

June 8, 2020

Jay Lockett, Planner I
Louisville Metro Planning & Design Services
444 S. Fifth Street, Suite 300
Louisville, KY 40202

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RE: Cherokee Springs, LLC's ("Applicant") Proposal
Letter of Explanation on Updated Development Review
Applications: Category 2B Development Plan, Private
Yard and Building Height Variances, Sidewalk
Waiver/Request to Pay Fee-in-Lieu;
1576 Cherokee Road, Louisville, KY 40205 ("Property")

Dear Jay:

For your review, please find attached hereto building renderings illustrating the four-story, eight-unit condominium building proposed for the Property. The submittal of these building renderings follows the Applicant's June 1, 2020 re-submittal of its Category 2B Development Plan, which was filed in response to Louisville Metro Agency Review Comments issued in January of this year. As you are aware, the Property is under a pre-plan certain requirement, zoned R-7, Multi-Family Residential and within the Bonnycastle Neighborhood's Traditional Neighborhood Form District. The Proposal's floor area ratio of 1.0 (FAR) and density of 16 dwelling units per acre are allowed by the R-7 zoning designation assigned to the Property. All required side yards, rear and front yards will be provided on the Property, per applicable setback regulations. For reasons stated herein, the Applicant wishes to withdraw its request for a sidewalk waiver and, instead, requests to meet the sidewalk requirement for the Property via the fee-in-lieu option, per LDC 6.2.6.C.4. Additionally, due to the architects' and engineers' continued refinement of the building and site design, the Applicant request slight adjustments to its two applications for variance relief. Accordingly, amended variance justification statements for added building height and lot coverage are also attached.

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Since the Applicant's January submittal, the design of the proposed building for the Property has continued to evolve, primarily in response to a combination of the Property's existing site constraints and the Applicant's continued efforts in reaching toward solutions for a higher quality building. Accordingly, the Applicant's recent proposed modifications to the building slightly change the requests for variance relief, as those variance applications of record for this matter read today. As a result, the Applicant hereby requests to amend its variance applications currently on file with Louisville Metro Planning and Design Services, under Case Nos. 20-VARIANCE-02 & 20-VARIANCE-03, as follows: 1) LDC Section 5.1.12.A.2.d to allow a building height of forty-nine feet, nine inches (49'9" (previously proposed building was 48' in height)), thereby triggering a height variance of five feet, nine inches (5'9") from the applicable infill standard (variance request would be 4'9" from the traditional neighborhood form standard); and 2) LDC Section 5.4.1.D.2 to further reduce the Property's applicable private yard requirement to zero (previously 7%).

One of the primary changes you will notice on the plan involves the parking garage. Whereas on its plan filed in January of this year, the Applicant proposed garage parking wholly subterranean and, whereas now, the Applicant proposes a combination of subterranean and surface garage parking, all of which is attached to the primary Cherokee Springs building, as shown on its June 1 plan submittal and the renderings attached hereto. These particular design changes were made to improve residents' vehicular access to garage parking, as well as to rectify potential issues with achieving positive drainage of the underground component of the garage. Access to the Property is from the rear public alley, which runs between Alta and Bonnycastle Avenues. The Property's frontage along Cherokee Road will remain undisturbed from new vehicular curb cuts. To accommodate deliveries and short-term guests, a couple surface parking spaces will be located on the Property between the proposed building and the rear alley, including ADA-accessible parking; a pedestrian walk will be installed to allow movement between surface parking in the rear of the Property and the courtyard in the front of the building.

Accompanying the Applicant's January Category 2B Development Plan submittal was the Applicant's application to waive the sidewalk requirement for the Property's Cherokee Road right-of-way. The Applicant hereby withdraws its request to waive the sidewalk requirement and, instead, requests to pay the fee in lieu of sidewalk construction, per LDC section 6.2.6.C.4. This request is mostly a function of

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timing for the sidewalk's construction and whether the sidewalk connection should be installed along the Property's Cherokee Road frontage on its own and without coordination with a larger sidewalk connection that will eventually be installed along Cherokee Road between Bonnycastle Avenue and Baringer Avenue. Moreover, there are at least three well-sized trees that will be lost when the sidewalk is installed, including an oak with a trunk diameter of over two-feet.

