

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION  
October 5, 2023**

A regular meeting of the Louisville Metro Planning Commission was held on Thursday, October 5, 2023 at 1:00 p.m. at the Old Jail Auditorium, 514 W. Liberty Street, Louisville, KY.

**Commission members present:**

Marilyn Lewis, Chair  
Lula Howard, Vice Chair  
Rich Carlson  
Suzanne Cheek  
Jim Mims  
Jennifer Kern  
Bill Fischer

**Commission members absent:**

Patti Clare  
Michelle Pennix  
Te'Andre Sistrunk

**Staff Members present:**

Brian Davis, Assistant Director  
Julia Williams, Planning Manager  
Jay Lockett, Planning Supervisor  
Sam Graber, Engineer II  
Ethan Lett, Planner I  
Laura Ferguson, Assistant County Attorney

**Others Present:**

The following matters were considered:

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**APPROVAL OF MINUTES**

**SEPTEMBER 21, 2023 PLANNING COMMISSION REGULAR MEETING MINUTES**

00:04:57 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution was adopted.

**RESOLVED**, that the Planning Commission does hereby **APPROVE** the minutes of its meeting conducted on September 21, 2023.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

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**CONSENT AGENDA**

**CASE NO. 23-STRNAME-0001**

Request:	Street Name Change
Project Name:	Stuart Avenue
Location:	Stuart Avenue & Fury Way
Owner/Applicant:	9616 Dixie LLC
Representative:	Land Design & Development
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Ethan Lett, 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.)

**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.**

**Street Name Change**

00:05:46 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard at today's hearing, was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Louisville Metro Council to **APPROVE** the street name change as shown on the exhibit.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

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**BUSINESS SESSION**

**CASE NO. BE FINAL ORDER – 7701 SMYRNA**

Project Name: Binding Element Final Order – 7701 Smyrna Parkway  
Case Manager: Laura Ferguson, Assistant County Attorney

**Agency Testimony:**

00:06:25 Laura Ferguson said there are three binding elements before the Planning Commission. None of these have been appealed. The Planning Commission is being asked to uphold the final orders, which includes a \$4,000 fine for each citation.

**Deliberation:**

00:08:31 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.**

00:10:38 On a motion by Commissioner Carlson, seconded by Commissioner Cheek, the following resolution was adopted based on the testimony and discussion at today's Planning Commission meeting.

**RESOLVED**, that the Louisville Metro Planning Commission will **ENTER** the three final orders imposed and described by the assistant county attorney.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

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**PUBLIC HEARING**

**CASE NO. 23-DDP-0050**

Request:	Revised Detailed District Development Plan
Project Name:	Casualwood Apartments
Location:	8314 Casualwood Way
Owner:	Casualwood Development LLC
Applicant:	Mindel Scott
Jurisdiction:	Louisville Metro
Council District:	23 – Jeff Hudson
Case Manager:	Ethan Lett, Planner I

**Agency Testimony:**

00:12:09 Ethan Lett informed the Planning Commission that this case was heard at the October 4, 2023 Development Review Committee. The Committee continued the case to today's Planning Commission meeting; however, the applicant is unable to attend and is requesting a continuance to the October 19, 2023 Planning Commission meeting.

**Deliberation:**

00:17:00 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.**

00:17:47 On a motion by Commissioner Carlson, seconded by Commissioner Mims, the following resolution was adopted.

**RESOLVED**, that the Louisville Metro Planning Commission **CONTINUES** this case to the October 19, 2023 Planning Commission meeting.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

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**CASE NO. 23-DDP-0078**

Request: Revised Detailed District Development Plan  
Project Name: HoM Flats at Outer Loop  
Location: 6001 Outer Loop  
Owner: Mive Property LLC  
Applicant: Magnus Capital Partners  
Jurisdiction: Louisville Metro  
Council District: 24 – Madonna Flood  
Case Manager: Jay Lockett, AICP, Planning Supervisor

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:18:50 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is requesting approval of a revised plan for the proposed multi-family development with a child care facility on the site. The Board of Zoning Adjustment approved a height variance at their October 2, 2023 meeting. There is a binding element that requires this request to go before the Planning Commission and on to Metro Council for final approval.

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

Vishal Arora, Magnus Capital Partners, 220 Lyon Street NW, Suite 500, Grand Rapids, Michigan 49503

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

00:25:40 Vishal Arora spoke in support of the application and presented a PowerPoint presentation (see video for details). Arora discussed the proposed development and included details about the amenities that will be incorporated into the project. Arora believes the new layout is better for the site and the adjoining properties. The on-site child care facility will be open to the public, not just residents of the proposed apartments.

