

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
SEVENTEENTH JUDICIAL DISTRICT, MOORE COUNTY

GATEWAY DEVELOPMENT
CORPORATION,
Petitioner,

v.

METROPOLITAN LYNCHBURG
MOORE COUNTY PLANNING AND
ZONING COMMISSION; and THE
METROPOLITAN GOVERNMENT
OF LYNCHBURG, MOORE
COUNTY, TENNESSEE,

Respondents.

FILED July 30 2026
RULE DOCKET BOOK
AT 10:55 A.M. P.M.
TAMMY H. ROBERTS
CLERK & MASTER
Tammy H. Roberts

Case No. 3347

VERIFIED PETITION FOR WRIT OF CERTIORARI

TO THE CHANCELLORS OF THE CHANCERY COURT FOR MOORE COUNTY,
TENNESSEE, AT LYNCHBURG:

Petitioner Gateway Development Corporation ("Petitioner"), pursuant to Tenn. Code Ann. §§ 27-8-101 *et seq.* and Tenn. Code Ann. §§ 27-9-101 *et seq.*, seeks judicial review of a final order of the Metropolitan Lynchburg Moore County Planning and Zoning Commission ("Planning Commission"), acting on behalf of the Metropolitan Government of Lynchburg, Moore County, Tennessee ("Metro"), in which the Planning Commission denied Petitioner's application for preliminary site plan approval for the development of forty-two (42) townhomes on a 5.13-acre parcel of property located on Main Street, Lynchburg, Moore County, Tennessee, identified as Map 038, Parcel 004.04 (the "Property"), known as the Gateway at Lynchburg Townhomes (the "Project"), which Property is owned by Stanley Fanning.

INTRODUCTION

1. Petitioner is a corporation authorized to do business in Tennessee, having its principal place of business at 920 Florence Blvd., Florence, Alabama 35630.

2. Petitioner proposes to develop the Project on the Property as a Group Housing Project under Article IV, Sections 4.070 – 4.072 of the Metro Zoning Ordinance (the “Zoning Ordinance”), consisting of forty-two (42) attached residential units (each, a “Townhome Unit”) constructed as Town Houses, as that term is defined in Article II, Section 2.020 of the Zoning Ordinance, on the Property’s single, undivided parcel.

3. This Petition arises from the Planning Commission’s arbitrary and capricious final decision, made at its regular meeting on June 2, 2026, to deny preliminary site plan approval for the Project, notwithstanding Petitioner’s showing, unrebutted by any evidence in the record, that the Project satisfies the applicable site plan requirements of the Zoning Ordinance for Town Houses.

4. Pursuant to Tenn. Code Ann. § 27-8-106, Petitioner certifies that this is the first application for the writ.

THE PARTIES

5. Petitioner is a corporation authorized to do business in Tennessee, having its principal place of business at 920 Florence Blvd., Florence, Alabama 35630.

6. Metro is a consolidated city and county government formed by the City of Lynchburg and Moore County and incorporated pursuant to the Metropolitan Charter Act, Tenn. Code Ann. §§ 7-1-101 *et seq.*

7. The Planning Commission is a regional planning commission formed by Metro pursuant to Tenn. Code Ann. § 13-7-403 and the Zoning Ordinance.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter pursuant to Tenn. Code Ann. §§ 27-8-104 and 27-9-102.

9. Venue is appropriate in this county pursuant to Tenn. Code Ann. § 27-9-102.

FACTUAL AND PROCEDURAL BACKGROUND

The Project and the Property

10. The Property consists of approximately 5.13 acres located on Main Street, Lynchburg, Moore County, Tennessee, identified as Map 038, Parcel 004.04, and is zoned R-1 Residential District under the Zoning Ordinance.

11. The Project, known as the Gateway at Lynchburg Townhomes, consists of forty-two (42) Townhome Units to be developed on the Property's single, undivided parcel.

12. Petitioner structured the Project as a Group Housing Project under Article IV, Sections 4.070 – 4.072 of the Zoning Ordinance, which applies to townhouse, condominium, and other related multi-family residential developments constructed on a plot of ground not subdivided into customary streets and lots.

