

LAND DEVELOPMENT & TRANSPORTATION COMMITTEE MINUTES
June 28, 2018

OLD BUSINESS

CASE NO. 17ZONE1081

Request:	Schedule Night Hearing
Project Name:	Oakland Hills Extension
Location:	11333 Bardstown Road
Owner:	21 st Century Parks Endowment, Inc.
Applicant:	21 st Century Parks Endowment, Inc.
Representative:	Dinsmore & Shohl LLP
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Joel Dock, Planner II
Presented By:	Brian Davis, Planning and Design Manager

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

00:05:25 Mr. Davis stated this case was scheduled for the July 5, 2018 Planning Commission public hearing date; however, staff received a petition for a night hearing prior to notices being sent. Staff reviewed the petitions to verify it meets the requirements of holding a night hearing in the neighborhood/district. The applicant conducted a verification of signatures as well and disagrees with staff.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl LLP, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

00:07:42 Mr. Ashburner reported the findings of the signatures on the petition. The petition failed the requirements for a night hearing in the neighborhood and requests that the committee set a night hearing for July 16, 2018 at the Old Jail Building because the opposition has enough signatures for that (200).

The following spoke neither for nor against the request:

Steve Porter, 2408 Tucker Station Road, Louisville, Ky. 40299

Summary of testimony of those neither for nor against:

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00:18:24 Mr. Porter stated the petition is legitimate and the night meeting should be held in the neighborhood. This committee has the authority to hold a night hearing at its discretion.

00:24:25 Mr. Whitty said however the committee votes, either side may appeal the decision.

Rebuttal:

00:26:12 Mr. Ashburner stated the committee needs to follow the ordinances passed by Metro Council.

Deliberation

00:29:26 Planning Commission deliberation. Commissioner Carlson said the committee would be serving the public by holding the meeting in the neighborhood.

Commissioner Brown stated there should be a night hearing in the neighborhood, but also in a timely manner.

Commissioner Brown asked if there is a community facility available within the 14 day time frame. Mr. Davis said he doesn't have verification.

Commissioner Howard said the law needs to be amended because it leaves too much to interpretation.

Vice Chair Peterson said he doesn't think the Old Jail Building has enough room to accommodate the interested parties.

An audio/visual recording of the Land Development & Transportation Committee meeting 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.

00:38:10 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby Table this case to the end of the docket to allow staff time to investigate availability of the Central Government Center.

The vote was as follows:

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YES: Commissioners Brown, Carlson, Howard and Peterson
NOT PRESENT AND NOT VOTING: Commissioner Lewis

Reconvened

02:40:02 Mr. Davis stated the Central Government Center is available for Monday July 16, 2018 night hearing at 6:30 p.m.

02:42:47 On a motion by Commissioner Carlson, seconded by Commissioner Brown, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby schedule this case for a night hearing on July 16, 2018 at the Central Government Center, 6:30 p.m.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard and Peterson
NOT PRESENT AND NOT VOTING: Commissioner Lewis

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May 31, 2018

NEW BUSINESS

CASE NO. 17ZONE1081

Request: Change-in-zoning from R-4 to R-6, revised district development/major preliminary subdivision plan and variance

Project Name: Oakland Hills

Location: 11333 Bardstown Road

Owner: 21st Century Parks Endowment, Inc.

Applicant: 21st Century Parks Endowment, Inc.

Representative: Dinsmore & Shohl, LLP – Clifford Ashburner

Jurisdiction: Louisville Metro

Council District: 20 - Stuart Benson

Case Manager: Joel Dock, Planner II

The staff report prepared for this case was incorporated into the record. This report was available to any interested party prior to the LD&T meeting. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

01:04:06 Joel Dock presented the case (see staff report and recording for detailed presentation). There is an additional case number for this proposal. "This is a change in zoning, a District Development Plan, a Revised District Development Plan (RDDP), Major Preliminary Subdivision Plan, Floyds Fork Development Review and a variance to reduce the setback from 30 to 25 feet". "The project is for the Revised Subdivision and District Development Plan outlined in blue (diagram). We recently assigned that to 18DEVPLAN1099 as a matter of clarity and the Planning Commission taking action on the specific case number for the revised plan and action on a specific case number for the proposed zoning change." Section 1a and 1b are not subject to review (already recorded). The 126.88 acres is no longer part of the subdivision.

Mr. Dock added, "Staff was in contact with a representative from some of the adjoining property owners up until March 26th with a wide variety of concerns. Additional communications with interested parties have been related to environmental and traffic impacts as well."

Staff requests that the Planning Commission schedule the development plan to be heard with the zoning case.

