

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
September 3, 2020**

A meeting of the Louisville Metro Planning Commission was held on September 3, 2020 at 1:00 p.m. via Cisco Webex Video Teleconferencing. On the recommendation of the Louisville Metro Department of Health and Wellness regarding congregate events and social distancing, the special Planning Commission meeting set for today was held online.

Commission members present:

Vince Jarboe, Chair
Marilyn Lewis, Vice Chair
Jeff Brown – Left at ~ 4:51
Lula Howard
Rich Carlson
Robert Peterson
Ruth Daniels
Jim Mims
Pat Seitz

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Joe Haberman, Planning and Design Manager
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Dante St. Germain, Planner II
Zach Schwager, Planner I
Lacey Gabbard, Planner I
Jay Lockett, Planner I
Mark Dutrow, Engineer II
Travis Fiechter, Legal Counsel
John Carroll, Legal Counsel
Pamela M. Brashear, Management Assistant

The following matters were considered:

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APPROVAL OF MINUTES

AUGUST 20, 2020 PLANNING COMMISSION REGULAR MEETING MINUTES

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

RESOLVED, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on August 20, 2020.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 20-WAIVER-0063

Request:	Waiver to allow a single-family residential structure to encroach into a scenic corridor setback
Project Name:	Meremont Heights Way Waiver
Location:	17915 Meremont Heights Way
Owner:	Boland Maloney Realty Company
Applicant:	Nathan Wright – Mindel Scott
Representative:	Nathan Wright – Mindel Scott
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Zach Schwager, Planner I

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:

00:05:56 Mr. Schwager discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Mims asked if the applicant is proposing to remove trees in the scenic corridor. Mr. Schwager said no.

The following spoke in favor of this request:

Nathan Wright, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Don Barrickman, 1711 Meremont Ridge Road, Louisville, Ky.
Jim Boland, 535 Mulberry Lane, Louisville, Ky. 40206

Summary of testimony of those in favor:

00:09:54 Mr. Wright gave a power point presentation. There's a significant mass of trees and grade change. All the trees will be preserved and there will be an additional 10 trees added. The plan is to center the home on the lot and move the structures farther apart. It will be more aesthetic. The home will be 1-story.

00:18:28 Mr. Barrickman said he attended DRC and was in opposition. There was a misunderstanding in losing some trees but now, after speaking with the applicant/representative and Mr. Schwager, is now in favor of the proposal.

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00:22:05 Mr. Boland said the 50 foot line on this lot means nothing and is useless. Moving it over to 35 feet still leaves at least 25 feet from the edge of the house to the trees.

00:24:58 Commissioner Mims stated the courtyard driveway is a better option.

00:26:09 Commissioner Lewis asked why would a different configuration of the house not meet the setback standard and still stay the required distance away from the neighboring home. There should be a house built on it to respect the setback line. Mr. Wright said the grade change is a major factor.

00:32:25 Commissioner Lewis asked staff how the addition of the proposed trees will be enforced. Mr. Schwager said a condition of approval could be added to the plan. Ms. Williams stated it can be approved on condition that the applicant revise the landscape plan to show the additional plantings in the scenic corridor buffer as indicated in the applicant's power point presentation and today's date.

00:35:50 Commissioner Carlson asked if there are any other lots, in the subdivision, that would accommodate the proposed house. Mr. Wright said they are trying to complete section 1. No other lots have been looked at for this particular home.

Commissioner Carlson said there are other homes that are close to each other. Mr. Wright stated the market is dictating that larger homes be farther away from each other.

00:42:02 Commissioner Seitz stated the proposed house will look misplaced if placed to the left.

Deliberation:

00:43:20 Commissioner Carlson said the house is too large and doesn't fit. Staff is not in support and there is no justification.

00:44:49 Commissioner Howard said it's an irregular-shaped lot on a sloped site. The waiver is justified.

00:46:09 Commissioner Daniels said the waiver is justified and gives the neighbor more separation. It doesn't affect the neighborhood in a negative way.

00:46:40 Commissioner Brown said he agrees with the staff report. The waiver is not justified.

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00:47:20 Commissioner Mims asked if a driveway can encroach into the scenic corridor. Mr. Schwager said he would have to look into it, but doesn't think so.

Commissioner Mims said he has no objection to the request. The tree line is a nice buffer.

00:49:41 Commissioner Peterson agrees with Commissioner Mims.

00:50:46 Commissioner Lewis said other configurations of homes could be built on this property without encroaching. She doesn't support the waiver request.

00:51:28 Chair Jarboe stated scenic corridors are very important and the distances are required for a reason. The waiver has been mitigated enough and is justified.

00:52:54 Commissioner Seitz said the proposal will be an enhancement to the neighborhood and will look funny having a house close to the right side. Most of the other houses are centered. Also, it's a 1-story house.

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 10.3.6 to allow a building to encroach into the scenic corridor setback

On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution based on Testimony by the Applicant, mitigation being provided by the Applicant, conditions of the site relative to the existing tree lines and some of the grade considerations and Justification statements made by the applicant was adopted.

