

**PLANNING COMMISSION MINUTES**  
**September 17, 2020**

**PUBLIC HEARING**

**CASE NO. 17ZONE1030**

|                   |                                                                                                 |
|-------------------|-------------------------------------------------------------------------------------------------|
| Request:          | Change in zoning from R-4 to R-6 with a Variance, Waiver and Detailed District Development Plan |
| Project Name:     | Chathamwood Apartment Homes                                                                     |
| Location:         | 5200, 5204, 5208 Chathamwood Court                                                              |
| Owner:            | Chathamwood LLC                                                                                 |
| Applicant:        | Chathamwood LLC                                                                                 |
| Representative:   | Bluestone Engineers PLLC                                                                        |
| Jurisdiction:     | Louisville Metro                                                                                |
| Council District: | 23- James Peden                                                                                 |
| Case Manager:     | Julia Williams, 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:**

00:56:00 Ms. Williams discussed the case summary, standard of review and staff analysis from the staff report.

01:05:58 Commissioner Brown asked Ms. Williams if the applicant treating the first full inch of rainwater is mitigation for encroachment of the building and parking lot into the stream buffer. Ms. Williams said she does not consider that mitigation. Commissioner Mims asked if MSD has any issues. Ms. Williams said MSD is ok with the pre-treatment of the first inch. It was offered by the applicant, not required by MSD. MSD requires a 25-foot buffer but the Land Development Code, LDC, requires the 100-foot buffer.

01:08:02 Acting Chair Lewis asked if the OR-2 and C-1 zoned areas are being used as residential lots. Ms. Williams said yes. How did they get those zoning classifications? Ms. Williams said in 1964 there was a master plan that showed those areas being office and commercial. Those sites have never been used for office or commercial use.

**The following spoke in favor of this request:**

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Chris Crumpton, Bluestone Engineers, PLLC, 3703 Taylorsville Road, Suite 205,  
Louisville, Ky. 40220  
Kyle Galloway, 9625 Ormsby Station Road, Louisville, Ky. 40223

**Summary of testimony of those in favor:**

01:12:04 Mr. Crumpton gave a power point presentation. The proposed apartment complex fits in terms of diversity of housing styles. There's easy access to Preston Hwy. and the Gene Snyder Freeway. There's buffering on all sides and most will remain (will be enhanced). The proposal is for 24 apartment units, 2 bedroom, 2 bathrooms - \$875 to \$950 a month). The proposed parking is for 36 spaces (minimum).

Mr. Crumpton showed renderings of the apartments. The Charleswood Park property is very heavily treed and wraps around the property (east and south). Charleswood Rd. is 38-foot wide. The proposed site sits 8-10 feet lower than the adjacent homes.

01:24:16 Mr. Crumpton explained the variance and waiver requests.

01:28:25 Commissioner Mims asked if the park is a metro park. Who maintains it? Mr. Crumpton said the homeowners' association maintains it because it is not a metro park. The parcel is called Charleswood Park open space. Commissioner Mims asked if the development would contribute to the maintenance for that park. Mr. Crumpton said yes.

01:29:59 Mr. Galloway stated the variance request that the Objectives of Plan 2040 encourages housing diversity especially in the Neighborhood Form District.

**The following spoke in opposition to this request:**

Debora Pennington, 10405 Charleswood Road, Louisville, Ky. 40229  
Beverly Keeting, 5200 Capewood Drive, Louisville, Ky. 40229  
Joe Keeting, 5200 Capewood Drive, Louisville, Ky. 40229  
Mary Sue Carter, 10221 Closterwood Drive, Louisville, Ky. 40229  
Deanna K. Spencen, 10210 Charleswood Road, Louisville, Ky. 40229

**Summary of testimony of those in opposition:**

01:32:00 Ms. Pennington said traffic is a concern as several places and people use Charleswood Rd. Safety and parking are issues as well. There has been flooding at Fish Pool Creek during torrential rains. The proposed development is out of character with the neighborhood and property values will decrease. Also, turning from Cooper

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Chapel Rd. onto Charleswood Rd. is not 38-feet wide. If this is approved, the applicant needs to consider speed humps on Charleswood Rd. There is no park, just woods.

