

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
Special Night Hearing
February 22, 2021**

A meeting of the Louisville Metro Planning Commission was held on February 22, 2021 at 6:30 p.m. via Cisco Webex Video Teleconferencing and in person at the Jeffersonian, 10607 Taylorsville Rd., Jeffersontown, Ky. 40299.

Commission members present:

Marilyn Lewis
Lula Howard
Jeff Brown
Rich Carlson
Robert Peterson
Jim Mims
Patricia Clare
Te'Andrea Sistrunk

Commission members absent:

Ruth Daniels
Pat Seitz

Staff Members present:

Emily Liu, Planning and Design Director
Joe Reverman, Planning and Design Assistant Director
Brian Davis, Planning and Design Manager
Julia Williams, Planning Supervisor
Joel Dock, Planner II
Beth Stuber, Engineering Supervisor
Tony Kelly, MSD
Travis Fiechter, Legal Counsel

The following matters were considered:

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20-ZONE-0020

Request: Change in zoning from R-4 to R-5, R-6 & OR-1 with detailed district development/major preliminary subdivision plan and variances

Project Name: Hurstbourne Commons

Location: 8127 Watterson Trail

Owner: John A. Paddock

Applicant: RJ Thieneman

Representative: Dinsmore & Shohl, LLP – Clifford Ashburner

Jurisdiction: Louisville Metro

Council District: 11 – Kevin Kramer

Case Manager: Joel P. Dock, 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. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:08:02 Joel Dock discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Kevin Young, Land Design and Development, 503 Washburn Avenue, Louisville, Ky. 40222

Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

Susan Perry, 40299

Summary of testimony of those in favor:

00:22:35 Cliff Ashburner gave a power point presentation. He gave some history on R.J. Thieneman. The decision made by the Planning Commission is based on the Comprehensive Plan 2040. The proposed property has design challenges but a lot was accomplished to make it fit.

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00:32:10 Kevin Young continued the power point presentation and discussed the creation of the development plan. We will encourage people to use alternative streets to get in and out of the development (other than Brody Ln.).

Kevin Young discussed the transition through the adjacent roads and uses to create a development plan. This project has very good connectivity. Some trees are being protected (15 ft. tree canopy) and there will be evergreen trees and a fence for screening. There will be 2 detention basins.

00:51:27 Diane Zimmerman prepared the traffic impact study. The conclusion is as follows: Based on the volume of traffic generated by the development and the amount of traffic forecasted for 2027, there will be a minor impact to the existing highway network. A left turn lane will be required for the entrance on Watterson Tr. and J-turn improvements will be added to Hurstbourne Pkwy.

Diane Zimmerman stated the proposed binding element is as follows: Prior to requesting a building permit for the 241st dwelling on tract 3, a public roadway connection shall be made to Hurstbourne Pkwy. Improvements required by KYTC to Hurstbourne Pkwy. at its intersection with a new public roadway (current Hendrik Dr.) shall be made prior to any vehicular connectivity to the property at 4500/4502 S. Hurstbourne from the development site.

01:17:50 Susan Perry said she supports the project. The area is ideal for this type of development.

The following spoke neither for nor against the request:

Adam Embry, Ridgehurst Place

Summary of testimony of those neither for nor against:

01:20:18 Adam Embry asked if there was any consideration given to traffic on Brody (side road) and cutting through Ridgehurst. People are using it to avoid the speed humps. Cliff Ashburner said Ridgehurst didn't come up during the review. Most people exiting the site are not likely to use Ridgehurst.

