

PLANNING COMMISSION MINUTES
September 3, 2020

PUBLIC HEARING

CASE NO. 19-ZONE-0086

Request: Change in zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements and associated Variance

Project Name: South Park Road Apartments

Location: 4011 and 4201 South Park Road, 9007 Blue Lick Road

Owner: Joseph and Jacinta Kenny, LDG Development LLC, LDG Land Holdings LLC

Applicant: LDG Development LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 24 – Madonna Flood

Case Manager: Dante St. Germain, AICP, Planner II

NOTE: COMMISSIONER BROWN LEFT 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:

03:43:37 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report. Chair Jarboe asked if the plan meets the intent for connectivity. Ms. St. Germain said partially, because ideally there would be a public street connecting Delee Way to South Park Rd. and there would be no gate on Blue Lick Rd. There's still a requirement for an alternate plan for connectivity because it doesn't fully meet it.

03:53:46 Commissioner Peterson asked if there will be a left turn lane on South Park Rd. Ms. St. Germain said there are no improvements being proposed for South Park Rd. or Blue Lick Rd.

03:54:04 Commissioner Mims asked why it's not an open access off Blue Lick Rd. into the community. Ms. St. Germain said she doesn't have an answer for that. The developer has not explained.

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03:55:13 Commissioner Carlson remarked, the Geotechnical Report makes several recommendations for the developer to do during construction. Is there anything that compels them to follow through with those recommendations? Ms. St. Germain stated there are no proposed binding elements, but the Planning Commission could impose a binding element(s).

03:56:15 Commissioner Mims said the tunnels should be mapped. Ms. St. Germain said the current owner hasn't provided her with any maps.

The following spoke in favor of this request:

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

Michael Kalinski, 472 Ashland Terrace, Lexington, Ky.

Summary of testimony of those in favor:

03:57:29 Mr. Ashburner gave a power point presentation. The changes made address community needs that were expressed at the last public hearing. Blue Lick Rd. will be the primary entrance. There will be fencing and buffering along the east property line to stop pedestrian cut-throughs. The gate on Blue Lick brings a sense of security. The height variance is necessary for 9 ft. ceilings and makes the apartments more aesthetically appealing. It should not be noticeable off-site.

Mr. Ashburner discussed the concern regarding apartment demand.

04:10:54 Mr. Kalinski explained his Geophysical Evaluation – determination of water-filled or air-filled tunnels under the proposed site.

04:21:15 Chair Jarboe asked, if there are tunnels leading from the quarry wall underneath the proposed property, if above the water wouldn't they be visible? Mr. Kalinski said if they were above the water table, they would be full of air and show up as anomalies. There was a tunnel and it appeared to be heading in a northerly direction, but was off east of the site.

04:27:49 Commissioner Carlson asked if the buildings are still going to be 3-stories adjacent to single family homes. Mr. Ashburner said yes, but there is a significant amount of space on the north and east sides, in terms of buffering. In addition to the buffering on the east side, my client has reached an agreement with the property owner (to the east) to plant additional material on their property. Those plantings will be done as soon as construction begins – probably a year before anyone occupies the site.

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04:33:51 Commissioner Carlson asked Mr. Ashburner to explain the 2040 Plan portion of his testimony – it talks about providing a variety of ownership options and unit cost throughout Metro Louisville. There's single family housing to own or rent, apartments for rent but no condominiums in this end of town. That's not much variety. Mr. Ashburner answered, ownership options and unit costs includes the ability to rent, not just own. It's affordable housing and there is a demand for multi-family in the proposed area. Also, the Planning Commission doesn't usually instruct developers on what they should and should not develop.

The following spoke in opposition to this request:

Brenda Jackson, 9004 Delee Way, Louisville, Ky. 40219
Carol Hadley, 4207 South Park Road, Louisville, Ky. 40219

Summary of testimony of those in opposition:

04:38:28 Ms. Jackson stated she's opposed to opening up Delee Way for a variety of reasons, one being that the children play in the streets and need to be safe. Why open up traffic to our neighborhood but not your development?