13. Article II, Section 2.020 of the Zoning Ordinance defines a "Town House" as a building, located upon one (1) zone lot, containing not more than two dwelling units, attached at the side or sides in a series of three or more principal buildings each containing not more than two (2) dwelling units, and separated from each other by fire walls extending from footings through roofs without openings.

14. Each Townhome Unit is designed as an individual building containing a single dwelling unit, attached in a series of six (6) such buildings, and separated from each adjoining Townhome Unit by code-compliant firewalls extending from footings through roofs without openings.

15. The Property is located abutting State Highway 50 and is subject to the Tennessee Department of Transportation over access to state highways, including Tennessee Department of Transportation ("TDOT") permitting requirements applicable to development along State Highway 50.

The Planning Commission and the Site Plan Approval Process

16. The Planning Commission is the reviewing agency responsible for approving site plans for Group Housing projects under Article IV, Sections 4.070 – 4.072 of the Zoning Ordinance. The relevant excerpts from the Zoning Ordinance are attached hereto as **Exhibit 1**.

17. Under Section 4.072 of the Zoning Ordinance, a Group Housing Project must be developed on a single lot or tract of land, and the average number of dwelling units per acre of buildable land shall not exceed that permitted within the applicable zoning district.

18. Article V, Section 5.043 of the Zoning Ordinance sets forth dimensional and land area requirements for the R-1 District. *Id.*

19. Section 5.043(E)(4) establishes minimum land area requirements for multi-family dwellings of 7,500 square feet for one unit, 15,000 square feet for two units, 17,500 square feet for three units, 25,000 square feet for four units, and an additional 5,000 square feet for each unit thereafter, together with a separate 1/2-acre minimum lot size for "Lots in Urban Service (town lots)." *Id.*

20. The Property's 5.13 acres provides approximately 223,462.8 square feet of land area. Under the tiered formula in Section 5.043(E)(4) of the Zoning Ordinance, forty-two (42) dwelling units served by public water and public sewer require 215,000 square feet of land area: 25,000 square feet for the first four units, plus 5,000 square feet for each of the remaining thirty-eight (38) units, which is approximately 8,463 square feet (or 0.19 acres) less than the area the Property provides. *Id.*

Petitioner's Site Plan Application

21. On April 21, 2026, Petitioner submitted a preliminary site plan application for the Project to the Planning Commission for its consideration (the "Site Plan"). The Site Plan is attached hereto as Exhibit 2.

22. The Site Plan was placed on the agenda for the Planning Commission's regular meeting on June 2, 2026, as New Business Item 2, "Gateway Development Townhomes – Preliminary Site Plan Review." The June 2, 2026 Meeting Agenda is attached hereto as Exhibit 3.

Petitioner's Site Plan for the Project

23. At the Planning Commission meeting, representatives of Petitioner demonstrated that each Townhome Unit constitutes an individual building containing a single dwelling unit, separated from adjoining units by code-compliant firewalls.

24. Petitioner further demonstrated that the Project satisfied each requirement of Article IV, Section 4.072 of the Zoning Ordinance applicable to Group Housing Projects.

25. The Property comprises a single tract of land, undivided by any public street, satisfying Section 4.072(A)(1) of the Zoning Ordinance, and the Property abuts State Highway 50, a public street, satisfying Section 4.072(A)(2) of the Zoning Ordinance.

26. The Project's density of approximately 8.19 dwelling units per acre (forty-two (42) units on 5.13 acres) does not exceed the density permitted within the R-1 District under Section 5.043(E)(4), satisfying Section 4.072(B)(1) of the Zoning Ordinance. The Project's yard requirements are thirty (30) feet minimum depth for the front yard, twenty five (25) feet minimum depth for rear yard and the principal structure and fifteen (15) feet for any permitted accessory structures, and ten (10) feet minimum depth for the side yard plus five (5) feet for each additional story over two (2) stories, consistent with the applicable R-1 District yard requirements under

Section 5.043 of the Zoning Ordinance, except as modified for common walls between attached Townhome Units, as permitted by Section 4.072(B)(2) of the Zoning Ordinance.

27. The Project's internal drives are designed at a maximum grade of 4.72 percent, not exceeding the seven (7%) percent maximum permitted by Section 4.072(C)(1) of the Zoning Ordinance.

