

IN THE CHANCERY COURT OF MOORE COUNTY, TENNESSEE

GATEWAY DEVELOPMENT CORPORATION,

Petitioner,

v.

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

Respondents.

Case No. 3347

FILED August 31, 2026
RULE DOCKET BOOK
AT 1:30 A.M. (P.M.)
TAMMY R. ROBERTS
CLERK & MASTER
Tammy R. Roberts

**RESPONDENTS' ANSWER TO PLAINTIFF'S
VERIFIED PETITION FOR WRIT OF CERTIORARI**

Come now the Respondents, Metropolitan Lynchburg, Moore County Planning and Zoning Commission ("Planning Commission"), and the Metropolitan Government of Lynchburg, Moore County, Tennessee (the "Metro Government"), by and through undersigned counsel and, for answer to the Petition for Writ of Certiorari ("Petition") filed against them, say:

SECTION I

**MATERIAL BACKGROUND INFORMATION REGARDING JUNE 2, 2026
PLANNING COMMISSION MEETING**

1. Representatives of Gateway Development Corporation ("Gateway" or "Petitioner") came before the Planning Commission on June 2, 2026 seeking preliminary site plan approval for the development of forty-two (42) Townhomes on a 5.13-acre tract of land located on Highway 50/Main Street in Lynchburg, Moore County, Tennessee, which is now owned by Stanley Fanning ("Gateway Project"). A true and correct copy of the Minutes of the Planning Commission Meeting on June 2, 2026 are attached as **Exhibit 1**.

2. Extensive discussion concerning Gateway's Project occurred, which included concerns expressed as to whether the proposed project consisting of 42 dwelling units met the

density/land area requirements mandated in Article V, Section 5.043 of the Zoning Ordinance as amended on August 18, 2025, and traffic safety concerns.

3. The decision of the Planning Commission at its June 2, 2026 meeting in denying preliminary site plan approval of the Gateway Project complied with the August 18, 2025 amendment to Article V, Section 5.043 of the Zoning Ordinance, which specifically provides as follows:

(4) Land Area (R-1)

*Lots in Urban Service (town lots) will be no less than 1/2 acre lots.

No lot or parcel of land in Urban Service (town lots) shall be reduced in area to provide separate lots or building sites of less than 1/2 acre lots with approved public water and public wastewater service.

On lots where multiple-family dwellings are constructed, the following area requirements shall apply.

<u>Number of Dwelling Units</u>	<u>With Public Water and Public Sewers</u>
<u>Dwelling Units</u>	<u>and Public Sewer</u>
1	15,000 sq. ft.
2	30,000 sq. ft.
3	35,000 sq. ft.
4	50,000 sq. ft.
More than 5 Units	Additional 10,000 sq. ft. per unit
	Total 25 units with minimum lot
	Size of 6 acres.

A true and correct copy of Article V, Section 5.043 of the Zoning Ordinance with the August 18, 2025 amendment is attached hereto and incorporated herein by reference as **Exhibit 2**.

4. Prior to the August 18, 2025 Amendment, Section 5.043 of the Zoning Ordinance provided the following with respect to the density/land area requirements:

Land Area (R-1) *

No lot or parcel of land shall be reduced in area to provide separate lots or building sites of less than seventy-five hundred (7,500) Square feet with approved public water and public wastewater service.

On lots where multiple-family dwellings are constructed, the following area requirements shall apply.

Number of Dwelling Units

With Public Water and Public Sewers

1	7,500 sq. ft.
2	15,000 sq. ft.
3	17,500 sq. ft.
4	25,000 sq. ft.
	More than 4 Units
	5,000 sq. ft. for each unit over 4

A true and correct copy of Article V, Section 5.043 of the Zoning Ordinance prior to the August 18, 2025 amendment is attached hereto and incorporated herein by reference as **Exhibit 3**.

5. The proposal to amend Section 5.043 by increasing of the lot size from a quarter of an acre to half an acre, doubling of the above square footage requirements and establishing a cap of 25 units per development parcel came before the Metro Council for first reading at its April 21, 2025 meeting, in which Council member Blackburn made the motion to increase the lot size in R-1 from a quarter acre in to half an acre. The motion carried by acclamation. Subsequent to Council member Blackburn's motion; Council member Golden made the motion to increase the square footage in both R-1 and C-1 by doubling the then current square footage requirement and adding a cap to the number of units that can be built on a development parcel to twenty-five (25). The motion carried by a margin of 11 in favor and 4 against. A true and correct copies of the pertinent pages of the Minutes of the April 21, 2025 Metro Council Meeting are attached as **Exhibit 4**.

