

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

Request:	Change in zoning from R-1, R-6, C-1 & C-2 to PDD with a Waiver
Project Name:	One Park North
Location:	2297, 2301, 2313, 2345 Lexington Ave
Owner:	MSD & JDG Triangle Partners LLC
Applicant:	JDG Triangle Partners LLC
Representative:	Mindel Scott and Assoc.; Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	9- Bill Hollander
Case Manager:	Julia Williams, AICP, Planning Supervisor

NOTE: COMMISSIONER CARLSON LEFT AT 4:10 AND DID NOT VOTE ON THIS CASE

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

03:05:38 Julia Williams discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Bill Bardenwerper, Bardenwerper, Talbott and Roberts, 1000 North Hurstbourne Parkway, Louisville, Ky. 40223
Kent Gootee, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219
Rob Donhoff, 716 East Market Street, Louisville, Ky. 40202
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

Summary of testimony of those in favor:

03:14:47 Bill Bardenwerper provided a power point presentation and booklets for the commissioners/audience. There have been several neighborhood meetings

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

regarding this case. The plan is compatible, but different (see recording for detailed presentation).

03:22:52 Kent Gootee discussed the following: 2 access points on Lexington Rd.; parking in front of grocery store and on 2nd floor; deliveries at rear of property; land swap; access easement; vehicular circulation; and pedestrian access (see recording for detailed presentation).

03:30:04 Bill Bardenwerper said a lot of detail went into the design of the buildings (see recording for detailed presentation).

03:31:05 Rob Donhoff explained the grouping of mixed use starting with Lexington Rd. and the grocery store. The proposal is to create a special combination of One Park South along with One Park North that creates a place activated by the number of people that actually live there (see recording for detailed presentation).

03:37:04 Bill Bardenwerper discussed the plans for each level of the buildings and permitted land uses (see recording for detailed presentation).

03:38:55 Diane Zimmerman prepared and discussed the Traffic Impact Study (see recording for detailed presentation).

03:40:24 Bill Bardenwerper summarized the application (see recording for detailed presentation).

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, Ky. 40299
Diane Ballafronto, 1699 Trevilan Way, Louisville, Ky. 40205
John Cooke, 3318 Lexington Road, Louisville, Ky. 40206
Diane Cooke, 3318 Lexington Road, Louisville, Ky. 40206

Summary of testimony of those in opposition:

04:00:18 Steve Porter represents the Lexington Rd. Preservation Association. There are some positive aspects of the proposal but also some concerns such as: definite need for traffic signal at Etley and Lexington Rd.; height of the buildings; developer receiving TIF, Tax Increment Financing; 17 stories is too much (see recording for detailed presentation).

04:09:12 Diane Ballafronto said the properties, One Park North and South are both Traditional Neighborhood Form Districts (see recording for detailed presentation).

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

04:13:34 John Cook said the road is too small for a project of this size (see recording for detailed presentation).

04:15:11 Diane Cook, President of Lexington Rd. Preservation, said the development is huge and will detract from the neighborhood. It would fit better if not as tall (see recording for detailed presentation).

Rebuttal

04:18:05 Bill Bardenwerper said the proposal is no taller than the tallest building at One Park South. There are existing examples of tall buildings in the Traditional Neighborhood Form District.

Bill Bardenwerper explained why they can use the TIF. Also, there should be a signal but a binding element is not needed. It will be done (see recording for detailed presentation).

04:27:44 Julia Williams read the following binding element into the record: The applicant shall work with MSD and Metro Parks on the installation of a trailhead entrance sign at the trailhead at Lexington Rd. at Etley.

04:31:22 Julia Williams read the following binding element into the record: All site wayfinding signage shall include the trailhead where applicable.

Deliberation

04:32:07 Planning Commission deliberation.

An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.

Zoning Change from R-1, R-6, C-1, and C-2 to PDD

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution based on the Plan 2040 Staff Analysis and testimony heard today was adopted.

