

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
Case Number 20-ZONE-0120 Only
September 16, 2021**

A meeting of the Louisville Metro Planning Commission was held on September 16, 2021 at 1:00 p.m. via Cisco Webex Video Teleconferencing.

Commission members present:

Marilyn Lewis, Chair
Jeff Brown
Jim Mims
Rich Carlson
Rob Peterson
Patti Clare
Pat Seitz
Te'Andre Sistrunk
Lula Howard

Commission members absent:

Ruth Daniels

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Chris French, Planning Supervisor
Dante St. Germain, Planner II
Beth Stuber, Engineering Supervisor
Faisal Al Zadjali, Engineer I
Laura Ferguson, Legal Counsel

The following matters were considered:

PLANNING COMMISSION MINUTES
September 16, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0120

Request:	Detailed District Development Plan and Binding Elements and Waiver
Project Name:	6001 Outer Loop Apartments
Location:	6001 Outer Loop
Owner:	Mive Property LLC
Applicant:	Mive Property LLC
Representative:	Bardenwerper Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Dante St. Germain, AICP, Planner II

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:

Dante St. Germain presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation). The zoning portion of this case has been sent to Metro Council with a recommendation to approve, but the Planning Commission did not take action on the development plan or the waiver.

Planning Commissioners asked questions to staff. Commissioner Carlson asked if there were other alternatives for a potential stub to the north. Dante St. Germain said the property between the development site and Briscoe Ridge Lane has a single-family residence on it and it may not be feasible. Commissioner Mims asked if the right-of-way or easement towards the east could be dedicated for potential construction later, even though the topography is challenging for a street stub.

The following spoke in favor of this request:

John Talbott, Bardernwerper Talbott & Roberts, 1000 N. Hurstbourne Parkway, Suite 200, Louisville, Kentucky 40223

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Circle # D, Louisville, Kentucky 40223

Summary of testimony of those in favor:

PLANNING COMMISSION MINUTES
September 16, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0120

John Talbott spoke in support of the application and provided a powerpoint presentation (see recording for detailed presentation). Talbott stated the applicant has been making changes since the June 17, 2021 hearing to make changes based on staff and commission recommendations. Talbott pointed out there are some water bodies in addition to the steep slopes to the east that would make a road connection difficult. The buildings have been rearranged to provide more continuous open space and eliminate some of the parking that was on the previous plan. The buildings have been reoriented and additional design details have been included to make the buildings more visually interesting (see renderings in presentation). The plan includes a note regarding the proposed easement to allow the church's parking to encroach over the property line.

The Planning Commissioners addressed the applicant.

Commissioner Mims and Carlson stated the amended plan is an improvement from the previous submittal.

The following spoke neither for nor against the request ("Other"):

Lyle Farmer, 1001 Honey Locust Lane, Louisville, Kentucky 40241

Summary of testimony of those neither for nor against:

Lyle Farmer is associated with the adjoining church. Farmer thanked the applicant for working with them on the easement. Farmer also asked if the property would be fenced, and would the sidewalk stub into the church property.

Marv Blomquist said the proposed fence would be on the west and north side of the property, but no fence is proposed along the Okolona Church of Christ site. Blomquist added that a bus stop has been added to the plan near the eastern property line.

The following spoke in opposition to this request:

None

Summary of testimony of those in opposition:

None

Rebuttal:

PLANNING COMMISSION MINUTES
September 16, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0120

John Talbott reiterated that this plan meets the recommendations that were made at the previous hearing. Talbott also pointed out the dumpsters were relocated back away from Outer Loop.

Deliberation

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.

Waiver from 5.9.2.A.1.a.ii to omit a required stub street to an adjacent undeveloped lot (21-WAIVER-0046)

Commissioner Brown made a motion to approve the requested waiver based on the staff report and testimony heard at today's meeting and the June 17, 2021 Planning Commission meeting. Commissioner Howard seconded.

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners as the affected property has its own access to Smyrna Road;

WHEREAS, the Planning Commission finds the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages connectivity where appropriate. The connection is not appropriate in this case because making the connection would infringe on a wooded area with topographical constraints. Plan 2040 also encourages the preservation of environmentally sensitive areas of development sites;

WHEREAS, the Planning Commission finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the required connection would impact a wooded area with topographical constraints; and

WHEREAS, the Planning Commission finds Strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the applicant to provide a road connection through a topographically constrained area of the site, to provide connectivity which is unlikely to be widely utilized by drivers.

PLANNING COMMISSION MINUTES
September 16, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0120

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the waiver of Section 5.9.2.A.1.a.ii of the Land Development Code to omit a required stub street to an adjacent undeveloped lot (21-WAIVER-0046).

The vote was as follows:

YES: Commissioners Brown, Carlson, Mims, Sistrunk, Peterson, Clare, Seitz, Howard and Lewis

NO: None

ABSENT: Commissioner Daniels

Detailed District Development Plan with Binding Elements

Commissioner Brown made a motion to approve the requested Detailed District Development Plan based on the staff report and testimony heard at today's meeting and the June 17, 2021 Planning Commission meeting. Commissioner Seitz seconded.

WHEREAS, the Planning Commission finds the tree canopy exists on the site in an environmentally constrained area and will be preserved there. No other natural resources are evident on the site;

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;

WHEREAS, the Planning Commission finds the required common and recreational open space is being provided. The revised site plan locates most of the open space near the front of the site where it is accessible to all future residents. The open space is a focal point of the site. The buildings are arranged around it and oriented toward it as recommended by the neighborhood plan;

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;

WHEREAS, the Planning Commission finds the overall site design is in compliance with the neighborhood plan, and compatible with projected future development of the area; and

PLANNING COMMISSION MINUTES
September 16, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0120

WHEREAS, the Planning Commission finds the development plan conforms to applicable guidelines and policies of the Land Development Code with the exception of the requested waiver. The development plan conforms with the Comprehensive Plan and the Highview Neighborhood Plan. The design of open space is encouraged to meet outdoor recreation needs, which the centralized open space provided in the development would more readily accomplish compared with the prior plan.

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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. 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 certificate of occupancy. 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 16, 2021 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

PLANNING COMMISSION MINUTES
September 16, 2021

PUBLIC HEARING

CASE NO. 20-ZONE-0120

5. 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.
6. 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.
7. The Developer / Property Owner shall install a concrete boarding pad, bench pad and then notify TARC when the construction is complete. TARC will then install a standard bench. In addition, the Developer / Property Owner shall clean the stop as needed.
8. The Okolona Church of Christ (OCC) has an exclusive easement for their parking lot that currently encroaches the property line, into perpetuity and running with the land, for so long as the OCC operates the property as a non-profit church. Should OCC not operate the property as a non-profit church, the easement will revert back to the applicant, its successors and assigns. In exchange for this easement, OCC is responsible for all maintenance of the portion of the parking lot subject to this easement and OCC accepts all liability as a result thereof and shall further indemnify the applicant, its successors and assigns for any and all claims or liability relating thereto. The applicant, its successors and assigns, shall be responsible for other improvements, if any.

The vote was as follows:

YES: Commissioners Brown, Carlson, Mims, Sistrunk, Peterson, Clare, Seitz, Howard and Lewis

NO: None

ABSENT: Commissioner Daniels

PLANNING COMMISSION MINUTES
September 16, 2021

Chair

Planning Director