01:37:10 Ms. Keeting said traffic and access to Charleswood are issues. It's scary trying to get in and out. The speed limit is 25 miles per hour, but everyone speeds. Twenty-four apartments are too many and there will not just be 1 vehicle per household.

01:39:41 Mr. Keeting lives on the edge of the proposed apartments. There is no park. The space has been maintained by 2-3 resident since 1966.

Mr. Keeting said he was told once the sewer treatment plant was demolished, it would be zoned for 2 or 3 houses, not 24 apartments. The parking is not efficient as there will be 2-3 vehicles per unit.

01:47:40 Ms. Carter stated she finally got speed humps on her street after 3 years. There are a lot of people cutting through and driving at great speeds. Has there been a study concerning the square footage and acreage of the apartments versus the acreage of the Glenmary development also where it sits on Bardstown (in middle of development)?

Ms. Carter said there is no Charleswood park. There are too many encroachments, variances and waivers. The proposal doesn't fit.

01:54:13 Ms. Spencen said the apartments will be in her back yard. Traffic will be a nightmare. The fire dept. has not approved apartments.

**Rebuttal**

01:57:05 Mr. Galloway said Public Works has no issues with traffic or parking. A mixed-use is not unusual and is encouraged in the Land Development Code. Also, MSD has signed off on the flood plan.

01:59:28 Mr. Crumpton said he did not mean to call the property around the site a park but it is actually termed Charleswood Community Park on the plat. The road is 38 feet wide and that's probably why people attempt to speed.

02:00:53 Commissioner Howard asked if there's a reason why you can't build 3 single family homes on the 3 lots. Mr. Galloway said the applicant decided to put in apartments because it's more financially feasible.

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02:01:49 Acting Chair Lewis asked, what is the mitigation for the variance on the 100-foot stream buffer? Mr. Crumpton said they will collect the storm water runoff from the developed site and run it into a water quality unit (1-inch rainstorm event). Mr. Galloway added, it's more than what MSD requires.

02:05:16 Commissioner Daniels asked if the fire dept. was contacted about this development. Mr. Crumpton said yes, but there were no comments. Ms. Williams added, the fire dept. had no comment except requiring a fire hydrant.

**Deliberation**

02:10:00 Commissioner Brown agrees with the staff regarding the stream buffer encroachment. The area can support the density. There are traffic issues in the area.

02:10:41 Commissioner Howard stated she agrees with the Standard of Review and Analysis for the variance and the development plan. Diversity of housing options in an area are acceptable, but the proposal is an overbuild of the site to require a 75-foot variance. The existing 3 lots for single family use would better serve this site.

The other commissioners agree.

