

**Environmental Assessment
Determinations and Compliance Findings
for HUD-assisted Projects
24 CFR Part 58**

Project Information

Project Name: Marketplace-Commons

HEROS Number: 900000010431005

Start Date: 10/10/2024

Responsible Entity (RE): KENTUCKY, 1231 Louisville Rd Frankfort KY, 40601

RE Preparer: Jennifer Peters

State / Local Identifier:

Certifying Officer: Matt Sawyers, Commissioner

Grant Recipient (if different than Responsible Entity):

Point of Contact:

Consultant (if applicable):

Point of Contact:

40 CFR 1506.5(b)(4): The lead agency or, where appropriate, a cooperating agency shall prepare a disclosure statement for the contractor's execution specifying that the contractor has no financial or other interest in the outcome of the action. Such statement need not include privileged or confidential trade secrets or other confidential business information.

- ✓ By checking this box, I attest that as a preparer, I have no financial or other interest in the outcome of the undertaking assessed in this environmental review.

Project Location: 1 Industrial Park Rd, Dawson Springs, KY 42408

Additional Location Information:

Location of Subject Site - Approximately 5.5 Acres at the Northeast Intersection of U.S. Highway 62/E. Arcadia Ave. and Industrial Park Rd.

Direct Comments to:

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

The 48-unit multifamily apartment complex Marketplace Commons will be a mix of one-, two- and three-bedroom unit styles. The development's scope will use highly efficient and sustainable building features, equipment, and fixtures throughout. In addition, selected first floor apartments will be fully accessible to accommodate any interested individuals or household who may have mobility impairments. Building exteriors will be brick and fiber-cement siding materials along with a designed selected exterior color scheme. Site work will create ample parking, attractive landscaped areas, walking path, playground, and a shared grill/picnic area. In addition to the apartments themselves, the plan will include the creation of a permanent, on-site management office and a community clubhouse. The clubhouse will offer all residents a business center, small library, and an activity space for events, birthday parties, gatherings and programs. The site is approximately 5.5 acres and is located at the Northeast Intersection of U.S. Highway 62/E. Arcadia Ave. and Industrial Park Rd. The site is currently vacant as the warehouse that was located on the site was destroyed in the December 2021 tornado. See attached site map and site plans below.

Statement of Purpose and Need for the Proposal [40 CFR 1508.9(b)]:

There is great need for safe affordable housing within Dawson Springs after the December 2021 tornadoes. Significant portions of the town were razed, which also includes various properties owned by the local Housing Authority. As a result, there is a lack of options for folks who have been displaced from Dawson Springs, and few options for those who have remained. There is a 3rd party market study that confirms the need for affordable housing in the market as well.

Existing Conditions and Trends [24 CFR 58.40(a)]:

The site is approximately 5.5-arces and is currently vacant. There was a warehouse on the site but it was destroyed in the December 2021 tornado and has been demolished and removed. The surrounding area consists of residential and light commercial to the north and west of the site with farmland to the east and mainly dense forest area to the south of the site. In absence of the project, the lack of much needed additional

affordable housing will still exist in the area and the land will most likely be developed into additional light commercial or residential uses.

Maps, photographs, and other documentation of project location and description:

[Site plan Marketplace Commons - 100 Design Development_08-07-24.pdf](#)

[MC KHC Notice Exhibit Narrative.pdf](#)

[MC KHC Notice Exhibit MAP.pdf](#)

Determination:

✓	Finding of No Significant Impact [24 CFR 58.40(g)(1); 40 CFR 1508.13] The project will not result in a significant impact on the quality of human environment
	Finding of Significant Impact

Approval Documents:

7015.15 certified by Certifying Officer on:

7015.16 certified by Authorizing Officer on:

Funding Information

Grant / Project Identification Number	HUD Program	Program Name	Funding Amount
CDBG-DR	Community Planning and Development (CPD)	Community Development Block Grants (Disaster Recovery Assistance)	\$9,300,000.00

Estimated Total HUD Funded, Assisted or Insured Amount: \$9,300,000.00

Estimated Total Project Cost [24 CFR 58.2 (a) (5)]: \$30,000,000.00

Compliance with 24 CFR §50.4, §58.5 and §58.6 Laws and Authorities

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §50.4, §58.5, and §58.6	Are formal compliance steps or mitigation required?	Compliance determination (See Appendix A for source determinations)
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §50.4 & § 58.6		
Airport Hazards Clear Zones and Accident Potential Zones; 24 CFR Part 51 Subpart D	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	There are no FAA regulated civilian airports located within 2,500 feet or any military airfields located within 15,000 feet of the site. The closest airport is a small civilian airport, Princeton-Caldwell County Airport, which is over 12 miles from the site; therefore, the project is in compliance. See attached Google Earth and NEPAAssist maps. The project is in compliance with Airport Hazards requirements.
Coastal Barrier Resources Act Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project is located in a state that does not contain CBRS units. Therefore, this project is in compliance with the Coastal Barrier Resources Act.
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	There is a small portion of the site adjacent to Industrial Park Road that is located in Zone A; however, that portion of the site will be deeded back to the City of Dawson Springs and will be used as a dedicated 25' buffer. In addition, there are no Preliminary Maps for Hopkins County. As no portion of the site is located in Zone A/100-year floodplain, flood insurance will not be required. See attached FIRM and site plan below. The project is in compliance with flood insurance requirements.
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR §50.4 & § 58.5		
Air Quality Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	As of September 30, 2024, per EPA's Greenbook, Hopkins County is in attainment status for all criteria pollutants. The project is in compliance with the Clean Air Act. See attached supporting documentation.
Coastal Zone Management Act Coastal Zone Management Act, sections 307(c) & (d)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project is located in a state that does not participate in the Coastal Zone Management Program. Therefore, this

		project is in compliance with the Coastal Zone Management Act.
Contamination and Toxic Substances 24 CFR 50.3(i) & 58.5(i)(2)]	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	A Phase I ESA was completed by Linebach Funkhouser, Inc. on November 25, 2024. Per their review, the assessment has revealed no evidence of recognized environmental conditions in connection with the property. Therefore, no further assessment is recommended. As outlined in Notice CPD-23-103, radon testing will be required upon completion. The recommended best practices outlined in the Notice will be followed and if any units are found to be at or above the 4.0pCi/L threshold, a mitigation plan will be developed to ensure the units meet the HUD radon requirements.
Endangered Species Act Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project will have No Effect on listed species based on a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office. According to the USFWS Clearance to Proceed Memorandum effective July 11, 2024, the site meets the criteria for a no effect determination without further coordination with the Service. Therefore, based on review of the IPaC Official Threatened and Endangered Species list for the site as well as the State of Kentucky Biological Assessment Tool, the Department for Local Government (DLG) believes the project will have No Effect on any federally listed threatened or endangered species. See attached site map, site plan, USFWS Clearance Memorandum, site photos, IPaC Official Listing, and additional supporting documentation. This project is in compliance with the Endangered Species Act.
Explosive and Flammable Hazards Above-Ground Tanks)[24 CFR Part 51 Subpart C	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	There are no current or planned stationary aboveground storage containers of concern within 1 mile of

		the project site. Based on site visits, google earth, and available Phase I ESA facility search data, no Above Ground Storage Tanks (ASTs) were identified within 1 mile of the site. Therefore, the project is in compliance with explosive and flammable hazard requirements.
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project includes activities that could potentially convert agricultural land to a non-agricultural use, but an exemption applies. Per consultation with Perri Brown at the Natural Resources Conservation Service, as the site had been previously developed, no conversion of agricultural lands (Prime or Statewide Important Farmland) will occur or be negatively impacted by the proposed undertaking. Therefore, an AD-1006/CPA-106 form is not needed, and this office has no concerns at this time. See attached correspondence and supporting documentation. The project is in compliance with the Farmland Protection Policy Act.
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	This project does not occur in the FFRMS floodplain. As there is no CISA data (project not on the coast) and the 500-year floodplain is not mapped on the FIRM, the Freeboard Value Approach was used. Based on the FBV Approach report, the site is not located in the FFRMS floodplain. See attached maps. The project is in compliance with Executive Orders 11988 and 13690.
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Based on Section 106 consultation there are No Historic Properties Affected because there are no historic properties present. On February 6, 2024, the SHPO for the State of Kentucky provided the following response: Based on the information provided, the proposed undertaking does not require an archaeological survey. In the unlikely event that human remains are found during project activities, work should cease immediately, and the county