WHEREAS, all required landscape plantings will be provided; and

WHEREAS, additional 2 deciduous trees and 8 evergreen trees will be provided; and

WHEREAS, the existing trees are being preserved, creating a thick and mature screen, and with the preservation of the trees, the view from Long Run Road is still densely screened; and

WHEREAS, there are no plans to widen or work on Long Run Road (except possible shoulder work). Trees will be preserved; and

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WHEREAS, the home is 1-story, so visibility from Long Run Road will be limited; and

WHEREAS, there is a significant grade change (25 ft. at highest point); and

WHEREAS, the Louisville Metro Planning Commission finds, the structures will be further apart; and

WHEREAS, the Louisville Metro Planning Commission further finds, the proposed house will match the characteristics of the neighborhood.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver from 10.3.6 to allow a building to encroach into the scenic corridor setback, **SUBJECT** to the following condition of approval:

1. The applicant shall revise the landscape plan to show the additional plantings in the scenic corridor buffer as indicated in the applicant's power point presentation at the September 3, 2020 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Daniels, Howard, Mims, Peterson, Seitz and Jarboe

NO: Commissioners Brown, Carlson and Lewis

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CASE NO. 20-WAIVER-0054

Request: Waiver to not provide the sidewalk on Granger Road for a new single family home
Project Name: LDC Waiver
Location: 2605 Granger Road
Owner: Beth Ubelhart Johnson
Applicant: Chad Stoyell, Stoyell Built Homes LLC
Representative: Beth Ubelhart Johnson
Jurisdiction: Louisville Metro
Council District: 13 – Mark Fox
Case Manager: Lacey Gabbard, AICP, Planner I

NOTE: COMMISSIONER CARLSON RECUSED HIMSELF

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:

00:57:48 Ms. Gabbard discussed the case summary, standard of review and staff analysis from the staff report. Commissioner Mims asked if the fee-in-lieu was explained to the applicant, and if so, declined it. Ms. Gabbard said the applicant was informed and spoke more in depth with Beth Stuber. Commissioner Mims asked if there are other sidewalk projects in the area so the fee-in-lieu can be utilized. Mr. Reverman said the fee-in-lieu will be offered if the waiver is denied. Those fee-in-lieu funds go into a fund used by the Metro Council District representative that's pulled with other money to construct sidewalks within the district. The Metro Council person makes the determination where to spend the money.

01:05:12 Commissioner Peterson asked if the fee-in-lieu is justified, given the fact that the applicant lives on a street that has no sidewalks and never will. Mr. Reverman said it is justified. Commissioner Peterson said he doesn't feel the applicant should have to build the sidewalk or pay the fee-in-lieu.

01:07:06 Commissioner Howard said the staff report lists a maximum fee-in-lieu amount of \$2,000. Could the amount be lower? Mr. Reverman said no it would be \$2,000. The fee-in-lieu is determined by the minimum lot frontage required in the district unless that lot frontage is less than that.

The following spoke in favor of this request:

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Beth Johnson, 2605 Granger Road, Fairdale, Ky. 40118

Bill Powers, 2605 ½ Granger Road, Fairdale, Ky. 40118

Summary of testimony of those in favor:

01:08:37 Ms. Johnson said she's trying to do the right thing but is running into a lot of obstacles. Ms. Stuber signed off for this case and provided an email which states, "Per the Metro Council, last summer, any new construction on a metro road requires sidewalks to be built". Joe Reverman, at BOZA, stated the ordinance is not new, but became effective in 2003. The assumption is that Metro Council has told the Board not to approve any sidewalk waivers. The sidewalks are not constructible and meets the requirements for approval. The government agencies need to be honest and transparent. Also, there are other building projects on the proposed street, have they paid the \$2,000?

01:15:22 Mr. Powers asked Mr. Reverman who makes the determination where the sidewalks are built with the fee-in-lieu money? Is it for houses already built or houses to be built for people who don't have the money to build the sidewalks? We don't want to have to furnish someone else's sidewalks just because they can't afford it. Mr. Reverman said the money goes into a fund that is used by the Metro Council District representative. Councilman Fox would use those funds for a sidewalk project somewhere in his district.

01:21:06 Commissioner Lewis asked how the fee-in-lieu amount is calculated. Mr. Reverman explained that it's based on the construction cost that Public Works has to construct sidewalks and based on the minimum lot frontage for the R-4 zoning district of 60 ft.

01:21:40 Chair Jarboe asked if the Planning Commission could lower the fee-in-lieu amount. Mr. Reverman said no.

01:22:16 Mr. Fiechter, legal counsel, stated the Planning Commission does have the power to grant the waiver, which would exempt the property from the fee-in-lieu. Mr. Reverman added, regarding the amendment Metro Council passed last week, they made it very clear they want more sidewalks constructed in the city and more fee-in-lieus offered. It was not an instruction and the Planning Commission still has the right to grant waivers.

Deliberation:

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01:23:34 Commissioner Howard stated she sees this case as a special circumstance and there should be an exception made. The appeal is adequately justified by the staff report.

01:24:05 Commissioner Brown said sidewalks are required when building a single family residence. A sidewalk will not be a benefit on Granger Rd., but there are other opportunities in Council District 13.

01:25:00 Commissioner Mims said sidewalks would be odd and out of place. The fee-in-lieu is warranted and he does not support the waiver.

01:26:19 Commissioner Peterson is in favor of the waiver and there should be no fee-in-lieu.

01:27:04 Commissioner Seitz is in favor of the waiver and the applicant should not have to pay the fee-in-lieu.

01:27:16 Commissioner Daniels is in favor of the waiver. There are no other sidewalks along that road and building one would be inconsistent with the neighborhood.

01:27:39 Commissioner Lewis agrees a sidewalk in this location doesn't make sense, however the fee-in-lieu should be provided.