As part of the agency comments issued in response to the Applicant's January submittal, Advanced Planning commented that it did not support the sidewalk waiver because the 2002 Bonnycastle Neighborhood Plan has a stated goal to "[p]reserve and expand alleys and sidewalks" and "contains a recommendation that sidewalks be implemented along Cherokee Road." While the applicant does not disagree with the notion that a sidewalk connection should eventually be established along Cherokee Road, the applicant would like to share additional information from the 2002 Bonnycastle Neighborhood Plan that provides pertinent context to why the requirement to install the sidewalk should not occur at this time. Indeed, the Bonnycastle Plan warns that the "recommendation for the addition of the sidewalk along the 'house' side of the Cherokee Road is one that should be *very carefully implemented*."¹ Wisdom gleaned from a similar sidewalk installation along the west side of Eastern Parkway informed the authors of the Bonnycastle Neighborhood Plan that careful design and extensive communication with property owners will be necessary in order to minimize the impact from the sidewalk installation to existing lawns, landscaping and *particularly street trees*, especially considering the topography and grades of the street and adjoining properties, which present significant drainage problems to solve.²

The applicant believes strongly that adding a sidewalk connection at this time would not be appropriate. Instead, the applicant is willing to put aside money for when the right time arrives to construct the sidewalk connection within the Property's Cherokee Road right-of-way. Efforts are already underway to revisit the 2002 Bonnycastle Neighborhood Plan, where it is reasonable to expect that this very sidewalk installation project along Cherokee Road will be reviewed. It is here where the necessary communication and coordinated planning of the sidewalk connection

¹ Bonnycastle Neighborhood Plan, pg. 17 (emphasis added).

² Bonnycastle Neighborhood Plan, pg. 17 (emphasis added).

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can appropriately occur and without haste. Thus, the Applicant sees little sense in tearing out existing street trees today to install a sidewalk along its Cherokee Road frontage that may not meet the future standards (construction, appearance, materials, width, etc.) agreed upon by the neighborhood and residents participating in the drafting of the updated Bonnycastle Neighborhood Plan.

If you have any questions or require additional information about this application, please do not hesitate to contact me.

Sincerely,

WYATT, TARRANT & COMBS, LLP


Jon Baker

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20-CAT2-0003

PRIVATE YARD AREA VARIANCE REQUEST
AMENDED JUSTIFICATION STATEMENT

Cherokee Springs, LLC
Cherokee Springs
1576 Cherokee Road (Property)
Case No. 20-VARIANCE-0002

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The applicant, Cherokee Springs, LLC, is requesting development plan approval for a half-acre property fronting Cherokee Road and served by a rear public alley, to construct thereon a four-story, multi-family condominium building. The Property is located within the traditional neighborhood form of the established Bonnycastle Neighborhood, which contains a wide range of housing types, including various multi-family developments. In conjunction with its request for development plan approval, the applicant submitted an application in January of 2020 requesting variance relief from Section 5.4.1.D.2 of the Land Development Code (LDC) to reduce the required private yard area on the Property. The applicant has now submitted to Louisville Metro Planning Design a revised Category 2B Development Plan illustrating a number of changes to the site plan, some changes in response to the Louisville Metro Agency Comments issued in January, which related to the applicant's initial filing, and some changes to the site plan, which are a result of the development team finding solutions for a better Cherokee Springs proposal on the Property. As it relates to the applicant's request for variance relief from the private yard requirement, amendments to the site plan, namely an increase in area devoted to surface and garage parking and vehicular use areas, require an adjustment to the variance request to allow the applicant to reduce the private yard requirement on the Property to zero. For the reasons stated herein, the requested variance complies with the criteria set forth in KRS 100.243 and, therefore, should be approved.

The proposed development is consistent with surrounding residential properties and falls within the range of existing multi-family uses within the Bonnycastle Traditional Neighborhood's pattern of development, whether, among other measures of said multi-family uses, it's density, height, scale, or architectural style. No portions of the proposed building will encroach into the Property's required setbacks, as at least double the amount of required side- and rear-yard setbacks will be provided on the subject property. The applicant will install a well-landscaped courtyard (1056 sq. ft. in area) in the front yard for the enjoyment of the Cherokee Springs residents and to create a visual connection from the Cherokee Road corridor to the public realm of the site and, eventually, to the residential building itself. Consistent with other multi-family structures in the Bonnycastle area, and similar to the adjacent Bonnycastle Condominiums property located at 1578 Cherokee Road, surface and garage parking and vehicular use area will occupy the private yard between the building and the rear alley, but unlike the neighboring Bonnycastle Condominiums, above-

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ground garage space proposed for Cherokee Springs is attached and a part of the primary structure.

