

ORDINANCE NO. \_\_\_\_\_, SERIES 2019

**AN ORDINANCE CHANGING THE ZONING FROM R-4 RESIDENTIAL SINGLE FAMILY TO R-6 RESIDENTIAL MULTI-FAMILY AND C-N NEIGHBORHOOD COMMERCIAL ON PROPERTY LOCATED AT 6875 S. HURSTBOURNE PARKWAY CONTAINING 23.01 ACRES AND BEING IN LOUISVILLE METRO (CASE NO. 18ZONE1071)(AS AMENDED).**

**SPONSORED BY: COUNCILWOMAN MADONNA FLOOD**

**WHEREAS,** The Legislative Council of the Louisville/Jefferson County Metro Government (the "Council") has considered the evidence presented at the public hearing held by the Louisville Metro Planning commission and the recommendations of the Planning Commission and its staff as set out in the minutes and records of the Planning Commission in Case No. 18ZONE1071; and

**WHEREAS,** the Council concurs in and adopts the findings of the Planning Commission for the zoning changes in Case No. 18ZONE1071 and approves and accepts the recommendations of the Planning Commission as set out in said minutes and records, with the addition of binding elements and an amendments to the Planning Commission's binding elements-3.

**NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:**

**SECTION I:** That the zoning of the property located at 6875 S. Hurstbourne Parkway containing 23.01 acres and being in Louisville Metro, as more particularly described in the minutes and records of the Planning Commission in Case No. 18ZONE1071, is hereby changed from R-4 Residential Single Family to R-6 Residential Multi-Family and C-N Neighborhood Commercial; provided, however, said property shall be subject to the binding elements as set forth in the minutes of the Planning Commission

in Case No. 18ZONE1071-, with the following amendments to the Planning Commission's binding elements ~~3~~ and the addition of binding elements 2, 9, 10, 11 and ~~4~~12:

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. This plan shall be considered a General District Development Plan. Prior to development of any phase of this project, including clearing or grading, the applicant, developer, or property owner shall obtain approval of a Detailed District Development Plan. Such plan shall require approval by the Louisville Metro Council after a public meeting by the Planning Commission in accordance with Chapter 11, Part 4.7 of the Land Development Code.
- ~~2.3.~~ 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 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.

~~3.4.~~ 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 or the temporary certificate of occupancy, unless specifically waived by the Planning Commission.

~~4.5.~~ 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.

~~5.6.~~ 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=7.~~ 7. 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.

~~7=8.~~ 8. 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.

~~8=9.~~ 9. The R-6 portion is restricted to 199 units until connection to Downs Farm is completed and approved by Public Works, including the completion of the final grade of asphalt.

~~9=10.~~ 10. The area designated as C-N shall be prohibited from residential use and must remain commercial/neighborhood serving.

~~10=11.~~ 11. The apartment community shall be capped at 304 units, as approved by the Planning Commission and as mentioned in the public hearing.

~~11=12.~~ 12. Any changes in the development plan binding elements shall require a public hearing at the Planning Commission level and final approval by the Metro Council.

**SECTION II:** This Ordinance shall take effect upon its passage and approval.

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H. Stephen Ott  
Metro Council Clerk

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David James  
President of the Council

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Greg Fischer  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By: \_\_\_\_\_  
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