

**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES**  
**November 12, 2020**

**OLD BUSINESS**  
**CASE NO. 20-ZONE-0020**

**Request:** Change-in-Zoning from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential with detailed district development plan and variances

**Project Name:** Hurstbourne Commons

**Location:** 8127 Watterson Trail

**Owner:** John A. Paddock

**Applicant:** RJ Thieneman

**Representative:** Dinsmore & Shohl, LLP

**Jurisdiction:** Louisville Metro

**Council District:** 11 – Kevin Kramer

**Case Manager:** Joel P. Dock, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:06:19 Mr. Dock stated the current Louisville Metro policy does not allow public meetings to be scheduled when the COVID-19 incident rate is in the "red." At the time of publication of the staff report, the COVID-19 Current Incidence Rate in Kentucky dated 11/3/20 indicated Jefferson County's incident rate in the "red." The intent is to continue this case to the December 10, 2020 LD&T meeting, which gives 30 days to re-check the COVID-19 incidence rate and then schedule the night hearing. The next LD&T meeting after that will be January 14, 2020.

Mr. Dock mentioned a couple of technical review items: All of the interested party comments received up until November 3, 2020 were published with the public meeting materials including everything received from the initial LD&T meeting in July 2020 until today's meeting. There are also some recent comments regarding construction traffic (Brody Lane). Binding element number 12 was added to the proposed binding elements – addressing connectivity to Hurstbourne Pkwy. Also, there are improvements required by KYTC, Kentucky Transportation Cabinet and the number of permits that can be issued without that connection.

Mr. Dock said he received an updated traffic study on October 22, 2020.

00:09:35 Commissioner Peterson asked if it's the mayor's directive to have no public hearings, whether in-person or online. Mr. Dock said the directive is for no in-person public meetings. Commissioner Peterson said maybe it should be reconsidered having the meeting online instead of in-person. Ms. Ferguson, legal counsel, said this case was petitioned for a night hearing. Commissioner Peterson said he's worried that

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several cases will be delayed. Chair Lewis said the Policy and Procedure Committee will need to make that determination. Commissioner Carlson suggests sending this case to the Planning Commission, to make a determination, for this and the race track case together in order to remain consistent and efficient. Ms. Ferguson said this case was deemed ready and set for a night hearing on October 13, 2020 at 6:00 p.m. It was then continued out of an abundance of precautions surrounding COVID-19. It was then sent back to LD&T today for possibly setting another public hearing date. It can go to LD&T or Planning Commission to possibly set a date. It might be best to send this case to the same meeting as the race track case. Mr. Davis said that date is December 3, 2020.

00:18:43 Mr. Davis said this case also had KYTC issues that needed to be addressed and that's why it was continued to today's meeting. Mr. Dock added, the comments from KYTC resulted in the additional binding element 12, which states prior to requesting a building permit for the (#) dwelling on a combination of tracts 2 and 3, a public roadway connection shall be made to Hurstbourne Parkway. Any improvements required by KYTC to Hurstbourne Parkway at its intersection with the new roadway shall be made prior to vehicular connectivity being made available to this roadway from the development site. After speaking with the applicant, the primary concern about the permits was tract 3 and the multi-family, not the senior living on tract 2 (may be removed).

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

Cliff Ashburner, Dinsmore and Shohl, LLP, 101 South 5<sup>th</sup> Street, Suite 2500, Louisville, Ky. 40202

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

00:23:50 Mr. Ashburner stated he does want to limit the building permits available on the unrestricted multi-family parcel which is tract 3. The revised traffic study supports that and indicates improvements to area roads wouldn't be necessary before that threshold (200).

Mr. Ashburner said he agrees with Commissioner Peterson and exploring a fully virtual option is a good idea. Due process can be provided to everyone. The Policy and Procedure Committee needs to revisit this. The request was to continue this case to the December 10, 2020 meeting, but December 3, 2020 is acceptable.

00:26:19 Mr. Ashburner reminded the committee that this case and the racetrack case both had neighborhood meetings in January and February of this year. This case is ready for a public hearing. It is very rare to have that long of a gap between the case being ready and the public hearing.



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00:27:27 Ms. Liu said it would be more consistent to hear both cases at the December 3, 2020 Planning Commission meeting. Policy and Procedure discussion would be good, but it's also a legal issue. Planning and Design Services is actively seeking different ways to address the night hearing, but currently we're in the red zone and there's a surge of COVID-19 cases.