Cherokee Springs is designed by local architectural firms whose works populate numerous streetscapes within the Bonnycastle Neighborhood. Cherokee Springs will be constructed primarily of concrete and quality masonry materials, and will incorporate windows, balconies, and entryways consistent with multi-family residential developments in the neighborhood. (Please see building renderings of Cherokee Springs submitted to case file). Cherokee Springs will provide approximately 3,854 sq. ft. of private outdoor area, split amongst the residents in the space of private porches and balconies. Thus, the private and balcony space combined with accessible amenity space in front of the condominium building will furnish residents with 4,910 sq. ft. of outdoor area, which represents roughly 23% of the total site area. Importantly, Cherokee Park is located directly opposite Cherokee Road from the Property, providing hundreds of acres for Cherokee Springs residents to use as recreation, relaxation, and adventure within short walking distance. Additionally, the reduction in private yard area on the Property will not interfere with the safe movement of pedestrians or vehicles in the immediate area surrounding the property. Therefore, the granting of the requested variance to reduce the private yard area of the property to zero will not adversely affect public health, safety or welfare, and will not alter the essential character of the area.

The proposed variance will not cause a hazard or nuisance to the public because the requested variance will allow redevelopment of the Property into a multi-family building equipped with updated construction, building materials and accessibility. Additionally, the proposed building will be designed in an architectural style more befitting of the Cherokee Road Corridor and the Bonnycastle Neighborhood in general than the structure currently occupying the site. In the Bonnycastle Neighborhood, private yard areas serving multi-family buildings are commonly found to have less or no area, especially when contrasted with single-family residences located within the same neighborhood. Often times portions of the required private yard areas on multi-family sites within traditional neighborhoods, as is the case with Cherokee Springs, are utilized to provide surface and garage parking areas for guests and residents, as well as vehicular use areas to serve said parking. Here, the applicant proposes underground and surface garage parking for residents and surface parking for guests and deliveries, including ADA-compliant parking, as well as vehicular use area for ingress/egress from the rear alleyway to the aforementioned parking areas. Cherokee Springs offers private outdoor space to its residents where they can enjoy areas either privately (balconies and porches) or with other residents (front courtyard). The lack of private yard between the primary structure and the rear alleyway will have little to no impact on off-site properties, for the adjacent Barth property to west is well screened with trees and bushes and the Bonnycastle Condominiums to the east is screened by the above-ground garage which backs up to the shared property line with Cherokee Springs. Thus, the variance does not directly or negatively affect the adjacent residential properties along

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Cherokee Road. Accordingly, granting the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The requested variance will allow the proposed redevelopment of the Property to be consistent with the pattern of multi-family development in the Bonnycastle Neighborhood, which, as it relates to the respective private yard areas, differs from the pattern of single-family development in the Bonnycastle Neighborhood in that the multi-family properties commonly contain less to no private yard areas than single-family properties. Indeed, the neighboring Bonnycastle Condominiums site (.45 acre) is similar in size to the Property (.50 acre), and the Bonnycastle Condominiums site maintains zero private yard area precisely for the identical reason Cherokee Springs is requesting zero private yard area for the Property – parking and vehicular use areas. Thus, the requested variance arises from the circumstance of re-developing multi-family use on the property in a manner consistent with the Bonnycastle Neighborhood and, therefore, the strict application of the LDC regulation would deprive the applicant of injecting significant investment in the redevelopment of an older and declining property in a manner that is consistent with the development of multi-family properties in the Bonnycastle Traditional Neighborhood Form. To accomplish said proposed redevelopment of the subject property, the applicant is requesting this particular variance relief. Consequently, the circumstances triggering the variance are not the result of any actions taken subsequent to the adoption of the LDC 5.4.1.D.2 private yard regulation.