6. An article appearing in the April 23, 2026 edition of The Lynchburg Times, a newspaper of general circulation in Moore County, gave a summary of the proposed amendment and notice of a public hearing on the proposed amendment to be held on May 19, 2026 before the Metro Council Meeting. A true and correct copy of the article is attached hereto and incorporated herein by reference as **Exhibit 5**.

7. The proposed amendment came before the Planning Commission at its meeting on May 6, 2025, at which time the Planning Commission approved the terms and provisions of the proposed amendment, including the doubling of the then current square footage requirement and adding a cap to the number of units that can be built on a development parcel, and agreed that its recommendation would be submitted to the Metro Council for review and approval. A copy of the pertinent pages of May 6, 2025 Minutes of the Planning Commission with the pertinent portions highlighted in yellow is attached hereto and incorporated herein by reference as **Exhibit 6**.

8. A Public Hearing on the proposed amendment was held on May 19, 2025 before the Metro Council Meeting. The Minutes of the Public Hearing state as follows:

That on May 19, 2025 the Metropolitan Lynchburg / Moore County Council held a Public Hearing at the Lynchburg Legion Building at 6:20 pm to discuss moving apartments from Commercial to Residential, changing lot sizes from a quarter of an acre in Residential to half an acre, and increasing the lot size for apartments in both Residential and Commercial from what we have now to doubling it as well as adding a cap of twenty-five units per development parcel. There was no public discussion and the public hearing closed at 6:22 pm.

A copy of the Minutes of the May 19, 2025 Public Hearing is attached hereto and incorporated herein by reference as **Exhibit 7**.

9. The proposed amendment to Article V, Section 5.043 of the Zoning Ordinance was passed on second reading by the Metro Council at its regular meeting on August 18, 2025. A copies of the pertinent pages of the Minutes of the August 18, 2025 Metro Council Meeting are attached hereto and incorporated herein by reference as **Exhibit 8**.

10. Notwithstanding that the minutes reflect that the square footage requirements in the ordinance were to be doubled and a cap of 25 units per development parcel was to be imposed, the Ordinance signed under the County's seal by the Mayor and the County Clerk and enrolled in the Minute Book inadvertently failed to include the language doubling the square

footage requirements but rather left in place the square footage requirements contained in the Ordinance prior to the amendment and also failed to include the cap of 25 units per development parcel. A copy of the enrolled Ordinance is attached hereto and incorporated herein by reference as **Exhibit 9**.

11. When the August 18, 2025 Amendment was initially placed in the Zoning Ordinance Manual, it failed to include the language doubling the square footage requirements and the cap of 25 units per development parcel but rather left in place the square footage requirements contained in the Ordinance prior to the amendment. This was the language in the Zoning Ordinance Manual when Gateway's representative obtained a copy of the manual. Subsequently, the clerical error was recognized by the Codes Enforcer, who revised the language in the Zoning Ordinance Manual to include the doubled square footage requirements and the cap of 25 units per development parcel that was adopted by the Council as confirmed by the Minutes. After the correction, Article V, Section 5.043 in the Zoning Ordinance Manual read as shown in **Exhibit 2**.

12. At the June 2, 2026 Planning Commission Meeting, it was the position of the Planning Commission that the land area density requirements for the Gateway Project was governed by the one-half (1/2) acre minimum lot or building site requirement under Section 5.043 of the Zoning Ordinance, that states in pertinent part as follows:

"No lot or parcel of land in Urban Service (town lots) shall be reduced in area to provide separate lots or building sites of less than one-half acre lots with approved water and public waste water."

The Planning Commission contended that each individual Town House building, consisting of two (2) dwelling units, occupied a separate lot or building site, and accordingly, the maximum number of building sites the 5.13 acre tract could accommodate was 10, which would equate to 20 units.

Gateway's representatives at the Planning Commission meeting contended that the Gateway Project was governed by the square footage requirements for multi-family dwellings applied rather than the one-half (1/2) acre minimum lot size provision. Accordingly, Gateway argued that applying the square-footage requirements under the enrolled ordinance and the Zoning Ordinance Manual given to its representative, the 5.13 acre tract would support 42 dwelling units.