		<p>coroner and the Kentucky Heritage Council should be contacted. No above-ground historic properties are located within or adjacent to the project area. Therefore, our office would concur with a finding of No Historic Properties Affected. In addition, on September 23, 2024, the Tribes listed in TDAT know to have an interest in Hopkins County were consulted. No responses were received during the 30-day comment period. The project is in compliance with Section 106. See attached correspondence.</p>
<p>Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>A Noise Assessment was conducted. The noise level was acceptable: 63.0 db. See noise analysis. The project is in compliance with HUD's Noise regulation without mitigation.</p>
<p>Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>There are currently no SSA's in the State of Kentucky; therefore, the project is not located on a sole source aquifer area. See attached SSA map. The project is in compliance with Sole Source Aquifer requirements.</p>
<p>Wetlands Protection Executive Order 11990, particularly sections 2 and 5</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>Per review of the NWI map, there are no E.O. 11990 wetlands on the site. In addition, the site has already been previously developed. See attached NWI map. The project is in compliance with Executive Order 11990.</p>
<p>Wild and Scenic Rivers Act Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<p>This project is not within proximity of a NWSRS river. There is only one Nationally designated Wild and Scenic River in Kentucky, the Red River, which is over 226 miles from the site. The closest Nationwide Rivers Inventory (NRI) river is the Cumberland River which is over 30 miles from the site. Also, according to the rivers.gov website, there are currently no study rivers in the project area. See attached supporting documentation. The project is in compliance with the Wild and Scenic Rivers Act.</p>

HUD HOUSING ENVIRONMENTAL STANDARDS		
ENVIRONMENTAL JUSTICE		
Environmental Justice Executive Order 12898	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	No adverse environmental impacts were identified in the project's total environmental review. Upon construction, the units will be tested for radon per HUD's requirements and if any of the units are found to be at or exceed the 4.0 pCi/L level, mitigation will be required. Therefore, the project is in compliance with Executive Order 12898.

Environmental Assessment Factors [24 CFR 58.40; Ref. 40 CFR 1508.8 &1508.27]

Impact Codes: An impact code from the following list has been used to make the determination of impact for each factor.

- (1) Minor beneficial impact
- (2) No impact anticipated
- (3) Minor Adverse Impact – May require mitigation
- (4) Significant or potentially significant impact requiring avoidance or modification which may require an Environmental Impact Statement.

Environmental Assessment Factor	Impact Code	Impact Evaluation	Mitigation
LAND DEVELOPMENT			
Conformance with Plans / Compatible Land Use and Zoning / Scale and Urban Design	2	On May 16, 2023, the Dawson Springs City Council voted unanimously in favor of changing the current zoning to High Density Residential making the proposed 48-unit multifamily housing development fully permissible at this site. See attached letter.	
Soil Suitability / Slope/ Erosion / Drainage and Storm Water Runoff	2	The site is relatively flat and has been previously developed. The drainage and storm water plan will be submitted to the City for approval and no construction will take place until all required permits have been obtained. Also, the City has provided a letter stating that adequate sewer and water services will be available. Therefore, no impact is anticipated. See attached letter below.	

Environmental Assessment Factor	Impact Code	Impact Evaluation	Mitigation
Hazards and Nuisances including Site Safety and Site-Generated Noise	2	During construction, there will be some ambient noise generated; however, all construction will take place during daytime hours according to City ordinance requirements. Also, the developer will be required to secure the site to ensure site safety. As the site has already been previously developed, no other hazards or nuisances are anticipated.	
SOCIOECONOMIC			
Employment and Income Patterns	2	During construction it is anticipated that there will be some temporary construction jobs created in the local community; however, no long term impacts to employment patterns in the area are anticipated.	
Demographic Character Changes / Displacement	2	The site was previously developed and had a structure on the site; however, it was destroyed in the December 2021 tornadoes. Therefore, the site is currently vacant and no displacement will occur. Also, the surrounding area is also residential and light commercial; therefore, the project will be consistent with the existing demographic character of the area. No adverse impact is anticipated.	
Environmental Justice EA Factor	1	The purpose of the project is to provide additional affordable housing opportunities in the Dawson Springs area due to the loss of affordable housing that occurred during the December 2021 tornadoes. Therefore, the project will have an overall beneficial impact for low and moderate income and minority populations in the project area.	
COMMUNITY FACILITIES AND SERVICES			
Educational and Cultural Facilities (Access and Capacity)	2	The Dawson Springs Elementary School and High School are within 1 mile of the site. Also, the Dawsonville Head Start school is within 2 miles of the site. There are also several churches and a public library in the area. Therefore, residents will have access to several educational and cultural facilities in the area. No impact is anticipated. See	

Environmental Assessment Factor	Impact Code	Impact Evaluation	Mitigation
		attached EA Factors supporting documentation below.	
Commercial Facilities (Access and Proximity)	2	The site is located just east of downtown Dawson Springs in a developed area with a variety of shopping areas including grocery stores (Food Giant), Dollar General, banks, drug stores (Woodburn Pharmacy), gas stations, restaurants, etc. Therefore, residents will have adequate access to shopping and other commercial areas. No impact is anticipated. See EA Factors attachment below.	
Health Care / Social Services (Access and Capacity)	2	There are no Urgent Care Centers located in the City of Dawsonville; however, the adjacent towns of Madisonville and Princeton, Kentucky have several Urgent Care Centers available including the Fast Pace Urgent Care Center and Caldwell Hospital which are within 16-18 minutes from the site. Therefore, residents will have access to adequate health care and social services, if needed. No impact adverse impact is anticipated. See EA Factors below.	
Solid Waste Disposal and Recycling (Feasibility and Capacity)	2	The City does provide a once-a-week garbage service pick-up; however, the management company for the development will be responsible for ensuring there is adequate garbage service. In addition, the site is currently vacant; therefore, there will be no demolition debris that will need to be disposed. No adverse impact is anticipated. See EA Factors below.	
Waste Water and Sanitary Sewers (Feasibility and Capacity)	2	As stated above, the City of Dawson Springs has provided a letter stating that adequate sewer and water services will be available. See attached letter below. No impact is anticipated.	
Water Supply (Feasibility and Capacity)	2	As stated above, the City of Dawson Springs has provided a letter stating that adequate sewer and water services will be available. See attached letter below. No impact is anticipated.	

