

PLANNING COMMISSION MINUTES
May 11, 2017

PUBLIC HEARING

CASE NUMBER 16ZONE1081

Request: R-4 to R-7
Project Name: Six Mile Lane Apartments
Location: 6710 and 6714 Six Mile Lane
Owner: J.G. Homer Burgin
Applicant: EMM3, LLC
Representative: Bardenwerper, Talbott & Roberts, PLLC
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
Case Manager: Laura Mattingly, 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.)

An audio/visual recording of the Planning Commission meeting 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.

Agency Testimony:

00:52:50 Laura Mattingly presented the case (see Staff Report and recording for detailed presentation).

The following spoke in favor of the request:

Bill Bardenwerper, 1000 N Hurstbourne Pkwy., Louisville, KY 40223

Summary of testimony of those in favor:

00:57:50 Bill Bardenwerper spoke on behalf of the applicant and gave a brief overview of the proposed project. The applicant is requesting change in zoning from R-4 to R-7 along with approval of a detailed district development plan. Mr. Bardenwerper stated that no traffic study was necessary.

01:03:50 Commissioners' deliberation

01:05:00 On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

GUIDELINE 1: COMMUNITY FORM

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WHEREAS, the Louisville Metro Planning Commission finds that the application complies with the applicable Intents and Policies B-3, Neighborhood Form District, of this Guideline because the community form for this area is Suburban Neighborhood which, as noted above, is characterized by predominantly single family and multi-family residential uses varying from high density to low density, meaning that a lot of apartments are located in Suburban Neighborhood Form Districts such as in this area; with a large number of apartment complexes, such as located near this property, this project will fit well and blend compatibly into the existing neighborhood, in part because there are multiple other R-6 and R-7 zoned multi-family developments along the South side of Six Mile Lane, such as this one, which is buffered to the South by the railroad tracks and not adjoining single family residential; this project will offer another diverse housing opportunity with these other developments, some of which have been existing for some time and will be of a scale compatible with these nearby projects; that, among other reasons, may very well be why the Suburban Neighborhood Form District contemplates uses such as this kind, both in the specific language contained within the description of the Suburban Neighborhood Form District found within the Comprehensive Plan and as evidenced by the fact there are multiple other residential uses varying from low to high density already located in Suburban Neighborhood Form Districts; and for these reasons, among others, the proposed apartment community complies with this Guideline of the Cornerstone 2020 Comprehensive Plan, and

GUIDELINE 2: CENTERS

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 4, 5, 6, 14, 15, and 16, of this Guideline because the Intents of this Guideline 2 are several fold: to promote an efficient use of land in existing infrastructure, to lower utility costs by reducing the need for extensions, to reduce commuting time and transportation related air pollution, to provide neighborhood centers and marketplaces that include a diversity of goods and services, to encourage vitality and sense of place, and to restrict individual or isolated commercial uses in noncommercial areas; the proposed apartment community complies with all of these Intents of this Guideline because this property is ideal for this use as an apartment community compatible with others on the street, and given its size, which is really far too large for a single-family house given this area of small houses on small lots, and given all the alternatives; locating an apartment community where there is a clear market demand in an area with a sizeable residential population like this, with lots of pass-by traffic, helps reduce commuting and transportation related air pollution because people don't have to drive long distances, as they often do, to reach the significant commercial development along Hurstbourne Parkway or in the Hikes Point area which are close to the property; the proposed apartment community also addresses the other Intent statements of this Guideline because it is a compact development that fits well

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with other nearby mixed uses designed to fit well with other residential development obviously predominantly existing in the area, and

WHEREAS, the Commission further finds that Policy 5 of this Guideline recommends a mixture of compatible uses in a Suburban Neighborhood; the way that the proposed apartment community relates to nearby residential in terms of design makes these uses very compatible, one with the other; also the existence of utilities at the property, the fact that proposed parking is internalized to the site and that TARC service is available in the area are evidence of Compliance with Policies 14, 15 and 16, and

GUIDELINE 3: COMPABILITY

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, 24 and 28, of this Guideline because the Intents of this Guideline are to allow a mixture of land uses as long as they are designed to be compatible with each other, to prohibit the location of sensitive land uses in areas where accepted standards for noise, lighting, odors or similar nuisances are violated, and to preserve the character of the existing neighborhoods; the proposed apartment community complies with these Intents of this Guideline because it is evident from the development plan and current elevation renderings available for review at the Public Hearing that the apartment community is designed in a very compatible way with the existing character of the neighborhood; lighting will be designed so that lighting will not shine onto residential properties across Six Mile Lane, as the buildings will face the interior of the development further shielding any adverse lighting effects; and with the buildings designed to face the interior, all parking and activity will also be shielded from the adjoining properties, and

WHEREAS, the Commission further finds that Policies 5, 7, 8 and 9 of this Guideline all pertain, as stated above, to the nuisances of odors, noise, lighting and other visual impacts, which will be shielded as the buildings face the interior of the property; and as a residential community, the proposed use will not create odors, noises, excess lighting, and the buildings will be attractively designed, and

WHEREAS, the Commission further finds that Policies 10, 11, 12, 13, 14 and 15 seek to assure access to diverse housing, which by definition, this apartment community proposal will assure; Policies 21, 22, 23 and 24 seek to assure appropriate setbacks, screening and buffering which are evident on the DDDP accompanying this application and as will be shown on the concept landscape plan shown the LD&T and Planning Commission hearings; this small apartment community will not adversely affect traffic in the area, as apartment residents will be located in close proximity to retail centers located along Breckenridge Lane and Hurstbourne Parkway; and because this apartment community will be located in close proximity to others like it, this will allow