The Planning Commission Chairman pointed out that applying the doubled square footage requirements as set forth in Exhibit 2, his quick calculation reflected that the 5.13 acre tract would support 20.78 units, which rounded up would be 21 units.

13. Respondents are well aware that the enrolled ordinance carries a statutory presumption of accuracy under Tenn. Code Ann. § 13-7-212 and is the operative law unless and until it is formally amended or a court finds clear and convincing evidence of inaccuracy.

14. Respondents respectfully submit that the above cited minutes of the Metro Council, Public Hearing and Planning Commission, which clearly reflect the intent of the Metro Council to double the square footage requirements, is clear and convincing evidence that the text of the enrolled ordinance, which left the square footage requirements unchanged and omitted the cap of 25 units per development parcel, is incorrect and that the doubled square footage requirements and the cap of 25 units per development parcel as set forth in **Exhibit 2** should be applied.

SECTION II.

ANSWER

Now answering the averments in the Petition, Respondents say:

FIRST DEFENSE

The Petition fails to state a claim against Respondents upon which relief can be granted.

SECOND DEFENSE

Now answering the specific averments of the Petition, Defendants say:

It is admitted that the Planning Commission's denied Gateway's application for preliminary site plan approval for the development of forty-two (42) Townhomes on a 5.13-acre tract of land located on Highway 50/Main Street in Lynchburg, Moore County, Tennessee, which is now owned by Stanley Fanning as alleged in in the Petition's introductory paragraph.

1. Based on information and belief Respondents admit the allegation in Paragraph 1 in the Petition.

2. Admitted.

3. It is admitted that the Petition arises out of the Planning Commission's final decision to deny preliminary site plan approval of the Gateway Project at its June 2, 2026 meeting. It is denied that Petitioner satisfied the applicable site plan requirements of Article V, Section 5.043 of the Zoning Ordinance as amended on August 18, 2025 with respect to density/land area requirements and denied that the decision to deny preliminary site plan approval was arbitrary and capricious. All allegations contained in Paragraph 3 in the Petition inconsistent with the foregoing are denied.

4. Admitted.

5. Based on information and belief Respondents admit the allegation in Paragraph 5 of the Petition.

6. Admitted.

7. The Planning Commission is a Regional Planning Commission duly created in accordance with the laws of the Stat of Tennessee.

8. It is admitted that this Court has jurisdiction to hear Petitions for Writ of Certiorari under Tenn. Code Ann. §§ 27-8-104 and 27-9-102. It is denied that the Planning Commission's decision to deny Gateway's application for preliminary site plan approval was illegal, arbitrary or capricious.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Article II, Section 2.020 of the Zoning Ordinance speaks for itself. It is admitted that Paragraph 13 of the Petition is an accurate paraphrasing of the section.

14. It is admitted that each Townhouse structure is a separate individual building that occupies its own separate individual building site.

15. Admitted. Respondents would further show that State Highway 50 transitions into a County Road ("Main Street") approximately 660 feet past the entrance and the additional traffic resulting from the proposed Gateway Project would likely cause traffic hazards and congestions on the county road. All allegations contained in Paragraph 15 the Petition inconsistent with the foregoing are denied.

16. The allegation contained in the first sentence of Paragraph 16 of the Petition is admitted. It is denied that Exhibit 1 to the Petition contains the correct version Article V, Section 5.043 of the Zoning Ordinance as amended by the Council on August 18, 2025. A true and correct copy of Article V, Section 5.043 of the Zoning Ordinance with the doubled square footage requirements and the cap of 25 units per development parcel as specifically amended by the Metro Council with the August 18, 2025 amendment is attached hereto and incorporated herein as **Exhibit 2**.

17. Article II, Section 4.072 of the Zoning Ordinance speaks for itself. It is admitted that Paragraph 17 of the Petition is an accurate summary of the requirements set forth in Article II, Section 4.072 of the section.

18. It is admitted that Article V, Section 5.043 of the Zoning Ordinance sets forth dimensional and land area requirements for the R-1 District. It is denied that Exhibit 1 to the

Petition contains the correct version Article V, Section 5.043 of the Zoning Ordinance as amended by the Metro Council on August 18, 2025. The correct version of Article V, Section 5.043 of the Zoning Ordinance as amended by the Metro Council on August 18, 2025 is set forth in **Exhibit 2** to this Answer.

