

**MINUTES OF THE MEETING  
OF THE  
LOUISVILLE METRO PLANNING COMMISSION MEETING  
June 17, 2021**

A meeting of the Louisville Metro Planning Commission was held at 1:00 p.m. on Thursday, June 17, 2021 via Webex.

**Commissioners present:**

Marilyn Lewis, Chair  
Lula Howard  
Jeff Brown  
Rich Carlson  
Patricia Clare  
Ruth Daniels  
Jim Mims  
Te'Andre Sistrunk  
Rob Peterson  
Patricia Seitz

**Commissioners absent:**

No one.

**Staff members present:**

Emily Liu, Director, Planning & Design Services  
Joe Reverman, Assistant Director, Planning & Design Services  
Brian Davis, Planning & Design Manager  
Julia Williams, Planning Supervisor  
Dante St. Germain, Planner II  
Joel Dock, Planner II  
Laura Ferguson, Legal Counsel  
Beth Stuber, Transportation Planning  
Mark Sites or Tony Kelly, MSD representatives  
Chris Cestaro, Management Assistant

The following matters were considered:

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### **APPROVAL OF MINUTES**

**Approval of the minutes of the June 3, 2021 Planning Commission regular meeting.**

00:04:28 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the regular meeting of the Planning Commission conducted on June 3, 2021.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Clare, Howard, Sistrunk, and Lewis.**

**ABSTAIN: Commissioners Seitz, Brown, Carlson, and Daniels.**

**Approval of the minutes of the June 7, 2021 special meeting of the Louisville Metro Planning Commission (night hearing).**

00:07:38 On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the minutes of the Planning Commission night hearing conducted on June 7, 2021.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Seitz, Sistrunk, and Lewis.**

**ABSTAIN: Commissioners Daniels**

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**PUBLIC HEARING**

**CASE NO. 20-DDP-0054**

Request: **Continued from the June 3, 2021 Planning Commission hearing - Revised Detailed District Development Plan with parking waiver and parkway buffer waiver**

Project Name: Cedar Creek Crossing

Location: 7704-7718 Bardstown Road & 7509 Cedar Creek Road

Owner: Real Properties Plus II, LLC; Park Community Credit Union; Cindy Sue daily

Applicant: Hogan Real Estate

Representative: Dinsmore & Shohl, LLP - Cliff Ashburner

Jurisdiction: Louisville Metro

Council District: 22 - Robin Engel

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

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:09:38 Mr. Dock noted that this case was first heard at DRC on May 19, 2021 and was placed on the June 3, 2021 Planning Commission agenda. It was continued from the June 3<sup>rd</sup> hearing to allow the applicant to provide notice of an additional building design waiver. The applicant has since requested that this case be **continued** to the July 1, 2021 Planning Commission hearing to further work with staff on the Detailed District Development Plan.

**The following spoke in support of the request:**

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

**Summary of testimony of those in support:**

00:10:56 Cliff Ashburner, the applicant's representative, said he was present but had nothing else to add.

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

No one spoke.

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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.

00:11:54 On a motion by Commissioner Carlson, seconded by Commissioner Clare, the following resolution, based on testimony heard today, was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **July 1, 2021** Planning Commission public hearing.

The vote was as follows:

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.**

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**Note: Due to loss of quorum at the June 3, 2021 Planning Commission public hearing, the Commission continued the case at the completion of support, other, and opposition testimony to hear the rebuttal by the applicant only at today's meeting. No new public testimony in support, other, or opposition will be heard.**

**Commissioners Carlson and Brown said that, although they had to leave the meeting early, they did watch the video for the portions they missed.**

<b>Request:</b>	<b>Continued from the June 3, 2021 Planning Commission hearing - Change in Zoning from R-4, single-family residential to OR-3, office-residential with detailed plan, waivers and variances</b>
<b>Project Name:</b>	<b>Chamberlain Woods Office Park</b>
<b>Location:</b>	<b>5220 Chamberlain Lane</b>
<b>Owner:</b>	<b>McMahan Holdings, LLC; Roy F. McMahan</b>
<b>Applicant:</b>	<b>McMahan Holdings, LLC</b>
<b>Representative:</b>	<b>Dinsmore &amp; Shohl, LLP - Cliff Ashburner</b>
<b>Jurisdiction:</b>	<b>Louisville Metro</b>
<b>Council District:</b>	<b>16 - Scott Reed</b>
<b>Case Manager:</b>	<b>Joel Dock, AICP, Planner II</b>

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:22:00 Joel Dock stated that he was present to provide technical assistance if needed, but would provide no new testimony.

**The following spoke in rebuttal:**

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

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##### **Rebuttal:**

00:24:52 Cliff Ashburner, the applicant's representative, presented rebuttal (see recording for detailed presentation.)

00:42:59 In response to a question from Commissioner Mims, Mr. Ashburner said the cell tower will remain on the property.

##### **Deliberation:**

00:43:24 Commissioners' deliberation (see recording for discussion.)

01:05:05 In response to a question from Commissioner Howard, she and Mr. Dock discussed topography (height) of this site and the assisted living facility across Chamberlain Lane.