28. The minimum distance between buildings in the Project is thirty-one (31) feet, satisfying the thirty (30) foot minimum required by Section 4.072(C)(3) of the Zoning Ordinance.

29. The Project's internal drives are designed to conform to the roadway specifications of the Metropolitan Subdivision Regulations, as required by Section 4.072(E)(1) of the Zoning Ordinance. Because the Project is located along a state highway, a driveway permit from TDOT is required to be obtained after receiving preliminary site plan approval from the Planning Commission pursuant to TDOT regulations. Tenn. Comp. R. & Regs. 1680-10-01-.03 (adopting by reference the Tennessee Department of Transportation, Manual for Constructing Driveway Entrances on State Highways).

30. The Project will be served by public water and a central sewage collection and treatment facility, satisfying Section 4.072(E)(2) of the Zoning Ordinance.

The Planning Commission Arbitrarily and Capriciously Denied the Application

31. The Planning Commission held its regular meeting on June 2, 2026, Planning Commission members Chairman Dexter Golden, Bobby Carroll, Jim Crawford, Jeff Ross, and Scott Fruehauff were present. Planning Commission members James Hammond and Angelica Lightfoot were absent. A copy of the June 2, 2026 Meeting Minutes are attached hereto as Exhibit

32. The Planning Commission reviewed the Site Plan submitted for the Project at its meeting on June 2, 2026. Extensive discussion occurred regarding interpretation of the Zoning Ordinance's definition of "townhouse," density calculations, whether the Townhome Units constitute separate buildings or multiple dwelling units on a single lot, and traffic impacts and access design.

33. No Commission member, staff member, or the County Attorney offered any evidence to rebut Gateway's showing regarding the structure of the Townhome Units.

34. Following the discussion, a motion to approve the preliminary site plan was made. On a roll call vote, Golden voted no, Carroll voted yes, Crawford voted no, Ross abstained, and Fruehauff voted no. The motion failed, three to one, with one abstention.

35. Section 5.043(E)(4) of the Zoning Ordinance, by its terms, governs land area requirements for subdivided "Lots in Urban Service (town lots)," not a Group Housing Project developed on a single, undivided parcel under Article IV, Sections 4.070 – 4.072 of the Zoning Ordinance.

GROUND FOR REVIEW

36. The Planning Commission acted illegally, capriciously, or arbitrarily by denying preliminary site plan approval for the Project for the following reasons:

37. The Planning Commission's denial was not supported by material evidence, in that the record contains no staff report, expert testimony, traffic or engineering study, or other competent proof to support any of the grounds on which the denial rested, including the following:

- a. Gateway was not required to submit any evidence under the Zoning Ordinance to demonstrate traffic approval;

- b. no traffic study, engineering analysis, or other evidence was presented at the June 2, 2026 meeting to substantiate the traffic and access concerns on which the denial was partly based;
- c. no evidence was presented to rebut Gateway's un rebutted showing that each Townhome Unit satisfies the Zoning Ordinance's Town House definition in Article II, Section 2.020, including that each Unit is attached at the side or sides in a series of more than three principal buildings and is separated from each adjoining Townhome Unit by fire walls extending from footings through roofs without openings;
- d. no staff report, expert testimony, or other evidence was presented to support the theory, first raised at the June 2, 2026 meeting, that the Zoning Ordinance's half-acre minimum lot size divides the Property into approximately ten separate zone lots, each limited to two dwelling units, rather than treating the Property as the single, undivided zone lot that it is;
- e. no evidence was presented to support reliance on the unsealed, doubled density table purporting to amend Section 5.043(E)(4), a document that is not sealed by the Moore County Clerk and that, upon information and belief, was never discussed at the April 21, 2025, May 19, 2025, or August 18, 2025 meetings at which the Metro Council purportedly adopted it, rather than the Moore County Clerk's official, sealed Minute Book record of Section 5.043(E)(4), which contains no unit cap and no minimum acreage requirement and which the Project satisfies; and

f. no evidence disputed Gateway's showing that, applying the Zoning Ordinance's official, sealed density table, the 5.13-acre Property supports up to forty-two (42) dwelling units, requiring only 215,000 square feet of the Property's approximately 223,462.80 square feet of land area, leaving a surplus of approximately 8,462.80 square feet.