Environmental Assessment Factor	Impact Code	Impact Evaluation	Mitigation
Public Safety - Police, Fire and Emergency Medical	2	The project is served by the City of Dawson Springs Police and Fire Department. The Police Department is within 1 mile of the site and the St. Charles Volunteer Fire Department is within 10 minutes of the site. In addition, as stated above there are several Urgent Care Service Centers within proximity to the project site; therefore, residents will have adequate access to public services and no adverse impact is anticipated. See attached EA Factors below.	
Parks, Open Space and Recreation (Access and Capacity)	2	The proposed site plan includes a playground, dog run, and designated grass play/recreation area. The City is also in the process of developing a new City Park, Dawson Springs Park, which will be completed in 2026 about the same time as the proposed project (see EA Factors below). There are also several Parks located in the surrounding area; therefore, residents of the development will have adequate access to open space and recreational facilities.	
Transportation and Accessibility (Access and Capacity)	2	The City does not have a public bus service available; however, there will be a bus service available to the public schools. Most residents in the area have their own vehicles; therefore, the need for additional public transportation is not anticipated. Uber and LIFT do serve the area, if needed.	
NATURAL FEATURES			
Unique Natural Features /Water Resources	2	As stated in several areas of this report, the site has been previously developed and is currently vacant land. The building that was present on the site was destroyed in the December 2021 tornadoes and has been removed. Therefore, there are no unique natural resources that will be adversely impacted. See attached EA Factors.	
Vegetation / Wildlife (Introduction, Modification, Removal, Disruption, etc.)	2	As stated in previous sections of this environmental review, the site has been previously developed and has already been cleared of all vegetation except for mowed grass. There are also no water features on	

Environmental Assessment Factor	Impact Code	Impact Evaluation	Mitigation
		the site and no habitat for any threatened or endangered species. In addition, according to the KY Biological Assessment Tool, there are no ecologically sensitive areas in the project area. Therefore, no impact is anticipated. See attached EA Factors.	
Other Factors 1	2	None identified.	
Other Factors 2	2	None identified.	
CLIMATE AND ENERGY			
Climate Change	2	Per the FEMA National Risk Index Mapping Tool, Hopkins County is at a relatively lower risk overall than the rest of the country. The only high-risk factors are ice storms, strong wind and winter weather with a moderate risk of tornadoes and high heat which can be said for the majority of the State of Kentucky. See additional information in the EA Factors below.	
Energy Efficiency	1	All units and community space will have energy star rated appliances, light fixtures, HVAC, and windows. Plans are compliant with the 2012 International Energy Conservation Code. All joints and penetrations (including sill plate and top plate) in exterior walls to be sealed with one-part, low-VOC silicone sealant to meet Building America program "Advanced Air Sealing" requirements. Landscaping will be low-maintenance native plantings to reduce water usage.	

Supporting documentation

[Environmental Assessment Factors Supporting Documentation - Marketplace Commons.docx](#)

[Proof of Proper Zoning - Marketplace Commons.pdf](#)

[Dawson Water Sewer Will Serve Letter15.pdf](#)

Additional Studies Performed:

Phase I ESA, Linebach and Funkhouser, Inc. Noise Analysis, Frye Environmental

Field Inspection [Optional]: Date and completed

by:

Phase I Inspector

10/10/2024 12:00:00 AM

List of Sources, Agencies and Persons Consulted [40 CFR 1508.9(b)]:

Kentucky Heritage Council, Craig Potts, SHPO Cherokee Nation, Elizabeth Toombs, THPO Eastern Band of Cherokee Indians, Richard Sneed, Principal Chief Eastern Shawnee Tribe of Oklahoma, Glenna Wallace, Chief Osage Nation, Andrea Hunter, THPO USDA - National Resources Conservation Service, Perri Brown, Soil Scientist City of Dawson Springs, Citywater and Sewer System, James Key, Superintendent City of Dawson Springs - City Council U.S. EPA, NEPA Section, Chief Strategic Programs Office, (404) 562-9620; Kajumba.ntale@epa.gov

List of Permits Obtained:

None at this time

Public Outreach [24 CFR 58.43]:

A Combined Notice including the Finding of No Significant Impact determination will be completed and posted on the DLG website. This notice will allow individuals to provide comments and/or objections to the project before DLG submits their Request for Release of Funds to HUD. Therefore, the public will be provided ample opportunity to provide their comments before proceeding with the project. In addition, the FONSI will also be sent to the Region 4 EPA NEPA Office: Ntale Kajumba NEPA Section, Chief Strategic Programs Office Office of the Regional Administrator U.S. EPA, Region 4 61 Forsyth Street, S.W. Atlanta, Georgia 30303 (404) 562-9620 Kajumba.ntale@epa.gov

Cumulative Impact Analysis [24 CFR 58.32]:

This is a single-phase project and all anticipated impacts have been analyzed as a part of this review. Therefore, no additional cumulative impacts are anticipated.

Alternatives [24 CFR 58.40(e); 40 CFR 1508.9]

Two alternate sites were considered. The site at 373 Industrial Park Road wasn't selected because the owner decided to pull the property off the market.. The other alternative site located near intersection of Frederick Rd. and W. Rosedale Lane was purchased by Habitat for Humanity. Also the site chosen was closer to a larger intersection for more visibility and easier access.

No Action Alternative [24 CFR 58.40(e)]

The Department for Local Government considered the No Action Alternative. However, DLG has determined that not proceeding with the project to provide additional affordable housing opportunities in the Dawson Springs area would not meet the goals of the Western Kentucky CDBG-DR Program which is to increase the availability of affordable housing due to the damage that occurred during the December 2021 tornadoes.

Summary of Findings and Conclusions:

Based on the analysis conducted as a part of this Environmental Assessment, the DLG has determined that the project will not have a significant impact on the environmental and overall will have a beneficial impact by providing much needed additional affordable housing in the Dawson Springs area.

Mitigation Measures and Conditions [CFR 1505.2(c)]:

Summarized below are all mitigation measures adopted by the Responsible Entity to reduce, avoid or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure or Condition	Comments on Completed Measures	Mitigation Plan	Complete
Contamination and Toxic Substances	As outlined in Notice CPD-23-103, radon testing will be required upon completion. The recommended best practices outlined in the Notice will be followed and if any units are found to be at or above the 4.0pCi/L threshold, a mitigation plan will be developed to ensure the units meet the HUD radon requirements.	N/A	The DLG will work with the developers to ensure that radon testing will be completed prior to occupancy. If the radon levels are found to be above the allowable limits, mitigation will be required.	

			Testing results will also be uploaded in the HEROS system to document compliance.	
National Historic Preservation Act - Section 106	In the unlikely event that human remains are found during project activities, work should cease immediately, and the county coroner, Tribes known to have an interest in Hopkins County, and the Kentucky Heritage Council should be contacted. No above-ground historic properties are located within or adjacent to the project area.	N/A	DLG will insure that in the unlikely event human remains are found during project activities, work will cease immediately, and the county coroner, Tribes known to have an interest in Hopkins County, and the Kentucky Heritage Council will be contacted.	

Project Mitigation Plan

The DLG will work with the developers to ensure that radon testing will be completed prior to occupancy. If the radon levels are found to be above the allowable limits, mitigation will be required. Testing results will also be uploaded in the HEROS system to document compliance. In addition, DLG will insure that in the unlikely event human remains are found during project activities, work will cease immediately, and the county coroner, Tribes known to have an interest in Hopkins County, and the Kentucky Heritage Council will be contacted.

Supporting documentation on completed measures

APPENDIX A: Related Federal Laws and Authorities

Airport Hazards

General policy	Legislation	Regulation
It is HUD's policy to apply standards to prevent incompatible development around civil airports and military airfields.		24 CFR Part 51 Subpart D

1. To ensure compatible land use development, you must determine your site's proximity to civil and military airports. Is your project within 15,000 feet of a military airport or 2,500 feet of a civilian airport?

✓ No

Based on the response, the review is in compliance with this section. Document and upload the map showing that the site is not within the applicable distances to a military or civilian airport below

Yes

Screen Summary

Compliance Determination

There are no FAA regulated civilian airports located within 2,500 feet or any military airfields located within 15,000 feet of the site. The closest airport is a small civilian airport, Princeton-Caldwell County Airport, which is over 12 miles from the site; therefore, the project is in compliance. See attached Google Earth and NEPAAssist maps. The project is in compliance with Airport Hazards requirements.