01:28:27 Chair Jarboe does not support the waiver.

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 Brown, seconded by Commissioner Lewis, the following resolution was adopted.

Appeal of a denial of a Waiver of Land Development Code 5.8.1.B to not provide the sidewalk on Granger Road for a new single family home

RESOLVED, that the Louisville Metro Planning Commission does hereby **UPHOLD** the Development Review Committee meeting decision to **DENY** the waiver heard at the August 5, 2020 meeting, a Waiver of the Land Development Code 5.8.1.B to not provide the sidewalk on Granger Road for a new single family home.

The vote was as follows:

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YES: Commissioners Brown, Lewis, Mims and Jarboe

NO: Commissioner Daniels, Peterson and Seitz

NOT PRESENT AND NOT VOTING: Commissioner Carlson

ABSTAINING: Commissioner Howard

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PUBLIC HEARING

CASE NO. 20-RSUB-0004

Request: Revised Major Preliminary (Conservation) Subdivision with a waiver and a variance
Project Name: The Overlook at Eastpoint
Location: 1313 Johnson Road
Owner: Clayton Property Group Inc
Applicant: Clayton Property Group Inc
Representative: Mindell Scott
Jurisdiction: Louisville Metro
Council District: 19 – Anthony Piagentini
Case Manager: Jay Luckett, AICP, Planner I

NOTE: COMMISSIONER MIMS RECUSED HIMSELF FROM THIS CASE

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:

01:39:03 Mr. Luckett stated this case was continued from the Planning Commission meeting held 2 weeks ago. The concern was the Conservation Subdivision Regulations regarding permissible maximum length of roadway, Street C. The applicant has proposed adding a median as a traffic calming method.

The following spoke in favor of this request:

Curtis Meece, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

01:44:06 Mr. Meece gave a power point presentation. A raised grass median with a road curve and 2 trees will be put in. The median changes the geometry, forcing drivers on either side, to see the median and change their direction ever so slightly working as a visual cue to slow down. The revised plan has 5% increase in conservation area, 5% increase of total open space and 22% higher tree canopy. The easement in the rear yard triggers the waiver request and there's a front yard setback variance being requested to improve the open space connectivity. Chair Jarboe asked how the median will work better than the 'eyebrow' as discussed at the last public hearing. Mr. Meece said the median will work the same as an 'eyebrow'. Chair Jarboe asked if it would be

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possible to place a 25 mile per hour speed limit sign in the median. Mr. Meece said yes.

Deliberation:

01:54:26 Commissioner Brown said it's a good idea, but hasn't worked in the past. There needs to be a change in the geometry. It doesn't fulfill the intent in the Conservation Subdivision Regulations.

01:56:30 Commissioner Peterson likes the revised plan. The trees in the median are a plus.

01:57:19 Commissioner Seitz agrees with Commissioner Peterson. The raised median will make drivers look at it and slow down.

01:57:46 Commissioner Daniels said the median solves the problem.

01:58:10 Commissioner Howard said the raised median with the curved road ought to slow the traffic down. This is a better plan.

01:58:41 Commissioner Carlson said he agrees with Commissioner Brown. Safety is an issue.

02:00:07 Commissioner Lewis said the applicant is offering a bare minimum solution. It could be wider and more prominent.

02:01:01 Chair Jarboe agreed it is the bare minimum but hopefully as it goes through the construction phase, someone will determine if it's enough to make it safe.

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 of 7.3.30.E to allow greater than 15% of rear yards to be occupied by drainage easements. Applicable to proposed lots 74-68, 93-117, 276-275, 60-59 and 243-242

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

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WHEREAS, the waiver will not adversely affect adjacent property owners, as all required yards, screening and buffering will still be provided; and

WHEREAS, the waiver will not violate the comprehensive plan, as all required buffering and screening will still be provided. The waiver will allow for a more compact layout of lots, resulting in greater preservation of open space and tree preservation areas; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. The resultant development will be largely similar to the previously approved plan as well as other residential development in the area; and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant. The layout of utility easements and lines is often determined by geology, the location of existing equipment and other conditions. Allowing for utility easements to overlap required yards will allow for a more compact development pattern and greater conservation areas.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Waiver of 7.3.30.E to allow greater than 15% of rear yards to be occupied by drainage easements. Applicable to proposed lots 74-68, 93-117, 276-275, 60-59 and 243-242.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Mims

Variance of 7.11.10.C to allow certain lots at the end of cul-de-sacs to exceed the 25 -foot maximum front yard setback by up to 5 feet

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis, Applicant's Justification and testimony heard today was adopted.

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the proposed reduction does not impede the safe movement of pedestrians or vehicles. The variance will allow for more flexibility in the layout of utility equipment and easements; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the surrounding area has a wide variety of suburban residential development

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with a mix of setbacks. The affected lots will be internal to the development and not apparent to adjacent properties; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the resultant setbacks will allow for greater flexibility in the siting of utility equipment within open space lots; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the setbacks are applicable to cul-de-sac lots with irregular geometry. The resultant development pattern will be in keeping with similar residential developments in the area; and

WHEREAS, the requested variance does not arise from special circumstances not generally applicable to land in the vicinity; and

WHEREAS, the strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land as they could adjust the layout without a significant loss of lots. However, the request will allow for some flexibility for lots with irregular geometry at the ends of cul-de-sacs; 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 site has not been developed and relief is being sought.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Variance of 7.11.10.C to allow certain lots at the end of cul-de-sacs to exceed the 25 foot maximum front yard setback by up to 5 feet.