**The following spoke in opposition to this request:**

Nancy Willenbrink, 8101 ? Brookhollow Subdivision, 40220  
Cathy ?, 4120 Wenwood Drive, Louisville, Ky. 40218

**Summary of testimony of those in opposition:**

00:29:57 Ms. Willenbrink stated the staff report dated today has the Meijers access point as the 3<sup>rd</sup> or 4<sup>th</sup> choice, but at the neighborhood meetings, a lot of people considered Meijers as the primary location. The Meijers entrance is very important. Who will be providing basic drawings for the intersection (J-turn) in front of the car wash? The public needs to view it before the public hearing. Mr. Dock said the connection to Hurstbourne Pkwy. and the public roads to be created will be submitted by the applicant. The revised plan should show the improvements, but ultimately, any improvements done in the right-of-way will require full construction plan approval.

00:33:50 Ms. Willenbrink said the traffic study dated October 22, 2020 was not made available to the public until Tuesday of this week. Why doesn't the applicant make these improvements today, especially if the developer is paying for them?

00:35:11 Cathy said she agrees with Ms. Willenbrink. Has the connection through Meijers been approved or will it be approved at the December 3, 2020 Planning Commission meeting?

00:36:12 Cathy stated she lives in Watterson Heights and there will be a safety issue with the increased traffic. Since there are no sidewalks and very little lighting, it makes it dangerous for residents walking dogs, etc. Is there anything in the plan to address the safety concerns of Watterson Heights?

00:38:33 Mr. Ashburner stated the design for the improvements on Hurstbourne Pkwy. is dictated by the state. The drawings can be made available at the public hearing. Regarding access through Watterson Heights, the development has been designed with the internal roundabout so only people who exit off the roundabout to Brownwood are probably going to be people going into that neighborhood. The Land Development Code does require these streets to connect. Concerning the Meijer access, Land Design and Development is working on a revised plan for the adjacent

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properties, which would include Meijers and a couple of other private properties between the subject property and Hurstbourne Ln. in order to accommodate that access. Lastly, the reason for the binding element is because it is not known which side of the development will be started first. The connection will need to be in place when needed and is based on the traffic study. The need for the Meijers entrance is based on a certain amount of trips, including tract 3.

**Deliberation**

00:44:10 The commissioners agree this case is ready to be continued to the December 3, 2020 Planning Commission meeting to determine a date for the night hearing.

**An audio/visual recording of the Land Development & Transportation Committee 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.**

On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution was adopted.

**RESOLVED**, that the Land Development & Transportation Committee does hereby **FIND** this case is ready for a public hearing but cannot be scheduled for a night hearing since Louisville Metro is in the red COVID-19 zone; therefore, it will be **CONTINUED** to the December 3, 2020 Planning Commission meeting for further consideration.

**The vote was as follows:**

**YES: Commissioners Brown, Carlson, Daniels, Peterson and Lewis**



**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES**  
**September 10, 2020**

**NEW BUSINESS**

**CASE NO. 20-ZONE-0020**

**Request:** Change-in-Zoning from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential with detailed district development plan and variances

**Project Name:** Hurstbourne Commons

**Location:** 8127 Watterson Trail

**Owner:** John A. Paddock

**Applicant:** RJ Thieneman

**Representative:** Dinsmore & Shohl, LLP

**Jurisdiction:** Louisville Metro

**Council District:** 11 – Kevin Kramer

**Case Manager:** Joel P. Dock, AICP, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Discussion**

00:06:09 Joel Dock presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Mr. Dock noted Brian Davis can answer questions regarding the scheduling of the night hearing.

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

Cliff Ashburner, 101 South Fifth Street, Suite 2500, Louisville, Kentucky, 40202

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

00:09:32 Cliff Ashburner, representing the applicant, stated the proposed night hearing location will be at the Jeffersonian and this case is ready to set a night hearing date (see recording for detailed presentation.)

**The following spoke in opposition to this request:**

Nancy Willenbrink, 8101 Stoney Run Court, Louisville, Kentucky, 40220

**Summary of testimony of those in opposition:**

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00:10:14 Nancy Willenbrink asked for the status of the proposed entrance/exit of this site near the Meijer grocery store. She stated this case should not move forward without input from Meijer.

**Rebuttal:**

00:14:39 Cliff Ashburner stated there is a prepared plan shared with agencies can address the entrance as binding element at the public hearing.

00:15:02 Brian Davis asked Cliff Ashburner if the plans still propose 3 story apartment buildings. Cliff Ashburner replied yes.

00:15:10 Commissioner Brown asked Cliff Ashburner if the traffic study did not include distributing traffic through the adjacent Meijer site out to Hurstbourne Parkway/Watson Trail. Cliff Ashburner replied he can review the traffic study to double check.

00:16:10 Nancy Willenbrink stated she reviewed the traffic study which includes Meijer as one of the four exits/entrances. With the majority of the proposed traffic going through the Meijer connection.