Supporting documentation

[Airport Hazards - Marketplace Commons.docx](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Coastal Barrier Resources

General requirements	Legislation	Regulation
HUD financial assistance may not be used for most activities in units of the Coastal Barrier Resources System (CBRS). See 16 USC 3504 for limitations on federal expenditures affecting the CBRS.	Coastal Barrier Resources Act (CBRA) of 1982, as amended by the Coastal Barrier Improvement Act of 1990 (16 USC 3501)	

This project is located in a state that does not contain CBRA units. Therefore, this project is in compliance with the Coastal Barrier Resources Act.

Compliance Determination

This project is located in a state that does not contain CBRS units. Therefore, this project is in compliance with the Coastal Barrier Resources Act.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Flood Insurance

General requirements	Legislation	Regulation
Certain types of federal financial assistance may not be used in floodplains unless the community participates in National Flood Insurance Program and flood insurance is both obtained and maintained.	Flood Disaster Protection Act of 1973 as amended (42 USC 4001-4128)	24 CFR 50.4(b)(1) and 24 CFR 58.6(a) and (b); 24 CFR 55.1(b).

1. Does this project involve financial assistance for construction, rehabilitation, or acquisition of a mobile home, building, or insurable personal property?

No. This project does not require flood insurance or is excepted from flood insurance.

✓ Yes

2. Upload a FEMA/FIRM map showing the site here:

[Floodplain Map - MarketPlace Commons.docx](#)

The Federal Emergency Management Agency (FEMA) designates floodplains. The [FEMA Map Service Center](#) provides this information in the form of FEMA Flood Insurance Rate Maps (FIRMs). For projects in areas not mapped by FEMA, use the best available information to determine floodplain information. Include documentation, including a discussion of why this is the best available information for the site. Provide FEMA/FIRM floodplain zone designation, panel number, and date within your documentation.

Is the structure, part of the structure, or insurable property located in a FEMA-designated Special Flood Hazard Area?

✓ No

Based on the response, the review is in compliance with this section.

Yes

4. While flood insurance is not mandatory for this project, HUD strongly recommends that all insurable structures maintain flood insurance under the National Flood Insurance Program (NFIP). Will flood insurance be required as a mitigation measure or condition?

Yes

✓ No

Screen Summary

Compliance Determination

There is a small portion of the site adjacent to Industrial Park Road that is located in Zone A; however, that portion of the site will be deeded back to the City of Dawson Springs and will be used as a dedicated 25' buffer. In addition, there are no Preliminary Maps for Hopkins County. As no portion of the site is located in Zone A/100-year floodplain, flood insurance will not be required. See attached FIRM and site plan below. The project is in compliance with flood insurance requirements.

Supporting documentation

[Floodplain Map - MarketPlace Commons\(1\).docx](#)

[Site plan Marketplace Commons - 100 Design Development_08-07-24\(1\).pdf](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Air Quality

General requirements	Legislation	Regulation
The Clean Air Act is administered by the U.S. Environmental Protection Agency (EPA), which sets national standards on ambient pollutants. In addition, the Clean Air Act is administered by States, which must develop State Implementation Plans (SIPs) to regulate their state air quality. Projects funded by HUD must demonstrate that they conform to the appropriate SIP.	Clean Air Act (42 USC 7401 et seq.) as amended particularly Section 176(c) and (d) (42 USC 7506(c) and (d))	40 CFR Parts 6, 51 and 93

1. Does your project include new construction or conversion of land use facilitating the development of public, commercial, or industrial facilities OR five or more dwelling units?

Yes

No

Air Quality Attainment Status of Project's County or Air Quality Management District

2. Is your project's air quality management district or county in non-attainment or maintenance status for any criteria pollutants?

No, project's county or air quality management district is in attainment status for all criteria pollutants.

Yes, project's management district or county is in non-attainment or maintenance status for the following criteria pollutants (check all that apply):

Screen Summary

Compliance Determination

As of September 30, 2024, per EPA's Greenbook, Hopkins County is in attainment status for all criteria pollutants. The project is in compliance with the Clean Air Act. See attached supporting documentation.

Supporting documentation

[Air Quality Compliance - Hopkins County KY.docx](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Coastal Zone Management Act

General requirements	Legislation	Regulation
Federal assistance to applicant agencies for activities affecting any coastal use or resource is granted only when such activities are consistent with federally approved State Coastal Zone Management Act Plans.	Coastal Zone Management Act (16 USC 1451-1464), particularly section 307(c) and (d) (16 USC 1456(c) and (d))	15 CFR Part 930

This project is located in a state that does not participate in the Coastal Zone Management Program. Therefore, this project is in compliance with the Coastal Zone Management Act.

Screen Summary

Compliance Determination

This project is located in a state that does not participate in the Coastal Zone Management Program. Therefore, this project is in compliance with the Coastal Zone Management Act.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

✓ No

Contamination and Toxic Substances

General Requirements	Legislation	Regulations
It is HUD policy that all properties that are being proposed for use in HUD programs be free of hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of the occupants or conflict with the intended utilization of the property.		24 CFR 58.5(i)(2) 24 CFR 50.3(i)
Reference		
https://www.onecpd.info/environmental-review/site-contamination		

1. How was site contamination evaluated?* Select all that apply.

- ASTM Phase I ESA
- ASTM Phase II ESA
- Remediation or clean-up plan
- ASTM Vapor Encroachment Screening.
- None of the above

* HUD regulations at 24 CFR § 58.5(i)(2)(ii) require that the environmental review for multifamily housing with five or more dwelling units or non-residential property include the evaluation of previous uses of the site or other evidence of contamination on or near the site.

For acquisition and new construction of multifamily and nonresidential properties HUD strongly advises the review include an ASTM Phase I Environmental Site Assessment (ESA) to meet real estate transaction standards of due diligence and to help ensure compliance with HUD's toxic policy at 24 CFR §58.5(i) and 24 CFR §50.3(i). Also note that some HUD programs require an ASTM Phase I ESA.

2. Were any on-site or nearby toxic, hazardous, or radioactive substances* (excluding radon) found that could affect the health and safety of project occupants or conflict with the intended use of the property? (Were any recognized environmental conditions or RECs identified in a Phase I ESA and confirmed in a Phase II ESA?)

Provide a map or other documentation of absence or presence of contamination** and explain evaluation of site contamination in the Screen Summary at the bottom of this screen.

✓ No

Explain:

A Phase I ESA was completed by Linebach Funkhouser, Inc. on November 25, 2024. Per their review, the assessment has revealed no evidence of recognized environmental conditions in connection with the property. Therefore, no further assessment is recommended.

Yes

* This question covers the presence of radioactive substances excluding radon. Radon is addressed in the Radon Exempt Question.

** Utilize EPA's Enviromapper, NEPAAssist, or state/tribal databases to identify nearby dumps, junk yards, landfills, hazardous waste sites, and industrial sites, including EPA National Priorities List Sites (Superfund sites), CERCLA or state-equivalent sites, RCRA Corrective Action sites with release(s) or suspected release(s) requiring clean-up action and/or further investigation. Additional supporting documentation may include other inspections and reports.

3. Evaluate the building(s) for radon. Do all buildings meet any of the exemptions* from having to consider radon in the contamination analysis listed in CPD Notice [CPD-23-103](#)?