The following spoke in opposition to this request:

Nancy Willenbrink, 8101 Stony Run Court, Louisville, Ky. 40220
David Loran, 7803 Whitfield Drive, Louisville, Ky. 40218
Cathy Heck, 4110 Spring Park Lane, Louisville, Ky. 40218
Charlie Davis, (Inaudible)

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Vicki Queenan, 3807 ? Ln., Louisville, Ky. 40299
Mike Lally, 3804 Fields Side Circle, Louisville, Ky. 40299
Molly Dodson, 3813 ? Ln., Louisville, Ky. 40299
Linda Lafontaine, 117 Hunters Trace, Frankfort, Ky.
Nick Wideman, 3813 Fields Side Circle, Louisville, Ky. 40299
Jane Brodsky, 4115 Nachand Lane, Louisville, Ky. 40218

Summary of testimony of those in opposition:

01:24:52 Nancy Willenbrink said the project is massive. The project is too dense for the access points currently submitted with this plan – Brody Ln., Brownwood Dr. and Watterson Tr. No Hurstbourne Pkwy. access has been submitted or approved by Meijer properties.

Nancy Willenbrink discussed the 2 traffic impact studies. Two-story buildings would be in keeping with the houses in the adjacent neighborhood.

01:33:41 David Loran provided a slideshow. He asks for a continuation based on the following unanswered questions and concerns: traffic (Hurstbourne connection), no application submitted to Meijer for connection through parking lot and the undecided binding element #12.

David Loran discussed seeking changes to the rezoning plans for this case which are justified with the intent of adhering to the city of Louisville's Comprehensive Plan 2040.

01:49:27 Cathy Heck said she is concerned about the following: traffic, density, the variance request for a 3-story building and saving the tree line.

01:56:00 Charlie Davis said road improvements need to be met. There are a lot of mobility issues that haven't been answered. The applicant needs to go to the Board of Zoning Adjustment for a conditional use permit. Also, there will not be enough parking to meet the needs of residents.

02:16:06 Vicki Queenan is opposed to the following: zoning change for tracts 1 and 2 and the variance for tract 3.

02:18:52 Mike Lally said he agrees with the previous speakers. The proposal is too dense.

02:20:05 Molly Dodson said she's in opposition of the zoning request and the binding elements. Other issues include traffic and the pre-blast survey.

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02:22:38 Linda Lafontaine said the applicant is squeezing too many properties on the site. Currently there are septic tanks in the neighborhood and there's a concern about runoff. Traffic is horrendous and Watterson Tr. needs to be widened. Also, there's a concern about safety and property values decreasing.

02:25:51 Nick Wideman discussed the size of the lots and the design.

02:28:37 Jane Brodsky is concerned about drainage and there's a lot of hard surfaces which inhibits water being absorbed. Also, there is opposition to the variances and density.

Rebuttal

02:32:17 Cliff Ashburner said the parking rules have been modified by reducing the minimums. Regarding the right-of-way on Watterson Tr., there's 40 ft. from the center line and the area near the entrance will contain a left turn with additional lane widening. Blasting is handled by state law. The traffic counts were performed in Dec. 2019, before the pandemic.

Mr. Ashburner explained the Meijer connection (separate application).

02:38:35 Kevin Young explained the following 3 items: fence on Nachand, septic tanks/sewers and lot sizes.

02:41:43 Cliff Ashburner said they are providing a variety of housing types. There are no prices on the homes yet, but they have gone up in the past year. This plan on this property completely complies with the Comprehensive Plan 2040 and is supported by the staff's analysis, written materials provided and testimony.

Commissioner Carlson asked if Meijers is going to allow the connection. Cliff Ashburner said yes, they are committed to the connection.

Commissioner Carlson asked if the applicant is agreeable to a binding element for a pre-blast and post-blast survey for people within 500 ft. of the blasting area. Joel Dock read the binding element as follows: All property owners within 500 ft. of the proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast and post-blast surveys. Any blasting surveys shall be done in a manner consistent with Ky. blasting regulations. Cliff Ashburner agreed.

Commissioner Carlson asked if the applicant is agreeable to a binding element regarding construction trucks using Watterson Tr. entrance only. Cliff Ashburner agrees that equipment to put in the infrastructure will only use Watterson Tr. or the Meijer

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entrance, but once the streets are in place, we may use a public street to get to the property.

Commissioner Brown stated, in any typical subdivision, we require the developer to block the connection until the final surface asphalt is installed.