Ms. Jackson said she provided pictures of the neighborhood roads at the LD&T meeting. They're horrible.

04:41:54 Ms. Hadley said she and some neighbors didn't receive formal notice of the meeting today. The applicant said there's only 1 single family residence on South Park, but there are actually 2.

Ms. Hadley said she agrees with Commissioner Carlson, there are a lot of apartment buildings being built in the area and no opportunity for home ownership. The proposed apartments don't fit in with the look of the area.

Ms. Hadley said she appreciates the additional trees being proposed but the buffering won't work for the height of a 3-story building. The apartments with balconies will be close to the property line. A property owner has the right to build whatever she/he wants but the developers bought this property knowing it was zoned R-4. After they purchased it, they're trying to change it and make everyone in the area abide by their changes. That's not fair.

04:45:58 Chair Jarboe addressed the comments regarding no notification for the continuance. There's no notification of a continuance, except on the Planning and Design website. There's no time or requirement to do another notification.

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Rebuttal

04:46:54 Mr. Ashburner said there are 3 interests when it comes to the connection – the client, smaller community (connecting to) and the broader community reflected by Metro Public Works. The initial plan was not to have a connection to Delee Way, then it was to be gated but Metro Public Works wants the connection. Regarding the people to the east, at the very nearest point of the southwest corner of the subject property closest to South Park Dr., one corner of one building is within 50 feet of the property line. As you go farther north into the property, the buildings get farther away from the property line. There will be landscape buffering on the LDG side, a fence and planting on property to the east.

04:50:48 Commissioner Mims said he shares the concerns of Brenda Jackson regarding opening up Delee Way, mainly about how much information they received before getting to this point in the public hearing. Also, is gating the entrance a new concept? Blue Lick should be opened and Delee closed. Ms. St. Germain said this is the first one she's seen. Commissioner Howard said there may not be many in Louisville, but if you travel the U.S., you will find gated apartment complexes.

Deliberation

04:53:30 Commissioner Peterson said he liked the previous plan when Delee was to be gated, but doesn't think there will be a huge traffic pattern to avoid the intersection of South Park and Blue Lick. The rest of the proposal is fine.

04:54:49 Commissioner Seitz said she agrees with Commissioner Peterson. The developers didn't want to open up Delee.

04:55:31 Commissioner Mims agreed. Also, there's a concern about the lack of notice to the homeowners on Delee. There should be access at Blue Lick Rd.

04:56:18 Commissioner Carlson is concerned about the binding element dealing with the operations of gates in emergencies. From a zoning standpoint, this does not comply with the Comprehensive Plan because it doesn't offer any type of housing variety in the district. It also doesn't comply with the Comprehensive Land Use Plan because it's not compatible due to the mass and scale.

04:59:26 Commissioner Howard stated she's in favor of the change in zoning and proposed land use because they're appropriate according to the Comprehensive Plan, especially Plan 2040 when it comes to equitable housing for all people in Metro Louisville.

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Commissioner Howard said she's in favor of the variance and detailed plan as well.

05:01:44 Commissioner Daniels said she agrees with Commissioner Carlson. The access should not be opened up on Delee Way, it would work better on Blue Lick Rd. Also, 24 units to 1 building is too many people in a small area.

05:02:39 Commissioner Lewis stated she likes the plan better without the gate. In terms of connectivity and the alternate plan for connectivity, it's not complete because the streets are private.

Commissioner Lewis said she agrees with the Geotechnical Plan and is certain there are no tunnels under the property that will impact the construction of these units. She supports the plan as proposed.

05:04:33 Chair Jarboe stated, the commissioners have been tasked many times by the Land Development Code, Plan 2040 and the Metro Council to have connectivity. The density is fine because this is an area that doesn't have a lot of new apartments. It's a good development.