Yes

Explain:

✓ No

* Notes:

- Buildings with no enclosed areas having ground contact.
- Buildings containing crawlspaces, utility tunnels, or parking garages would not be exempt, however buildings built on piers would be exempt, provided that there is open air between the lowest floor of the building and the ground.
- Buildings that are not residential and will not be occupied for more than 4 hours per day.
- Buildings with existing radon mitigation systems - document radon levels are below 4 pCi/L with test results dated within two years of submitting the application for HUD assistance and document the system includes an ongoing maintenance plan that includes periodic testing to ensure the system continues to meet the current EPA recommended levels. If the project does not require an application, document test results dated within two years of the date the environmental review is certified. Refer to program office guidance to ensure compliance with program requirements.
- Buildings tested within five years of the submission of application for HUD assistance: test results document indoor radon levels are below current the EPA's recommended action

levels of 4.0 pCi/L. For buildings with test data older than five years, any new environmental review must include a consideration of radon using one of the methods in Section A below.

4. Is the proposed project new construction or substantial rehabilitation where testing will be conducted but cannot yet occur because building construction has not been completed?

✓ Yes

Compliance with this section is conditioned on post-construction testing being conducted, followed by mitigation, if needed. Radon test results, along with any needed mitigation plan, must be uploaded to the mitigation section within this screen.

No

8. Mitigation

Document the mitigation needed according to the requirements of the appropriate federal, state, tribal, or local oversight agency. If the adverse environmental impacts cannot be mitigated, then HUD assistance may not be used for the project at this site.

For instances where radon mitigation is required (i.e. where test results demonstrated radon levels at 4.0 pCi/L and above), then you must include a radon mitigation plan*.

Can all adverse environmental impacts be mitigated?

No, all adverse environmental impacts cannot feasibly be mitigated.
Project cannot proceed at this location.

✓ Yes, all adverse environmental impacts can be eliminated through mitigation, and/or consideration of radon and radon mitigation, if needed, will occur following construction.
Provide all mitigation requirements** and documents in the Screen Summary at the bottom of this screen.

* Refer to CPD Notice [CPD-23-103](#) for additional information on radon mitigation plans.

** Mitigation requirements include all clean-up requirements required by applicable federal, state, tribal, or local law. Additionally, please upload, as applicable, the long-term operations and maintenance plan, Remedial Action Work Plan, and other equivalent documents.

9. Describe how compliance was achieved. Include any of the following that apply: State Voluntary Clean-up Program, a No Further Action letter, use of engineering controls*, or use of institutional controls.**

As outlined in Notice CPD-23-103, radon testing will be required upon completion. The recommended best practices outlined in the Notice will be followed and if any units are found to be at or above the 4.0pCi/L threshold, a mitigation plan will be developed to ensure the units meet the HUD radon requirements.

If a remediation plan or clean-up program was necessary, which standard does it follow?

Complete removal

Risk-based corrective action (RBCA)

✓ Other

* Engineering controls are any physical mechanism used to contain or stabilize contamination or ensure the effectiveness of a remedial action. Engineering controls may include, caps, covers, dikes, trenches, leachate collection systems, radon mitigation systems, signs, fences, physical access controls, ground water monitoring systems and ground water containment systems including, slurry walls and ground water pumping systems.

** Institutional controls are mechanisms used to limit human activities at or near a contaminated site, or to ensure the effectiveness of the remedial action over time, when contaminants remain at a site at levels above the applicable remediation standard which would allow for unrestricted use of the property. Institutional controls may include structure, land, and natural resource use restrictions, well restriction areas, classification exception areas, deed notices, and declarations of environmental restrictions.

Screen Summary

Compliance Determination

A Phase I ESA was completed by Linebach Funkhouser, Inc. on November 25, 2024. Per their review, the assessment has revealed no evidence of recognized environmental conditions in connection with the property. Therefore, no further assessment is recommended. As outlined in Notice CPD-23-103, radon testing will be required upon completion. The recommended best practices outlined in the Notice will be followed and if any units are found to be at or above the 4.0pCi/L threshold, a mitigation plan will be developed to ensure the units meet the HUD radon requirements.

Supporting documentation

[Phase I ESA Update Report - Marketplace Commons 11-25-2024.pdf](#)

Are formal compliance steps or mitigation required?

Yes

No

Endangered Species

General requirements	ESA Legislation	Regulations
Section 7 of the Endangered Species Act (ESA) mandates that federal agencies ensure that actions that they authorize, fund, or carry out shall not jeopardize the continued existence of federally listed plants and animals or result in the adverse modification or destruction of designated critical habitat. Where their actions may affect resources protected by the ESA, agencies must consult with the Fish and Wildlife Service and/or the National Marine Fisheries Service (“FWS” and “NMFS” or “the Services”).	The Endangered Species Act of 1973 (16 U.S.C. 1531 <i>et seq.</i>); particularly section 7 (16 USC 1536).	50 CFR Part 402

1. Does the project involve any activities that have the potential to affect species or habitats?

No, the project will have No Effect due to the nature of the activities involved in the project.

- ✓ No, the project will have No Effect based on a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office

Explain your determination:

According to the USFWS Clearance to Proceed Memorandum effective July 11, 2024, the site meets the criteria for a no effect determination without further coordination with the Service. Therefore, based on review of the IPaC Official Threatened and Endangered Species list for the site as well as the State of Kentucky Biological Assessment Tool, the Department for Local Government (DLG) believes the project will have No Effect on any federally listed threatened or endangered species. See site map, site plan, USFWS Clearance Memorandum, site photos, IPaC Official Listing, and additional documentation below.

Based on the response, the review is in compliance with this section. Document and upload all documents used to make your determination below.

Yes, the activities involved in the project have the potential to affect species and/or habitats.

Screen Summary**Compliance Determination**

This project will have No Effect on listed species based on a letter of understanding, memorandum of agreement, programmatic agreement, or checklist provided by local HUD office. According to the USFWS Clearance to Proceed Memorandum effective July 11, 2024, the site meets the criteria for a no effect determination without further coordination with the Service. Therefore, based on review of the IPaC Official Threatened and Endangered Species list for the site as well as the State of Kentucky Biological Assessment Tool, the Department for Local Government (DLG) believes the project will have No Effect on any federally listed threatened or endangered species. See attached site map, site plan, USFWS Clearance Memorandum, site photos, IPaC Official Listing, and additional supporting documentation. This project is in compliance with the Endangered Species Act.

Supporting documentation

[ESA No Effect supporting documentation - Marketplace Commons.docx](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Explosive and Flammable Hazards

General requirements	Legislation	Regulation
HUD-assisted projects must meet Acceptable Separation Distance (ASD) requirements to protect them from explosive and flammable hazards.	N/A	24 CFR Part 51 Subpart C

1. Is the proposed HUD-assisted project itself the development of a hazardous facility (a facility that mainly stores, handles or processes flammable or combustible chemicals such as bulk fuel storage facilities and refineries)?

No

Yes

2. Does this project include any of the following activities: development, construction, rehabilitation that will increase residential densities, or conversion?

No

Yes

3. Within 1 mile of the project site, are there any current or planned stationary aboveground storage containers that are covered by 24 CFR 51C? Containers that are NOT covered under the regulation include:

- Containers 100 gallons or less in capacity, containing common liquid industrial fuels OR

- Containers of liquified petroleum gas (LPG) or propane with a water volume capacity of 1,000 gallons or less that meet the requirements of the 2017 or later version of National Fire Protection Association (NFPA) Code 58.

If all containers within the search area fit the above criteria, answer "No." For any other type of aboveground storage container within the search area that holds one of the flammable or explosive materials listed in Appendix I of 24 CFR part 51 subpart C, answer "Yes."

No

Based on the response, the review is in compliance with this section. Document and upload all documents used to make your determination below.

Yes

Screen Summary**Compliance Determination**

There are no current or planned stationary aboveground storage containers of concern within 1 mile of the project site. Based on site visits, google earth, and available Phase I ESA facility search data, no Above Ground Storage Tanks (ASTs) were identified within 1 mile of the site. Therefore, the project is in compliance with explosive and flammable hazard requirements.