**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.**

##### **Zoning**

01:06:23 On a motion by Commissioner Mims, seconded by Commissioner Sistrunk, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposed zoning district provides an appropriate transition between a low-density residential subdivision and the interstate and Chamberlain Lane. No residences are in the area of development. Residences near the development site will be retained and subdivided from the area of rezoning; thus preserving tree canopy along Wolf Pen Branch Road. Traffic will utilize Chamberlain Lane, a primary collector roadway. Vegetative buffers and landscaping will be utilized to provide additional mitigation and such landscaping and tree canopy will be demonstrated on the development plan; and the proposed district is located near transportation facilities (I-71 and I-265), mixed- use development, and employment and population centers where demand and adequate infrastructure is present or provided. It further increases the demand to extend TARC service north of I-71 to support transit-oriented development and an efficient public transportation system, which supports nearby housing, housing opportunity, and mixed-use development; and traffic will utilize Chamberlain Lane, a primary collector roadway to access the site. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate

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I-71, I-265, Hurstbourne Parkway or Brownsboro Road; and the proposed district does not allow for uses that create higher volumes of noise than would be expected by the presence of the interstate. The proposal may also serve to reduce interstate noises as proposed structures provide additional sound buffering; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposed office district is appropriately located for its intensity to serve as a transition between a low-density residential subdivision and the interstate as Plan 2040 states, "The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods." The subject site is adjacent to mixed-use development, an assisted living facility, the interstate, and provides transition for the location of office uses near population centers and areas of expected population growth; and traffic will utilize Chamberlain Lane, a primary collector roadway to access the site. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I-265, Hurstbourne Parkway or Brownsboro Road. Infrastructure will be provisioned to provide an appropriate level of connectivity with Norton Commons; and the proposed district provides for transition from residential uses to the interstate. In doing so, the current land is being efficiently used to provide office space near employment and population centers; and the proposal incorporates additional land uses into an area that maintains a variety of uses along Chamberlain Lane and on the opposite side of I-71 with access to multiple modes of travel. The proposal provides supportive employment to patronize nearby services and amenities located to the south of the Interstate and within Norton Commons. The proposed OR-3 zoning district allows for residential development that if provisioned would require additional review as the site abuts the interstate and residential uses are noise sensitive. An office use may be the best use of the site as it can provide a transition from residential to the interstate without encroaching into residential areas; and the proposal provides office uses in a new development; and the proposed office district is appropriately located for its intensity to serve as a transition between a low-density residential subdivision and the interstate as Plan 2040 states, "The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods." The subject site is adjacent to mixed-use development, an assisted living facility, the interstate, and provides transition for the location of office uses near population centers and areas of expected population growth; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because The development plan will demonstrate appropriate mitigation and respect for natural features as the site contains an intermittent stream and tree canopy

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that is centrally located on the site. The development plan demonstrates that these areas will be crossed but minimally disturbed; and areas within the site that possess sensitive environmental features appear to be minimally disturbed by the proposed development; and a karst survey was performed on July 26, 2013. No sinkholes or Karst features were observed on site or in reviewed documents. It should be noted that the underlying limestone have a medium to high susceptibility to karst activity. If Karst features are observed during site work, follow-up investigations to provide remediation and stabilization must be performed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because an archaeological report prepared for the proposed development concluded that the proposed development does not impact suspected inactive cemeteries or burials that may be present nearby. If human remains are discovered during excavation, the site applicant is required to cease all activity and contact the Louisville Metro Coroner and Landmarks Commission; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the proposed higher intensity development is in a wedge between a low-density residential subdivision and the interstate. It is further located adjacent to a mixed-use development and assisted living facility. Opposite I-71 a large activity center is present. The proposed development increases demand for transit connectivity in the area which supports housing opportunity and connection to employment opportunities; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the subject property is obtained from a primary collector roadway through areas of similar or higher intensity or density. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I-265, Hurstbourne Parkway or Brownsboro Road; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the proposal incorporates additional land uses into an area that maintains a variety of uses along Chamberlain Lane and on the opposite side of I-71 with access to multiple modes of travel. The proposal provides supportive employment to patronize nearby services and amenities located to the south of the Interstate and within Norton Commons. Infrastructure will be provisioned to provide an appropriate level of connectivity with Norton Commons; and the proposal provides supportive employment to patronize nearby services and amenities located to the south of the Interstate and within Norton Commons. It increases the demand to extend TARC service north of I-71 to support transit-oriented development and an efficient public transportation system, which supports nearby housing; and the proposed office district is appropriately located near population centers and areas of expected population growth. Provisions will be