Chair Jarboe said he doesn't believe there are any tunnels, but if during construction some are found and the developer goes forward, liability falls on him.

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-4 and OR-1 to R-6 and OR-1

On a motion by Commissioner Howard, seconded by Commissioner Peterson, the following resolution based on the Plan 2040 Staff Analysis, testimony heard today and the Justification Statement was adopted.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the proposed zoning district would allow higher density and intensity uses. The subject site is located adjacent to an existing activity center; the proposed zoning district would provide an appropriate transition between the more intensive zoning districts at the intersection and the less intensive residential districts farther from the intersection. The required buffer yards will be provided; and

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WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would permit new residential buildings; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Community Form because, no wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, the structures that exist on the site are eligible for the National Register of Historic Places and are not proposed to be preserved. These structures are not distinctive cultural features; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the proposed zoning district would allow higher density and intensity uses. The subject site is located adjacent to an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Blue Lick Road and South Park Road. This access is unlikely to create significant nuisances. Additional access from Delee Way is not likely to be heavily utilized; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposed zoning district would increase the mixture of compatible land uses adjacent to an existing activity center; Transportation Planning has approved the proposal; no direct residential access to high-speed roadways is proposed; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the relevant utilities have approved the proposal; Louisville Water Company has approved the proposal; MSD has approved the proposal; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, tree canopy requirements will be met on the site; the site is located on karst terrain. No karst features are evident on the site; the site is not located in the regulatory floodplain; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposed zoning district would permit a variety of housing types on the subject site; the proposed zoning district would

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support ageing in place by increasing the variety of housing options in the neighborhood and providing multi-family development close to an existing activity center; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposed zoning district would permit inter-generational, mixed-income development that is connected to the neighborhood and surrounding area; the subject site is located approximately ½ mile from Preston Highway, a multi-modal transportation corridor; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposed zoning district would encourage the provision of fair and affordable housing by increasing the variety of ownership options throughout Louisville Metro; and the proposed zoning district would allow innovative methods of housing.

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Community Form because, the proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject property is located in the Neighborhood Form District, which the Comprehensive Plan states is a fom1 "characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas. . . . The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities....These types may include, but not be limited to ... high density multi-family housing." Here, the proposal is consistent with the Neighborhood Form district as it proposes a high-density multi-family residential use located along a minor arterial (Blue Lick Road). The proposal is also consistent with the pattern of development, scale, and site design in the area, which features other similar multi-family developments to the west across Blue Lick Road, including Hickory Trace, White Oak Park, and Falcon Crest Apartments (all of which are zoned R-6 or R-7). Single-family residential uses border the property to the north and east. The site has easy access to the interstate system, including 1-65 to the west via South Park Road and 1-265 to the south via Blue Lick Road. The property also has easy access to the commercial corridor along Preston Highway to the west; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Mobility because, the proposal complies with the intent and applicable policies of the Community Form Plan Element. The subject property is located in the Neighborhood Form District, which the Comprehensive Plan states is a fom1 "characterized by predominantly residential uses that vary from low to high density and that blend compatibly into the existing landscape and neighborhood areas. High-

