

PLANNING COMMISSION MINUTES
August 15, 2019

PUBLIC HEARING

CASE NO. 18ZONE1071

NOTE: This case was continued from the August 1, 2019 Planning Commission meeting.

Request:	Change in zoning from R-4 to R-6, multi-family residential & CN, commercial neighborhood
Project Name:	6875 S. Hurstbourne Parkway
Location:	6875 S. Hurstbourne Parkway
Owner:	Cayman Investments, LLC
Applicant:	Cayman Investments, LLC
Representative:	QK4.
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden 24 – Madonna Flood

Case Manager: **Joel P. Dock, 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:

00:03:50 Joel Dock presented the case via Power Point slide show summary (see staff report and recording for detailed presentation). Mr. Dock noted the new additional binding element.

00:06:032 Commissioner Lewis inquired if the square footage of the commercial structures changed along with other changes made to the development plan. Mr. Dock replied the applicant stated the footage was changed slightly.

00:06:49 Commissioner Jarboe asked if the number of units are the same as presented in the last meeting. Mr. Dock replied the applicant will be able to answer the question. Commissioner Jarboe and Joel Dock discussed stub connections to adjacent properties (see recording for detailed presentation).

00:07:43 Commissioner Brown asked which binding element will be added number 4.f or number 2.f. Mr. Dock replied the additional binding element is 2. A b c d e and f.

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Commissioner Brown inquired if MSD is satisfied with the changes made to the sewer on the development plan. Mr. Dock replied MSD agrees with changes presented today.

00:09:20 Commissioner Howard asked to review the additional binding element presented in the Power Point slide show. Mr. Dock and Commissioner Howard discussed the district development plan being able to serve as the major subdivision plan for zoning changes (see recording for detailed presentation).

The following spoke in favor of this request:

Ashley Bartley, 1046 E. Chestnut Street, Louisville, Kentucky, 40204

Summary of testimony of those in favor:

00:11:16 Ashley Bartley, applicant, detailed the new public roadway dedication with setbacks to prevent street parking, drive access to apartments, and the new location of the sewer system line with 25 foot spacing per MSD requirement.

00:13:14 Commissioner Carlson asked when the connection to Downs Farm Way will be completed. Ms. Bartley replied the adjacent subdivision has an access agreement and the stub will be connected when the two developments are completed. Commissioner Carlson asked for the location of delivery truck access is to commercial buildings. Ashley Bartley stated delivery truck access will be in the parking lot of the commercial buildings and a binding element can be created to post signs behind commercial buildings to prevent parking on the access road.

00:15:04 Commissioner Brown and Ashley Bartley discussed the raised island for the right in right out portion of the commercial development (see recording for detailed presentation).

The following spoke in opposition of this request:

No one spoke.

Deliberation

00:16:26 Commissioner's deliberation (see recording for detailed presentation). Commissioner Carlson and Joel Dock discussed the new binding element to prevent street parking within the internal access drive for the development (see recording for detailed presentation).

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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.

Change-in-Zoning from R-4, Single-family Residential to R-6, Multi-family Residential and CN, Commercial-Neighborhood

00:20:38 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the Plan 2040 Staff Findings, staff report, and testimony heard today, and applicant justification was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the **Community Form: Goal 1**, the proposed zoning districts do not result in the encroachment of non-residential uses into a residential area as Hurstbourne Parkway is a major arterial roadway designed to handle large volumes of traffic which serve nonresidential uses to support residential uses along adjoining collector and local roadways. The combination of the proposed districts allows for the integrations of commercial uses at appropriate locations to support medium- to high-density residential, the proposed districts will transition from higher intensity uses along the arterial roadway to lower intensity, medium- to high density. The combination of the two creates a mixed-use activity center where demand and adequate infrastructure exists or is planned, the proposed district is appropriately located along an arterial level roadway which provides connectivity between major activity and employment centers nearby. The arterial is intended to serve high volumes of traffic, the proposed districts do not allow for uses that result in significant adverse impacts of noise on adjoining communities; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Community Form: Goal 2**, The proposed district is appropriately located along an arterial level roadway which provides connectivity between major activity and employment centers nearby. The design and density required of the development within the neighborhood form district is compatible with adjacent uses and the classification of the roadway, The proposed non-residential component is located with the NFD at a location which provide adequate access and connectivity for current adjoining properties and future development will be provided, Sufficient population exists and is anticipated to support a variety of commercial uses as the second component of the development provides density to immediately serve the commercial development, The transition from commercial to residential moving away from the arterial roadway results in efficient land use and cost-effective infrastructure investment, The proposed activity centers includes a mixture of compatible land uses that will reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a