Commissioner Carlson asked if binding element 12 could be amended to include 'to be amended it will require a Planning Commission public hearing with a recommendation to the Louisville Metro Council'. Mr. Ashburner agrees.

Commissioner Clare asked if the turn lane will be constructed on the existing right-of-way of Watterson Tr. or on the developer's property. Mr. Ashburner said it will be in the existing right-of-way.

Commissioner Howard asked how the increase in building materials will affect the affordable units. Mr. Ashburner said the variety of housing choices addresses affordability. Density increases affordability when looking at multi-family versus single family.

Chair Lewis asked about the construction of underground parking near the gas line and blasting (chat). Mr. Ashburner said Texas Gas owns that easement and won't allow construction anywhere near their pipeline.

Deliberation

03:21:40 Planning Commission deliberation.

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 Change from R-4 to R-5, R-6 and OR-1

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the Applicant's Justification was adopted.

OR-1, R-5, & R-6

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed residential

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districts are located within proximity to a major transportation corridor and connected via primary collector roadway having public walks. Employment and activity centers providing services and amenities are located along Hurstbourne Parkway. Access to centers of employment and goods not adjacent to the development can be obtained by transit service (TARC route #23) along Hurstbourne Parkway; appropriate transition between uses will be provided by required landscaping. Densities and intensities consistent with the area and adjacent property are proposed. This allows for a transition from high intensity along the major corridor to medium intensity/density before reaching lower densities to the west of the development site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the land is vacant, and the proposed district will result in mixed-residential development; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site development will comply with all requirements for wet or highly permeable soils, slopes, and/or erosion. Preliminary approval has been received by MSD. Further, no karst features were observed upon site inspection by the applicant's group on February 15, 2020; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the site does not appear to contain distinctive cultural features; the site does not appear to contain historic features; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is located adjacent to the suburban marketplace corridor, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system as the site is adjacent to an activity located along Hurstbourne parkway where transit Access is also available. This supports a transit-oriented and efficient public transportation system;

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2 access to the site is through areas of higher or similar intensity as primary access is from Watterson Trail, a primary collector which connects to Hurstbourne parkway after passing through an activity center. Secondary points of access to local stub roadways are also provided. The northernmost access connects the single-family residential district proposed with an existing single-family residential neighborhood that stubs to the subject site. Future access is intended to be collected through an adjacent activity center directly to Hurstbourne Parkway; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed district encourages a mixture of compatible land uses. Housing is provided near employment and activity centers, as well as major transportation corridors. Sidewalks are present along Watterson Trail to connect with Hurstbourne Parkway, and within the development site; all improvements required to the transportation network will be made as required by respective agencies; all improvements required to the transportation network will be made as required by respective agencies; no direct access to high speed roadways is provided from individual lots. All access to high speed roadways is provided from internal public roadways connections; and

WHEREAS, the Louisville Metro Planning Commission 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 as evidenced by adjacent development; the proposal would appear to have access to an adequate supply of potable water and water for fire-fighting purposes as evidenced by adjacent development; adequate means of sewage treatment and disposal to protect public health and to protect water quality will be provided. MSD preliminary plan approval has been obtained; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, the development site is primarily vacant field. All tree canopy required by the Land Development Code will be provided. A stream that intersects the site will be preserved as required; no karst features were observed upon site inspection by the applicant's group on February 15, 2020. Any hazards (sinkholes, cemeteries, etc.) discovered upon site development must be reported as required by the Land Development Code; the development site is not located in the floodplain. MSD preliminary plan approval has been obtained; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal encourages a variety of housing types to be concentrated near major transportation corridors, activities, and services. A variety of styles, intensities, and densities is proposed across a large area of development at an appropriate location; the proposal promotes housing options and environments that support aging in place and housing for individuals with disabilities as senior, independent, and assisted living are permitted within the proposed districts. The proposal is located immediately adjacent to a major transportation corridor providing primary and secondary goods and services; i.e., supportive services; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal supports intergenerational and mixed-income development that is connected to the immediate