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposal is not a non-residential expansion into a residential area; the proposal is for mixed use along a minor arterial, near a transportation facility (I-64), near a transit corridor (Grinstead Drive), within an existing activity center, and where adequate infrastructure exists or is planned with the proposal; the proposal does not include any hazardous land uses; no evidence has been provided that would indicate a negative impact of the proposal on health, quality of life, and the environment. The proposal is not located near residences or schools. The proposal is located in the vicinity of both Cherokee Park, Cherokee Golf Course, and the Beargrass Creek Trail where no evidence has been provided that air and water quality will be negatively affected. MSD reviewed the proposal and found no issues with water quality; traffic issues are being addressed through roadway improvements along Lexington Road by way of a proposed dual turn lane from Lexington to Grinstead leading to I-64. Etley and Lexington will be signalized. Transportation Planning staff have approved the traffic study and concur with its findings regarding traffic; the proposal does not indicate any uses where noise would have an impact on the existing communities. There are no residential land uses located adjacent to the subject site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal is located in an existing activity center where the infrastructure is existing and the proposal is compatible with adjacent zoning; the proposal is for a mixed use development located in an existing activity center with appropriate access and connectivity to all surrounding minor arterial roadways, the local roadway, and access to I-64; the proposal is located in an existing activity center where population is proposed and existing to support the zoning; the proposal is located in an existing activity center where the infrastructure is existing; the proposal is located in an existing activity center where mixed use is being proposed. The land uses proposed within the pattern book are limited and generally neighborhood serving. Alternative modes of travel are supported by the crosswalks and sidewalks proposed. The existing bike lane along Lexington is being maintained; the proposal is for mixed use development in an existing activity center where residential and office will be located above commercial; the proposal is for mixed use development in an existing activity center where residential and office will be located above commercial; the proposal is appropriately located for its design and scale as there are no residences located adjacent to the site or across the street; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, the site was previously used as a staging area for improvements to Beargrass Creek. There are no existing natural features evident on the site; soils are not an issue with the proposal; and

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, Historic Preservation has not indicated that any of the existing buildings on the site have any historic or architectural value. The site is not located in a preservation district nor is it located in a National Register district; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposal is located between two existing marketplace corridors (Bardstown Road and Frankfort Ave.) The proposal is within an existing activity corridor where it supports existing nearby public transit; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the development is by a minor arterial with access to a major interstate; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal is for mixed use. The land uses proposed within the pattern book are generally neighborhood serving and encourage trips made by walking and bicycling due to the sidewalk around the site, the existing bike infrastructure along Lexington Road and the north portion Grinstead, and addition of bike facilities on the site; the proposal is for mixed use where compatible land uses are indicated within the pattern book. The land uses and development are easily accessible by all modes of transportation. Facilities are proposed for the different forms of transportation; the proposal is for mixed use with a high-density component. The proposal promotes public transit and pedestrian use by way of crosswalks, sidewalks, and a signalized intersection at Etle. There is a transit stop located along Grinstead at Etle near the site. The proposal calls for an interior parking garage. Residential is proposed to provide a housing choice; Transportation Planning staff approved and concur with the traffic study. Roadway improvements as indicated in the traffic study will be implemented around the site; Transportation Planning staff approved and concur with the traffic study. Roadway improvements as indicated in the traffic study will be implemented around the site at the cost to the developer; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, existing and proposed utilities will serve and be improved for the site; the LWC and fire department did not indicate that an adequate water supply was not available; MSD has preliminarily approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposal is for

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

mixed use located along a minor arterial. The site also is located with adequate access to a major interstate; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, erosion control measures during construction will be put in place per MSD requirements. MSD has preliminarily approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the mixed-use proposal provides an environment where aging in place could occur due to the land uses permitted in the pattern book that include shopping and medical facilities. The proposal is located within walking distance of a transit route. No specific housing user has been identified for the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal is for mixed use development that is connected to the surrounding neighborhoods via sidewalks, bike lanes, ride share spaces, and nearby transit; the proposal is for mixed use development with a housing component that is connected to the surrounding neighborhoods via sidewalks, bike lanes, ride share spaces, and nearby transit. The proposal includes employment opportunities and non-residential uses that provide neighborhood goods and services. The proposal includes high density near a transit route and within an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal is for mixed use which will bring residential to the site where there is none existing; the proposal is for a mixed-use development with a residential component with a commitment for 5% of the residential units to be affordable.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council the change in zoning from R-1, Single Family Residential R-6, Multi-family Residential, C-1, Commercial and C-2, Commercial to PDD, Planned Development District on property described in the attached legal description be **APPROVED, SUBJECT** to the following binding elements:

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. Before any permit (including but not limited to building, parking lot, change of use, site disturbance) is requested:
 - a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services prior to obtaining a building permit.
 - d. A road closure approval for Beargrass Avenue shall be approved prior to requesting a building permit.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the pattern book as presented at the December 1, 2022 Planning Commission. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
3. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
4. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
5. All street lighting shall be fully shielded and aimed downward.
6. Five percent (5%) of the multi-family units, 1 bedroom or more, either sold or rented, and comparable to the market rate units, shall comply with the following:

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

Units sold: Unit sale prices shall be calculated using 80% of the current Jefferson County area median income (AMI) limit for a given household size. For rented units: The most current published HUD Fair Market Rent value and the Low-Income Housing Tax-Credit rent limits for Jefferson County will be used to calculate the Affordable Rent. Affordable Rent must not exceed the higher of the two rent calculations in order to be classified as an affordable rental unit (see LDC Chapter 4.3.20 (MRDI) or HUD guidelines for more information on calculating affordable rents).