38. Section 5.043(E)(4) of the Zoning Ordinance governs land area requirements for subdivided "Lots in Urban Service (town lots)"; the Project is a Group Housing Project developed on the Property's as a single, undivided parcel under Article IV, Sections 4.070 – 4.072 of the Zoning Ordinance, which is governed instead by Section 4.072(B)(1)'s standard limiting the average number of dwelling units per acre of buildable land to that permitted within the applicable district;

39. Applying the subdivided-lot formula in Section 5.043(E)(4) of the Zoning Ordinance to the Project exceeds the Planning Commission's authority and misapplies the plain terms of the Zoning Ordinance;

40. The Planning Commission failed to correctly apply the Zoning Ordinance's Town House definition in Article II, Section 2.020 of the Zoning Ordinance: each Townhome Unit is a building located upon the Property's single zone lot, contains not more than two dwelling units, is attached at the side or sides in a series of more than three principal buildings, and is separated from each adjoining Townhome Unit by fire walls extending from footings through roofs without openings, thereby satisfying every element of the definition; the Planning Commission's denial, notwithstanding Gateway's un rebutted showing to this effect, was not supported by material evidence;

41. The Planning Commission did not consider all relevant provisions of the Zoning Ordinance, including Article IV, Section 4.072 of the Zoning Ordinance's density standard applicable to Group Housing Projects; and

42. The Planning Commission's decision to deny the application was based on conjecture regarding traffic and density, rather than on the applicable provisions of the Zoning Ordinance and the evidence in the record.

43. Petitioner has been aggrieved by the Planning Commission's illegal, arbitrary, and capricious act.

44. Because the action of the Planning Commission in denying preliminary site plan approval for the Project was illegal, arbitrary, capricious, an abuse of discretion, not supported by material evidence, and/or in excess of its jurisdiction, a writ of certiorari lies pursuant to Tenn. Code Ann. §§ 27-8-101 *et seq.* and Tenn. Code Ann. §§ 27-9-101 *et seq.*

45. Gateway is providing a cost bond pursuant to Tenn. Code Ann. § 27-9-105 along with this Petition.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the following relief be granted:

46. That this Court issue a writ of certiorari to review the proceedings of the Planning Commission's June 2, 2026 meeting, and cause Respondents to create a record of the proceedings, including all exhibits and entries made in connection therewith, prepared, certified, and submitted to this Court;

47. That process or notice issue to the Respondents pursuant to Tenn. Code Ann. § 27-9-107, and should Respondents elect to answer, the answers be filed within thirty (30) days of the filing;

48. That, following a hearing on the record, the Court reverse the Planning Commission's denial and order the Planning Commission to approve Gateway's preliminary site plan application for the Project, or, in the alternative, remand the matter to the Planning Commission for further proceedings consistent with the Court's ruling;

49. That this Court award Petitioner its costs associated with bringing this petition; and

50. That this Court award Petitioner all other relief to which it appears entitled.

THIS IS THE PETITIONER'S FIRST APPLICATION FOR A WRIT OF CERTIORARI
(TENN. CODE ANN. § 27-8-106)

Respectfully submitted,

BRADLEY ARANT BOULT CUMMINGS LLP

By: /s/ Peter C. Sales

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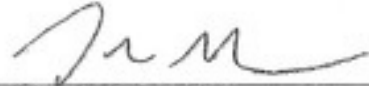
Attorneys for Petitioner

VERIFICATION

STATE OF ALABAMA)
COUNTY OF Shelby)

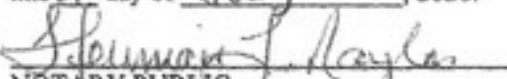
I, Josh Mandell, being duly sworn, make oath and verify that I am the Authorized Officer of Gateway Development Corporation, the Petitioner in this action, that I have read the foregoing Verified Petition and have personal knowledge of the facts stated herein, and that such facts are true and correct to the best of my knowledge, information, and belief.

GATEWAY DEVELOPMENT
CORPORATION

By: 

Title: AUTHORIZED OFFICER

Sworn to and subscribed before me
this 29th day of JULY, 2026.


NOTARY PUBLIC

My Commission Expires: April 24, 2027