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made to provide an appropriate level of connectivity and the proposal increases demand for transit to support housing and employment opportunities; and primary access will be obtained from a collector level roadway that does not travel through low-density or lower intensity developments. Provisions will be made to provide an appropriate level of connectivity and the proposal increases demand for transit to support housing and employment opportunities; and provisions will be made to provide an appropriate level of connectivity. The proposal increases demand for transit to support housing and employment opportunities in this area of expected growth; and existing transportation facilities are adequate, or provisions will be made to provide an appropriate level of connectivity; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because utilities would appear to be available based location of existing easements (SS&D, LWC, Electric); and Anchorage Middletown fire approval will be coordinated to ensure adequate supply of potable water and water for fire-fighting purposes, as well as gated access on Wolf Pen Branch Road; and MSD has reviewed and approved the proposal to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because MSD has reviewed and approved the proposal to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality. Additionally, A Karst survey was performed on July 26, 2013. No sinkholes or Karst features were observed on site or in reviewed documents. It should be noted that the underlying limestone have a medium to high susceptibility to karst activity. If Karst features are observed during site work, follow-up investigations to provide remediation and stabilization must be performed; and MSD has reviewed and approved the proposal in accordance with applicable standards for floodplain. Disturbance of sensitive areas of the site is minimized and includes a crossing; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposed OR-3 zoning district allows for residential development that if provisioned would require additional review as the site abuts the interstate and residential uses are noise sensitive. An office use may be the best use of the site as it can provide a transition from residential to the interstate without encroaching into residential areas and provides employment opportunities to expand housing choices and opportunity in the area. The office district will provide employment for existing population centers as well; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because an office residential district allows for flexibility to provide for innovative methods such as clustering, mixed-use developments, co- housing, and accessory

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apartments to increase the production of fair and affordable housing. Housing on the subject site will need to be reviewed to determine noise sensitivity, if provisioned; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the requested **Change-in-Zoning** from R-4, single-family residential to OR-3, office-residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Howard, Sistrunk, and Lewis.**

**NO: Commissioners Clare, Carlson, and Daniels.**

**NOT VOTING: Commissioner Seitz**

**Variance #1 - Variance from Land Development Code (LDC), section 5.3.1.C.5 for building 1 to exceed the maximum height for a building footprint between 5,000-30,000 sq. ft. from 30 feet to 59 feet 8 inches**

01:09:02 On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the height does not impede the safe movement of vehicles or pedestrians; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the revised height reduces the size and scale to be more appropriate for its location at the boundary of the neighborhood form district and adjacent to the interstate and Regional Center form. While it remains nearly double what is allowable based on the structure's footprint, other types of uses, including residential and mixed-use development, as well as buildings with larger footprints are permitted with greater heights than what is permitted for this building. Supporting evidence provided by the applicant demonstrates that the proposed building and height will not adversely impact viewsheds along the Wolf Pen Branch Road corridor; and

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**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the height does not impede the safe movement of vehicles or pedestrians; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the general character of the area will not be adversely impacted; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as the variance will not adversely affect public, health, safety, or welfare; alter the essential character of the area; or create a nuisance to the public; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from Land Development Code (LDC), section 5.3.1.C.5 for building 1 to exceed the maximum height for a building footprint between 5,000-30,000 sq. ft. from 30 feet to 59 feet 8 inches.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Howard, Sistrunk, and Lewis.**

**NO: Commissioners Clare, Carlson, and Daniels.**

**NOT VOTING: Commissioner Seitz**

**Variance from LDC, section 5.3.1.C.5 to exceed the maximum front setback of 80 feet along Chamberlain Lane and be setback roughly 300 feet**

01:11:08 On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

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**WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect public health, safety, or welfare as the proposed setback does not impact the safe movement of pedestrians or vehicles; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed setback allows the structure to set back away from Chamberlain Lane in landscaped setting and be worked into the grade of the site while still providing for appropriate levels of pedestrian connectivity to internal roadways connecting to public roadways and adjacent development; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the proposed setback does not impact the safe movement of pedestrians or vehicles; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of zoning regulations as the building is oriented to be served by internal roadways and not Chamberlain Lane; and

**WHEREAS**, the Commission further finds that the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the setback requirement is consistent across the form; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of reasonable use of the land for the reasons previously stated in these findings; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Variance from LDC, section 5.3.1.C.5 to exceed the maximum front setback of 80' along Chamberlain Lane and be setback roughly 300'

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Sistrunk, and Lewis.**

**NO: Commissioners Carlson, and Daniels.**

**NOT VOTING: Commissioner Seitz.**

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#### Waiver

01:13:35 On a motion by Commissioner Mims, seconded by Commissioner Howard, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the waiver will not adversely affect adjacent property owners as the requested waiver is located adjacent to the interstate; and

**WHEREAS**, the Commission further finds that Plan 2040 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. It also calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. No reduction in plant material has been requested and the area of the easement is an existing condition; and

**WHEREAS**, the Commission further finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the easements are existing and the buffer is required adjacent to the expressway. No adjoining property owners are impacted by the requested relief; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant for those reason provided in the findings above; now therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Waiver of LDC, section 10.2.4 to allow for a utility easement to overlap a landscape buffer area by more than 50%.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Daniels, Sistrunk, and Lewis.**

**NO: No one.**

**ABSTAIN: Commissioner Carlson.**

**NOT VOTING: Commissioner Seitz.**

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##### Detailed District Development Plan