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neighborhood and surrounding area as the proposal allows for a wide variety of options to promote community; the proposed districts are located within proximity to multi-modal corridors as sidewalk access is provided along Watterson Trail to a major transportation corridor where TARC service is available within the adjacent activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal encourages fair and affordable housing by allowing a variety of ownership options and unit costs throughout Louisville Metro. The proposed density and decreased lot sizes permissible with the proposed districts expand opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro; the proposal allows for an increase in residential occupancy to replace the existing low-density district at an appropriate location for mixed-residential densities; the proposal encourages the use of innovative design methods by expanding the ability to provide a variety of housing types and styles. The proposed district better serves the needs to provide access and opportunity to allow for affordable housing;

OR-1

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed OR-1 district is located at an appropriate location with primary access gained from a collector level roadway. The district does not encroach upon low-density residential to the west. Densities and intensities consistent with the area and adjacent property are proposed. This allows for a transition from high intensity along the major corridor to medium intensity/density before reaching lower densities to the west of the development site; the proposed OR-1 district is located at an appropriate location with primary access gained from a collector level roadway. Access to the site does not require access through lower density/intensity areas which may result in adverse impacts on local roadways serving low-density residential; the OR-1 district does not allow for uses that generate high volumes of noise as the uses are primarily professional offices or service uses with daytime hours; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposed district is adjacent to the suburban marketplace corridor, which provides high intensity commercial uses. The proposed district provides an appropriate transition from this area into a lower intensity/density area; the proposed OR-1 district is in the Neighborhood form district at an appropriate location with primary access gained from a collector level roadway. Access to the site does not require access through lower density/intensity areas; the proposal results in an efficient land use pattern as it takes advantage of the

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existing infrastructure and transportation corridor, as well as available services and amenities; the OR-1 district allows for the incorporation of additional office type uses in an area that also provides commercial services and high-density residential development. The district is supported by multi-modal options available in the area which supports vitality of use.

WHEREAS, RJ Thieneman Company, Inc. ("Thieneman") proposes to develop approximately 79.8 acres located at 8127 Watterson Trail (the "Property") as a mixed residential community called Hurstbourne Commons. Hurstbourne Commons will include 105 single family lots, 433 multi-family units split between apartments and townhomes, and two sites for age-restricted independent living and/or assisted living facilities. Hurstbourne Commons is surrounded by a mix of uses. To the east are commercial properties, including a Meijer store and outlot development. Also, to the east is the Greenhurst residential condominium community. To the north is the Ridgehurst neighborhood. To the west are the Nachand Springs residential condominium community, the Watterson Heights neighborhood and several large lots fronting on Nachand Lane. To the south is the Laurel Springs neighborhood. Hurstbourne Commons will connect to Watterson Trail on the south, through the Meijer property to Hurstbourne Lane on the east, to Brody Lane on the north, and to Brownwood Road on the west. The Property is zoned R-4, Single-family Residential. The Applicant proposes to rezone the Property to R-5, Single-family Residential, R-7 Multi-family Residential, and OR-1, Office- Residential. For the reasons set out below, the proposed development complies with the intent and applicable policies of Plan 2040.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Community Form because, Hurstbourne Commons complies with the Goals and applicable Policies of the Community Form Plan Element. The Property is located in the Neighborhood Form District, a form that " is characterized by predominantly residential uses that vary from low to high density that blend compatibly into the existing landscape and neighborhood area....The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities....The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit."

WHEREAS, Hurstbourne Commons will provide a variety of housing types designed to appeal to a variety of stages of life, including apartments, townhomes, single-family homes and age-restricted housing/assisted living facilities. Hurstbourne Commons has been designed to connect to adjacent neighborhoods in a way that will minimize impact on those adjacent neighborhoods while also

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allowing the movement of pedestrians and vehicles. Hurstbourne Commons was designed to transition from the intense commercial uses adjoining the Property on its east side to the lower intensity residential uses to the north and west. The multi-family section of the Property transitions from three-story apartment buildings on the east to two-story townhome buildings on the west.