00:38:10 Commissioner Cheek asked if the playground would be fenced off and only available to the daycare. Arora said yes. Commissioner Carlson asked if the mail facility

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will be near the daycare. Arora said they have not finalized the location but will keep that in mind so as the mail pickup does not interfere with traffic from the daycare.

**Deliberation:**

00:40:40 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.**

**Revised Detailed District Development Plan**

00:44:30 On a motion by Commissioner Carlson, seconded by Commissioner Fischer, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

**WHEREAS**, there are no significant natural or historic resources on the subject site. The applicant is proposing to preserve existing tree masses along the north of the site,

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

**WHEREAS**, all required open space provisions of the Land Development Code have been met on the preliminary development plan,

**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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Louisville Metro Council to **APPROVE** the Revised 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

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upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
  - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the October 5, 2023 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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



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binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

7. The Developer / Property Owner shall install a concrete boarding pad, bench pad and then notify TARC when the construction is complete. TARC will then install a standard bench. In addition, the Developer / Property Owner shall clean the stop as needed. In addition, the Property Owner shall provide a trash receptacle at the stop. which Owner shall maintain and empty no less than weekly.
8. The Okolona Church of Christ (OCC) has an exclusive easement for their parking lot that currently encroaches the property line, into perpetuity and running with the land, for so long as the OCC operates the property as a non-profit church. Should OCC not operate the property as a non-profit church, the easement will revert back to the applicant, its successors and assigns. In exchange for this easement. OCC is responsible for all maintenance of the portion of the parking tot subject to this easement and OCC accepts all liability as a result thereof and shall further indemnify the applicant, its successors and assigns for any and all claims or liability relating thereto. The applicant, its successors and assigns, shall be responsible for other improvements if any.
9. Dumpster emptying shall not occur between the hours of 8:00 pm and 7:00 am.
10. The 6-foot privacy fence depicted on the approved plan must be maintained in good condition with any necessary repairs completed in a reasonable time after discovery.
11. The Developer/ Property Owner shall obtain KYTC Approval of the two curb cuts depicted on the approved plan before any building permits are obtained.
12. If the criteria for signalization of the access point is met and approved by KYTC, it shall be installed at the owners' expense. This requirement shall expire 5 years after the final. non-temporary certificate of occupancy is received.
13. Any significant changes or alterations to the proposed structures e.g. building height, number of units, number of buildings, any increase in density on the property, any changes in use on the property, and/or any amendments to the binding elements; shall be reviewed before the Planning Commission with final action to be determined by Metro Council.

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**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Fischer, Howard and Lewis**

**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

**ABSTAIN: Commissioner Kern**

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**CASE NO. 22-ZONE-0105**

Request: Change in Zoning from R-4 & C-1 to R-6 with a District Development Plan with Binding Elements and a Waiver  
Project Name: Friess Old Bardstown  
Location: 9408 & 9500 Old Bardstown Road  
Owner: Roger Dale Perkins Estate; Michael & Laura Schnell  
Applicant: Friess Property Company  
Representative: Bardenwerper, Talbott and Roberts  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel  
Case Manager: Jay Lockett, AICP, Planning Supervisor

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:46:03 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing a residential development on the site. The Land Development & Transportation Committee had debated the proposed connection shown at the north end of the plan to facilitate future development to the north or west.

Commissioner Carlson asked for clarification about the extent of the paving for the proposed connection to the north. Lockett stated the applicant is willing to pave to the edge of the right-of-way, and if/when the connection is needed just an encroachment permit would be needed to connect to Old Bardstown Road.

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

Bissell Roberts, Bardenwerper, Talbott & Roberts, 1000 N. Hurstbourne Parkway, Louisville, KY 40223

Daniel Friess, 7607 Ashton Park Circle, Louisville, KY 40228

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

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00:55:41 Bissell Roberts spoke in support of the application and presented a PowerPoint presentation (see video for details). Roberts stated the applicant is agreeable to the \$29,500 contribution for the turn lane as stated in the proposed binding element. The applicant is requesting to downzone a portion of the property from commercial in order to do the proposed residential development.

01:13:03 Daniel Friess spoke in support of the application. Fries stated the connectivity has caused a design challenge to the proposal.

01:15:55 Commissioner Mims asked for clarification about where the developer's contribution would go if/when it is made. Commissioner Kern said the funds would be placed on hold until the rest of the funds could be secured.