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density uses will be limited in scope to minor or major arterials and to areas that have limited impact on the low to moderate density residential areas. . . . The Neighborhood Form will contain diverse housing types in order to provide housing choice for differing ages, incomes and abilities....These types may include, but not be limited to ... high density multi-family housing." Here, the proposal is consistent with the Neighborhood Form district as it proposes a high-density multi-family residential use located along a minor arterial (Blue Lick Road). The proposal is also consistent with the pattern of development, scale, and site design in the area, which features other similar multi-family developments to the west across Blue Lick Road, including Hickory Trace, White Oak Park, and Falcon Crest Apartments (all of which are zoned R-6 or R-7). Single-family residential uses border the property to the north and east. The site has easy access to the interstate system, including 1-65 to the west via South Park Road and 1-265 to the south via Blue Lick Road. The property also has easy access to the commercial corridor along Preston Highway to the west an undesirable situation for all parties. The proposed development will provide a gated access point on Delee Way that will provide emergency access but will not be open to the free flow of traffic. Plan 2040 provides that new developments should ensure that transportation facilities . . . **are compatible with** and support access to surrounding land uses." (Policy 3.12) (emphasis added). Here, the applicant is proposing a solution that is compatible with the neighborhood to the north as it will keep all traffic from the proposed apartment community internal, while providing emergency access. The proposed development will also provide internal sidewalks throughout the development. Sufficient parking will be provided for residents; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Facilities because, the proposed development complies with the intent and applicable policies of the Community Facilities Plan Element. The subject property is adequately served by all utilities, including water and sewer; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Economic Development because, the proposed development complies with the intent and applicable policies of the Economic Development Plan Element. The proposed use will create 312 housing units on a large undeveloped tract of land near Interstates 65 and 265 that near other multi-family developments. The subject property is also near the commercial corridor along Preston Highway to the east; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Livability because, the proposed development complies with the intent and applicable policies of the Livability Plan Element. The proposed multi-family development has convenient access to the interstate system and is being

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developed near other residential and multi-family residential uses. Residents will have easy access to the commercial node at the intersection of Blue Lick Road and South Park Road, as well as the commercial center along Preston Highway. The proposed development will comply with the tree canopy sections of the LDC. The applicant will provide internal sidewalks; and

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development: Housing because, the proposed development complies with the intent and applicable policies of the Housing Plan Element. The proposed use will create 312 housing units with numerous amenities, for residents, including a clubhouse, pool, playground, and dog park.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4 Single Family Residential and OR-1 Office Residential to R-6 Multi-Family Residential and OR-1 Office Residential on property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Commissioners Daniels, Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NO: Commissioner Carlson

NOT PRESENT AND NOT VOTING: Commissioner Brown

Variance from LDC Table 5.3.1 to allow a building height of 38' to exceed the maximum of 35' (19-VARIANCE-0072)

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

WHEREAS, the requested variance will not adversely affect public health, safety or welfare as the increase in building height will not affect sight lines or provide any other public health, safety or welfare issues; and

WHEREAS, the requested variance will not alter the essential character of the general vicinity as the variance requested is relatively small and unlikely to be apparent to the public; and

WHEREAS, the requested variance will not cause a hazard or nuisance to the public as the increase in height is relatively small and unlikely to be visible to the public; and

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WHEREAS, the requested variance will not allow an unreasonable circumvention of zoning regulations as the requested variance is relatively small and is needed to provide an extra foot of interior height for each floor to provide higher ceilings; and

WHEREAS, the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone because the variance is needed for a design choice on the part of the developer and not due to unique characteristics of the lot; and

WHEREAS, the Louisville Metro Planning Commission finds, the strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the building height is a design choice to improve the look of the interior rooms and the buildings could be shorter with more standard ceiling heights without depriving the applicant of the use of the land or creating an unnecessary hardship; and

WHEREAS, the Louisville Metro Planning Commission further finds the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as no construction has yet taken place and the variance is being sought at this time.

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Variance from LDC Table 5.3.1 to allow a building height of 38' to exceed the maximum of 35' (19-VARIANCE-0072).

The vote was as follows:

YES: Commissioners Howard, Lewis, Mims, Peterson, Seitz and Jarboe

NO: Commissioner Carlson and Daniels

NOT PRESENT AND NOT VOTING: Commissioner Brown

Alternative Plan for Connectivity

On a motion by Commissioner Howard, seconded by Commissioner Lewis, the following resolution based on the revised plan and the testimony heard today was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the Alternative Plan for Connectivity on property described in the attached legal description be **APPROVED**.