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BUILDING HEIGHT VARIANCE

AMENDED JUSTIFICATION STATEMENT

Cherokee Springs, LLC

Cherokee Springs

1576 Cherokee Road (Property)

Case No. 20-VARIANCE-0003

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In January of 2020, the applicant, Cherokee Springs, LLC, submitted its request for Category 2B Development Plan approval on property located at 1576 Cherokee Road to permit construction of a four-story multi-family condominium building containing eight (8) dwelling units and a subterranean parking garage ("Previous Plan"). On June 1, 2020, the applicant submitted an updated Category 2B Development Plan, which illustrates changes to the development site from the Previous Plan, partially in response to agency comments Louisville Metro issued after conducting its first round of agency review, but also to incorporate improvements to the Cherokee Springs building, namely its parking garage design and a successful drainage system for said garage ("Current Plan"). Through continued refinement to its building and site design, the applicant believes it has achieved a proposal that reaches an optimal design for Cherokee Springs, the Property, the Cherokee Road corridor and the Bonnycastle Neighborhood. To accomplish the Current Plan, the applicant requests a minor adjustment to the building height variance application it filed in January of this year with Louisville Metro Planning and Design Services, as further explained herein.

The Property is situated on the norther edge of the Bonnycastle Neighborhood, along Cherokee Road, between its intersections with Bonnycastle Avenue and Alta Avenue, and overlooking Cherokee Park. Bonnycastle is within the Traditional Neighborhood Form District (TNFD). The TNFD allows residential structures to be 45 feet in height (Land Development Code Section 5.2.2.C. – Table 5.2.2.). If the property falls within an infill context, as the Property does here, then LDC Section 5.1.12.A.d instructs that the building height shall fall within the range of building heights of existing structures within the same block face. Thus, in conjunction with its request for Cat 2B Plan approval, the applicant also requests a variance to permit the proposed structure to be forty-nine feet, nine inches (49'9") in height, which is four feet, nine inches (4'9") above the forty-five (45') foot maximum building height established within the TNFD and five feet, nine inches (5'9") above the established maximum infill building height of forty-four (44') feet. The proposed condominium building will replace an aged four-plex apartment building existing on the Property. For the reasons stated herein, the requested variance complies with the criteria set forth in KRS 100.243 and, therefore, should be approved.

As previously stated in the applicant's initial justification statement, the Property is the last of four adjacent properties fronting Cherokee Road that are all zoned R-7, multi-family residential; two of the four properties are located east of Bonnycastle Avenue and the other two, including the Property, are west of Bonnycastle Avenue. Immediately to the Property's west is a single-family house on property (1572 R Cherokee Road; the Barth property) the grade of which is approximately eight feet in elevation above the grade elevation of the Cherokee Springs Property. Adjacent to the east of the Property is the Bonnycastle Condominium Property, a multi-family residential use. Three properties to the east and on the other side of Bonnycastle Avenue from the Property is the Park Grande (1604 Cherokee Road), a seven-story, 112'4" condominium building with six dwelling units. Park Grande sits adjacent to property used as a single-family residence. The proposed Cherokee Springs building is approximately sixty-two (62') feet less in height than its Park Grande neighbor and is consistent with other multi-family residential buildings in the Bonnycastle and Cherokee Triangle Neighborhoods.

The proposed building incorporates architectural quality and site design compatible with the character of the surrounding area, which will blend the residential character of the surrounding Bonnycastle Neighborhood by taking cues from long-established buildings in the area with new, quality building materials. The building facades will be constructed using a mixture of materials, including brick, concrete, masonry and glass, and will incorporate architectural features including windows, balconies and entryways consistent with the character of multi-family developments in the surrounding area and within the traditional neighborhood form. The building's front façade will be articulated with architectural features and a landscaped courtyard will be installed in the public realm of the Property, between the building and Cherokee Road, to create an interesting and aesthetically pleasing streetscape. For the foregoing reasons, the granting of the requested building height variance will not adversely affect public health, safety or welfare, and will not alter the essential character of the general vicinity.