7. The developer/owner shall be responsible for submitting an annual report to Planning & Design Services staff at 12-month intervals from the date of the first certificate of occupancy (for a residential unit), until all affordable owner-occupied units have been issued building permits and for a period of 15 years after the last affordable rental unit building permit has been issued. The annual report shall identify the name of the development, the unit numbers, the unit addresses, and the sale price and/or rental rates of the designated affordable units and shall certify that the developer/owner has made a good faith effort to verify that the tenants/purchasers were income eligible at the time of rental/purchase. The annual report shall indicate separately the number of building permits issued for owner occupied and for rental dwellings. Prior to selling any affordable units, the developer/owner shall work with Planning and Design Services staff to develop provisions that will cover any subsequent transfers of ownership during the affordability period, which shall be for 15 years from the date of certificate of occupancy for such unit. Such provisions shall be negotiated and agreed to prior to the sale of any units.

8. All exterior lighting, whether freestanding or attached to any structure, including street lights, lot lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground. No exterior LED or metal halide lighting shall have a correlated color temperature (CCT) exceeding 3000 Kelvin. No parking lot light fixtures shall be more than fourteen feet high, measured from ground level (this shall not apply to the parking garage).

9. No changing image or moving business signs shall be permitted. All freestanding business signage shall not exceed six feet in height, measured from ground level.

10. Beargrass Avenue shall be placed in an access easement until the access as shown on the development plan can be provided. Access to the trailhead on the adjacent property shall not be obstructed.

11. The applicant shall work with MSD and Metro Parks on the installation of a trailhead entrance sign along the public access road at Lexington Rd. and Etleigh.

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

12. All site wayfinding signage shall include the trailhead, where applicable.

13. At the applicant's expense, the roadway improvements will be constructed prior to the first CO and the signal installed within 6 months of issuance of the first CO.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Mims, Pennix, Price, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioners Carlson and Lewis

Waiver from 10.2.4 to not provide the 15' LBA where the site is adjacent to R-1 zoning

On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, the following resolution based on the Standard of Review and Staff Analysis and testimony heard today was adopted.

WHEREAS, the waiver will not adversely affect adjacent property owners since the adjacent property is the Beargrass Creek Trail and an underground CSO basin; and

WHEREAS, Community Form Goal 1, Policy 4 calls for the proposal to ensure new development and redevelopment are compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. Quality design and building materials should be promoted to enhance compatibility of development and redevelopment projects. Community Form Goal 1, Policy 6 calls to discourage non-residential expansion into existing residential areas unless applicant can demonstrate that any adverse impact on residential uses will be mitigated. Evaluation of impacts may include, but not be limited to, displacement of residents, loss of affordable housing units, traffic, parking, signs, lighting, noise, odor, and stormwater. Appropriate transitions from non-residential to residential uses should depend on the pattern of development of the Form District and may include natural vegetative buffers, landscaping or the use of higher density residential between lower density residential and/or non-residential. Community Form Goal 1, Policy 9 calls to ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. Community Form Goal 1, Policy 10 calls to mitigate the impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that

PLANNING COMMISSION MINUTES
December 1, 2022

PUBLIC HEARING

CASE NO. 22-ZONE-0043

are substantially different in intensity or density. Buffers should be variable in design and may include landscaping, vegetative berms and/or walls and should address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Residential uses that develop adjacent to agricultural land uses may be required to provide screening and buffering to protect both the farmer and homeowners. The proposal meets Plan 2040 as the site is located adjacent to residential zoning but not residential uses. The adjacent Beargrass Creek Trail and area is more park land than residential land; and

WHEREAS, the Louisville Metro Planning Commission finds, the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the adjacent land uses are not residential and are park-like in land use; and

WHEREAS, the Louisville Metro Planning Commission further finds the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant because the adjacent land uses are not residential and are park-like in land use.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Waiver from 10.2.4 to not provide the 15-foot LBA, landscape buffer area where the site is adjacent to R-1 zoning.

The vote was as follows:

YES: Commissioners Brown, Cheek, Clare, Mims, Pennix, Price, Sistrunk and Howard

NOT PRESENT AND NOT VOTING: Commissioners Carlson and Lewis