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The vote was as follows:

YES: Commissioners Howard, Lewis, Peterson, Seitz and Jarboe

NO: Commissioners Carlson, Daniels and Mims

NOT PRESENT AND NOT VOTING: Commissioner Brown

Detailed District Development Plan and Binding Elements

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

WHEREAS, no steep slopes, water courses, flood plains, soils, air quality, scenic views or historic sites are evident on the subject site. The tree canopy is not proposed to be preserved but tree canopy requirements will be met on the site; and

WHEREAS, Metro Public Works has approved the preliminary development plan. However, provisions for safe and efficient vehicular and pedestrian transportation have not been provided, as there is no public connectivity proposed. Private connectivity is being provided between Delee Way and South Park Road. The applicant has requested an alternative plan for connectivity; and

WHEREAS, sufficient open space as required by the Land Development Code is being provided to meet the needs of the proposed development; and

WHEREAS, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community; and

WHEREAS, the Louisville Metro Planning Commission finds, the overall site design is compatible with the existing and future development of the area. The proposal provides connectivity between Delee Way and South Park Road via private drives; and

WHEREAS, the Louisville Metro Planning Commission further finds the development plan generally conforms to applicable guidelines and policies of the Land Development Code, as the site design provides no public connectivity but does provide connectivity via private drives, and the applicant is requesting an alternative plan for connectivity.

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RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan **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 for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
4. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit) 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 certificate of occupancy. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - d. 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; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - e. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the September 3, 2020 Planning Commission hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.

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5. 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.

6. 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.

The vote was as follows:

YES: Commissioners Howard, Lewis, Peterson, Seitz and Jarboe
NO: Commissioners Carlson, Daniels and Mims
NOT PRESENT AND NOT VOTING: Commissioner Brown

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CASE NO. 19-ZONE-0086

Request: Change in zoning from R-4 to R-6, with Detailed District Development Plan and Binding Elements and associated Variance

Project Name: South Park Road Apartments

Location: 4011 and 4201 South Park Road, 9007 Blue Lick Road

Owner: Joseph and Jacinta Kenny, LDG Development LLC, LDG Land Holdings LLC

Applicant: LDG Development LLC

Representative: Dinsmore & Shohl LLC

Jurisdiction: Louisville Metro

Council District: 24 – Madonna Flood

Case Manager: Dante St. Germain, AICP, Planner II

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:

01:01:06 Ms. St. Germain discussed the case summary, standard of review and staff analysis from the staff report.

01:12:04 Commissioner Peterson asked if the gate accesses are as follows: Delee Way – emergency access only; Narcissus Dr. – fenced off and no access; and South Park – emergency access only. Ms. St. Germain said it's her understanding that all the gates are intended for residents and emergency access.

The following spoke in favor of this request:

Cliff Ashburner, Dinsmore and Shohl, 101 South 5th Street, Louisville, Ky. 40202
Michael Gross, LDG Development, 1469 South 4th Street, Louisville, Ky.
Diane Zimmerman, 12803 High Meadows Pike, Prospect, Ky. 40059

Summary of testimony of those in favor:

01:13:08 Mr. Ashburner gave a power point presentation. It's a gated community but still connected to the roads surrounding it.

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Mr. Ashburner stated, Mr. Davis just sent an email that he received this morning (regarding this case). Information/emails need to be provided sooner to allow the applicant time to review and respond to them. We try to strike a balance between LDG Development's objectives, the requirements of the Comprehensive Plan, Land Development Code and comments from agencies and neighbors.

01:16:47 Mr. Ashburner said there is a commercial node at South Park and Blue Lick and surrounding the commercial node are slightly less intense uses.

The geotechnical specialists hired could not find any tunnels.

There is an access point on South Park (gated entrance) and on Blue Lick with a gate behind the parking area. Both will be for resident and emergency access. The neighbors don't want access through their neighborhood. There will be no access on Narcissus but there will be gated access on Galee.

There will be a turnaround and road improvements as well as some amenity areas outside the apartment building – dog area and trail.

Some existing trees will be preserved on the north side of the property and there will be new plantings to provide additional screening.