Commissioner Cheek asked how staff and/or the applicant will address the connection if the adjoining property is developed at a more intense use than that of the subject site. Jay Luckett said staff would have to review any proposals to see what, if any, impact a future development may have on the stub if it is something that is considered to be more intense than the development on this site. Julia Williams provided an overview of how connections between different uses are addressed in Plan 2040 and the Land Development Code.

**Deliberation:**

01:27:30 Planning Commission deliberation. Commissioner Kern does not like the connection as proposed. Commissioner Cheek stated there is a need for diverse housing in this corridor and the applicant's proposed contributions and changes to the plan are bringing just that.

**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 & C-1 to R-6**

01:36:28 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

**WHEREAS**, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the subject site is approximately 550 feet from Thixton Lane, and

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is adjacent to commercially zoned properties centered on Thixton Lane, Old Bardstown Road and Bardstown Road. There is a variety of zoning districts and uses in the area between Thixton Lane and the area near the Gene Snyder Freeway north of the subject site. Transit service along Bardstown Road currently ends approximately 1.5 miles to the north of the site. Adequate transitions in the form of buffering and screening will be provided adjacent to uses of a lower intensity,

**WHEREAS**, the proposal meets Community Form: Goal 2 because the proposed zoning change would allow for additional housing options in the area,

**WHEREAS**, the proposal meets Community Form: Goal 3 because the site does not have any known hydric soils, wetlands or highly erodible soils,

**WHEREAS**, the proposal meets Community Form: Goal 4 because the subject site contains a house and barn that are over 50 years old. Removal of these structures is subject to the wrecking ordinance if they are eligible for the National Register of Historic Places. Historic Preservation staff recommends adaptive re-use of the structures instead of demolition if possible,

**WHEREAS**, the proposal meets Mobility: Goal 1 because the site is approximately 2.5 miles south of Regional Center and Town Center forms located at Bardstown Road and the Gene Snyder Freeway. The site is within an existing and future activity center with a mix of zoning and uses centered on Old Bardstown Road, Thixton Lane and Bardstown Road,

**WHEREAS**, the proposal meets Mobility: Goal 2 because the site proposes private access directly from Old Bardstown Road,

**WHEREAS**, the proposal meets Mobility: Goal 3 because the proposed zoning district would allow for additional housing options within an area near employment opportunities and developing commercial activity centers. Transportation planning has approved the preliminary development plan. The site proposes direct private access to Old Bardstown Road,

**WHEREAS**, the proposal meets Community Facilities: Goal 2 because utility services will be coordinated. Water service will be coordinated with appropriate agencies. MSD has approved the proposal,

**WHEREAS**, the proposal meets Livability: Goal 1 because Karst Survey completed and no karst features are found on the subject site. The subject site is not within floodplain areas,

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**WHEREAS**, the proposal meets Housing: Goal 1 because the proposed zoning would allow for a variety of housing types. The development and will fit within the residential development pattern of the district, which has a variety of residential zoning districts, densities and housing types. The proposed zoning district will help promote aging in place by providing additional housing type options. The site is close to a variety of commercial uses and vacant commercially zoned land,

**WHEREAS**, the proposal meets Housing: Goal 2 because the proposed zoning district would promote mixed income and intergenerational development by allowing for additional housing types in an area with access to a variety of commercial services, amenities and employment opportunities. Old Bardstown Rd provides ready access to a transportation network that provides safe and convenient access to employment opportunities, services and amenities, and

**WHEREAS**, the proposal meets Housing: Goal 3 because the proposed zoning encourages the provision of fair and affordable housing by allowing for a variety of housing types, ownership options, lotting patterns and unit sizes. The proposed zoning district would not displace current residents. The proposed zoning would allow for a variety of lotting patterns and unit types, allowing for production of fair and affordable housing; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-4 & C-1 to R-6 on property described in the legal description.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

**Waiver of LDC Section 10.2.10**

01:37:50 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

**WHEREAS**, the waiver will not adversely affect adjacent property owners since all required planting and screening will be provided around the subject site adjacent to properties with differing intensities,

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**WHEREAS**, Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 12 calls for the proposal to Design parking, loading and delivery areas located adjacent to residential areas to minimize adverse impacts from noise, lights, and other potential impacts. Ensure that parking, loading and delivery is adequate and convenient for motorists and does not negatively impact nearby residents or pedestrians. Parking and circulation areas adjacent to the street shall be screened or buffered. All required screening and planting will be met on the subject site, except where relief is sought,

**WHEREAS**, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since all other Land Development Code requirements are being met on the subject site, and