**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-4 to R-6**

On a motion by Commissioner Howard, seconded by Commissioner Brown, the following resolution based on the Standard of Review and Staff Analysis for the variance and the testimony heard today was adopted.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not meet Land Use & Development Goal 2: Community Form because, the proposal is not for mixed use; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not meet Land Use & Development Goal 4: Community Form because Fishpool Creek runs along the southside of the property. The 25' streamside buffer is left undisturbed while the 50' middle and 25' outer buffers are being encroached upon by development; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not meet Land Use & Development Goal 1: Mobility because the proposed high density zoning is not located near or along a marketplace corridor. The site is located in the vicinity of office and commercial zoning, which could be a future activity center. The site is not served by transit; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not meet Land Use & Development Goal 3: Mobility because the area has mixed zoning in the vicinity. Should the office and commercial zoned areas develop for the uses permitted, vehicle miles traveled would be reduced. The proposal is for housing not located near an employment center; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not meet Land Use & Development Goal 1: Livability because the project has indirect flows from the ground surface to the streamside buffer and Fishpool Creek. The proposal does not provide full compliance with the stream buffer which would help filter pollutants from the impervious surfaces. The applicant has agreed to treat the first inch of rain for water quality. More than half of the middle and outer stream buffers are encroached upon by building or pavement. No mitigation is proposed for the encroachments.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal will adversely affect the public health, safety or welfare because the required buffer is intended to preserve and enhance the biological, hydrological and ecological functions of the creek. To protect natural areas and features, minimize water pollution, and to locate development in areas that do not have severe environmental limitations; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal will alter the essential character of the general vicinity because the site is surrounded by open space lots within subdivisions. The proposed lot was intended as a sewage treatment site with very little impact on the surrounding landscape; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal will cause a hazard or nuisance to the public because the full buffer for the creek is not being mitigated; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal will allow an unreasonable circumvention of the zoning regulations because the encroachments into the buffer are not being mitigated; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal does not arise from any special circumstances. The applicant is encroaching with building and pavement in almost the entirety of the middle and outer stream buffers; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant because the site is not undevelopable under the existing zoning and associated regulations; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought. The applicant is seeking additional development on the site for which it is not zoned, causing the encroachments into the buffers; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the stream buffer requirements do not represent an extreme hardship that there would be minimal or no economic use of the property because the site could be developed under the current zoning; and

**WHEREAS**, the Louisville Metro Planning Commission finds that it is possible to construct a single-family dwelling without encroachments into the stream buffer; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the encroachment into the required Buffer Area is limited to the minimum necessary to accommodate the proposed use once the zoning has changed on the property. Without the change in zoning the encroachments are not necessary; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the applicant has not offered any mitigation measures to offset the impacts of the encroachments other than treating the first 1" of rainwater prior to it entering Fishpool Creek; and

**WHEREAS**, the Louisville Metro Planning Commission finds that MSD has not indicated a reduction in water quality as the 25' MSD streamside buffer is in compliance with their standards.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to R-6, Multi-family Residential on property described in the attached legal description be **DENIED**.

**The vote was as follows:**

**YES: Commissioners Daniels, Howard, Mims and Seitz**

**NO: Commissioner Brown and Lewis**

**NOT PRESENT AND NOT VOTING: Commissioners Carlson, Peterson and Jarboe**

**PLANNING COMMISSION MINUTES**  
**September 3, 2020**

**PUBLIC HEARING**

**CASE NO. 17ZONE1030**

Case No: 17ZONE1030  
Project Name: Chathamwood Apartment Homes  
Location: 5200, 5204 and 5208 Chathamwood Court  
Owner(s): Chathamwood LLC  
Applicant: Chathamwood LLC  
Jurisdiction: Louisville Metro  
Council District: 23-James Peden  
Case Manager: Julia Williams, AICP, Planning Supervisor

**5:16:29**

**NOTE: CHAIR JARBOE SAID THE APPLICANT REQUESTS A CONTINUANCE DUE TO THE LATENESS OF THIS MEETING**

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:**

None

**The following spoke in favor of this request:**

None

**The following spoke in opposition to this request:**

Robert Pendleton, 10104 Charleswood Road, Louisville, Ky. 40229  
Deanna Stinson, 10210 Charleswood Road, Louisville, Ky. 40229  
Beverly Keeting, 5200 Capewood Drive, Louisville, Ky. 40229  
Debora Pennington, 10405 Charleswood Road, Louisville, Ky. 40229  
Cody McIntyre, 10208 Charleswood Road, Louisville, Ky. 40229

**Summary of testimony of those in opposition:**

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05:17:48 Mr. Pendleton stated he's opposed to a development of this size because there will be inadequate parking. Parking on Charleswood Rd. would be very dangerous because the entrance to this development, to the west, there's a blind curve with a lot of people speeding. To the east, there's a hill at the top with a 3-way intersection and cross-traffic does not stop. The development should be down-sized by 4 units and create more parking.