01:15:29 On a motion by Commissioner Mims, seconded by Commissioner Peterson, the following resolution, based on the staff report and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that 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. The development plan demonstrates appropriate mitigation and respect for natural features as the site contains an intermittent stream and tree canopy that is centrally located on the site. The development plan shows these areas will be crossed but minimally disturbed. MSD has reviewed and approved the proposal to ensure adequate means of sewage treatment and disposal to protect public health and to protect water quality. Additionally, A Karst survey was performed on July 26, 2013. No sinkholes or Karst features were observed on site or in reviewed documents. It should be noted that the underlying limestone have a medium to high susceptibility to karst activity. If Karst features are observed during site work, follow-up investigations to provide remediation and stabilization must be performed. Additionally, an archaeological report prepared for this application concluded that the proposed development does not impact suspected inactive cemeteries or burials that may be present nearby; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community will be provided. The proposal is located near transportation facilities (I-71 and I-265), mixed-use development, and employment and population centers where demand and adequate infrastructure is present or planned. Traffic will utilize Chamberlain Lane, a primary collector roadway to access the site. Chamberlain Lane appears to provide the most convenient access to the site for travelers using interstate I-71, I- 265, Hurstbourne Parkway or Brownsboro Road. The proposal further increases the demand to extend TARC service north of I-71 to support transit-oriented development and an efficient public transportation system, which supports nearby housing, housing opportunities, and existing mixed-use development. Sidewalks will be extended form the development site to connect with Norton Commons Boulevard; and

**WHEREAS**, the Commission further fins that the proposal provides adequate levels open space for scenic or recreational purposes as amenities for users of the office park will be provisioned and all required tree canopy and landscape buffers will be provided; and

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**WHEREAS**, the Commission further finds that 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 Commission further finds that the development is compatible with the form district and nearby land uses. All variances and waivers have been adequately justified. All landscape transitions, ILA, tree canopy, amenities, and parking complaint with the LDC have been provided. The applicant has worked with the adjacent residential subdivision to provide an agreed upon plan for landscape buffering and planting to minimize any impact the proposal might have on these most affected residential properties located in the Wolf Pen Estates Subdivision; and

**WHEREAS**, the Commission further finds that the proposed development plan generally conforms to the Comprehensive Plan. The proposal provides an appropriate transition between a low-density residential subdivision, the interstate, and Chamberlain Lane. No residences are in the area of development. Residences near the development site will be retained and subdivided from the area of rezoning; thus, preserving tree canopy along Wolf Pen Branch Road and potential cultural resources. The proposed office is appropriately located near population centers and areas of expected population growth. Provisions will be made to provide an appropriate level of connectivity as sidewalks will be extended across the development site and adjacent property before reaching the intersection with Norton Commons Boulevard; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:

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- 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 or certificate of occupancy. 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the May 6, 2021 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission
  - e. A minor plat shall be reviewed, approved, and recorded creating the lots as shown of the approved development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
  - f. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission's legal counsel shall be created between all lots shown on the approved development and include the Crown Communications tower. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services and recorded with the minor subdivision plat.
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,

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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. If human remains are discovered during the excavation or development of the site, the applicant shall immediately cease excavation activities and notify the Louisville Metro Coroner and the Jefferson County Historic Landmarks Commission.
7. Sidewalks shall be required to extend from the development site along Chamberlain Lane across Lot 4 to the intersection of Chamberlain Lane/Wolf Pen Branch Road/Norton Commons Boulevard as shown on the approved development plan.
8. Access to Wolf Pen Branch Road from the development site shall be limited to emergency access only and shall be gated. Approval from the Anchorage-Middletown fire department shall be required prior to the issuance of a permit for gated access. A copy of this approval shall be provided to Planning and Design Services for incorporation into the case record.
9. Landscaping and plantings along the north property line of lots 2 & 3 shall be in conformance with the landscaping exhibit presented at the June 3, 2021 Planning Commission public hearing and all requirements of the Land Development Code.
10. No illuminated attached signage shall be permitted. Freestanding signage shall be limited to monument or columnar style and be externally illuminated.
11. Lighting on the development shall be in compliance with Land Development Code, section 4.1.3 which provides that all luminaires shall be aimed, directed, or focused to not cause direct light from the luminaire to be directed toward residential uses or protected open spaces on adjacent or nearby parcels, or to create glare perceptible to persons operating motor vehicles on public streets and right-of-way. Any luminaire with a lamp or lamps that emit more than 1800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height equal to or less than twenty

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### **PUBLIC HEARING**

#### **CASE NO 20-ZONE-0078**

(20) feet. The level of lighting resultant from luminaires installed on a subject site shall not exceed 0.25 foot-candles at any property border adjoining residential. Fixtures with drop or sag lens lighting are prohibited.

