendation CF3 for new multi-family development to have a design to a scale cohesively integrated into the surrounding existing development which provides a variety of housing types, is connected to the surrounding neighborhood, provides private open space as shown on the development plan; and has an architectural design with pedestrian friendly entries and façade treatments with a variety of elements to avoid duplication of design; and

WHEREAS, for all the reasons explained at LD&T and the Planning Commission public hearing and also in the public hearing exhibit books, on the approved detailed district development plan, this application also complies with all other applicable Goals of the 2040 Plan;

NOW, THEREFORE, the Louisville Metro Planning Commission hereby recommends to the Louisville Metro Council that it rezone the subject property from R-4 to R-6 and approves the Detailed District Development Plan.

Waiver Findings of Fact

Waiver of Section 5.9.2.A.1.a.ii of the Land Development Code to not provide a stub connection to the adjoining property

WHEREAS, the waiver will not adversely affect adjacent property owners because the only properties that the connection would potentially serve are single family lots to the north and a potential connection with the local road of Briscoe Ridge Lane and to the church properties to the east and west; a connection to any of these properties would be of no practical use to the subject property as any residents of the subject site would be heading away from the Outer Loop and providing the stubs would cause nuisance and cross-parking issues ; it would also position higher intensity development through what is exclusively single family homes and lots; moreover, the local road is substandard and merely serves three single family lots; making a connection to Briscoe Ridge Lane would disrupt these single family homes, in addition to the other single family lots; currently all of the lots to the north have access to Briscoe Lane, with connections to Shepherdsville Road, in addition to other transportation connections and road network; and this direct access to Briscoe Lane would be the most direct access for the few residents, rather than through the proposed private streets on the subject site; and

WHEREAS, the waiver will not violate the Comprehensive Plan because there are no new potential impacts to be mitigated by this request to not provide a connection; and

WHEREAS, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant because providing the connection would have a very large impact single family residences to the north, the owners of which do not want the connection; in addition, stub connection provides little, if any, benefit to the development of the subject site where its traffic is more appropriately directed to the major arterial of the Outer Loop; further, due to the nature of the connection through the private streets and parking lot of the subject site, this is very different from a subdivision proposal in which a publicly dedicated right of way is proposed; and

WHEREAS, strict application of the provisions of the regulation would deprive the applicant of a reasonable use of the land or would create an unnecessary hardship on the applicant because of the significant changes required to the current proposed development plan to make the connections, resulting in the loss up to 24 units; thus, there is very limited benefit, if any, to any of the properties by providing connections, and a very large detriment to the subject property and the neighbors to the north which are less intense of development than the subject site.

NOW, THEREFORE, the Louisville Metro Planning Commission hereby approves this waiver to not provide stub connections to adjoining property.