There will be windows on the end of the buildings and the balconies in the outdoor areas associated with the dwelling units are along the sides.

The geotechnical specialists have been to the site twice and conducted 2 different boring tests and reported findings. The geotechnical specialist will be on site when construction starts. A traffic study has been performed.

01:35:59 Commissioner Carlson asked if sidewalks will be provided for people to walk to Meijers or the closest largest retail establishment. Mr. Ashburner said there are a number of businesses close to the subject property and they will be accessible by existing sidewalks and sidewalks that connect to the proposed development.

Commissioner Carlson asked if they will provide a left-in and right-in turn signal. Mr. Ashburner said the traffic study makes no recommendation for a turn lane into the subject property.

01:40:13 Commissioner Carlson asked why this part of town is being over-saturated with apartments instead of a more diverse mix. Are more apartments really needed? Mr. Ashburner stated Comprehensive Plan 2040 indicates that multi-family is appropriate throughout the community. Mr. Gross added, this is a substantial investment and the banks will make sure it's supported by demand before lending

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money to build it. Commissioner Carlson stated, there's also a demand for single family housing and that demand is more than the supply, therefore driving the price up for single family housing.

Commissioner Carlson asked if the applicant is willing to decrease the height of the building from 3 to 2-stories. Mr. Gross stated the 3-stories is permitted under the form district and R-6 zoning. The extra height will make the inside of the apartments more attractive. Commissioner Carlson said that's a design choice, not a necessity.

01:49:03 Commissioner Carlson asked about the timing of construction with respect to the Blue Lick Rd. widening. Mr. Ashburner said he believes the Blue Lick Rd. widening will be complete, or close to completion, by the time site work is completed on the subject property. Commissioner Carlson asked if that could be verified with the State Highway Dept. Mr. Ashburner said they have to get through this process first. The slated date was at the end of 2021 for the completion of those improvements. Ms. Zimmerman added, an email from Russell Watley, Utility Relocation Coordinator, stated they should be wrapping up that phase and moving to construction this year and finishing in 2022.

01:50:11 Commissioner Carlson asked about the resolution regarding the gates. Mr. Ashburner stated, we agreed that the gate requirement document you provided to Ms. St. Germain was something LDG Development could comply with. Commissioner Carlson asked if there will be a binding element. Mr. Ashburner stated, if it's a part of the State Fire Code, does it need to be a binding element? Mr. Gross stated, being on the record should suffice.

Commissioner Carlson stated he's still concerned about the caves on the property. Mr. Gross said he doesn't know what else can be done because the geotechnical specialists did not find anything.

Commissioner Carlson asked if construction would begin before completion of the Blue Lick Rd. widening. Mr. Gross said they will start construction prior to the widening, but no units will be occupied until 2022.

02:00:33 Mr. Ashburner stated, the Geotechnical Engineer conducted an electric resistivity study to determine whether there were issues and didn't find the tunnels, which may mean they exist but are so deep that they're not an issue for construction.

The following spoke in opposition to this request:

Carol Hadley, 4207 South Park Road, Louisville, Ky. 40219

Summary of testimony of those in opposition:

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02:06:04 Ms. Hadley lives on the side next to the apartment buildings and requests the buildings be 2-stories instead of 3-stories. The balconies will be facing out and looking onto my property.

Ms. Hadley asked if the gates will be left open for safety purposes.

The applicant is planting trees for screening, but they will not be 3-stories tall.

02:08:42 Ms. Liu said she received a phone call from Councilperson Madonna Flood. She is concerned about the process of this case, mainly not enough time for residents to request a night hearing during COVID-19.

The following spoke neither for nor against the request:

Jason Stanford, 4220 South Park Road, Louisville, Ky. 40219

Summary of testimony of those neither for nor against:

02:02:36 Mr. Stanford provided pictures (Okolona Library) of the caves along South Park Rd. The geotechnical people, Carmen Engineering, Bentley Surveyors and LDG Development were all made aware of the caves.