WHEREAS, the single-family section is located close to the single-family Ridgehurst neighborhood and the Greenhurst residential condominiums. The Property has been used historically as a farm, meaning most of the Property is cleared and relatively flat. Hurstbourne Commons will maintain open spaces in each of the residential sections. Open space is included within the single-family section, within the multi-family section, along the small stream running through the Property and over the existing gas pipeline easement. In addition, Hurstbourne Commons will contain a significant amount of newly planted trees in buffers, along streets and within the development.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Mobility because, the development of Hurstbourne Commons on the Property complies with the Goals and applicable Policies of the Mobility Plan Element. Hurstbourne Commons will contain four entrances: through Meijer to Hurstbourne Parkway, Watterson Trail, Brody Lane, and Brownwood Road. Hurstbourne Commons has been designed in order to encourage traffic to use the Hurstbourne Parkway and Watterson Trail entrances. The single-family section has been designed to discourage cut-through traffic to Brody Lane. A traffic circle has been designed along the connection between the Meijer property and Brownwood Road to discourage traffic from cutting through Watterson Heights. While there will be some additional traffic entering Watterson Heights and Ridgehurst, the design features shown on the plan were included to minimize the amount of additional traffic and to manage its speed. Sidewalks will be included throughout Hurstbourne Commons, increasing the walkability of the area and providing pedestrian connections between the surrounding neighborhoods and the commercial uses along Hurstbourne Parkway. Thieneman has engaged Diane Zimmerman to study traffic in the area of Hurstbourne Commons to determine what issues are present and how the development of Hurstbourne Commons may affect area roads. Working with Louisville Metro and the Commonwealth of Kentucky, these potential impacts will be evaluated and may result in improvements to area roads.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Community Facilities because, the development of Hurstbourne Commons on the Property complies with the Goals and applicable Policies of the Community Facilities Plan Element. The Property is served by all necessary

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utilities. The development of Hurstbourne Commons will include an evaluation of the current capacity of area storm water and sanitary sewer systems, and the development will not be allowed to adversely impact those systems.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Economic Development because, The development of Hurstbourne Commons on the Property complies with the Goals and applicable Policies of the Economic Development Plan Element. The Property has been used as a farm for many decades, while properties surrounding it have developed as commercial property, residential condominiums and neighborhoods. The proposed development of Hurstbourne Commons will add to the types of housing available and increase connections between existing neighborhoods and the commercial uses along Hurstbourne Parkway. This additional diversity of housing and connection between neighborhoods and commercial areas will serve to support economic development in the area; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Livability because, The Property is surrounded by commercial, multi-family, and single-family development and has been used as a working farm for many decades. The development of Hurstbourne Commons on the Property complies with the Goals and applicable Policies of the Livability Plan Element. Hurstbourne Commons will include a significant number of additional trees, pedestrian infrastructure where none exists today, water quality features, and open spaces. Hurstbourne Commons will also provide a variety of housing opportunities in close proximity to commercial areas with goods and services that can be accessed without car travel. Hurstbourne Commons will be designed to accommodate through drainage and will detain storm water on-site to minimize impacts on properties downstream; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Housing because, the development of Hurstbourne Commons on the Property complies with the Goals and applicable Policies of the Housing Plan Element. Hurstbourne Commons will provide a variety of housing choices, including apartments, townhomes, single-family homes, age-restricted housing and assisted living. These housing types are similar to existing neighborhoods that surround the Property but are different enough to provide more housing choices to those seeking to live along the south Hurstbourne Parkway corridor. Hurstbourne Commons is close to a variety of commercial uses, including a Meijer store, Meijer fuel station, strip center, fast food and fast casual dining and a Walgreens. Providing housing opportunities adjacent to necessary services and commercial areas will allow residents convenient access to them, increasing quality of life.