**WHEREAS**, the strict application of the regulations would deprive the applicant of reasonable use of the land, as the Land Development and Transportation Committee has requested the pavement along the front to facilitate future cross connectivity in the area; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the waivers.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

**Detailed District Development Plan**

01:38:35 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

**WHEREAS**, there are no environmentally sensitive areas on the development site. An existing home and barn are proposed to be demolished,

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. A stub

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connection to the west will be provided to facilitate a more efficient transportation network as the area develops,

**WHEREAS**, all open space requirements of the Land Development Code are being met on the subject site,

**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,

**WHEREAS**, the proposed land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways, and

**WHEREAS**, the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code; now, therefore be it

**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. 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.
3. 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.



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- 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. 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 prior to obtaining a building permit.
  - d. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff and shall be substantially similar to those shown at the Planning Commission public hearing. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. 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.
  5. 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.
  6. The applicant shall provide a cost sharing contribution not to exceed \$29,500 for a right turn lane from Thixton Lane onto Bardstown Road. The contribution shall be provided prior to Public Works construction plan approval.
  7. In the event that the property to the west redevelops for a compatible residential development, the developer/property owner or successor shall establish a crossover access agreement in a form acceptable to the Planning Commission legal counsel.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

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**CASE NO. 23-ZONE-0063**

Request: Change in Zoning from R-5 to R-5A, Revised Detailed District Development Plan with Binding Elements, and a Variance

Project Name: Watterson Gardens

Location: 7009 S. Watterson Trail

Owner/Applicant: Watterson Gardens, LLC

Representative: Mindel Scott

Council District: 23 – Jeff Hudson

Case Manager: Jay Lockett, AICP, Planning Supervisor

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:40:45 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is proposing a townhouse-style residential development. The site was previously rezoned to R-5, but that development was never constructed. The applicant is providing right-of-way and will grade along the proposed future expansion of Watterson Trail.

Commissioner Mims asked about a timeframe for the proposed Watterson Trail project. Lockett said the project is currently not in the long-term plan.

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

Kathy Linares, Mindel Scott, 5151 Jefferson Boulevard, Louisville, KY 40219

David Mindel, Mindel Scott, 5151 Jefferson Boulevard, Louisville, KY 40219

Brian Wacker, 9300 Bates Road, Louisville, KY 40228

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

01:47:50 Kathy Linares spoke in support of the application and presented a PowerPoint presentation (see video for details). The property is located within the

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Highview plan area, and while not on an area identified for multi-family, it is on a larger road, which the Highview plan encourages. The proposed layout includes 86 units. The proposed units will bring a different type of unit to the area. A traffic study was completed and the proposed development will not be having a significant impact on the roadway network.

02:03:55 Commissioner Mims asked if a turn lane was requested at the proposed entrance. Linares said it was not requested. Mims also asked about the design of the proposed buildings. Luckett stated he believes the applicant has provided enough variation in the proposed renderings to satisfy the design requirements of the Land Development Code.

02:08:36 Commissioner Carlson expressed concern about whether the repeated use of the same building meets the Highview plan. Linares stated she did not interpret the plan that way. David Mindel said he believes there is enough variation in the number of units and size of buildings throughout the proposed development to satisfy the spirit of the Highview plan. Brian Wacker said he has a variety of colors and materials that are complementary and is willing to use them in this development. In response to a question from Commissioner Cheek, Wacker clarified that the garage door widths will vary. In a response to a question from Commissioner Fischer, Linares said the number of units in the buildings will vary throughout the site.

**Deliberation:**

02:22:00 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 to R-5A**

02:27:42 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant and staff testimony heard today and staff analysis, was adopted:

**WHEREAS**, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the subject site is located along Watterson Trail, a primary collector. Outer Loop and Fegenbush Ln form a core intersection within the Highview Planned Development District and is about 2,600 feet to the south via Watterson Trail. Transit service as well as a wide variety of services and employment opportunities are

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available in PD area. Adequate transitions in the form of buffering and screening will be provided adjacent to uses of a lower intensity,

**WHEREAS**, the proposal meets Community Form: Goal 2 because the proposed zoning change would allow for additional housing options in the area,

**WHEREAS**, the proposal meets Community Form: Goal 3 because a small portion of the site along the northern portion of the site has a potential for hydric soils. That area is mostly contained within proposed open space and is generally undisturbed,

**WHEREAS**, the proposal meets Community Form: Goal 4 because the subject site does not have any distinctive cultural features. The site does not have historic resources,