The vote was as follows:

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

NOT PRESENT AND NOT VOTING: Commissioner Mims

Revised Conservation Subdivision to create 334 buildable lots on approximately 116.42 acres in the R-4 zoning district

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution based on the Standard of Review and Staff Analysis and the mitigation to Street C was adopted.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Revised Conservation Subdivision to create 334 buildable lots on approximately 116.42 acres in the R-4 zoning district, **SUBJECT** to the following conditions of approval:

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by the Planning Commission staff's landscape architect showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by the Planning Commission staff's landscape architect if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
 - a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.

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- b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
6. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
 7. When limits of disturbance are shown on the plan. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
 8. Any proposed signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat.
 9. Any proposed signature entrance proposed within the Floyd's Fork Development Review Overlay shall adhere to the standards for signature entrances described in LDC Overlay standards.
 10. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
 11. Potential buyers of lots that are crossed by the Western KY Gas/Atmos Energy Easement shall be informed of the location of the easement, and language describing the location of the easement through these lots will be provided in the deeds.
 12. The applicant shall coordinate with Planning and Design Services landscape architecture staff to ensure appropriate fast growing native trees and shrubs are provided within the 60' scenic corridor buffer along Johnson Rd per LDC requirements for the Floyd's Fork Development Review Overlay.
 13. A Conservation Area Management Plan shall be submitted in conjunction with Staff's review of the Record Subdivision Plat. The Management Plan shall be in compliance with the approved Conservation Subdivision Plan and Land

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Development Code, Section 7.11.8. Legal restrictions, ownership, and the Conservation Area Management Plan shall be subject to review and approval by the Planning Commission Legal Counsel.

The vote was as follows:

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

NO: Commissioner Brown

NOT PRESENT AND NOT VOTING: Commissioner Mims

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PUBLIC HEARING

CASE NO. 20-PARKWAIVER-0003

Request: Parking Waiver to reduce required parking from 45 to 23, a landscape waiver and a waiver to allow parking spaces closer to the ROW than the front façade.

Project Name: Hensley Hotel
Location: 1125 and 1131 Bardstown Road
Owner: Utopia Ventures, LLC
Applicant: Utopia Ventures, LLC
Representative: Jeff Rawlins
Jurisdiction: Louisville Metro
Council District: 8 – Brandon Coan
Case Manager: Jay Luckett, AICP, Planner I

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:

02:15:22 Mr. Luckett discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Jeff Rawlins, Inaudible
Dusting Hensley, 1209 Garvin Place, Louisville, Ky. 40203

Summary of testimony of those in favor:

02:23:21 Mr. Rawlins showed a rendering – a restaurant/bar, patio and deck. The entry is one-way and along the side there will be parallel parking (short-term). The parking area in the rear is for the hotel and guests. Working with the Bardstown Road Overlay has resulted in less parking and moved the majority of the building to the middle of the site. There's also more green space (including adding more trees) being added to the rear of the building. There are 25 proposed parking spaces. Commissioner Mims asked if there will be valet parking. Mr. Hensley said it will be determined by demand but possibly on the weekend to make sure the parking allocation is done correctly.

Deliberation:

02:29:00 Planning Commission deliberation.

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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.

Parking Waiver to reduce required parking from 45 to 23

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

WHEREAS, the proposal would allow for the redevelopment of an existing commercial site within an established activity center. The site is well served by existing transportation networks and is part of a walkable area well served by transit, bike and pedestrian networks. The elimination of parking minimums is consistent with the Traditional Marketplace form district as described in Plan 2040. The Planning Commission has recently recommended approval of revised parking regulations, and the site would be compliant with the new regulations if adopted by Metro Council as recommended; and

WHEREAS, the applicant has provided as many spaces as possible on the subject site and made a good faith effort to secure agreements with other sites for joint-use parking but was unsuccessful; and

WHEREAS, the requested waiver is the smallest possible reduction of parking spaces that would accommodate the proposed use, as they have provided as much as possible on site; and

WHEREAS, adjacent or nearby properties will not be adversely affected, as the development pattern of the area allows for minimum on-site parking for most sites. Businesses in the area are used to sharing public parking facilities and patrons can utilize alternative transportation networks to reach the area; and

WHEREAS, the requirements found in table 9.1.2 do not accurately depict the parking needs of the proposed use. Patrons of bars and taverns should be discouraged from driving as much as possible. Bars and taverns have a parking requirement in the Land Development Code that is at odds with the public health, safety and welfare. Public transit, pedestrian networks and the wide availability of taxis and ride-sharing services reduce the need for patrons to drive to bars and taverns, thereby mitigating public safety issues traditionally associated with such uses; and

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WHEREAS, there is a surplus of on-street and public spaces in the area that can accommodate generated parking demand. All streets near the area have abundant on-street parking available.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a Parking Waiver to reduce the required parking from 45 to 23.

The vote was as follows:

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

Waivers

1. Waiver of 5.7.1.B.3 to encroach into the 15-foot required transition zone buffer adjacent to the alley.

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

WHEREAS, the will not adversely affect adjacent property owners, as the buffer area is internal to the existing developed site; and

WHEREAS, the waiver will not violate the comprehensive plan, as it will allow the redevelopment of an existing commercial site within an established activity center. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. All planting and screening will still be provided on the subject site; and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would further restrict the applicant's ability to comply with parking requirements to the greatest degree possible.