Supporting documentation

[Explosive and Flammable Facilities - Marketplace Commons.pdf](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Farmlands Protection

General requirements	Legislation	Regulation
The Farmland Protection Policy Act (FPPA) discourages federal activities that would convert farmland to nonagricultural purposes.	Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.)	7 CFR Part 658

1. Does your project include any activities, including new construction, acquisition of undeveloped land or conversion, that could convert agricultural land to a non-agricultural use?

Yes

No

2. Does your project meet one of the following exemptions?

- Construction limited to on-farm structures needed for farm operations.
- Construction limited to new minor secondary (accessory) structures such as a garage or storage shed
- Project on land already in or committed to urban development or used for water storage. (7 CFR 658.2(a))

Yes

Based on the response, the review is in compliance with this section. Document and upload all documents used to make your determination below.

No

Screen Summary

Compliance Determination

This project includes activities that could potentially convert agricultural land to a non-agricultural use, but an exemption applies. Per consultation with Perri Brown at the Natural Resources Conservation Service, as the site had been previously developed, no conversion of agricultural lands (Prime or Statewide Important Farmland) will occur or be negatively impacted by the proposed undertaking. Therefore, an AD-1006/CPA-106 form is not needed, and this office has no concerns at this time. See attached correspondence and supporting documentation. The project is in compliance with the Farmland Protection Policy Act.

Supporting documentation

[Farmlands documentation - Marketplace Commons.pdf](#)

Are formal compliance steps or mitigation required?

Yes

No

Floodplain Management

General Requirements	Legislation	Regulation
Executive Order 11988, Floodplain Management, requires Federal activities to avoid impacts to floodplains and to avoid direct and indirect support of floodplain development to the extent practicable.	Executive Order 11988 * Executive Order 13690 * 42 USC 4001-4128 * 42 USC 5154a * only applies to screen 2047 and not 2046	24 CFR 55

1. Does this project meet an exemption at 24 CFR 55.12 from compliance with HUD's floodplain management regulations in Part 55?

Yes

(a) HUD-assisted activities described in 24 CFR 58.34 and 58.35(b).

(b) HUD-assisted activities described in 24 CFR 50.19, except as otherwise indicated in § 50.19.

(c) The approval of financial assistance for restoring and preserving the natural and beneficial functions and values of floodplains and wetlands, including through acquisition of such floodplain and wetland property, where a permanent covenant or comparable restriction is place on the property's continued use for flood control, wetland projection, open space, or park land, but only if:

(1) The property is cleared of all existing buildings and walled structures; and

(2) The property is cleared of related improvements except those which:

(i) Are directly related to flood control, wetland protection, open space, or park land (including playgrounds and recreation areas);

(ii) Do not modify existing wetland areas or involve fill, paving, or other ground disturbance beyond minimal trails or paths; and

(iii) Are designed to be compatible with the beneficial floodplain or wetland function of the property.

(d) An action involving a repossession, receivership, foreclosure, or similar acquisition of property to protect or enforce HUD's financial interests under previously approved loans, grants, mortgage insurance,

or other HUD assistance.

(e) Policy-level actions described at 24 CFR 50.16 that do not involve site-based decisions.

(f) A minor amendment to a previously approved action with no additional adverse impact on or from a floodplain or wetland.

(g) HUD's or the responsible entity's approval of a project site, an incidental portion of which is situated in the FFRMS floodplain (not including the floodway, LiMWA, or coastal high hazard area) but only if: (1) The proposed project site does not include any existing or proposed buildings or improvements that modify or occupy the FFRMS floodplain except de minimis improvements such as recreation areas and trails; and (2) the proposed project will not result in any new construction in or modifications of a wetland .

(h) Issuance or use of Housing Vouchers, or other forms of rental subsidy where HUD, the awarding community, or the public housing agency that administers the contract awards rental subsidies that are not project-based (i.e., do not involve site-specific subsidies).

(i) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities.

Describe:

No

2. Does the project include a Critical Action? Examples of Critical Actions include projects involving hospitals, fire and police stations, nursing homes, hazardous chemical storage, storage of valuable records, and utility plants.

Yes

Describe:

No

3. Determine the extent of the FFRMS floodplain and provide mapping documentation in support of that determination

The extent of the FFRMS floodplain can be determined using a Climate Informed Science Approach (CISA), 0.2 percent flood approach (0.2 PFA), or freeboard value approach (FVA). For projects in areas without available CISA data or without FEMA Flood Insurance Rate Maps (FIRMs), Flood Insurance Studies (FISs) or Advisory Base Flood Elevations (ABFEs), use the best available information¹ to determine flood elevation. Include documentation and an explanation of why this is the best available information² for the site. Note that newly constructed and substantially improved³ structures must be elevated to the FFRMS floodplain regardless of the approach chosen to determine the floodplain.

Select one of the following three options:

CISA for non-critical actions. If using a local tool, data, or resources, ensure that the FFRMS elevation is higher than would have been determined using the 0.2 PFA or the FVA.

0.2-PFA. Where FEMA has defined the 0.2-percent-annual-chance floodplain, the FFRMS floodplain is the area that FEMA has designated as within the 0.2-percent-annual-chance floodplain.

- ✓ FVA. If neither CISA nor 0.2-PFA is available, for non-critical actions, the FFRMS floodplain is the area that results from adding two feet to the base flood elevation as established by the effective FIRM or FIS or — if available — a FEMA-provided preliminary or pending FIRM or FIS or advisory base flood elevations, whether regulatory or informational in nature. However, an interim or preliminary FEMA map cannot be used if it is lower than the current FIRM or FIS.

¹ Sources which merit investigation include the files and studies of other federal agencies, such as the U. S. Army Corps of Engineers, the Tennessee Valley Authority, the Soil Conservation Service and the U. S. Geological Survey. These agencies have prepared flood hazard studies for several thousand localities and, through their technical assistance programs, hydrologic studies, soil surveys, and other investigations have collected or developed other floodplain information for numerous sites and areas. States and communities are also sources of information on past flood 'experiences within their boundaries and are particularly knowledgeable about areas subject to high-risk flood hazards such as alluvial fans, high velocity flows, mudflows and mudslides, ice jams, subsidence and liquefaction.

² If you are using best available information, select the FVA option below and provide supporting documentation in the screen summary. Contact your [local environmental officer](#) with additional compliance questions.

³ Substantial improvement means any repair or improvement of a structure which costs at least 50 percent of the market value of the structure before repair or improvement or results in an increase of more than 20 percent of the number of dwelling units. The full definition can be found at [24 CFR 55.2\(b\)\(12\)](#).

5. Does your project occur in the FFRMS floodplain?

Yes

✓ No

Screen Summary

Compliance Determination

This project does not occur in the FFRMS floodplain. As there is no CISA data (project not on the coast) and the 500-year floodplain is not mapped on the FIRM, the Freeboard Value Approach was used. Based on the FBV Approach report, the site is not located in the FFRMS floodplain. See attached maps. The project is in compliance with Executive Orders 11988 and 13690.

Supporting documentation

[FFRMS-Freeboard-Value-Approach-Report \(9\) - Marketplace Commons.pdf](#)
[Floodplain Map - MarketPlace Commons\(2\).docx](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Historic Preservation

General requirements	Legislation	Regulation
Regulations under Section 106 of the National Historic Preservation Act (NHPA) require a consultative process to identify historic properties, assess project impacts on them, and avoid, minimize, or mitigate adverse effects	Section 106 of the National Historic Preservation Act (16 U.S.C. 470f)	36 CFR 800 "Protection of Historic Properties" https://www.govinfo.gov/content/pkg/CFR-2012-title36-vol3/pdf/CFR-2012-title36-vol3-part800.pdf

Threshold

Is Section 106 review required for your project?

