

**PLANNING COMMISSION MINUTES**  
**February 18, 2021**

**PUBLIC HEARING**

**CASE NO. 20-ZONE-0096**

Request: Change in Zoning from R-5 & OR-1 to R-7, with Detailed District Development Plan and Binding Elements, and Abandonment of existing Binding Elements  
Project Name: Marian Crossings at Mill Creek Apartments  
Location: 4801 Manslick Road, 1936 Bluegrass Avenue & Parcel ID 067H00100000  
Owner: Blueforrest LLC  
Applicant: Marian Development Group  
Representative: Dinsmore & Shohl LLC  
Jurisdiction: Louisville Metro  
Council District: 15 – Kevin Triplett  
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:**

03:05:43 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

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

Cliff Ashburner, Dinsmore and Shohl, 101 South 5<sup>th</sup> Street, Louisville, Ky. 40202  
Mark Madison, Milestone Design Group, 108 Daventry Lane, Louisville, Ky. 40223

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

03:18:58 Cliff Ashburner gave a power point presentation. The plan complies with the Comprehensive Plan and it provides different housing options. It's adjacent to an employment center, has a fully developed road network and fits in the area.

03:27:36 Mark Madison stated they agreed to provide the turning lane and it will not change the site plan or development plan. A binding element can be provided regarding striping. The sewer issue is not an uncommon problem (will comply with MSD).

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

Shirley Buntain, 1408 Anna Lane, Louisville, Ky. 40216

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

03:41:06 Shirley Buntain said a study was done (1931) and finds the neighborhood to be capacity constrained. The concerns are as follows: no sidewalks, safety, traffic, drainage, flooding, food supply and environmental issues.

**Rebuttal**

03:50:25 Cliff Ashburner said they will be providing sidewalks around the entire right-of-way frontage of the subject property. TARC has a route near St. Mary and Elizabeth Hospital so there will be improvement of pedestrian infrastructure in the area. The agencies (Public Works, State Transportation, MSD) are good with identifying specific needs in an area and working with developers to contribute to the solutions. The proposal is fully supported by Comprehensive Plan 2040.

03:56:00 Commissioner Brown revised the language for the left turn lane binding element: If permitted by KYTC, the applicant shall re-stripe Manslick Rd. to provide a southbound left turn lane at the proposed access prior to issuance of the first Certificate of Occupancy. Cliff Ashburner agrees.

**Deliberation**

03:57:01 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.**

**Zoning Change from R-5 & OR-1 to R-7**

On a motion by Commissioner Brown, seconded by Commissioner Daniels, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is located on Manslick Road, a minor arterial, and is approximately 1/3rd mile from transit stops along Estate Drive. The site is located near a medical activity center; the abutting uses are similar in scale and intensity or density to the uses allowed in the proposed zoning district on the site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed zoning district would permit new developments providing residential uses; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the subject site; no historic resources are evident on the subject site; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near a medical employment center and approximately 1/3rd mile of transit stops along Estate Drive; 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 Manslick Road, a minor arterial, and Bluegrass Avenue, a primary collector; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, 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 provided the applicant agrees to changes to the sewerage network; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy is being preserved according to the requirements of the Land Development Code; no karst topography is evident on the site; the site is not located in the regulatory floodplain; and

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**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would permit new housing that would increase the variety of housing types in the neighborhood; the proposal would support aging in place by permitting multi-family housing in a primarily single-family neighborhood, increasing the variety and price points of housing options; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit inter-generational mixed-income housing that is connected to the neighborhood and surrounding area; the site is approximately 1/3rd mile from a transit corridor on Estate Drive; and

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would permit an increase in the variety of ownership options and unit costs in Louisville Metro; no existing residents will be displaced by the proposal; the proposed zoning district would permit innovative methods of housing.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-5 and OR-1, Multi-Family Residential and Office Residential to R-7 Multi-Family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk**

**Abandonment of existing Binding Elements**

**Existing Binding Elements (09-47-78 – To Be Removed)**

1. The site distance improvements recommended by the Department of Traffic Engineering will be completed prior to occupancy of the proposed building.
2. Improvements recommended by the Department of Transportation and outlined on the District Development Plan will be completed by the applicant.

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3. Only one entrance to this site may be constructed and shall be approved by the Department of Transportation.
4. No future development will occur on the site until the detailed district development plan is approved by the Planning Commission.
5. Any permanent advertising sign shall conform with the sign regulations applicable to the C-5 Professional Office District.
6. 35 feet from the centerline will be dedicated to the right-of-way of Manslick Road. Dedication will be by minor subdivision plat.
7. The plan must be reapproved by the Water Management Section of the Jefferson County Works Department and the Traffic Engineering Department before building permits are issued.
8. Unless use in accordance with the approved plan and binding elements has been substantially established within one year from the date of approval of the plan or rezoning whichever is later, the property may not be used in any manner until such time as a district development plan has been approved by the Planning Commission.

**Detailed District Development Plan with new Binding Elements**

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

**WHEREAS**, required tree canopy will be provided on the site. Tree canopy preservation as required by the Land Development Code is being provided. Steep slopes are not being preserved. The geotechnical report indicates that the slopes are not original to the site, but the result of fill. No other natural resources are evident on the site; and

**WHEREAS**, 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; and

**WHEREAS**, open space is being provided in compliance with the requirements of the Land Development Code; 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

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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 in compliance with existing and planned future development in the area. The proposed site plan will provide a transition between the intense activity center at the hospital campus and the lower-density single-family development to the west; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the abandonment of the existing Binding Elements and 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the Manslick Road right-of-way.
  - c. A minor plat or legal instrument shall be recorded consolidating the parcels into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and

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Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.

d. 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.

e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.

f. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.

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. If permitted by KYTC, the applicant shall re-stripe Manslick Rd. to provide a southbound left turn lane at the proposed access prior to issuance of the first Certificate of Occupancy.

8. In developing the property, developer will comply with the recommendations in the Geotechnical Report prepared by Asher Engineering dated December 2, 2020.

**The vote was as follows:**

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

**NOT PRESENT AND NOT VOTING: Commissioners Seitz and Sistrunk**