2. Waiver of 5.5.1.A.3 to allow 2 parking spaces to be closer to the right-of-way than the front façade.

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WHEREAS, the will not adversely affect adjacent property owners, as the overall site design is consistent with other development in the area, and most of the parking areas on the site will be compliant with traditional form district site design standards; and

WHEREAS, the waiver will not violate the comprehensive plan, as it will allow the redevelopment of an existing commercial site within an established activity center. The waiver will not allow an unreasonable circumvention of the regulations or cause a hazard to the public; and

WHEREAS, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant. All other parking spaces will be beside or behind the front façade; and

WHEREAS, the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant, as it would further restrict the applicant's ability to comply with parking requirements to the greatest degree possible.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** Waiver No. 1 of 5.7.1.B.3 to encroach into the 15-foot required transition zone buffer adjacent to the alley and Waiver No. 2 of 5.5.1.A.3 to allow 2 parking spaces to be closer to the right-of-way than the front façade.

The vote was as follows:

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

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PUBLIC HEARING

CASE NO. 20-ZONE-0006

Request: Change in form district from NFD to SMCFD, change in zoning from R-4 to C-1, with Detailed District Development Plan and Binding Elements

Project Name: Vogt Retail Development

Location: 4310 – 4318 Bardstown Road and 4403 – 4405 Fegenbush Lane

Owner: John and Joyce Vogt, Sterling Trust Company

Applicant: John and Joyce Vogt

Representative: Mindel Scott & Associates

Jurisdiction: Louisville Metro

Council District: 2 – Barbara Shanklin

Case Manager: Dante St. Germain, AICP, Planner II

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:

02:35:07 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Kent Gootee, Mindel, Scot and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219

Summary of testimony of those in favor:

02:40:37 Mr. Gootee gave a power point presentation. The area has become commercialized. If the form district is not changed, there would be a need to request waivers and variances. Each business will have its own lot in the future. An issue raised at LD&T was the street connections – substantial ditches would make it difficult. KYTC doesn't have any plans to improve the intersection at Bardstown and Fegenbush. There's no way to get accessible crossing from east to west along Bardstown to Fegenbush. Commissioner Mims asked if they are requesting sidewalk waivers. Mr. Gootee said no. Commissioner Carlson asked if the trucks will be able to maneuver at

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the gas station without backing up into moving traffic. Mr. Gootee said yes. Commissioner Howard said there's a binding element that says there will be a minor subdivision plat or other legal instrument creating these lots. Are you sure you want approval of a detailed district development plan for every lot? Mr. Gootee said no, but it should be fine going forward with platting it off and selling individual parcels.

Deliberation

03:04:33 Commissioner Brown stated his only concern is there are no pedestrian accommodations at the Bardstown/Fegenbush intersection. The applicant should make a contribution towards providing that connectivity.

03:06:14 Commissioner Howard stated she's in favor of the form district and zoning changes. (Lost signal)

03:06:49 Commissioner Daniels said she agrees with Commissioner Brown regarding connectivity. There will be a high volume of foot traffic.

03:07:55 Commissioner Seitz said it's a good plan as proposed.

03:08:02 Commissioner Peterson said it's a well thought out plan. A contribution for future pedestrian crossing of the Bardstown/Fegenbush intersection makes sense. How will the amount be set up?

03:08:50 Chair Jarboe asked Commissioner Brown, if a contribution is being asked for from this applicant, how will it be completely funded since the other businesses are already in place and may not want to contribute. Commissioner Brown said the applicant's contribution may help get the design in place.

03:10:08 Commissioner Mims said he agrees with Commissioners Brown and Peterson regarding fixing the intersection. The plan is appropriate.

03:11:18 Commissioner Carlson agrees with Commissioners Brown, Peterson and Mims.

03:12:01 Commissioner Lewis agrees as well.

03:13:17 Chair Jarboe came out of Business Session to ask Mr. Gootee about making a contribution to making the area safer. Mr. Gootee said his client is reluctant to fix the intersection. KYTC said it needs to be initiated by the council person. It's a huge burden to place on the applicant (\$25,000). The owner hasn't even sold the first lot.

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Commissioner Jarboe suggested placing a binding element for \$5,000 contribution for each lot. Mr. Fiechter said it could be done. Mr. Gootee wants to know who will collect/hold the money and oversee the design.

03:22:03 Commissioner Brown suggests the following binding element: The developer shall contribute XX dollars to Public Works or KYTC for the design of pedestrian improvements at the Fegenbusn Ln. and Bardstown Rd. intersection prior to the issuance of the first building permit. This contribution won't fix the problem, it will however, get us closer to the solution.

03:26:48 Commissioner Brown stated, by splitting this up, it could be years (if ever) before getting to a point of having the contribution for the design. As a developer, this is the cost of doing development – they have to mitigate the impact this rezoning will cause. The other commissioners agree a contribution should be made sooner, except Commissioner Seitz, Peterson and Mims who think a contribution should be made per lot.

03:32:52 Mr. Gootee spoke with his client and he's upset because other businesses didn't have to contribute to the pedestrian connection or a study at Fegenbush and Bardstown, but they all contribute to the problem currently. The applicant has spent \$5000 on the traffic study which should be a part of the contribution. A conceptual plan could probably be started with \$5,000 - \$10,000.