#### **The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Howard, Sistrunk, and Lewis.**

**NO: No one.**

**ABSTAIN: Commissioners Clare, Carlson, and Daniels.**

**NOT VOTING: Commissioner Seitz.**

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**June 17, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0042**

Request:	Change in zoning from C-1 to OR-2 with variances
Project Name:	Roosevelt Apartments
Location:	226 N. 17th Street
Owner:	New Directions Housing Corporation
Applicant:	New Directions Housing Corporation
Representative:	New Directions Housing Corporation
Jurisdiction:	Louisville Metro
Council District:	5 - Donna Purvis
<b>Case Manager:</b>	<b>Joel P. Dock, AICP, Planner II</b>

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

01:20:11 Joel Dock presented the case and showed a Power Point presentation (see recording for detailed presentation.)

**The following spoke in support of the request:**

Kitty McKune, New Directions Housing Corporation, 1617 Maple Street, Louisville, KY 40210

John Carman, 400 East Main Street, Louisville, KY 40202

**Summary of testimony of those in support:**

01:27:59 Kitty McKune, Chief Revitalization and Legal Officer for New Directions Housing Corporation, presented the case and showed a Power Point presentation (see recording for detailed presentation.)

01:33:03 John Carman, Civil Engineer for the project, presented the plan (see recording.)

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01:42:55 Ms. McKune discussed how the plan complies with the Land Development Code and concluded the presentation.

01:48:45 In response to a question from Commissioner Seitz, Ms. McKune said there is an elevator in the building.

01:49:03 In response to a question from Commissioner Mims, Ms. McKune explained that the buildings will be put into different tax credit structures, but that New Directions will own and control both. She discussed building management (see recording.)

01:50:30 In response to a question from Commissioner Daniels, Ms. McKune said that the Roosevelt (existing units) right now is fully occupied. There is not yet a waiting list for the new senior housing because the project is not finished yet, but there is current interest.

#### **The following spoke in opposition to the request:**

No one spoke.

**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.**

#### **Deliberation:**

01:51:57 Commissioners' deliberation.

#### **Zoning**

01:55:33 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because the proposed district is located on a TARC route and is connected or near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned; and the proposal will decrease the intensity of the existing zone; thus, decreasing commercial activity that

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can be permitted within proximity to residences. The proposed district is consistent with the area; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Form because the proposal redevelops an existing development site and provides housing options for the aging population to remain in their neighborhood; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Community Form because the site does not appear to possess any issues related to wet or highly permeable soils, severe, steep or unstable slopes with the potential for severe erosion as it is an existing development site; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 4: Community Form because the proposal preserves existing structures that contribute to the character of the area and allows for the introduction of flexible and alternative housing styles. The individual landmark will be unaffected by the proposal; and the proposal contributes to the character of the area by allowing for flexible and alternative housing options for the aging population to remain in their neighborhoods if they so choose; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Mobility because the proposed district is located on a TARC route and is connected or near major transportation facilities and transit corridors, and employment centers to support transit-oriented development and an efficient public transportation system. The proposal will allow users to easily connect to these areas through public transit; and

**WHEREAS** the Commission further finds that the proposal meets Land Use & Development Goal 2: Mobility because access to the site is obtained through public roads crossing similar intensities and densities; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Mobility because the proposed district is easily accessible by bicycle, car, transit, pedestrians and people with disabilities as the area is a well-connected and walkable neighborhood along major transit routes; and existing roadway infrastructure, in conjunction with multi-modal transportation options is adequate to support a wide range of densities and intensities; and sidewalk repair will occur in accordance with Department of Public Works standards in the area of improvements on the development site; and sidewalk repair will occur in accordance with Department of Public Works standards in the area of improvements on the development site; and no access to high speed roadways is provided; and

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**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Community Facilities because the proposal is in an area served by existing utilities or planned for utilities. The subject site is in the urban services district; and the proposal has access to an adequate supply of potable water and water for fire-fighting purposes. The subject site is in the urban services district; and MSD preliminary approval has been received to ensure an adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Livability because the proposed development provides alternative housing on the site of an individual local landmark but does not disturb the local landmark. There are no significant natural features needing to be preserved; and no vulnerable geologic features appear to be present within the area of development as it is a previously developed site; and MSD preliminary approval has been received to minimize any adverse impacts of the development upon the floodplain or combined sewer overflow locations; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 1: Housing because the proposal ensures the continued inclusion of a variety of housing types in a well-connected neighborhood on a TARC route; and provisioning senior housing allows for the aging population to remain in the neighborhood if they choose to do so; and the proposed district allows for a variety of housing options in a well- connected neighborhood with access to transit and a nearby park. The proposed district and use allow residents of the neighborhood to age in place; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 2: Housing because the proposed district allows for a variety of housing options including mixed-income and mixed-use housing and office uses that are connected to the neighborhood and surrounding area; and the proposed district is 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. It is located along a transit route; and

**WHEREAS**, the Commission further finds that the proposal meets Land Use & Development Goal 3: Housing because the proposal supports fair and affordable housing as the proposed district and use allow residents of the neighborhood to age in place and have a choice to remain; and the proposed district and land use do not involve displacement but rather allows for additional units to encourage aging in place; now, therefore be it

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**RESOLVED**, the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the proposed Change-in-Zoning from C-1, Commercial to OR-2, Office-Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.**