**WHEREAS**, the proposal meets Mobility: Goal 1 because the site is approximately 650 feet from the Highview Town Center Planned Development District, which contains a wide variety of services, amenities and employment opportunities. Transit service is available about 3,500 feet from the site in the PD area,

**WHEREAS**, the proposal meets Mobility: Goal 2 because the site proposes private access directly from Watterson Trail,

**WHEREAS**, the proposal meets Mobility: Goal 3 because the proposed zoning district would allow for additional housing options within an area near employment opportunities and a commercial corridor. Transportation Planning has approved the preliminary development plan. The applicant will provide the necessary right-of-way and grading to facilitate future expansion of S Watterson Trail,

**WHEREAS**, the proposal meets Community Facilities: Goal 2 because utility services will be coordinated. Water service will be coordinated with the appropriate agencies. MSD has approved the preliminary development plan,

**WHEREAS**, the proposal meets Livability: Goal 1 because the applicant has indicated preservation of trees in the southern part of the site. A karst survey was performed and no karst features were found. The subject site is not within floodplain areas,

**WHEREAS**, the proposal meets Housing: Goal 1 because the proposed zoning would allow for a variety of housing types. The development and will fit within the residential development pattern of the general vicinity, which has a variety of residential zoning districts, densities and housing types. The proposed zoning district will help promote aging in place by providing additional housing type options. The site is close to a variety of commercial uses,

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**WHEREAS**, the proposal meets Housing: Goal 2 because the proposed zoning district would promote mixed income and intergenerational development by allowing for additional housing types in an area with access to a variety of commercial services, amenities and employment opportunities. The site has access to a transportation network that provides safe and convenient access to employment opportunities, services and amenities, and

**WHEREAS**, the proposal meets Housing: Goal 3 because the proposed zoning encourages the provision of fair and affordable housing by allowing for a variety of housing types, ownership options, lotting patterns and unit sizes. No residents would be displaced with this proposal. The proposed zoning would allow for a variety of lotting patterns and unit types, allowing for production of fair and affordable housing; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-5 to R-5A on property described in the legal description.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

**Variance**

02:28:50 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report, applicant's testimony today, and Staff Analysis, was adopted:

**WHEREAS**, the requested variance will not adversely affect public health safety or welfare as the site will be constructed according to all applicable building codes and safety requirements,

**WHEREAS**, the requested variance will not alter the essential character of the general vicinity, as there are a variety of residential setbacks in the area,

**WHEREAS**, the requested variance will not cause a hazard or nuisance to the public since the building will be constructed according to the building code, including all safety and health related provisions,

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**WHEREAS**, the requested variance will not allow an unreasonable circumvention of zoning regulations since it will allow for adequate space to provide appropriate buffers and an access drive for the proposed development,

**WHEREAS**, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity,

**WHEREAS**, the strict application of the provisions of the regulation would not create an unnecessary hardship on the applicant, however strict compliance may require turning the access drive and buildings to face the rears towards S Watterson Trail, 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 applicant is requesting approval prior to construction; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the variance.

**The vote was as follows:**

**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**

**Detailed District Development Plan**

02:29:35 On a motion by Commissioner Mims, seconded by Commissioner Cheek, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

**WHEREAS**, there are no significant natural or historic resources on the subject site,

**WHEREAS**, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

**WHEREAS**, all required open space provisions of the Land Development Code have been met on the preliminary development plan,

**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 development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, except where relief is requested. The buildings need additional animating features, window or architectural elements on the ends to ensure a consistent architectural interest and quality, and

**WHEREAS**, the development plan conforms to applicable requirements of the Land Development Code and Plan 2040; now, therefore be it

**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. 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.
3. 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor plat or other legal instrument shall be recorded dedicating right-of-way and creating the lot lines as shown.

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- d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - e. Final elevations/renderings shall be substantially similar to the elevations shown at the Planning Commission public hearing on October 5, 2023. The mix of colors and materials shall vary across buildings. A copy of the approved rendering shall be available in the case file on record in the offices of the Louisville Metro Planning Commission.
4. 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.
5. 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:**

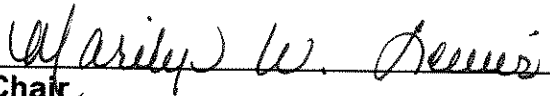
**YES: Commissioners Mims, Carlson, Cheek, Kern, Fischer, Howard and Lewis**  
**NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare**




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**ADJOURNMENT**

The meeting adjourned at approximately 3:42 p.m.

  
\_\_\_\_\_  
Chair

  
\_\_\_\_\_  
Planning Director