The requested height variance will not cause a hazard or nuisance to the public because the proposed building is designed to be consistent with the pattern of development and broad range of housing in the general vicinity, including other multi-family buildings along Cherokee Road and within the Bonnycastle Neighborhood. The broad scope of multi-family housing in the Bonnycastle Neighborhood includes properties containing differing amounts of lot coverages, comprising singular or multiple buildings, and buildings of different height, bulk, orientation, and architectural design. Moreover, traveling the Bonnycastle Neighborhood streets, one can easily see markedly different relationships between adjacent properties and their co-existent structures and their respective densities of residents – from multi-family next to multi-family, to multi-family next to single-family, to a high-rise condominium tower property (the Commodore) positioned next to two-story single-family properties, to lots where the structures thereon

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observe little to no side-yard setbacks to lots with structures thereon that enjoy generous yards and setbacks, to large homes situated next to 2-story apartment complexes turned on their sides to fit numerous dwelling units within the narrow rectangular lots common to the core area of the Bonnycastle's Traditional Neighborhood Form District. In short, the Bonnycastle Neighborhood, as acknowledged by the Bonnycastle Plan's Vision¹, boasts a wide range of housing types and styles, which, together, create its unique identity and character. The proposed Cherokee Springs falls within the scope of building heights and lot coverages found in Bonnycastle Neighborhood and along the Cherokee Road Corridor and its quality building materials and architectural design ensure Cherokee Springs will contribute to and maintain the special character of the neighborhood.

Local Louisville Metro architects have designed Cherokee Springs with architectural features that complement the character of the neighborhood. These architects have a proven track record of designing structures within the Bonnycastle Neighborhood for almost a century now. Indeed, a component of the architectural team behind the Cherokee Springs design also designed the Commodore – the 124-foot multi-family residential structure built in 1928, which stands today as "the primary focal point of the neighborhood."² Applicable building setbacks on the Property will be observed, including the Property's side setbacks, which will establish a sideyard setback sixteen (16') feet from the single-family Barth property and a sideyard setback of feet (8') from the R-7, multi-family Bonnycastle Condominiums property, thereby protecting adjacent properties.

Moreover, the proposed development represents a significant investment in the redevelopment and rehabilitation of a declining property along Cherokee Road in a manner that is befitting of the overall heightened appeal warranted by properties positioned along the celebrated corridor. The applicant has selected building materials utilized for durability, including concrete and masonry, and an overall site designed for accessibility, where residents can access dwelling units from their respective vehicles without having to go outside or navigate stairs. The proposed Cherokee Springs will be compatible with the surrounding area and will not cause any adverse impacts to surrounding properties. Accordingly, granting the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations.

If the requested variance is not granted, the applicant will be unable to develop the land in a manner consistent with properties in the surrounding traditional neighborhood. Dwelling units and underground garage space would be lost, making the project on the Property financially infeasible. The extra dimensional flexibility allowed by the variance will provide the necessary space to furnish resident parking underneath the

¹ 'The Vision for Bonnycastle', The Bonnycastle Neighborhood Plan, Page 3.

² The Bonnycastle Neighborhood Plan, Page 2.

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building. The slight adjustment of adding less than two feet to the initial variance of four feet, though small, is necessary due to proper construction and engineering of the building and the development site to achieve both an acceptable grade by which vehicles can successfully access and maneuver within the garage parking areas as well as a successful drainage system for the subterranean component of the garage. The slight adjustment to the variance request is minimal and Cherokee Springs' building height is well within the established range of building heights of residential structures constructed in the Bonnycastle Neighborhood.

To accomplish redevelopment of the Property as Cherokee Springs, the applicant is requesting this particular variance relief, including the slight adjustment for additional building height described herein, to achieve the building height necessary for construction, engineering and optimization of site design. The applicant has put forth significant effort in its site and building design to arrive at a Proposal for the Property that will yield its highest and best use. Consequently, the circumstances triggering the variance are not the result of any actions taken subsequent to the adoption of the LDC 5.2.2.C – Table 5.2.2./LDC 5.1.12.A.d. The strict application of the provisions of the regulation would deprive the applicant from redeveloping the Property and disallow replacement of an aged and uninspiring multi-family building with a new, accessible multi-family building designed with heightened architectural appeal and enhanced site design much more consistent in appearance with the character of the Bonnycastle Neighborhood and more befitting of a property fronting the Cherokee Road Corridor. Accordingly, the strict application of the height limitation would inhibit the applicant of the reasonable use of the land and create an unnecessary hardship.

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