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Hurstbourne Commons complies with the intent of Plan 2040. It was designed to blend into the surrounding residential and commercial uses. Thieneman been conscientious about the design of Hurstbourne Commons, taking expressed neighborhood concerns into account and modifying the design to minimize off-site impacts. Once developed, Hurstbourne Commons will be a positive addition to this part of Louisville Metro.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to R-5, Single Family Residential, R-6, Multi-Family Residential and OR-1, Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Peterson, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Seitz

INAUDIBLE: Commissioner Mims

Variances:

1. Variance from Land Development Code (LDC), section 5.1.12.B.2.a to allow for structures on Tract 1 to exceed the infill established front setback (Watterson Trail) and be located as shown on the development plan

2. Variance from LDC, section 5.3.1.C.4 to allow for proposed structures on Tract 3 to exceed the maximum height of 35' and be 42' in height

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis, testimony heard today and the Applicant's Justification was adopted.

Variance 1

WHEREAS, the requested variance will not adversely affect the public health, safety or welfare as the setback does not impeded the safe movement of pedestrians or vehicles; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the site being developed maintains its own internal character and allows for the building to be set back away from the existing residences along Watterson Trail; and

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WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the setback does not impeded the safe movement of pedestrians or vehicles and allows for a non-residential use to be setback further than the existing residences along Watterson Trail; thus, preserving front yards; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposal establishes a transition from lower density to higher intensity; and

WHEREAS, 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 any development on this land would be subject to infill if developed along Watterson Trail; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land as parking needs to be provisioned for the building and the building setback allows for a greater setback from residential uses along Watterson Trail; and

WHEREAS, the Louisville Metro Planning Commission further finds 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.

WHEREAS, the proposed variance, which will permit the applicant to exceed the 25' infill setback requirement along Watterson Trail, will not adversely affect the public health, safety or welfare. The applicant proposes to develop Tract I of the subject property, which abuts Watterson Trail, into a 100-unit assisted-living facility with access from the proposed Laurel Springs Drive, not Watterson Trail. The variance from the infill setback requirements will allow the applicant to construct a sufficiently-large on-site parking area for the proposed 100-unit assisted-living facility. The parking lot for the proposed assisted-living facility will be within feet of the required 25' infill setback, and the facility itself is within 130 ' of the property line adjacent to Watterson Trail. The requested variance will have no impact on public health, safety, for welfare; and

WHEREAS, the variance will not alter the essential character of the general vicinity. The subject property serves as a transition between the commercial properties on Hurstbourne Parkway and the residential areas along Watterson Trail and Nachand Lane. The application of the infill standards to the subject property, while called for by the language of the LDC, is not reasonable. The proposed setback is consistent with other large-lot multi-family developments in the area along Hurstbourne Parkway. The variance is also consistent with the normal *minimum* 25 ' setback requirement for an OR-I zoned property (which is

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the requested zone for Tract I). The *maximum* 25 ' setback requirement only applies because of the infill standards applicable to the subject property; and

WHEREAS, the variance will not cause a hazard or nuisance to the public. To the contrary, the variance will permit the applicant to construct a sufficiently-large on-site parking area for the proposed 100-unit assisted-living facility, while also providing safe access to the proposed development from Watterson Trail; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposal will allow the applicant to construct the proposed 100-unit assisted-living facility as close as reasonably feasible to the property line near Watterson Trail while providing for adequate parking. The variance is not unreasonable under the circumstances; and

WHEREAS, the variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The proposed development includes 70+/- acres planned in several tracts, including the assisted-living facility, multi-family dwellings, and single-family lots. The scope of the proposed development creates special circumstances that do not generally apply to land in the vicinity of the project; and

WHEREAS, the strict application of the regulations would create an unnecessary hardship because he is requesting to exceed the maximum setback requirement by mere feet, and because the requirements only apply to this property because it is considered an infill development. Strict application of the regulations would force the applicant to bring its proposed assisted-living facility closer to Watterson Trail, which would be undesirable for both residents and the public; and

WHEREAS, the circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant has not yet developed the subject property.