No, because the project consists solely of activities listed as exempt in a Programmatic Agreement (PA). (See the PA Database to find applicable PAs.)

No, because the project consists solely of activities included in a No Potential to Cause Effects memo or other determination [36 CFR 800.3(a)(1)].

- ✓ Yes, because the project includes activities with potential to cause effects (direct or indirect).

Step 1 – Initiate Consultation

Select all consulting parties below (check all that apply):

- ✓ State Historic Preservation Offer (SHPO) Completed

- ✓ Indian Tribes, including Tribal Historic Preservation Officers (THPOs) or Native Hawaiian Organizations (NHOs)

- ✓ Cherokee Nation Completed
- ✓ Eastern Shawnee Tribe of Oklahoma Completed

✓ Osage Nation

Completed

Other Consulting Parties

Describe the process of selecting consulting parties and initiating consultation here:

The SHPO and Tribes listed in TDAT known to have an interest in Hopkins County were consulted. See attached correspondence.

Document and upload all correspondence, notices and notes (including comments and objections received below).

Was the Section 106 Lender Delegation Memo used for Section 106 consultation?

Yes

No

Step 2 – Identify and Evaluate Historic Properties

- 1. Define the Area of Potential Effect (APE), either by entering the address(es) or uploading a map depicting the APE below:**

The site itself and adjacent properties.

In the chart below, list historic properties identified and evaluated in the APE. Every historic property that may be affected by the project should be included in the chart.

Upload the documentation (survey forms, Register nominations, concurrence(s) and/or objection(s), notes, and photos) that justify your National Register Status determination below.

Address / Location / District	National Register Status	SHPO Concurrence	Sensitive Information
-------------------------------	--------------------------	------------------	-----------------------

Additional Notes:

- 2. Was a survey of historic buildings and/or archeological sites done as part of the project?**

Yes

✓ No

Step 3 –Assess Effects of the Project on Historic Properties

Only properties that are listed on or eligible for the National Register of Historic Places receive further consideration under Section 106. Assess the effect(s) of the project by applying the Criteria of Adverse Effect. (36 CFR 800.5)] Consider direct and indirect effects as applicable as per guidance on direct and indirect effects.

Choose one of the findings below - No Historic Properties Affected, No Adverse Effect, or Adverse Effect; and seek concurrence from consulting parties.

✓ No Historic Properties Affected

Based on the response, the review is in compliance with this section. Document and upload concurrence(s) or objection(s) below.

Document reason for finding:

✓ No historic properties present.

Historic properties present, but project will have no effect upon them.

No Adverse Effect

Adverse Effect

Screen Summary

Compliance Determination

Based on Section 106 consultation there are No Historic Properties Affected because there are no historic properties present. On February 6, 2024, the SHPO for the State of Kentucky provided the following response: Based on the information provided, the proposed undertaking does not require an archaeological survey. In the unlikely event that human remains are found during project activities, work should cease immediately, and the county coroner and the Kentucky Heritage Council should be contacted. No above-ground historic properties are located within or adjacent to the project area. Therefore, our office would concur with a finding of No Historic Properties Affected. In addition, on September 23, 2024, the Tribes listed in TDAQ know to have an interest in Hopkins County were consulted. No responses were received during the 30-day comment period. The project is in compliance with Section 106. See attached correspondence.

Supporting documentation

[SHPO response letter Marketplace Commons Dawson Springs.pdf](#)

[Marketplace Commons SHPO Sec 106-compressed.pdf](#)

[Tribal-Consultation-Letter MarketPlace Commons Apartments - Osage Nation - Signed.pdf](#)

[Tribal-Consultation-Letter MarketPlace Commons Apartments - EBCI - Signed.pdf](#)

[Tribal-Consultation-Letter MarketPlace Commons Apartments - Eastern Shawnee Tribe of OK - Signed.pdf](#)

[Tribal-Consultation-Letter MarketPlace Commons Apartments - Cherokee Nation - Signed.pdf](#)

[Tribal Consultation email correspondence - Emory Flats.pdf](#)

Are formal compliance steps or mitigation required?

Yes

✓ No

Noise Abatement and Control

General requirements	Legislation	Regulation
HUD's noise regulations protect residential properties from excessive noise exposure. HUD encourages mitigation as appropriate.	Noise Control Act of 1972 General Services Administration Federal Management Circular 75-2: "Compatible Land Uses at Federal Airfields"	Title 24 CFR 51 Subpart B

1. What activities does your project involve? Check all that apply:

- New construction for residential use

NOTE: HUD assistance to new construction projects is generally prohibited if they are located in an Unacceptable zone, and HUD discourages assistance for new construction projects in Normally Unacceptable zones. See 24 CFR 51.101(a)(3) for further details.

Rehabilitation of an existing residential property

A research demonstration project which does not result in new construction or reconstruction

An interstate land sales registration

Any timely emergency assistance under disaster assistance provision or appropriations which are provided to save lives, protect property, protect public health and safety, remove debris and wreckage, or assistance that has the effect of restoring facilities substantially as they existed prior to the disaster
None of the above

4. Complete the Preliminary Screening to identify potential noise generators in the vicinity (1000' from a major road, 3000' from a railroad, or 15 miles from an airport).

Indicate the findings of the Preliminary Screening below:

There are no noise generators found within the threshold distances above.

- ✓ Noise generators were found within the threshold distances.

5. **Complete the Preliminary Screening to identify potential noise generators in the**

- ✓ Acceptable: (65 decibels or less; the ceiling may be shifted to 70 decibels in circumstances described in §24 CFR 51.105(a))

Indicate noise level here: 63

Based on the response, the review is in compliance with this section. Document and upload noise analysis, including noise level and data used to complete the analysis below.

Normally Unacceptable: (Above 65 decibels but not exceeding 75 decibels; the floor may be shifted to 70 decibels in circumstances described in §24 CFR 51.105(a))

Unacceptable: (Above 75 decibels)

HUD strongly encourages conversion of noise-exposed sites to land uses compatible with high noise levels.

Check here to affirm that you have considered converting this property to a non-residential use compatible with high noise levels.

Indicate noise level here: 63

Document and upload noise analysis, including noise level and data used to complete the analysis below.

Screen Summary

Compliance Determination

A Noise Assessment was conducted. The noise level was acceptable: 63.0 db. See noise analysis. The project is in compliance with HUD's Noise regulation without mitigation.

Supporting documentation

[Noise Analysis - Marketplace Commons.docx](#)

Are formal compliance steps or mitigation required?

Yes

No

Sole Source Aquifers

General requirements	Legislation	Regulation
The Safe Drinking Water Act of 1974 protects drinking water systems which are the sole or principal drinking water source for an area and which, if contaminated, would create a significant hazard to public health.	Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300f et seq., and 21 U.S.C. 349)	40 CFR Part 149

1. Does the project consist solely of acquisition, leasing, or rehabilitation of an existing building(s)?

Yes

✓ No

2. Is the project located on a sole source aquifer (SSA)?

A sole source aquifer is defined as an aquifer that supplies at least 50 percent of the drinking water consumed in the area overlying the aquifer. This includes streamflow source areas, which are upstream areas of losing streams that flow into the recharge area.

✓ No

Based on the response, the review is in compliance with this section. Document and upload documentation used to make your determination, such as a map of your project (or jurisdiction, if appropriate) in relation to the nearest SSA and its source area, below.

Yes

Screen Summary

Compliance Determination

There are currently no SSA's in the State of Kentucky; therefore, the project is not located on a sole source aquifer area. See attached SSA map. The project is in compliance with Sole Source Aquifer requirements.