00:16:56 Commissioner Brown recounted the traffic study pages 11 and 12 (see recording for detailed presentation.) Commissioner Brown asked that the applicant and staff should consider a binding element to limit the number of building permits or certificate of occupancy until the connection is made as the traffic study assumes a traffic connection is provided.

00:18:03 Cliff Ashburner confirmed the traffic study road connection and he will propose a binding element before the public hearing.

00:18:36 Brian Davis stated the proposed night hearing will be at the Jeffersonian, Tuesday, October 13, 2020.

**Commissioner Deliberation:**

00:18:36 Commissioner Deliberation (see recording for detailed presentation.) Brian Davis proposed two dates for the night hearing at the Jeffersonian, October 12<sup>th</sup> or October 13<sup>th</sup>. Commissioners concluded the night hearing date for Tuesday October 13, 2020 at the Jeffersonian



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**The Committee by general consensus placed this case on the October 13, 2020 Planning Commission public night hearing agenda.**



**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES**  
**July 23, 2020**

**NEW BUSINESS**

**CASE NO. 20-ZONE-0020**

**Request:** Schedule the Public Hearing for Change-in-Zoning from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential with detailed district development plan and variances

**Project Name:** Hurstbourne Commons

**Location:** 8127 Watterson Trail

**Owner:** John A. Paddock

**Applicant:** RJ Thieneman

**Representative:** Dinsmore & Shohl, LLP

**Jurisdiction:** Louisville Metro

**Council District:** 11 – Kevin Kramer

**Case Manager:** **Joel P. Dock, AICP, Planner II**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**Agency Testimony:**

00:40:13 Joel Dock stated this case was continued to today's meeting to consider the date for an evening night hearing. He requested that the scheduling of the public meeting date to be continued to a later date as the local state of emergency due to COVID-19 has been extended to August 31, 2020 (see recording for detailed presentation.) Mr. Dock asked this case to be continued to September 2020.

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

Cliff Ashburner, 101 South Fifth Street, Suite 2500, Louisville, Kentucky, 40202  
Steven Porter, 2406 Tucker Station Road, Louisville, Kentucky, 40299

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

00:41:43 Cliff Ashburner, representing the applicant, expressed that the legal requirements for due process can be achieved through Cisco Webex to host a public hearing (see recording for detailed presentation.) Mr. Ashburner detailed previous conflicts for night hearings and noted staff concerns for public health and safety. He asked Planning and Design staff take the time until the next meeting for this case to consider ways to host a public hearing (see recording for detailed presentation.)

00:45:05 Steven Porter agreed with Cliff Ashburner to finalize a process and procedures for public hearings (see recording for detailed presentation.)



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**CASE NO. 20-ZONE-0020**

**The following spoke in opposition to this request:**

Nancy Willenbrink, 810 Stoney Run Court, Louisville, Kentucky, 40220

**Summary of testimony of those in opposition:**

00:46:43 Nancy Willenbrink asked why staff should consider a public hearing when there are no firm plans for the Meijer Road portion of the development.

**Rebuttal:**

00:47:55 Cliff Ashburner stated a petition for a night hearing have been filed and the project should not be delayed indefinitely. The time between now and the proposed hearing staff should determine how to conduct a night hearing safely online via Webex.

00:49:07 Travis Fiechter noted virtual meetings should have clear standards about how to move cases forward with night hearings (see recording for detailed presentation.)

00:50:23 Commissioner Lewis and Joel Dock discussed staff's recommendations for the continuance date for this case and the scheduling for the petitioned night hearing (see recording for detailed presentation.) Travis Fiechter noted they could tentatively schedule a night hearing depending on the decision of the Policies and Procedures Committee for public hearings. Emily Liu stated Policies and Procedures Committee can discuss the procedure standards for public hearings. Ms. Liu stated she would prefer this case to be scheduled for the first Land Development and Transportation meeting in September after the expiration of the state of emergency on August 31, 2020.

**Deliberation**

00:54:29 Commissioner Deliberation (see recording for detailed presentation.) Commissioners and Joe Reverman concluded to schedule this case to September 10, 2020 to allow Policies and Procedures Committee and Planning Commission to discuss and set procedure standards for public hearings.

**An audio/visual recording of the Land Development & Transportation Committee 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.**

01:00:37 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution today was adopted.



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**RESOLVED**, that the Land Development & Transportation Committee does hereby **CONTINUE** this case to the September 10, 2020 Land Development and Transportation Committee meeting.