03:35:49 Commissioner Brown stated, the longer time (2 week continuance) to evaluate, the better cost estimate can be determined. Also, to compare the proposal to Aldi's, the car wash or McDonald's is inappropriate – Aldi's was rezoned in 2000 and McDonald's and the car wash are Pre-Planned Certain.

03:37:10 Mr. Gootee asked if \$10,000 is a sufficient contribution. Commissioner Brown said no, it won't get it started because it's based on the size of your development. Commissioner Brown said the developer can provide the design, if not the \$25,000.

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 Carlson, seconded by Commissioner Howard, 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 to allow the

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applicant, Planning and Design staff and Metro Public Works time to work out a binding element concerning a resolution for the pedestrian traffic issue.

The vote was as follows:

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

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CASE NO. 19-ZONE-0086

Request: Change in zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements and associated Variance

Project Name: South Park Road Apartments

Location: 4011 and 4201 South Park Road, 9007 Blue Lick Road

Owner: Joseph and Jacinta Kenny, LDG Development LLC, LDG Land Holdings LLC

Applicant: LDG Development LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 24 – Madonna Flood

Case Manager: Dante St. Germain, AICP, Planner II

NOTE: COMMISSIONER BROWN LEFT AND DID NOT VOTE ON THIS CASE

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:

03:43:37 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report. Chair Jarboe asked if the plan meets the intent for connectivity. Ms. St. Germain said partially, because ideally there would be a public street connecting Delee Way to South Park Rd. and there would be no gate on Blue Lick Rd. There's still a requirement for an alternate plan for connectivity because it doesn't fully meet it.

03:53:46 Commissioner Peterson asked if there will be a left turn lane on South Park Rd. Ms. St. Germain said there are no improvements being proposed for South Park Rd. or Blue Lick Rd.

03:54:04 Commissioner Mims asked why it's not an open access off Blue Lick Rd. into the community. Ms. St. Germain said she doesn't have an answer for that. The developer has not explained.

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03:55:13 Commissioner Carlson remarked, the Geotechnical Report makes several recommendations for the developer to do during construction. Is there anything that compels them to follow through with those recommendations? Ms. St. Germain stated there are no proposed binding elements, but the Planning Commission could impose a binding element(s).

03:56:15 Commissioner Mims said the tunnels should be mapped. Ms. St. Germain said the current owner hasn't provided her with any maps.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl 101 South 5th Street, Suite 2500, Louisville, Ky.
40202

Michael Kalinski, 472 Ashland Terrace, Lexington, Ky.

Summary of testimony of those in favor:

03:57:29 Mr. Ashburner gave a power point presentation. The changes made address community needs that were expressed at the last public hearing. Blue Lick Rd. will be the primary entrance. There will be fencing and buffering along the east property line to stop pedestrian cut-throughs. The gate on Blue Lick brings a sense of security. The height variance is necessary for 9 ft. ceilings and makes the apartments more aesthetically appealing. It should not be noticeable off-site.

Mr. Ashburner discussed the concern regarding apartment demand.

04:10:54 Mr. Kalinski explained his Geophysical Evaluation – determination of water-filled or air-filled tunnels under the proposed site.

04:21:15 Chair Jarboe asked, if there are tunnels leading from the quarry wall underneath the proposed property, if above the water wouldn't they be visible? Mr. Kalinski said if they were above the water table, they would be full of air and show up as anomalies. There was a tunnel and it appeared to be heading in a northerly direction, but was off east of the site.

04:27:49 Commissioner Carlson asked if the buildings are still going to be 3-stories adjacent to single family homes. Mr. Ashburner said yes, but there is a significant amount of space on the north and east sides, in terms of buffering. In addition to the buffering on the east side, my client has reached an agreement with the property owner (to the east) to plant additional material on their property. Those plantings will be done as soon as construction begins – probably a year before anyone occupies the site.

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04:33:51 Commissioner Carlson asked Mr. Ashburner to explain the 2040 Plan portion of his testimony – it talks about providing a variety of ownership options and unit cost throughout Metro Louisville. There's single family housing to own or rent, apartments for rent but no condominiums in this end of town. That's not much variety. Mr. Ashburner answered, ownership options and unit costs includes the ability to rent, not just own. It's affordable housing and there is a demand for multi-family in the proposed area. Also, the Planning Commission doesn't usually instruct developers on what they should and should not develop.

The following spoke in opposition to this request:

Brenda Jackson, 9004 Delee Way, Louisville, Ky. 40219
Carol Hadley, 4207 South Park Road, Louisville, Ky. 40219

Summary of testimony of those in opposition:

04:38:28 Ms. Jackson stated she's opposed to opening up Delee Way for a variety of reasons, one being that the children play in the streets and need to be safe. Why open up traffic to our neighborhood but not your development?

Ms. Jackson said she provided pictures of the neighborhood roads at the LD&T meeting. They're horrible.

04:41:54 Ms. Hadley said she and some neighbors didn't receive formal notice of the meeting today. The applicant said there's only 1 single family residence on South Park, but there are actually 2.

Ms. Hadley said she agrees with Commissioner Carlson, there are a lot of apartment buildings being built in the area and no opportunity for home ownership. The proposed apartments don't fit in with the look of the area.

Ms. Hadley said she appreciates the additional trees being proposed but the buffering won't work for the height of a 3-story building. The apartments with balconies will be close to the property line. A property owner has the right to build whatever she/he wants but the developers bought this property knowing it was zoned R-4. After they purchased it, they're trying to change it and make everyone in the area abide by their changes. That's not fair.