19. It is admitted that Paragraph 19 of the Petition is an accurate paraphrasing of the enrolled ordinance and the version contained in the copy of the Zoning Ordinance Manual given to Gateway's representative before the clerical error that failed to include the language doubling the square footage requirements and imposing a cap of 25 units of per developmental parcel, was recognized by the Codes Enforcer, who revised the language in the Zoning Ordinance Manual to include the doubled square footage requirements and cap of 25 units of per developmental parcel that was adopted by the Council as confirmed by the Minutes. Respondents incorporate by reference the averments set forth in Paragraphs 1-14 in Section I of this Answer as fully as if recited verbatim.

20. The averment in the first sentence of Paragraph 20 of the Petition is admitted. It is admitted that the Property's 5.13 acres would support 42 dwelling units if the tiered square footage requirements contained in the enrolled ordinance and the version contained in the copy of the Zoning Ordinance Manual obtained by Gateway's representative was applied. If however, the one-half acre minimum building site requirement or the doubled square footage requirements as specifically enacted by the Metro Council as reflected in **Exhibits 4-8** of this Answer are applied, the maximum number of dwelling units that could be constructed on the 5.13-acre parcel is 21. Respondents incorporate by reference the averments set forth in Paragraphs 1-14 in Section I of this Answer as fully as if recited verbatim.

21. Admitted.

22. Admitted.

23. It is admitted that each Townhouse structure is a separate individual building that occupies its own separate individual building site. It is admitted that each Townhouse building is separated from adjoining Townhouse buildings by code-compliant firewalls.

24. Admitted.

25. Admitted.

26. The averment in the first sentence of Paragraph 26 of the Petition is denied with respect to the allegation that the 42 units do not exceed the number of units permitted under Section 5.043(E)(4). Respondents incorporate by reference the averments set forth in Paragraphs 1-14 in Section I of this Answer as fully as if recited verbatim. The remaining allegations pertaining to Section 4.072(B) (1) & (2) are admitted

27. Admitted.

28. Admitted.

29. Admitted.

30. Admitted.

It is Denied That The Planning Commission Arbitrarily and Capriciously Denied the Application.

31. Admitted.

32. Admitted.

33. Admitted.

34. Admitted.

35. Respondents would show that Article V, Section 5.043 of the Zoning Ordinance as amended by the Metro Council on August 18, 2025 as reflected in **Exhibit 2** to this Answer governs the land area requirements for the Gateway Townhouse Project. All allegations contained in Paragraph 35 of the Petition inconsistent with the foregoing are denied.

36. Denied.

37. It is denied that that the Planning Commission's denial of preliminary site plan approval was not supported by material evidence. A simple mathematical calculation readily reflected that Gateway's Proposed Project, consisting of 42 dwelling units, failed to meet either the one-half (1/2) acre minimum building site for an individual building or the doubled square footage requirements applicable to multiple family dwellings of Section 5.043 as set forth in **Exhibit 1.**

- a. Although there is no express requirement in the Zoning Ordinance specifically requiring Gateway to demonstrate traffic approval, Section 1.030 (D) of the Zoning Ordinance specifically states as one of its purposes, "the minimization of traffic hazards and congestion". Respondents respectfully submit that Planning Commission, acting in accordance with and pursuant to this express purpose of the Zoning Ordinance had the duty to require Gateway, as a condition of preliminary site plan approval, to submit a traffic impact study to demonstrate how its project would not cause traffic hazards and congestions on the County Road, which comprises approximately 75% of the State Highway 50/Main Street single road corridor, when the County Road Superintendent had expressed significant concerns about hazardous conditions and congestion that the additional traffic resulting the Gateway Townhouse Project would likely cause. The County Road Superintendent expressed significant and legitimate safety concerns regarding the number of U-turns that would result from the "right in/right out" restrictions TDOT had placed on the entrance and exit lanes to and from the Gateway Project. Gateway never produced any proof to demonstrate that the increased traffic from its project would not produce significant traffic hazards and congestions on the County Road. A copy of a Memorandum dated July 7, 2026, from Metro Moore County Road Superintendent Shannon Cauble, memorializing

her traffic safety concerns associated with the Gateway Proposed Project is attached hereto and incorporated herein by reference as **Exhibit 10**. A copy of an Addendum to July 7, 2026 Memorandum dated August 16, 2026, from Metro Moore County Road Superintendent Shannon Cauble, is attached hereto and incorporated herein by reference as **Exhibit 11**.