**The vote was as follows:**

**YES: Commissioners Carlson, Daniels, Peterson, Brown, and Lewis.**  
**NO: No one.**



**LAND DEVELOPMENT AND TRANSPORTATION COMMITTEE MINUTES**  
**July 9, 2020**

**NEW BUSINESS**

**CASE NO. 20-ZONE-0020**

Request: Change-in-Zoning from R-4, single-family residential to R-5, single-family; R-6, multi-family; and OR-1, office-residential with detailed district development plan and variances

Project Name: Hurstbourne Commons

Location: 8127 Watterson Trail

Owner: John A. Paddock

Applicant: RJ Thieneman

Representative: Dinsmore & Shohl, LLP

Jurisdiction: Louisville Metro

Council District: 11 – Kevin Kramer

Case Manager: **Joel P. Dock, AICP, Planner II**

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

03:07:55 Joel Dock presented the case via Power Point slide show (see staff report and recording for detailed presentation.) Mr. Dock detailed the uses for Tract 1 & 2 (OR-1), Tract 3 (R-6), and Tract 4 (R-5). Joel noted there has been a petition for a night hearing for this case.

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

Cliff Ashburner, 101 South Fifth Street, Suite 2500, Louisville, Kentucky, 40202

Diane Zimmerman, 12803 High Meadows Pike, Prospect, Kentucky, 40059

Kevin Young, Land Design & Development, 503 Washburn Avenue, Louisville, KY 40222

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

03:13:48 Cliff Ashburner, representing the applicant, presented a Power Point pdf slide show (see recording for detailed presentation.) Mr. Ashburner detailed the layout for tracts 1-4, connections to various roads, neighborhood meetings, and the traffic impact study.

03:28:43 Commissioner Carlson and Diane Zimmerman discussed the traffic study (see recording for detailed presentation.)



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03:30:15 Commissioner Daniels asked how many units will be in the proposed apartments. Kevin Young stated there will be 24 in the three-story apartment buildings and 8 units in the townhomes.

**The following spoke in opposition to this request:**

Nancy Willenbrink, 810 Stoney Run Court, Louisville, Kentucky, 40220

Cheryl Bryant, 3811 Ridgehurst Court, Louisville, Kentucky 40299

David Loran, 7308 Whitfield Drive, Louisville, Kentucky, 40218

Karen Garrett, 7707 Brownwood Drive, Louisville, Kentucky, 40218

**Summary of testimony of those in opposition:**

03:35:35 Nancy Willenbrink stated she is concerned with the left-hand turn from the apartments onto Hurstbourne Lane, the traffic studies, the amount of proposed units, and volume of traffic this proposed development would generate (see recording for detailed presentation.)

03:43:21 Cheryl Bryant stated she is against this development due to the amount of units proposed, there will be increased through traffic on multiple roads that will connect to this development, and that this site is not ready for a public hearing (see recording for detailed presentation.)

03:49:07 David Loran stated he is opposed to the zoning change for tract 2, OR-1, any commercial office uses for the development, the height variance. He expressed concerns to the elimination of wildlife and tree canopy. Mr. Loran suggested more single-family housing than apartment units to reduce the amount of buildings, traffic, and density of people (see recording for detailed presentation.)

03:55:58 Karen Garrett stated concerns with the loss of wildlife, loss of tree canopies, the proposed traffic patterns, and the amount of proposed units which will increase traffic (see recording for detailed presentation.) Ms. Garrett is opposed to the three-story apartment buildings and density of the apartments.

03:59:47 Nancy Willenbrink stated this development will drastically change the character of the area. Ms. Willenbrink expressed concerns with the gas line through the proposed apartment units being disturbed (see recording for detailed presentation.)



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**Rebuttal:**

04:03:41 Cliff Ashburner stated the inability of making a left turn on Hurstbourne Lane can be mitigated using the Meijer parking lot entrance intersection light. Mr. Ashburner detailed speed humps on other developments, the rezoning to OR-1, and vacant properties in the area (see recording for detailed presentation.)

04:08:53 Commissioner Carlson asked if the developer would be willing to fund additional speed humps in areas that would be used for cut-through traffic. Cliff Ashburner stated they will discuss this with Public Works. Commissioner Carlson asked for clarification on the Meijer access point. Cliff Ashburner replied they are working on the proposed access location and design with Meijer, it will be designed to public standards for through traffic (see recording for detailed presentation.)

04:10:29 Commissioners, Brian Davis, and Joel Dock discussed the chat bar within Webex to be included into the record (see recording for detailed presentation.)

**Deliberation**

04:10:35 Committee deliberation.

**An audio/visual recording of the Land Development & Transportation Committee 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.**

04:25:11 On a motion by Commissioner Carlson, seconded by Commissioner Peterson, the following resolution based on the Staff Analysis and testimony heard today was adopted.

**RESOLVED**, that the Land Development & Transportation Committee does hereby **CONTINUE** this case to the July 23, 2020 Land Development and Transportation Committee meeting to discuss only the time, date, place, and format for the public hearing case.

**The vote was as follows:**

**YES: Commissioners Daniels, Peterson, Brown, Carlson, and Lewis.**  
**NO: No one.**