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another housing option such that residents don't have to drive far to visit these centers, and

GUIDELINE 4: OPEN SPACE

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 6, and 7 of Guideline 4 because the Intents and Policies of Guideline 4 are to provide for open space in new residential development, which this small apartment community provides to the extent practical and necessary; buffer areas are found around the apartment community; open space will be maintained by the owner/applicant; landscaping will be planted along the east, west and south property lines to help soften its appearance; and there are no historic resources associated with this property, and the design keeps the disturbance of any natural features of the site to a minimum, and

GUIDELINE 6: ECONOMIC GROWTH & SUSTAINABILITY

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 2, 3, and 9 of this Guideline because the Intents and Policies of this Guideline are to ensure the availability of necessary usable land to facilitate development, to reduce public and private costs for land development, and to assure that new development is located near activity centers; there is a significant demand for additional residential, especially apartment, housing in Louisville Metro, including in this area; and the Suburban Neighborhood is a perfectly appropriate place for this use, given all the described impact mitigation, and

GUIDELINES 7 AND 8: CIRCULATION AND TRANSPORTATION FACILITY DESIGN

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 3, 9, 10, 11, 14, 15 and 16 of Guideline 7, and Policies 5, 9, 10 and 11 of Guideline 8 because the Intents and Policies of these Guidelines are to provide for safe and proper functioning of the street network, to ensure that a development does not exceed the carrying-capacity of adjoining streets, to ensure good internal and external circulation, to address congestion and air quality issues, to protect streetscapes and transit corridors, and to provide efficient, safe and attractive roadways, transit routes and sidewalks, and

WHEREAS, the Commission further finds that the proposed apartment community complies with these Intents of these Guidelines because, as stated above, this is a small apartment community that does not negatively impact the transportation network; there is an access point off Six Mile Lane which can handle this small volume of traffic; the DDDP includes adequate parking, sufficiently wide and safe corner clearances,

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median openings and access such that it received the preliminary stamp of approval from the Metro Works and Transportation Planning, assuring compliance with all of these particular design standards, and

GUIDELINE 9: BICYCLE, PEDESTRIAN AND TRANSIT

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 2, 3 and 4 of this Guideline because the Intents and Policies of this Guideline all deal with assuring that provisions are made for pedestrian, bicycle and transit usage; sidewalks will be provided along the property frontage, and bike racks will be provided as per Code; and transit is available nearby, and

GUIDELINES 10, 11 AND 12: STORM WATER, WATER QUALITY AND AIR QUALITY

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 3, 6, 7, 10 and 11 of Guideline 10, Policies 3 and 9 of Guideline 11, and Policies 1, 2, 6, and 8 of Guideline 12 because the Intents and Policies of these Guidelines pertain to the environmental issues; as to storm water management, the DDDP was preliminarily approved by MSD prior to docketing for LD&T and Planning Commission hearings such that post-development peak rates of runoff will not exceed pre-development conditions; and there are no blue line streams involved on this property that will be adversely affected, and

WHEREAS, the Commission further finds that as to water quality, the typical way that this is addressed at this point in time in this community is through MSD's standards addressing water quality basins or like-kind protections, plus soil erosion and sediment control features, which will be addressed at construction stage, and

WHEREAS, the Commission further finds that as to air quality, as stated above, because this is a small development, not much traffic will be generated; and on an infill site, it is located proximate to workplaces and shopping, and

GUIDELINE 13: LANDSCAPE CHARACTER

WHEREAS, the Commission further finds that the application complies with the applicable Intents and Policies 1, 4, 5, and 6 of this Guideline because this Guideline and its Policies require adequate landscaping; and the development plan filed with this application shows landscaping as required by the Land Development Code, and

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WHEREAS, the Commission further finds that, based on the staff report, the applicant's findings of fact, and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-4 to R-7 be **APPROVED**.

The vote was as follows:

Yes: Carlson, Ferguson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: None

No: None

01:05:00 On a motion by Commissioner Brown, seconded by Vice Chair Lewis, the following resolution was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal is preserving a portion of the existing trees on site and providing landscaping that will improve scenic views from Six Mile Lane, and

WHEREAS, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community have been provided through adequate vehicular access, as well as the proposed public sidewalk, two pedestrian connections to the public sidewalk and pedestrian connections throughout the site, and

WHEREAS, the Commission further finds that open space requirements have been met, and

WHEREAS, the Commission further finds that 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 Commission further finds that the overall site design and land uses are compatible with the existing and future development of the area as this proposal is similar to existing multi-family developments in the area in site layout, design and massing. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways, and

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WHEREAS, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, and

WHEREAS, the Commission further finds that, based on the staff report and the evidence and testimony presented today, that all of the applicable guidelines of Cornerstone 2020 are being met; now, therefore be it

RESOLVED, 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
 - c. 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.

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- 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. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
 7. 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.
 8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 11, 2017 Planning Commission meeting.

The vote was as follows:

Yes: Carlson, Ferguson, Lewis, Brown, Tomes, Peterson, Howard, and Jarboe

Absent: Smith

Abstain: None

No: None