#### **Variances:**

**Variance #1** - from Land Development Code (LDC), section 5.1.12 to allow structures to encroach upon the infill established setback along Columbia Street

**Variance #2** - from Land Development Code (LDC), section 5.1.12 to allow structures to be located further back than the established setback along Duncan Street

**Variance #3** - from LDC, section 5.4.1.D to omit the private yard area

01:57:17 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**(Variance #1) WHEREAS**, the Louisville Metro Planning Commission finds that the requested variance will not adversely affect the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles and structures within proximity to property lines is common in the area; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as structures within proximity to property lines is common in the area, especially at corners and for multi-family development, and remains consistent with the pattern of the form district; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the setback does not impeded the safe movement

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of pedestrians or vehicles and setbacks are consistent with the pattern of the form district and the area; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the does not create a hazard or nuisance, or adversely impact public health, safety, or welfare; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the development is subject to infill which is more restrictive than the general pattern of the area due to the larger setback on Columbia Street; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**(Variance #2) WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the setback does not impede the safe movement of pedestrians or vehicles; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as setbacks at or near the property line to allow for maintenance and access is common for the area and the pattern of the form district. The requested relief is the minimum necessary to allow for provisioning of these items; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the setback does not impede the safe movement of pedestrians or vehicles; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the requested setback does adversely impact public health, safety, or welfare and no hazards or nuisances are created. Further, it is consistent with the character of the area; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the

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same zone as the development is subject to infill which is more restrictive than the general pattern of the area and the form district; and

**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; and

**(Variance #3) WHEREAS**, the Commission further finds that the requested variance will not adversely affect the public health, safety or welfare as the private yard is for the use and enjoyment of private activities and to maintain a general traditional aesthetic; and

**WHEREAS**, the Commission further finds that the requested variance will not alter the essential character of the general vicinity as the proposed structure sits within the area of what might be considered an accessory use area of the main structure (individual landmark). However, a parking lot rests between the area of development and the landmark, and the proposed property line establishes new orientation for application of the requirements of the yard. A public park is located one block or roughly 500' via sidewalk from the development site. Sufficient open space to meet the needs of users is available at the public park; and

**WHEREAS**, the Commission further finds that the requested variance will not cause a hazard or nuisance to the public as the private yard is for private use and to maintain a general traditional aesthetic; and

**WHEREAS**, the Commission further finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal does not cause a hazard or nuisance or result in adverse impacts to public health, safety, or welfare; and

**WHEREAS**, the Commission further finds that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the proposed structure sits within the area of what might be considered an accessory use area of the main structure (individual landmark). However, a parking lot rests between the area of development and the landmark, and the proposed property line establishes new orientation for application of the requirements of the yard. A public park is located one block or roughly 500' via sidewalk from the development site. Sufficient open space to meet the needs of users is available at the public park; and

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**WHEREAS**, the Commission further finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as relief in accordance with items 'a' through 'd' of the standard of review have been adequately justified; and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no development has occurred; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested **Variance #1** from Land Development Code (LDC), section 5.1.12 to allow structures to encroach upon the infill established setback along Columbia Street; **AND Variance #2** from Land Development Code (LDC), section 5.1.12 to allow structures to be located further back than the established setback along Duncan Street; **AND Variance #3** from LDC, section 5.4.1.D to omit the private yard area.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.**

#### Detailed District Development Plan

01:58:51 On a motion by Commissioner Howard, seconded by Commissioner Carlson, the following resolution, based on the Standard of Review and Staff Analysis, and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that 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. Street trees and Interior landscape areas will be provided, and the site is located in a developed traditional neighborhood and on the suite of an historic landmark with large areas of impervious surfaces. A park is nearby to provide recreational amenities. The individual landmark is not affected by the proposal; and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community

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are provided as the site is served by public transit and sidewalk repairs will be made in the areas abutting the developed portion of the site; and

**WHEREAS**, the Commission further finds that open space is provided in a public park roughly 500 feet from the proposed development site to meet the needs of the development; and

**WHEREAS**, the Commission further finds that 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 Commission further finds that the proposed development is generally compatible with development in the area and the pattern of the form district. Structures at or near property lines is common in the area, especially at corners and for multi-family development, and to allow for maintenance and access; and

**WHEREAS** the Commission further finds that the proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested 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. 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 Louisville Metro Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.

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- b. A minor subdivision plat shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - 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.
  - d. A reciprocal access, crossover easement agreement, and shared parking agreement in a form acceptable to the Planning Commission legal counsel shall be created between the properties shown on the development site and recorded. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
  - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 17, 2021 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
- 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

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**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.**

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**PUBLIC HEARING**

**CASE NO. 20-ZONE-0120**

**NOTE: Commissioner Seitz left the meeting and was not present for the last vote on the Detailed District Development Plan request.**

Request:	Change in zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements and Waiver
Project Name:	6001 Outer Loop Apartments
Location:	6001 Outer Loop
Owner:	Mive Property LLC
Applicant:	Mive Property LLC
Representative:	Bardenwerper, Talbott & Roberts – John Talbott
Jurisdiction:	Louisville Metro
Council District:	24 - Madonna Flood
<b>Case Manager:</b>	<b>Dante St. Germain, AICP, Planner II</b>

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:00:40 Dante St. Germain presented the case and showed a Power Point presentation (See staff report and recording for detailed presentation.)