04:45:58 Chair Jarboe addressed the comments regarding no notification for the continuance. There's no notification of a continuance, except on the Planning and Design website. There's no time or requirement to do another notification.

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Rebuttal

04:46:54 Mr. Ashburner said there are 3 interests when it comes to the connection – the client, smaller community (connecting to) and the broader community reflected by Metro Public Works. The initial plan was not to have a connection to Delee Way, then it was to be gated but Metro Public Works wants the connection. Regarding the people to the east, at the very nearest point of the southwest corner of the subject property closest to South Park Dr., one corner of one building is within 50 feet of the property line. As you go farther north into the property, the buildings get farther away from the property line. There will be landscape buffering on the LDG side, a fence and planting on property to the east.

04:50:48 Commissioner Mims said he shares the concerns of Brenda Jackson regarding opening up Delee Way, mainly about how much information they received before getting to this point in the public hearing. Also, is gating the entrance a new concept? Blue Lick should be opened and Delee closed. Ms. St. Germain said this is the first one she's seen. Commissioner Howard said there may not be many in Louisville, but if you travel the U.S., you will find gated apartment complexes.

Deliberation

04:53:30 Commissioner Peterson said he liked the previous plan when Delee was to be gated, but doesn't think there will be a huge traffic pattern to avoid the intersection of South Park and Blue Lick. The rest of the proposal is fine.

04:54:49 Commissioner Seitz said she agrees with Commissioner Peterson. The developers didn't want to open up Delee.

04:55:31 Commissioner Mims agreed. Also, there's a concern about the lack of notice to the homeowners on Delee. There should be access at Blue Lick Rd.

04:56:18 Commissioner Carlson is concerned about the binding element dealing with the operations of gates in emergencies. From a zoning standpoint, this does not comply with the Comprehensive Plan because it doesn't offer any type of housing variety in the district. It also doesn't comply with the Comprehensive Land Use Plan because it's not compatible due to the mass and scale.

04:59:26 Commissioner Howard stated she's in favor of the change in zoning and proposed land use because they're appropriate according to the Comprehensive Plan, especially Plan 2040 when it comes to equitable housing for all people in Metro Louisville.

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Commissioner Howard said she's in favor of the variance and detailed plan as well.

05:01:44 Commissioner Daniels said she agrees with Commissioner Carlson. The access should not be opened up on Delee Way, it would work better on Blue Lick Rd. Also, 24 units to 1 building is too many people in a small area.

05:02:39 Commissioner Lewis stated she likes the plan better without the gate. In terms of connectivity and the alternate plan for connectivity, it's not complete because the streets are private.

Commissioner Lewis said she agrees with the Geotechnical Plan and is certain there are no tunnels under the property that will impact the construction of these units. She supports the plan as proposed.

05:04:33 Chair Jarboe stated, the commissioners have been tasked many times by the Land Development Code, Plan 2040 and the Metro Council to have connectivity. The density is fine because this is an area that doesn't have a lot of new apartments. It's a good development.

Chair Jarboe said he doesn't believe there are any tunnels, but if during construction some are found and the developer goes forward, liability falls on him.

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 and OR-1 to R-6 and OR-1

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today and the Justification Statement was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed zoning district would allow higher density and intensity uses. The subject site is located adjacent to an existing activity center; the proposed zoning district would provide an appropriate transition between the more intensive zoning districts at the intersection and the less intensive residential districts farther from the intersection. The required buffer yards will be provided; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would permit new residential buildings; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the structures that exist on the site are eligible for the National Register of Historic Places and are not proposed to be preserved. These structures are not distinctive cultural features; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district would allow higher density and intensity uses. The subject site is located adjacent to an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Blue Lick Road and South Park Road. This access is unlikely to create significant nuisances. Additional access from Delee Way is not likely to be heavily utilized; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would increase the mixture of compatible land uses adjacent to an existing activity center; Transportation Planning has approved the proposal; no direct residential access to high-speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy requirements will be met on the site; the site is located on karst terrain. No karst features are evident on the site; the site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit a variety of housing types on the subject site; the proposed zoning district would

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support ageing in place by increasing the variety of housing options in the neighborhood and providing multi-family development close to an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational, mixed-income development that is connected to the neighborhood and surrounding area; the subject site is located approximately ½ mile from Preston Highway, a multi-modal transportation corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would encourage the provision of fair and affordable housing by increasing the variety of ownership options throughout Louisville Metro; and the proposed zoning district would allow innovative methods of housing.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Community Form because, the proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject property is located in the Neighborhood Form District, which the Comprehensive Plan states is a fom1 "characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas. . . . The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities...These types may include, but not be limited to ... high density multi-family housing." Here, the proposal is consistent with the Neighborhood Form district as it proposes a high-density multi-family residential use located along a minor arterial (Blue Lick Road). The proposal is also consistent with the pattern of development, scale, and site design in the area, which features other similar multi-family developments to the west across Blue Lick Road, including Hickory Trace, White Oak Park, and Falcon Crest Apartments (all of which are zoned R-6 or R-7). Single-family residential uses border the property to the north and east. The site has easy access to the interstate system, including 1-65 to the west via South Park Road and 1-265 to the south via Blue Lick Road. The property also has easy access to the commercial corridor along Preston Highway to the west; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Mobility because, the proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject property is located in the Neighborhood Form District, which the Comprehensive Plan states is a fom1 "characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-

