

PLANNING COMMISSION MINUTES

October 5, 2023

PUBLIC HEARING

CASE NO. 23-DDP-0078

Request:	Revised Detailed District Development Plan
Project Name:	HoM Flats at Outer Loop
Location:	6001 Outer Loop
Owner:	Mive Property LLC
Applicant:	Magnus Capital Partners
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Jay Lockett, AICP, Planning Supervisor

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:

00:18:50 Jay Lockett discussed the case summary, standard of review and staff analysis from the staff report (see video for PowerPoint presentation). The applicant is requesting approval of a revised plan for the proposed multi-family development with a child care facility on the site. The Board of Zoning Adjustment approved a height variance at their October 2, 2023 meeting. There is a binding element that requires this request to go before the Planning Commission and on to Metro Council for final approval.

The following spoke in favor of this request:

Vishal Arora, Magnus Capital Partners, 220 Lyon Street NW, Suite 500, Grand Rapids, Michigan 49503

Summary of testimony of those in favor:

00:25:40 Vishal Arora spoke in support of the application and presented a PowerPoint presentation (see video for details). Arora discussed the proposed development and included details about the amenities that will be incorporated into the project. Arora believes the new layout is better for the site and the adjoining properties. The on-site child care facility will be open to the public, not just residents of the proposed apartments.

00:38:10 Commissioner Cheek asked if the playground would be fenced off and only available to the daycare. Arora said yes. Commissioner Carlson asked if the mail facility

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will be near the daycare. Arora said they have not finalized the location but will keep that in mind so as the mail pickup does not interfere with traffic from the daycare.

Deliberation:

00:40:40 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.

Revised Detailed District Development Plan

00:44:30 On a motion by Commissioner Carlson, seconded by Commissioner Fischer, the following resolution based on the staff report and applicant's testimony heard today, was adopted:

WHEREAS, there are no significant natural or historic resources on the subject site. The applicant is proposing to preserve existing tree masses along the north of the site,

WHEREAS, provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Transportation Planning has approved the preliminary development plan,

WHEREAS, all required open space provisions of the Land Development Code have been met on the preliminary development plan,

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision 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 overall site design and land uses are compatible with the existing and future development of the area. Appropriate screening will be provided to screen adjacent properties and roadways; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Louisville Metro Council to **APPROVE** the Revised 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

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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. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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 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 October 5, 2023 Planning Commission meeting. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
5. 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.
6. 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

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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.

7. The Developer / Property Owner shall install a concrete boarding pad, bench pad and then notify TARC when the construction is complete. TARC will then install a standard bench. In addition, the Developer / Property Owner shall clean the stop as needed. In addition, the Property Owner shall provide a trash receptacle at the stop. which Owner shall maintain and empty no less than weekly.
8. The Okolona Church of Christ (OCC) has an exclusive easement for their parking lot that currently encroaches the property line, into perpetuity and running with the land, for so long as the OCC operates the property as a non-profit church. Should OCC not operate the property as a non-profit church, the easement will revert back to the applicant, its successors and assigns. In exchange for this easement. OCC is responsible for all maintenance of the portion of the parking lot subject to this easement and OCC accepts all liability as a result thereof and shall further indemnify the applicant, its successors and assigns for any and all claims or liability relating thereto. The applicant, its successors and assigns, shall be responsible for other improvements if any.
9. Dumpster emptying shall not occur between the hours of 8:00 pm and 7:00 am.
10. The 6-foot privacy fence depicted on the approved plan must be maintained in good condition with any necessary repairs completed in a reasonable time after discovery.
11. The Developer/ Property Owner shall obtain KYTC Approval of the two curb cuts depicted on the approved plan before any building permits are obtained.
12. If the criteria for signalization of the access point is met and approved by KYTC, it shall be installed at the owners' expense. This requirement shall expire 5 years after the final. non-temporary certificate of occupancy is received.
13. Any significant changes or alterations to the proposed structures e.g. building height, number of units, number of buildings, any increase in density on the property, any changes in use on the property, and/or any amendments to the binding elements; shall be reviewed before the Planning Commission with final action to be determined by Metro Council.

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The vote was as follows:

YES: Commissioners Mims, Carlson, Cheek, Fischer, Howard and Lewis

NOT PRESENT FOR THIS CASE: Commissioners Sistrunk, Pennix, and Clare

ABSTAIN: Commissioner Kern