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sense of place, The residential district is proposed to the rear of the commercial land use; thus, encouraging residential land uses in activity centers, The new development will provide buildings that provide commercial, office and/or residential uses, The proposed district utilizes a mixed-use scheme that provides for commercial out lot development within a medium- to high-density residential development, The proposed district results in the appropriate placement, design and scale of centers in Neighborhood Form Districts to ensure compatibility with nearby residences as the development results in the combination of both commercial and residential options along an arterial roadway between major activity centers ; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Community Form: Goal 3**, Development within the subject site will respect the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems as the site contains steep slopes and streams that are to be minimally disturbed where necessary to facilitate development, The subject site contains wet or highly permeable soils, severe, steep or unstable slopes. Disturbance of these features will be minimized and disturbed only as necessary and in accordance with all applicable regulations, The Louisville MSD has reviewed and approved preliminary development plans. MSD is responsible for floodplain mitigation and storm water best practices; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Community Form: Goal 4**, There do not appear to be any remaining recognizable historic or architectural features of value on the subject site, There do not appear to be any remaining recognizable historic or architectural features of value on the subject site ; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Mobility: Goal 1**, The proposed higher intensity is proposed along the arterial level roadway in order to minimize impact on lower density residential to the rear. The development will support transit oriented development and an efficient public transportation system by combined residential and commercial development having connectivity amongst the uses and adjacent uses; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Mobility: Goal 2**, Access is through an arterial level roadway and not through lower intensity uses; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Mobility: Goal 3**, The proposal supports a mix of complementary

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neighborhood serving businesses and services which allows for walking between residences and commercial services, The proposal supports compatible uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing has been provided in combination with commercial which may provide employment, The proposal will be set-up to serve and support public transit and multi-modal transportation options, The proposal will be set-up to serve and support public transit and multi-modal transportation options, The proposal will be set-up to serve and support public transit and multi-modal transportation options, The developer will bear or share in rough proportionality the costs of transportation facilities and services made necessary by development, Existing transportation systems are sufficient and support the development, All improvements will occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Community Facilities: Goal 2**, The subject site will be served by existing utilities or capable of being served by public or private utility extensions, The subject site has an adequate supply of potable water and water for fire-fighting purposes, The subject site has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD); and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Economic Development: Goal 1**, The proposed commercial use is located along an arterial level roadway. No nuisances are expected to be created by the intensity of the proposed development; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Livability: Goal 1**, A karst survey was conducted as noted on the proposed development and no features were observed, The Louisville MSD has reviewed and approved preliminary development plans. MSD is responsible for floodplain mitigation and storm water best practices; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Housing: Goal 1**, The proposed zoning districts support the creation of a variety of housing options that support aging in place as commercial uses will be provided in combination with medium- to high-density residential development. The two districts work to support each other and support those that chose to age in place which includes access to shopping and transit routes and, when possible, medical and other supportive facilities; and

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WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Housing: Goal 2**, The proposed district creates a mixed-use, connected center that encourages intergenerational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area, The proposed residential district allows for medium- to high-density development to be located within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. The site lies within close proximity to GE Appliance park; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Housing: Goal 3**, No residents will be displaced as a result of the proposed zoning districts. Additional housing will be allowed to meet the needs of Louisville Metro and it's citizens, The proposed district opens up the residential development of the site to a variety of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing; now, therefore be it

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 1: Community Form**, The proposed development complies with the intent of Guideline 1 . The within the Neighborhood Form District. The property to the west is currently being developed as multi-family residential. Approximately one third of the adjacent land to the west is zoned R-6 and part of the subject property is also currently zone R-6. Providing multi-family units will provide area residents a mix of residential choices. The form also suggests high-density uses should be located along minor or major arterial roadways; S. Hurstbourne Parkway is a major arterial road. The Neighborhood Form also permits "neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services". By limiting the C-N zoning to the front triangle (bound by the intermittent streams) will result in lower intensity commercial that will help preserve the Neighborhood form by limiting development to an appropriate scale. By limited the commercial area to only 4 acres will discourage big box development and promote smaller strip center type development; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 2: Centers**, The proposed development complies with the intent of Guideline 2 by developing a low intensity commercial development, It can provide convenient services to hundreds of households to the southwest utilizing existing infrastructure. There are no commercial services within a square mile of the site, the closest being on Fern Valley Road or Bardstown Road. Providing daily services could

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reduce commuting time and transportation-related air pollution. The commercial development will not only serve nearby single-family, but will also have pedestrian access from all 340 residential units on the property; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 3: Compatibility**, The proposed development complies with the intent of Guideline 3 as the site to the northwest is being developed as a multi-family residential development. The remainder of the western property boundary is a wooded extension of single family lot with no evident improvements. The closest single family residence adjacent to the "finger" is almost 400 feet from the subject property. Further, the required 20 foot landscape buffer area is being provided adjacent to the R-4 zoning. The closest single family residence to the east is almost 900 feet from the property line; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 4: Open Space and Guideline 5: Natural Areas and Scenic and Historic Resources**, The proposed development complies with the intent of Guidelines 4 and 5. Open space is being provided in the form of tree canopy preservation areas along the intermittent streams. This area will help to preserve natural resources (streams) and by providing at minimum a 25 foot buffer could help to improve water quality. A larger area of tree canopy will be preserved through the center of the site. Nature trails may be provided in these wooded areas which would provide outdoor recreation opportunities which would be accessible to all units, Buildings and roadways have been situated to blend into existing topography so the general pattern of natural topography may be preserved; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 7: Circulation, Guideline 8L Transportation Facility Design, and Guideline 9: Bicycle, pedestrian and Transit**, The proposed development complies with the intent of Guidelines 7, 8, and 9 by developing along a major arterial roadway and utilizing an existing curb cut. Further, access is being proposed to the new multi-family development to the west, which will provide connection to hundreds of single family homes to the southwest utilizing existing infrastructure.