05:21:23 Ms. Stinson said her house backs up directly to the apartments and will affect her the most. There's not enough room for the apartments and they want to encroach and abut my property.

Ms. Stinson said when she moved into her home, it was residential and not meant to be apartments in one's back yard. They want to encroach into the creek as well. The applicant encroaching into the green space is not green space. Ms. Stinson said she has Rule of Adverse Possession and has been taking care of the property for over 20 years.

Ms. Stinson said on July 7, 2016 there was a presentation to the Okolona Fire Marshal for 3 houses but there has been no presentation for apartments. There's not enough room, not enough parking, the creek overflows and becomes a flood plain. The traffic is bad and there's cut-through traffic as well. It will only get worse.

05:24:05 Mr. Fiechter, legal counsel, informed Ms. Stinson that the Planning Commission will not be able to settle Adverse Possession claims, so you may want to hire an attorney. Mr. Stinson said she already has.

05:24:49 Ms. Keetwood has lived there since 1966 and stated traffic is bad – mainly the school traffic. It will get worse. There's a lot of street parking on both sides, making it dangerous. Additional street parking from the people living in the proposed apartments will make it worse.

05:26:28 Ms. Pennington said her main concern is the traffic – 95% of the drivers do not obey the speed limit, which is 25 miles per hour. Ms. Pennington requests speed bumps or speed humps.

05:27:41 Chair Jarboe thanked the speakers and invited them back to the September 17, 2020 Planning Commission meeting. Ms. Pennington asked what time that would be because she received no notification for this meeting. She said she saw the sign today. Chair Jarboe said the meeting starts at 1:00 p.m.



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05:29:50 Ms. Stinson added, some neighbors didn't receive notice cards and didn't know what was going on. The sign wasn't put up until last week. Chair Jarboe said please inform your neighbors because there will be no notification for a continued case.

05:31:41 Mr. McIntyre stated there's not enough room for what the applicant is proposing. The proposed apartments will be 50-60 ft. from his property. The apartments will lower the property values. People will be cutting through the neighborhood. The creek gets out of hand with big rain events and is not ok to build on - the foundations will sink. The apartments are not affordable and will turn into Section 8.

**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.**

On a motion by Commissioner Peterson, seconded by Commissioner Seitz, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 17, 2020 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Brown**

**PLANNING COMMISSION MINUTES**  
**August 6, 2020**

**PUBLIC HEARING**  
**CASE NO. 20-ZONE-0005**

Request: THIS CASE WILL NEED TO BE RESCHEDULED TO 8/20/20 PLANNING COMMISSION DUE TO IMPROPER NOTICE  
Change in zoning from R-4 to R-5, with Detailed District Development Plan and Preliminary Subdivision Plan and Binding Elements

Project Name: Villages of Heritage Creek  
Location: 10001 Cedar Creek Road  
Owner: Virgil and Frankie Slaughter  
Applicant: Grand Communities LTD.  
Representative: Mindel, Scott and Associates; Bardenwerper, Talbott and Roberts PLLC.

Jurisdiction: Louisville Metro  
Council District: 22- Robin Engel  
Case Manager: Julia Williams, 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.

**Agency Testimony:**

00:06:43 Ms. Williams stated it's being requested to continue this case to the August 20, 2020 Planning Commission meeting.

00:06:59 Commissioner Howard asked if the continuance has anything to do with a request from Land Development and Transportation, LD&T or the Development Review Committee, DRC. Ms. Williams said no, it's being requested because the applicant added 2 addresses to the notice that were not associated with this site. This was confusing to the recipients so it will be re-noticed with corrections.

On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the August 20, 2020 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Howard, Mims, Peterson, Lewis and Jarboe**

**NOT PRESENT AND NOT VOTING: Commissioner Seitz**