02:13:03 Commissioner Mims asked that the applicant provide more information regarding the site design issues.

**The following spoke in support of the request:**

John Talbott, Bardenwerper Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway, Louisville, KY

Marv Blomquist, Blomquist Design Group, 10529 Timberwood Cir # D, Louisville, KY 40223

**Summary of testimony of those in support:**

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02:13:33 John Talbott, the applicant's representative, cross-examined Ms. St. Germain regarding neighborhood plans (see recording for detailed discussion.)

02:28:40 Mr. Talbott presented the applicant's case and showed a Power Point presentation.

02:40:45 Marv Blomquist discussed site layout, stormwater drainage and detention, and other aspects of the site design.

02:45:26 Mr. Talbott concluded the presentation.

02:58:50 Commissioner Carlson and Mr. Talbott discussed R-4 zoning, specifically in this area. Commissioner Carlson and Mr. Talbott discussed why the applicant didn't use more height to achieve density, and also why the buildings are oriented as they are. Commissioner Carlson said the buildings are all the same with no defining features or variety. Mr. Blomquist discussed height, scale, layout and design. Mr. Talbott discussed ways in which he says the project complies with CF3. In response to a question from Commissioner Carlson, Mr. Talbott said affordable housing had not been factored in to the project.

03:09:11 In response to questions from Commissioner Howard, Mr. Talbott confirmed that the buildings would all be three story and none would have elevators. Commissioner Howard asked how that could affect senior potential renters. Mr. Talbott said he assumed that the lower/first floor units would be available for people with difficulty walking up stairs.

03:10:29 Commissioner Seitz and Mr. Blomquist discussed if there was any way to integrate elevators into the buildings as they are being presented today. Commissioner Daniels noted that, by not having elevators, there is no way for people with disabilities to access the upper floors and questioned whether the development was ADA-compliant. Mr. Blomquist said that the 84 first-floor units are accessible.

03:17:42 Laura Ferguson, Assistant County Attorney, said that ADA applies more to common areas of apartment complexes. Or areas intended for the general public (rental office, public restrooms, etc.) She said elevators are not mandated, but described other "reasonable accommodations" that are.

#### **The following spoke in opposition to the request:**

No one spoke.

#### **Rebuttal:**

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03:19:13 Mr. Talbott presented rebuttal (see recording.)

#### **Deliberation:**

03:25:22 Commissioners' deliberation.

03:41:13 After some discussion, Mr. Talbott said he would like an opportunity to speak with his client regarding any possible changes to the development plan.

**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.**

03:53:53 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution, based on the Standard of Review and Staff Analysis and evidence and testimony heard today, was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Community Form: Goal 1 because the proposed zoning district would permit higher density and intensity uses. The site is located on a major arterial and transit corridor, and near an existing activity center; and appropriate transitions between uses that are substantially different in scale and intensity or density will be provided; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 2 because the proposal would permit new development providing residential uses; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site; and no historic structures are evident on the site; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 1 because the site is located near an existing activity center. The proposal would permit higher density and intensity uses; and

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**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 2 because access to the site is via Outer Loop, a major arterial at this location; and

**WHEREAS**, the Commission further finds that the proposal meets Mobility: Goal 3 because the site is located on a transit corridor and is easily accessible by bicycle, car, transit, pedestrians and people with disabilities; and Transportation Planning has approved the proposal; and no direct residential access to high speed roadways is proposed; and

**WHEREAS**, the Commission further finds that the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal; and Louisville Water Company and MSD have approved the proposal; and

**WHEREAS**, the Commission further finds that the proposal meets Livability: Goal 1 because tree canopy is being preserved on the portion of the site that contains tree canopy; no karst features are evident on the site; the site not located in the regulatory floodplain; the proposal would allow a variety of housing types, and would increase the variety of housing available in the neighborhood; and the proposal would support aging in place by increasing the options for older adults and people with disabilities to live in the neighborhood. The site is located on a transit corridor; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 2 because the proposal would permit inter-generational, mixed-income development that is connected to the neighborhood and surrounding area; and the proposal would permit higher density residential uses. The site is located along a multi-modal transit corridor and near an activity center. The site is within proximity to amenities providing neighborhood goods and services; and

**WHEREAS**, the Commission further finds that the proposal meets Housing: Goal 3 because the proposal would encourage the provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. It would expand opportunities for people to live in quality, variably priced housing in locations of their choice; and no existing residents will be displaced by the proposal; and the proposal would permit innovative methods of housing; 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 Single Family Residential to R-6 Multi-Family Residential on property described in the attached legal description be **APPROVED**.