Variance 2

WHEREAS, the requested variance will not adversely affect public health, safety, or welfare as the proposed increased height does not impede the safe movement of vehicles or result in environmental degradation; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the area requested for increased height is not located adjacent to lower

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density development. It is centrally located within the development site and in an area transitioning from the activity center to the east; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the requested 7' height increase does not impede the safe movement of vehicles or result in environmental degradation; and

WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the increased height allows for increased height within residential units which benefits the occupant of the residence; and

WHEREAS, 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 a 35' height maximum applies to all R-6 zoning; and

WHEREAS, the Louisville Metro Planning Commission finds, 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 Louisville Metro Planning Commission further finds 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.

WHEREAS, the proposed variance, which will permit the applicant to exceed the maximum 35' building height by seven feet on Tract 3 of the applicant's proposed development, will not adversely affect the public health, safety or welfare. The applicant proposes to develop a portion of the subject property with three-story multi-family development. The proposal also includes a 100 unit assisted-living facility and 103 single-family residential lots on two separate tracts. The variance from the maximum building height will allow the applicant to construct all proposed multi-family buildings, as well as the proposed three-story assisted living facility, to a uniform three-story height, or approximately 42'. A variance is necessary for Tract 3 pursuant to Land Development Code Section 5.3.1.C.4 Table 5.3.1 because that tract is proposed to be rezoned from R-4 to R-6, whereas the other two tracts where the applicant proposes to construct multi-family units and the assisted living facility are proposed to be rezoned to OR-1. The requested seven-foot variance will have no impact on public health, safety, for welfare; and

WHEREAS, the variance will not alter the essential character of the general vicinity as the proposal is for 42' three-story apartment/townhome buildings, as is consistent with other multi-family developments in the area along Hurstbourne

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Parkway. The variance is also consistent with the requirements of the Land Development Code for an R-6 zoned property, except for building height; and

WHEREAS, the variance will not cause a hazard or nuisance to the public. The seven-foot height variance will not have any adverse impact on the sightlines of adjacent property owners. Instead, the variance will make the proposed three-story multi-family buildings on Tract 3 consistent with the other proposed three-story multi-family buildings and the proposed assisted-living facility within the development. The applicant will provide adequate on-site parking for residents; and

WHEREAS, the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations. The proposal will allow the applicant to construct uniform three-story multi-family buildings in the proposed development. The proposed density of the subject property is below the maximum density allowed in the R-6 zoning district. The seven-foot variance is not unreasonable under the circumstances; and

WHEREAS, the variance arises from special circumstances that do not generally apply to land in the vicinity of the project. The property directly to the east of the subject property is commercial, making the subject property a good transition between that commercial property and the residential properties to the west. The scope of the proposed development creates special circumstances that do not generally apply to land in the vicinity of the project. The strict application of the regulations would create an unnecessary hardship because the applicant is requesting only a seven foot variance from the maximum building height for one tract of the two tracts proposed to be developed into multi-family housing. Strict application of the regulations would force the applicant to reduce the size of the proposed development.

The circumstances are not the result of actions taken by the applicant subsequent to the adoption of the zoning ordinance as the applicant has not yet developed the subject property.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from Land Development Code (LDC), section 5.1.12.B.2.a to allow for structures on Tract 1 to exceed the infill established front setback (Watterson Trail) and be located as shown on the development plan and the Variance from LDC, section 5.3.1.C.4 to allow for proposed structures on Tract 3 to exceed the maximum height of 35' and be 42' in height

The vote was as follows:

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YES: Commissioners Brown, Carlson, Clare, Howard, Peterson, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Seitz

INAUDIBLE: Commissioner Mims

Detailed District Development/Major Preliminary Subdivision Plan

On a motion by Commissioner Brown, seconded by Commissioner Carlson, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, 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. All tree canopy required by the Land development code will be provided, no karst features were noted on the plan, and a stream between the multi-family and single-family development will be preserved; and