Supporting documentation

[Sole Source Aquifers EPA Region 4.pdf](#)

Are formal compliance steps or mitigation required?

Yes

No

Wetlands Protection

General requirements	Legislation	Regulation
Executive Order 11990 discourages direct or indirect support of new construction impacting wetlands wherever there is a practicable alternative. The Fish and Wildlife Service's National Wetlands Inventory can be used as a primary screening tool, but observed or known wetlands not indicated on NWI maps must also be processed. Off-site impacts that result in draining, impounding, or destroying wetlands must also be processed.	Executive Order 11990	24 CFR 55.20 can be used for general guidance regarding the 8 Step Process.

1. Does this project involve new construction as defined in Executive Order 11990, expansion of a building's footprint, or ground disturbance? The term "new construction" shall include draining, dredging, channelizing, filling, diking, impounding, and related activities and any structures or facilities begun or authorized after the effective date of the Order

No

Yes

2. Will the new construction or other ground disturbance impact an on- or off-site wetland? The term "wetlands" means those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does or would support, a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

"Wetlands under E.O. 11990 include isolated and non-jurisdictional wetlands."

No, a wetland will not be impacted in terms of E.O. 11990's definition of new construction.

Based on the response, the review is in compliance with this section. Document and upload a map or any other relevant documentation below which explains your determination

Yes, there is a wetland that be impacted in terms of E.O. 11990's definition of new construction.

Screen Summary

Compliance Determination

Per review of the NWI map, there are no E.O. 11990 wetlands on the site. In addition, the site has already been previously developed. See attached NWI map. The project is in compliance with Executive Order 11990.

Supporting documentation

[NWI Map - MarketPlace Commons.docx](#)

Are formal compliance steps or mitigation required?

Yes

No

Wild and Scenic Rivers Act

General requirements	Legislation	Regulation
The Wild and Scenic Rivers Act provides federal protection for certain free-flowing, wild, scenic and recreational rivers designated as components or potential components of the National Wild and Scenic Rivers System (NWSRS) from the effects of construction or development.	The Wild and Scenic Rivers Act (16 U.S.C. 1271-1287), particularly section 7(b) and (c) (16 U.S.C. 1278(b) and (c))	36 CFR Part 297

1. Is your project within proximity of a NWSRS river?

No

Yes, the project is in proximity of a Designated Wild and Scenic River or Study Wild and Scenic River.

Yes, the project is in proximity of a Nationwide Rivers Inventory (NRI) River.

Screen Summary

Compliance Determination

This project is not within proximity of a NWSRS river. There is only one Nationally designated Wild and Scenic River in Kentucky, the Red River, which is over 226 miles from the site. The closest Nationwide Rivers Inventory (NRI) river is the Cumberland River which is over 30 miles from the site. Also, according to the rivers.gov website, there are currently no study rivers in the project area. See attached supporting documentation. The project is in compliance with the Wild and Scenic Rivers Act.

Supporting documentation

[Wild and Scenic Rivers - Market Place Commons.docx](#)

Are formal compliance steps or mitigation required?

Yes

No

Environmental Justice

General requirements	Legislation	Regulation
Determine if the project creates adverse environmental impacts upon a low-income or minority community. If it does, engage the community in meaningful participation about mitigating the impacts or move the project.	Executive Order 12898	

HUD strongly encourages starting the Environmental Justice analysis only after all other laws and authorities, including Environmental Assessment factors if necessary, have been completed.

1. Were any adverse environmental impacts identified in any other compliance review portion of this project's total environmental review?

Yes

No

Based on the response, the review is in compliance with this section.

Screen Summary

Compliance Determination

No adverse environmental impacts were identified in the project's total environmental review. Upon construction, the units will be tested for radon per HUD's requirements and if any of the units are found to be at or exceed the 4.0 pCi/L level, mitigation will be required. Therefore, the project is in compliance with Executive Order 12898.

Supporting documentation

Are formal compliance steps or mitigation required?

Yes

No



U.S. Department of Housing and Urban
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Environmental Assessment Determinations and Compliance Findings for HUD-assisted Projects 24 CFR Part 58

Project Information

Project Name: Marketplace-Commons

HEROS Number: 900000010431005

Start Date: 10/10/2024

Project Location: 1 Industrial Park Rd, Dawson Springs, KY 42408

Additional Location Information:

Location of Subject Site - Approximately 5.5 Acres at the Northeast Intersection of U.S. Highway 62/E. Arcadia Ave. and Industrial Park Rd.

Description of the Proposed Project [24 CFR 50.12 & 58.32; 40 CFR 1508.25]:

The 48-unit multifamily apartment complex Marketplace Commons will be a mix of one-, two- and three-bedroom unit styles. The development's scope will use highly efficient and sustainable building features, equipment, and fixtures throughout. In addition, selected first floor apartments will be fully accessible to accommodate any interested individuals or household who may have mobility impairments. Building exteriors will be brick and fiber-cement siding materials along with a designed selected exterior color scheme. Site work will create ample parking, attractive landscaped areas, walking path, playground, and a shared grill/picnic area. In addition to the apartments themselves, the plan will include the creation of a permanent, on-site management office and a community clubhouse. The clubhouse will offer all residents a business center, small library, and an activity space for events, birthday parties, gatherings and programs. The site is approximately 5.5 acres and is located at the Northeast Intersection of U.S. Highway 62/E. Arcadia Ave. and Industrial Park Rd. The site is currently vacant as the warehouse that was located on the site was destroyed in the December 2021 tornado. See attached site map and site plans below.

Funding Information

Grant Number	HUD Program	Program Name	
CDBG-DR	Community Planning and Development (CPD)	Community Development Block Grants (Disaster Recovery Assistance)	\$9,300,000.00

Estimated Total HUD Funded Amount: \$9,300,000.00

Estimated Total Project Cost [24 CFR 58.2 (a) (5)]: \$30,000,000.00

Mitigation Measures and Conditions [CFR 1505.2(c)]:

Summarized below are all mitigation measures adopted by the Responsible Entity to reduce, avoid or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure or Condition
Contamination and Toxic Substances	As outlined in Notice CPD-23-103, radon testing will be required upon completion. The recommended best practices outlined in the Notice will be followed and if any units are found to be at or above the 4.0pCi/L threshold, a mitigation plan will be developed to ensure the units meet the HUD radon requirements.
Permits, reviews, and approvals	None at this time
National Historic Preservation Act - Section 106	In the unlikely event that human remains are found during project activities, work should cease immediately, and the county coroner, Tribes known to have an interest in Hopkins County, and the Kentucky Heritage Council should be contacted. No above-ground historic properties are located within or adjacent to the project area.

Project Mitigation Plan

The DLG will work with the developers to ensure that radon testing will be completed prior to occupancy. If the radon levels are found to be above the allowable limits, mitigation will be required. Testing results will also be uploaded in the HEROS system to document compliance. In addition, DLG will insure that in the unlikely event human remains are found during project activities, work will cease immediately, and the county coroner, Tribes known to have an interest in Hopkins County, and the Kentucky Heritage Council will be contacted.

Determination:

<input checked="" type="checkbox"/>	Finding of No Significant Impact [24 CFR 58.40(g)(1); 40 CFR 1508.13] The project will not result in a significant impact on the quality of human environment
<input type="checkbox"/>	Finding of Significant Impact

Preparer Signature: Jennifer Peters Date: 1/2/25

Name / Title/ Organization: Jennifer Peters / Branch Manager/ KENTUCKY

Certifying Officer Signature: Matt Sawyers Date: 1/3/2025

Name/ Title: Matt Sawyers, Commissioner

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environment Review Record (ERR) for the activity / project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).