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#### **CASE NO. 20-ZONE-0120**

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Daniels, Seitz, Sistrunk, and Lewis.**

**ABSTAIN: Commissioner Carlson.**

03:55:38 On a motion by Commissioner Brown, seconded by Commissioner Mims, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** the Detailed District Development Plan and Waiver requests to be sent to the LD&T Committee at a date uncertain, as discussed in today's deliberation.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Sistrunk, and Lewis.**

**NOT PRESENT: Commissioner Seitz.**

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**CASE NO. 21-ZONE-0014**

**NOTE: This case was heard out of order. It was heard immediately following Case No. 20-DDP-0054.**

Request:	Change in zoning from R-5 to C-1 with detailed district development plan and waivers
Project Name:	The Haymarket
Location:	3020 River Road
Owner:	Riverbend Farms II, LLC
Applicant:	Ashbourne Farms
Representative:	Dinsmore & Shohl, LLP - Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District:	9 - Bill Hollander
<b>Case Manager:</b>	<b>Joel Dock, AICP, Planner II</b>

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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:12:54 Joel Dock said the applicant has requested a continuance of this case to the July 1, 2021 Planning Commission public hearing to continue working with interested parties.

**The following spoke in support of the request:**

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

**Summary of testimony of those in support:**

00:13:34 Cliff Ashburner, the applicant's representative, said the applicant has been in discussions with both River Fields and the Mockingbird Valley Presentation Alliance, and would like some additional time to come to an agreement.

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**CASE NO. 21-ZONE-0014**

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

No one spoke.

**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.**

00:14:07 On a motion by Commissioner Howard, seconded by Commissioner Daniels, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **July 1, 2021** Planning Commission public hearing.

**The vote was as follows:**

**YES: Commissioners Mims, Peterson, Brown, Clare, Howard, Carlson, Daniels, Seitz, Sistrunk, and Lewis.**

**PLANNING COMMISSION MINUTES**  
**June 17, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0003**

**NOTE: This case was heard out of order. It was heard immediately following Case No. 21-ZONE-0014.**

Request:	Change in zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements
Project Name:	Lodges at Prospect
Location:	7312 River Road
Owner:	Eastwood Construction and Development
Applicant:	AGS Development LLC
Representative:	Dinsmore & Shohl – Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District: 1	6 - Scott Reed
Case Manager:	Dante St. Germain, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

00:15:14 Dante St. Germain said the applicant has requested that this case be continued to the July 15, 2021 Planning Commission public hearing.

**The following spoke in support of the request:**

Cliff Ashburner, Dinsmore & Shohl, 101 S 5th St #2500, Louisville, KY 40202

**Summary of testimony of those in support:**

00:15:55 Cliff Ashburner, the applicant's representative, said the applicant has some issues with the plan that they would like to resolve before the case is heard by the Planning Commission.

**00:16:32 Commissioner Lewis noted that this case was originally scheduled to start no later than 5:30 today. She said that, if this hearing adjourns before**

## PLANNING COMMISSION MINUTES

June 17, 2021

### PUBLIC HEARING

#### CASE NO. 21-ZONE-0003

**5:30 today, a staff member will remain online to communicate with any member of the public who logs in. There have been attempts made to notify any who were already expected.**

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

No one spoke.

**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.**

00:17:12 Commissioner Carlson made a motion, seconded by Commissioner Clare, to schedule this case for the July 15, 2021 Planning Commission public hearing.

00:17:35 In response to a question from Commissioner Peterson and other Commission members, Ms. St. Germain said the reason why this case was originally placed at the end of the agenda (to not start prior to 5:30) is because staff received a petition for a night hearing with 200 signatures. Some of those signatures were disqualified as not being in Jefferson County or not being verifiable. Therefore, the petition dropped below the 200-signature threshold for a night hearing. However, as a courtesy to the people who had gone to the effort to make that petition, it was decided to place the case on the end of the agenda and a note not to start before 5:30 p.m. She said the night hearing petition is not valid; it does not have enough signatures.

00:19:01 Mr. Ashburner said the applicant had no objection to starting this case no earlier than 5:30 p.m. on July 15<sup>th</sup>.

00:19:22 The Commissioners discussed the time issue.

00:19:52 Commissioner Carlson amended his motion to include a note stating that the case shall not start before 5:30 p.m.

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **July 15, 2021** Planning Commission public hearing. This case will **NOT** start before 5:30 p.m. on that date.

**PLANNING COMMISSION MINUTES**  
**June 17, 2021**

**PUBLIC HEARING**

**CASE NO. 21-ZONE-0003**

**The vote was as follows:**

**YES: Commissioners Carlson, Mims, Peterson, Clare, Daniels, and Sistrunk.**

**NO: Commissioners Brown, Howard, Seitz, and Lewis.**

00:21:28      Commissioner Howard asked if the Commissioners could be polled to make quorum for that meeting. Commissioner Lewis said that would occur at the end of today's hearing.

**PLANNING COMMISSION MINUTES**  
**June 17, 2021**

**ADJOURNMENT**

The meeting adjourned at approximately 5:00 p.m.

DocuSigned by:

*Lula Howard*

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Chairman

DocuSigned by:

*[Signature]*

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Division Director