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as the proposal is located within proximity to a major transportation corridor and connected via primary collector roadway having public walks. Employment and activity centers providing services and amenities are located along Hurstbourne Parkway. Access to centers of employment and goods not adjacent to the development can be obtained by transit service (TARC route #23) along Hurstbourne Parkway. Access to the site is through areas of higher or similar intensity as primary access is from Watterson Trail, a primary collector which connects to Hurstbourne parkway after passing through an activity center. Secondary points of access to local stub roadways are also provided. The northernmost access connects the proposed single-family residential district with an existing single-family residential neighborhood that stubs to the subject site. Future access is also intended to be collected through an adjacent activity center directly to Hurstbourne Parkway; and

WHEREAS, the proposal provides open space that helps meet the needs of the proposed development and community as all required common and recreational open space is being provided in accordance with the Land Development Code; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in

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order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, setbacks, lot dimensions and building heights are compatible with the existing and projected future development of the area as the site is in an area of transition between high intensity and low-density development. Taller structures are located closer to high intensity development to the east. Connections to adjacent development via roadways and walks are provided and recreational amenities are provision for the multi-family development; and

WHEREAS, the Louisville Metro Planning Commission further finds the proposed development plan conforms to the Comprehensive Plan and all relief requested from the Land Development Code appears to be adequately justified. The proposal provisions a variety of ownership options and unit costs at an appropriate location. The density and decreased lot sizes provided expand opportunities for people to live in quality, variably priced housing in locations of their choice by enabling the provision of affordable and accessible housing in dispersed locations throughout Louisville Metro. The proposal also supports intergenerational and mixed-income development that is connected to the immediate neighborhood and surrounding area as the proposal allows for a wide variety of options to promote community. The assisted living community is also located at an appropriate location with primary access gained from a collector level roadway. The proposal is adjacent to the suburban marketplace corridor, which provides high intensity commercial uses. It is supported by multi-modal options available in the area which supports vitality of use.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development/Major Preliminary Subdivision 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 Develop Louisville, Louisville Metro Public Works and the Metropolitan Sewer District.

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b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter

d. The materials and design of proposed structures on Tracts 1, 2, & 3 shall be substantially the same as depicted in the rendering as presented at the February 22, 2021 Planning Commission public hearing. Final renderings must be reviewed and approved by Planning and Design Services staff prior to the issuance of a building permit for each tract or phase of development. A copy of the approved rendering will be available in the case file on record in the offices of the Louisville Metro Planning Commission. e. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded, except lots and roadways located on Tract 4 (R-5 portion) may be phased.

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. 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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.

7. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.

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8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.

9. All street signs shall be installed by the Developer and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

10. Single-family residential development on Tract 4 shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.

11. Prior to the recording of the record plat for any section or phase of Tract 4 copies of the recorded documents listed below shall be filed with the Planning Commission.

a. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.

b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.

c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.

12. Prior to requesting a building permit for the 241st dwelling on tract 3, a public roadway connection shall be made to Hurstbourne Parkway. Improvements required by KYTC to Hurstbourne Parkway at its intersection with a new public roadway (current Hendrik Drive) shall be made prior to any vehicular connectivity to the property at 4500/4502 S. Hurstbourne Parkway from the development site. Any amendment to this binding element would require review and a full public hearing before the Planning Commission with recommendations to Louisville Metro Council for approval or denial.

13. All property owners within 500 ft. of the proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast and post-blast surveys. Any blasting surveys shall be done in a manner consistent with Ky. blasting regulations.

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14. A 6 ft. shadow box fence shall be provided on the western boundary of tract 3 as shown on the development plan at the February 22, 2021 Planning Commission meeting.

The vote was as follows:

YES: Commissioners Brown, Carlson, Clare, Howard, Peterson, Sistrunk and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Daniels and Seitz

INAUDIBLE: Commissioner Mims

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STANDING COMMITTEE REPORTS

Land Development and Transportation Committee

No report given.

Site Inspection Committee

No report given.

Planning Committee

No report given.

Development Review Committee

No report given.

Policy and Procedures Committee

No report given.

CHAIRPERSON/DIRECTOR'S REPORT

No report given.

ADJOURNMENT

The meeting adjourned at approximately 10:09 p.m.

Chair

Planning Director