01:09:54 Commissioner Brown asked if there's a site plan for the District Development Plan (DDP) associated with the 20 acre rezoning parcel. Mr. Dock said no, "It will be a General District Development Plan (GDDP) so there's a standard set of binding elements and when it comes time to develop that site, you'll see a Detailed District Development Plan (DDDP)."

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The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Suite 2500, Louisville, Ky. 40202

Summary of testimony of those in favor:

01:10:44 Mr. Ashburner gave a power point presentation. All technical issues have been addressed and the case is ready for a public hearing.

Mr. Ashburner discussed Oakland Hills history and the original plan. The Glade Cress is a threatened plant species native to the proposed site (about .05 acre) and found in very few places in the world.

01:21:00 Mr. Ashburner stated, "The reason we don't have a plan to talk about regarding the multi-family is the way the Endowment looked for a good fit with a civil engineering firm, once this is run through the process and the application is successful, the Endowment will put a RP together and will bring in different groups and select the group that will fit the best. Not fit the best in terms of dollars and cents, but in terms of how it works with the neighborhood, the park and how it will help support the apartments. When that occurs and that evaluation is done, assuming the rezoning is successful, which is not a sure thing the Endowment will come back before this committee or the Planning Commission with a detailed plan for the 20 acres."

01:23:20 Mr. Ashburner remarked, "The developer agreed to do some additional planting on the adjoining properties, not the subject property. The Endowment is willing to comply with that binding element. We would like to make a change about the timing, making it a little closer to the time this is going to be developed, but we think that's relevant for your review."

01:23:57 Mr. Ashburner also discussed the traffic impact study.

01:26:21 Mr. Ashburner stated he and Mr. Dock have been working on additional changes to the binding elements, mainly to prevent redundancy.

01:32:00 Commissioner Brown had a question regarding binding element 40 on pg. 13 of the staff report. "There is a procedure they can go through to open that road." Mr. Ashburner said he's reluctant to asking to amend/remove it because it was placed there by Metro Council. He will consult with the county attorney's office.

The following spoke in opposition to this request:

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Robert Marino, 11703 Tranquility Way, Louisville, Ky. 40291
Rick Ransom, 12418 Oakland Hills Trail, Louisville, Ky. 40291
Teena Halbig, 6505 Echo Trail, Louisville, Ky. 40299
Steve Vessels, 13525 Vessels Road, Louisville, Ky. 40299
Betty Bacon, 11300 Broad Run Road, Louisville, Ky. 40299
Vance Bacon, 11300 Broad Run Road, Louisville, Ky. 40299
Jeff Frank, 16509 Bradbe Road, Fisherville, Ky. 40023

Summary of testimony of those in opposition:

01:35:51 Mr. Marino, Council Member for Mayor's Commission for Public Arts, stated the deed of every single property owner in Oakland Hills has a plot plan. Each plot plan states, "The density of this development shall at no time exceed 1.1 homes per acre. The 34 families (over 100 people) have asked me to speak to you. We made our \$30+ million investment based on the expectations you all set and we see, to this day, still recorded with the Jefferson County Clerk. If you agree to move forward, we have the potential to move from what we bought into, which was a conservation neighborhood, to a neighborhood that's far from it, and that's not right. Also, the process to get to this point has been terribly flawed."

01:38:08 Mr. Marino remarked, "The letter that went out to the public from Mr. Ashburner stated the plan also includes a total of approximately 416 preserved acres. When I read that I called Joel. He's the case manager and could not reconcile this." Mr. Dock replied, "When Mr. Marino called me originally and asked about the 416 acres, I did not know about the total of the 416 acres. As I presented in the staff report, we have now compensated and accommodated for the total 416 acres which is consistent with what the representative has proposed to LD&T." Mr. Marino disagrees.

Mr. Marino said the applicant has refused to meet with him. "We are neighbors of the park and deserve to be treated with respect, especially after the expectation was set that we would never face anything like this."

01:41:12 Mr. Marino said the Glade Cress requires a specific environment or habitat to exist.

01:42:15 Mr. Marino discussed the traffic study.

01:44:45 Mr. Marino remarked, "We ask that you do not allow this hearing to go forward until the other side meets with their very reasonable neighbors and Representative Kevin Bratcher so that we can design a plan that meets our

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expectations, does not destroy our investment and protects the Glade Cress, none of which have been presented here today.”

01:45:33 Mr. Ransom stated, “The Endowment got together and obviously went through a lot of different steps in formulating what they put together here, but they neglected to reach out to the homeowners. There’s a big disconnect there. We’re not opposed to it, however we did put some alternate plans, proposals and power points together to mitigate the traffic.” Someone was killed recently in the area.