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density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas. . . . The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities....These types may include, but not be limited to ... high density multi-family housing." Here, the proposal is consistent with the Neighborhood Form district as it proposes a high-density multi-family residential use located along a minor arterial (Blue Lick Road). The proposal is also consistent with the pattern of development, scale, and site design in the area, which features other similar multi-family developments to the west across Blue Lick Road, including Hickory Trace, White Oak Park, and Falcon Crest Apartments (all of which are zoned R-6 or R-7). Single-family residential uses border the property to the north and east. The site has easy access to the interstate system, including 1-65 to the west via South Park Road and 1-265 to the south via Blue Lick Road. The property also has easy access to the commercial corridor along Preston Highway to the west an undesirable situation for all parties. The proposed development will provide a gated access point on Delee Way that will provide emergency access but will not be open to the free flow of traffic. Plan 2040 provides that new developments should ensure that transportation facilities . . . **are compatible with** and support access to surrounding land uses." (Policy 3.12) (emphasis added). Here, the applicant is proposing a solution that is compatible with the neighborhood to the north as it will keep all traf1ic from the proposed apartment community internal, while providing emergency access. The proposed development will also provide internal sidewalks throughout the development. Sufficient parking will be provided for residents; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposed development complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is adequately served by all utilities, including water and sewer; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed development complies with the intent and applicable policies of the Economic Development Plan Element. The proposed use will create 312 housing units on a large undeveloped tract of land near Interstates 65 and 265 that near other multi-family developments. The subject property is also near the commercial corridor along Preston Highway to the east; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Livability because, the proposed development complies with the intent and applicable policies of the Livability Plan Element. The proposed multi-family development has convenient access to the interstate system and is being

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developed near other residential and multi-family residential uses. Residents will have easy access to the commercial node at the intersection of Blue Lick Road and South Park Road, as well as the commercial center along Preston Highway. The proposed development will comply with the tree canopy sections of the LDC. The applicant will provide internal sidewalks; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Housing because, the proposed development complies with the intent and applicable policies of the Housing Plan Element. The proposed use will create 312 housing units with numerous amenities, for residents, including a clubhouse, pool, playground, and dog park.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4 Single Family Residential and OR-1 Office Residential to R-6 Multi-Family Residential and OR-1 Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

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

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioner Brown

Variance from LDC Table 5.3.1 to allow a building height of 38' to exceed the maximum of 35' (19-VARIANCE-0072)

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

WHEREAS, the requested variance will not adversely affect public health, safety or welfare as the increase in building height will not affect sight lines or provide any other public health, safety or welfare issues; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the variance requested is relatively small and unlikely to be apparent to the public; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the increase in height is relatively small and unlikely to be visible to the public; and

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WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested variance is relatively small and is needed to provide an extra foot of interior height for each floor to provide higher ceilings; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the variance is needed for a design choice on the part of the developer and not due to unique characteristics of the lot; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the building height is a design choice to improve the look of the interior rooms and the buildings could be shorter with more standard ceiling heights without depriving the applicant of the use of the land or creating an unnecessary hardship; and

WHEREAS, the Louisville Metro Planning Commission further finds 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 no construction has yet taken place and the variance is being sought at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from LDC Table 5.3.1 to allow a building height of 38' to exceed the maximum of 35' (19-VARIANCE-0072).

The vote was as follows:

YES: Commissioners Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NO: Commissioner Carlson and Daniels

NOT PRESENT AND NOT VOTING: Commissioner Brown

Alternative Plan for Connectivity

On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution based on the revised plan and the testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the Alternative Plan for Connectivity on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Howard, Lewis, Peterson, Seitz and Jarboe

NO: Commissioners Carlson, Daniels and Mims

NOT PRESENT AND NOT VOTING: Commissioner Brown

Detailed District Development Plan and Binding Elements

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

WHEREAS, no steep slopes, water courses, flood plains, soils, air quality, scenic views or historic sites are evident on the subject site. The tree canopy is not proposed to be preserved but tree canopy requirements will be met on the site; and

WHEREAS, Metro Public Works has approved the preliminary development plan. However, provisions for safe and efficient vehicular and pedestrian transportation have not been provided, as there is no public connectivity proposed. Private connectivity is being provided between Delee Way and South Park Road. The applicant has requested an alternative plan for connectivity; and

WHEREAS, sufficient open space as required by the Land Development Code is being provided to meet the needs of the proposed development; and

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

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area. The proposal provides connectivity between Delee Way and South Park Road via private drives; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan generally conforms to applicable guidelines and policies of the Land Development Code, as the site design provides no public connectivity but does provide connectivity via private drives, and the applicant is requesting an alternative plan for connectivity.

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CASE NO. 19-ZONE-0086

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. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 3, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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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.

The vote was as follows:

YES: Commissioners Howard, Lewis, Peterson, Seitz and Jarboe

NO: Commissioners Carlson, Daniels and Mims

NOT PRESENT AND NOT VOTING: Commissioner Brown

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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

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee
No report given.

Site Inspection Committee
No report given.

Planning Committee
No report given.

Development Review Committee
No report given.

Policy and Procedures Committee
No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 6:37 p.m.

DocuSigned by:

Vincent H. Jarboe

Chair

DocuSigned by:

[Signature]

Planning Director