- b. Gateway produced no traffic study, engineering analysis or other evidence to address the concerns expressed by the County Road Superintendent regarding safety, congestion and adverse impact the increased traffic from its project would have on the County Road traffic.
- c. The averment in sub-paragraph 37 (c) is admitted.
- d. The averment in sub-paragraph 37 (d) is admitted. Respondents would show that the Planning Commission's decision that the one-half (1/2) acre minimum building site requirement applied to each individual Townhouse building was based on its interpretation of Section 5.043(E)(4) of the Zoning Ordinance, and accordingly, did not require expert testimony. A planning commission is not mandated to produce expert opinion testimony in support of its interpretation of a zoning ordinance. Respondents respectfully submit that there is a presumption of validity favoring the actions of a zoning agency when it applies and interprets its own ordinances.
- e. The averment in sub-paragraph 37 (e) is denied. A copy of Exhibit 1 was produced at the meeting.
- f. The averment in sub-paragraph 37 (f) is denied.

38. Respondents would show that Article V, Section 5.043 of the Zoning Ordinance as amended by the Metro Council on August 18, 2025 as reflected in **Exhibit 2** to this Answer governs the land area requirements for the Gateway Townhouse Project. Respondents do not

dispute that Gateway's Project is a Group Home Project to be developed on a single undivided lot, and accordingly, such is not an issue in this case.

39. Application of the subdivided lot formula in Section 5.043 (E)(4) is not necessary to affirm the Planning Commission's decision to deny preliminary site plan approval of the Gateway Project since the site plan failed to meet the square footage requirements set forth in **Exhibit 2** to this Answer.

40. Petitioner appealed the Planning Commission's decision to deny preliminary site approval of the Gateway Project to the Board of Zoning Appeals ("BZA"). The BZA sustained Gateway's interpretation of the Zoning Ordinance's Town House definition in Article II, Section 2.020 of the Zoning Ordinance but denied Gateway's request to reverse the Planning Commission's preliminary site plan denial. Respondents would respectfully show that even if Gateway's interpretation of the Zoning Ordinance's Town House definition is accepted, the Gateway Project fails to meet the square footage requirements set forth in **Exhibit 2** to this Answer, and accordingly, the Planning Commission's decision to deny preliminary site plan approval of the Gateway Project should not be reversed.

41. Denied.

42. Denied.

43. It is denied that the Planning Commission acted illegally, arbitrarily and capriciously in denying Gateway's application for preliminary site plan approval, and accordingly, the allegations in Paragraph 43 of the Petition are denied.

44. Denied.

45. Admitted.

46. The Writ of Certiorari has been issued, and accordingly, no response is required from the Respondents other than to state that Respondents will comply with the Writ.

47. Respondents have been served with process and have filed their Answer within thirty (30) days.

48. It is denied that Gateway is entitled to the relief sought in Paragraph 48 of the Petition.

49. It is denied that Gateway is entitled to the relief sought in Paragraph 49 of the Petition.

50. It is denied that Gateway is entitled to the relief sought in Paragraph 50 of the Petition.

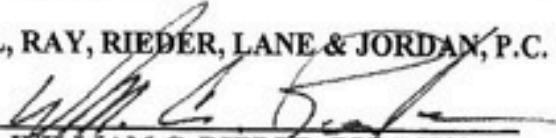
51. All allegations in the Petition which have not been denied, admitted or otherwise treated hereinabove are here and now specifically denied.

Wherefore Respondents deny that Petitioner is entitled to the relief sought and prays that the Court dismiss the Petition at the cost of the Petitioner.

Respectfully submitted,

HULL, RAY, RIEDER, LANE & JORDAN, P.C.

BY:


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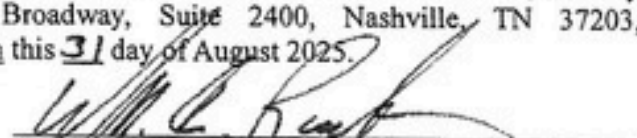
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Notice of Appearance has been mailed postage prepaid and emailed to Mr. Peter C. Sales, Mr. Andrew W. Tao, Bradley Arant Bould Cummings LLP, 1221 Broadway, Suite 2400, Nashville, TN 37203, psales@bradley.com and atao@bradley.com this 31 day of August 2025.


WILLIAM C. RIEDER