Required parking and appropriate vehicular circulation is being provided on site. Pedestrian circulation is being provided throughout the site so residents can walk to the commercial development and also to Hurstbourne Parkway right-of-way. If KYTC warrants sidewalks are appropriate, they will be constructed along the property frontage.

Bike parking will be provided for the development. No transit occurs adjacent to the site

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WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 10: Flooding and Stormwater and Guideline 11: Water Quality**. The proposed development complies with the intent of Guideline 10. Appropriate stormwater infrastructure will be provided. Three detention basins are provided on site to limit discharge of post-developed rate to pre-development peak rate of the 2, 10, and 100 year storm events. The development will also comply with MSD's MS4 water quality regulations, Riparian zones and buffers are also in place to help protect the intermittent streams; and

WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 13: Landscape Character**. **The proposed development complies with the intent of Guideline 13.** Vegetation along stream buffers will be protected as well as a large stand of trees along the southern side of the intermittent stream that runs southeast to northwest across the site. The plan will comply with tree canopy requirements of the Land Development Code. Perimeter, parkway buffer, and parking lot landscaping will also comply with the Land Development Code; and
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WHEREAS, the Louisville Metro Planning Commission further finds that the proposal meets the **Guideline 14: Infrastructure**, The proposed development complies with the intent of Guideline 14. The site is located along Hurstbourne Parkway and has one existing access point. A sanitary sewer stub is present on site the will serve the development; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the Change-in-Zoning from R-4, Single-family Residential to R-6, Multi-family Residential and CN, Commercial-Neighborhood

YES: Commissioners Daniels, Brown, Lewis, Carlson, Jarboe

ABSTAINING: Commissioners Tomes, and Howard

NOT PRESENT: Commissioners Peterson and Smith

Detailed District Development Plan

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00:21:43 On a motion by Commissioner Carlson, seconded by Commissioner Daniels, the following resolution, based on the standard of review, and staff analysis, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds, the conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites will be provided. Development within the subject site will respect the natural features of the site through sensitive site design, avoids substantial changes to the topography, and minimizes property damage and environmental degradation resulting from disturbance of natural systems as the site contains steep slopes and streams that are to be minimally disturbed where necessary to facilitate development; and

WHEREAS, the Louisville Metro Planning Commission further finds, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the proposed activity center includes a mixture of compatible land uses that will reduce traffic congestion by requiring fewer trips, support and enhance alternative modes of travel, and encourage vitality and a sense of place. Further, the proposal supports a mix of complementary neighborhood serving businesses and services which allows for safe and efficient vehicular and pedestrian transportation both within the development and the community; and

WHEREAS, the Louisville Metro Planning Commission further finds, the proposal provides open space that helps meet the needs of the proposed development and community as tree canopy, an intermittent stream, and slopes are preserved; and

WHEREAS, the Louisville Metro Planning Commission further finds, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions 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 further finds, the development is compatible with existing and projected development of the area as the design and density required of the development within the neighborhood form district is compatible with adjacent uses and the classification of the roadway; and

WHEREAS, the Louisville Metro Planning Commission further finds, the proposed development plan conforms to the Comprehensive Plan as the proposed development is supported by each land use and development policy as contained in the Staff's

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Analysis of Plan 2040. The proposal further complies with the Highview Neighborhood Plan. Final renderings will be provided and will conform to all standards in effect for the Neighborhood form district; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with the addition of those binding elements presented and discussed at the public hearing and 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Develop Louisville, 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 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 reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the adjoining development at 6410 Downs Farm Way/Downs Farm Place and the subject property. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services
 - e. Final elevations/renderings shall be submitted for review and approval by Planning Commission staff. A copy of the approved rendering shall be

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available in the case file on record in the offices of the Louisville Metro Planning Commission.

- f. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
3. 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.
4. 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.
5. 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.
6. The property owner shall provide cross over access and/or private access easements upon development of those properties abutting stub roadways as shown on the approved plan presented at the August 15, 2019 meeting of the Planning Commission. A copy of the signed easement agreement shall be provided to Planning Commission staff upon request.

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7. No parking shall be permitted within the internal access drives as shown on the approved district development plan. Signs shall be installed along the roadways to enforce this requirement and shall be in accordance with MUTCD guidelines.

YES: Commissioners Daniels, Brown, Lewis, Carlson, Jarboe

ABSTAINING: Commissioners Tones, and Howard

NOT PRESENT: Commissioners Peterson and Smith s