

**CITY OF MIDDLETOWN  
ORDINANCE NO. 02-13-20-A  
AN ORDINANCE RELATING TO THE APPROVAL OF A  
CHANGE IN ZONING FROM R-4 TO R-7 AND DETAILED  
DISTRICT DEVELOPMENT PLAN ON PROPERTY  
LOCATED AT 108 URTON LANE, CONTAINING 5.6 ACRES  
AND BEING IN THE CITY OF MIDDLETOWN (CASE  
NUMBER 19ZONE0057) Clover- Urton Lane Senior Apartments**

WHEREAS, the City Council of the City of Middletown has received and reviewed the findings and recommendations made by the Louisville Metro Planning Commission staff on December 19<sup>th</sup>, 2019,

WHEREAS, the Planning Commission staff has recommended to the City Commission of the City of Middletown that the Applicant's request to approve a change in zoning from R-4 to R-7, and a Detailed District Development Plan on property located at 108 Urton Lane, be approved, subject to certain agreed upon Binding Elements in Case No. 19ZONE0057, and,

WHEREAS, the owners of the property herein described have agreed to certain Binding Elements on said property, which are conditions of approval and are set out fully herein,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF  
MIDDLETOWN:**

**Section 1.** That subject to full compliance with the restrictions contained in all the Binding Elements placed on this site in Case Number 19ZONE0057, the requested zoning change and Detailed District Development Plan on property known as 108 Urton Lane, that property being more particularly described as a 5.6 acre tract with the legal description as set out in the Planning Commission record of Case Number 19ZONE0057, **BE AND HEREBY IS APPROVED**, subject to the agreed upon Binding Elements set out in Section 2 herein. Further, the City of Middletown Commission does hereby specifically adopt in full (incorporated as if set out in full herein) the Findings set out in the record of Case 19ZONE0057, supporting the Application.

**Section 2.** The following shall be Binding Elements which shall be applicable and enforceable concerning the future use of the real property described in Section 1 of this Ordinance:

**Case 19ZONE0057**

1. The development shall be in accordance with the approved detailed 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/alteration of any binding element(s) or Development Plan shall be submitted to the Planning Commission and to the City of Middletown 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 the Applicant shall complete and provide to the City of Middletown its Plan Contact Information Request and the also provide the following:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Codes and Regulations Construction Permits, Louisville Metro Public Works, the Metropolitan Sewer District and the City of Middletown.
  - b. The property owner developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 from Louisville Metro and the City of Middletown prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - c. A minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown in the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - d. The materials and design of proposed structures, including the garage structures, shall be substantially the same as depicted in the rendering as presented at the March 12<sup>th</sup>, 2020 City of Middletown Commissioner meeting. A copy of the approved rendering is available in the save file on record in the offices of the Louisville Metro Planning Commission.
  - e. The Mayor is hereby authorized by the City Commission to issue City of Middletown approvals for the landscape plan, site construction plans and any other site related permits or approvals required subsequent to the passage of this Ordinance.
5. Applicant shall provide for a crosswalk from the East Side of Meridian Hills Drive to the West Side of Meridian Hills Drive to connect to the sidewalks that extends to Shelbyville Road. Any signs placed on any roadway to direct traffic or identify streets shall be the same type, size and color as the City of Middletown's street signage.
6. To ensure that Marcus Avenue can be extended in the future, Applicant shall not place any permanent material or structures, such as dirt, walls, fences, vegetation, or embankments past its property line adjacent to the property known as 100 Urton Lane and 201 Park Place Drive.

7. A certificate of occupancy must be received from the appropriated 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 (including any “temporary” or “conditional” or “partial” occupancy certificate), unless specifically waived by the Planning Commission and the City of Middletown.
8. 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 always be responsible for compliance with these binding elements. At all times during development of the site, the applicant, developer, their heirs, successors, assignees, contractors, subcontractors, and other parties engaged in the development of the site shall be responsible for compliance with these binding elements.
9. The development plan is approved based on the multi-family units being age restricted to 55 years of age and older to comply with the Fair Housing Act and the Housing for Older Persons Act; which age restriction typically means that less parking spaces are utilized per unit. Prior to this development ever being used for multi-family units which are not age restricted to 55 years of age and older, a new development plan must be submitted for the review and approval of Planning Commission and the City of Middletown to ensure that parking is adequate for the new use.
10. No outdoor construction activities shall be conducted on the site before 1:00 P.M. on Sundays. Dumpster and trash collector pickups/emptying shall occur only between the hours of 7:00 a.m. to 7:00 p.m.
11. Applicant shall pay the cost for advertising this ordinance.

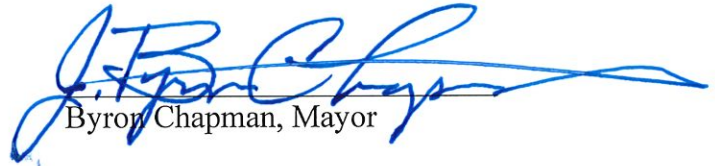
All binding elements and/or conditions of approval set out herein have been accepted in total, without exception, by the entity requesting this approval.

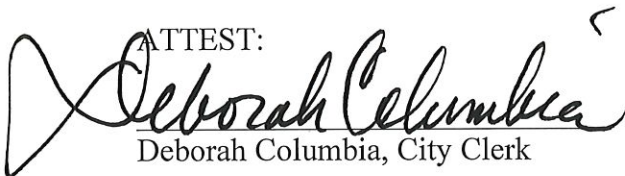
**Section 3.** This Ordinance shall take effect from and after its passage, signing, and publication as required by law.

FIRST READING 2-13-20

SECOND READING: 3-12-20

PASSED AND APPROVED 3-12-20

  
Byron Chapman, Mayor

ATTEST:  
  
Deborah Columbia, City Clerk

In Favor: 4  
Opposed: 0

Final: ~~3/2/20~~ 2:00 PM

3/6/20

I HEREBY ATTEST THAT I, AS THE AUTHORIZED REPRESENTATIVE OF THE APPLICANT/DEVELOPER HEREIN, HAVE READ FULLY UNDERSTOOD AND FULLY AGREED TO ALL THESE BINDING ELEMENTS AND CONDITIONS OF APPROVAL.

BY:  \_\_\_\_\_

ITS: Claver Communities Utton LLC, Manager

Printed Signature: Michael L. Joseph

Phone & Email: 716-688-4503, rjack@claverdevelopment.com