01:47:25 Mr. Ransom remarked, “The apartment complex and amount of density is going to drastically change this area for years to come so everyone who makes those decisions will have to live and abide by those decisions, whether good or bad.”

01:48:22 Ms. Halbig works with the Floyds Fork Environmental Association (FFEA) and their job is to preserve, conserve and protect the Floyds Fork watershed. “I was involved with this case years ago, not only in Jefferson County but also Bullitt County. We were able to defeat it in Bullitt County after the Fiscal Court was sued. That is the part that’s designated as the 126 acres. Is the 126 acres included in the open space?” Mr. Dock answered, “The amount of open space that’s provided on the Revised Preliminary Subdivision and development plan, not including the 126 acres, is 265 acres of open space.”

01:52:53 Ms. Halbig stated, “The removal of the Woodland Protective Areas (WPAs) that are protected in perpetuity have been removed from this plan.

01:53:45 Ms. Halbig stated, “The removal of the conservation easement on page 8 where Future Fund was to receive this property was revoked by simply striking this agreement that was hammered out by Future Fund and the government quite some time ago with the prior owners Hollenbach and Oakley. It is wrong and would make the Planning Commission culpable and collaborating with 21st Century to remove this binding element. We strongly urge LD&T Planning Commissioners, all Planning Commissioners and local government to not allow removal of binding element 11 and many other binding elements including removal of the WPA.”

01:55:22 Ms. Halbig remarked, “Please explain what will happen to the lot that was to be preserved for the Ky. Endangered Glade Cress.”

01:58:28 Ms. Halbig discussed several other issues and cited, “There are great geotechnical problems on this site. The FFEA asks for reinforced foundations for all buildings on this site to protect future home owners and occupants.”

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01:59:18 Mr. Vessels requests a substantial buffer and wants it sooner than later because trees will take a while to grow. "Also, I would like the Planning Commission to have an independent traffic study"

02:02:31 Mrs. Bacon asked, "Am I correct in assuming binding elements for opening the easements to Broad Run Rd. still holds?" Mr. Dock answered, "Yeah, the binding element is in place for emergency access only to Broad Run until it's widened to 18 feet or Metro Council approves an amendment to that binding element."

02:04:22 Mrs. Bacon said the neighborhood will be submitting a petition for a night hearing in the area.

02:06:11 Mrs. Bacon would like to see the farming community protected.

02:06:38 Mrs. Bacon submitted pictures into the record showing past flooding in the Parklands and Broad Run Rd.

02:09:09 Mr. Bacon said he will be affected by the easement.

02:12:11 Mr. Frank stated the application needs to be delayed to allow the South Floyds Fork Area Study to be completed. "Floyds Fork is different and needs to be protected."

Mr. Frank said the Glade Cress doesn't grow anywhere else in the world and needs to be protected.

02:19:52 Mr. Marino stated, "There is no 416 acres of preserved acres in this plan despite what their attorney has said. I have an email from Joe Reverman and he reviewed that statement. According to Mr. Reverman (who stated), 'I share that concern with the applicant and recommend that they hold another meeting', which they did not do."

02:20:43 Mr. Ashburner stated, regarding delaying taking this case forward, sometimes compromise will not work.

02:22:35 Mr. Ashburner stated, "21st Century Parks Inc. is not part of this application. It's 21st Century Endowment".

Mr. Ashburner also discussed the following: easement; additional buffering; Broad Run Rd. remaining an emergency access; Floyds Fork Study – having development adjacent to the parks was always part of the plan. There's no justification to delay setting a public hearing for this case.

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Deliberation

02:27:30 Planning Commission deliberation. Chair Carlson asked what is the time frame for submitting a petition to request a night hearing. Ms. Williams said 15 days prior to the public hearing date.

02:28:03 Commissioner Brown asked if there is a night hearing, would it include the request for the rezoning as well as everything discussed today? Ms. Williams stated it would be wise to hear it all because it's all so closely related.

02:29:21 Commissioner Brown remarked, "I'd support Broad Run Rd. access in the future if conditions are met just because connectivity in this area is lacking. We just went through a 2 year street closure on Broad Run Rd. that had a detour close to 4 miles. Connectivity is challenging because of the topography and to have one there and not be able to use it would be a disservice."

02:32:20 The commissioners agree this case is ready for a public hearing.

02:36:43 Ms. Williams stated, "If there's a petition for a night hearing, it would need to be submitted by June 20, 2018."

An audio/visual recording of the Land Development & Transportation Committee meeting 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.

The Committee by general consensus placed this case for the July 5, 2018 public hearing at the Old Jail Building.