Mr. Stanford stated that MSD doesn't maintain the fence around the quarry.

02:10:30 Commissioner Peterson asked for the location of the fence that is not being maintained properly. Mr. Stanford said it goes all the way across the property on South Park behind Meijers along the Gene Snyder and behind the boat dealership on Blue Lick back to South Park. Commissioner Peterson asked if the concern is that the people in the neighborhood will be trespassing and there may be a potential for an accident on the quarry property. Mr. Stanford said yes. It's almost daily that people are cutting the wires. The front gate is barely hooked together with a chain and people will want to come and swim because the proposed apartments will not have a pool.

Rebuttal

02:12:41 Mr. Ashburner said there will be a pool. Mr. Stanford or MSD will need to maintain their own fence. Regarding the process, this case was delayed for several months and the neighborhood meeting was well before March. That was ample time to get a petition together to request a night hearing. The property to the east (Ms. Hadley's property) will have adequate screening. LDG Development has agreed to provide an additional 20-30 trees on the Hadley property and a fence. LDG has tried to provide road improvements that will improve life within the neighborhood to the north of

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the subject property that will allow emergency access and allow LDG to produce a nice multi-family community. There was no request from Public Works for a turn lane and no warrant for it in the traffic study. This plan does provide meaningful connectivity without some of the burdens.

02:17:53 Commissioner Carlson asked if there will be a binding element for the gate. Ms. St. Germain read the language for the binding element into the record as follows: The gates at all entrances shall be compliant with all requirements and gate requirements for emergency access to residential areas as included in the case file and as may be amended from time to time by emergency service providers in Louisville Metro. Mr. Ashburner disagrees with the proposed binding element ('from time to time'). It will be almost impossible to keep up with standards changing. The gate requirements as listed are comprehensive. Ms. St. Germain revised the binding element as follows: The gates at all entrances shall be compliant with all requirements and gate requirements for emergency access to residential areas as included in the case file. The applicant and Commissioner Carlson agree to the revised binding element.

02:19:49 Ms. Ferguson, legal counsel, stated there could be a more general binding element stating: The gate access would be approved by the Fire Dept., Police Dept. and EMS. Mr. Gross said he prefers this general binding element. Commissioner Carlson disagrees.

Deliberation

02:22:58 Commissioner Brown stated he can't support the rezoning or development plan because it lacks connectivity.

02:24:43 Commissioner Howard stated she's not a fire or transportation expert but can speak on land use and looking out for the general welfare of all citizens in a community. The Comprehensive Plan calls for more diverse and affordable housing. Express buses function best when there are at least 4,500 people within walking distance to a transit access point. Lastly, the proposed apartments are near the interstate and this type of housing should be encouraged. The site is appropriate. An area of right-of-way, on South Park Rd., to be dedicated was not discussed.

02:28:46 Commissioner Peterson stated he likes the plan and is not concerned about connectivity.

02:31:33 Commissioner Daniels stated connectivity is important to bring neighborhoods together. Connectivity also provides walkability. The sidewalks should be extended.

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02:32:25 Commissioner Seitz stated there are people that can't afford single family housing. The proposal is appropriate for this site.

02:33:29 Commissioner Carlson stated the proposal is out of character with the neighborhood due to mass and scale. Also, we're missing a connectivity opportunity. It's very hard for a fire truck to maneuver South Park Rd. and it needs to be widened. It may not be warranted, but is needed. This project does not allow for any type of diversity in housing beyond that which is already there. It would be nice if the applicant made an agreement that construction wouldn't start until Blue Lick is widened.

02:39:49 Acting Chair Lewis stated there is R-6 and R-7 in the area. Also, it's not fair to hold up the plans of the developer because MSD is not maintaining their fence. Regarding the issue of needing more apartments or not, if it's not needed, they wouldn't be investing all the money to build it. A connection from Deelee Way is needed.

02:42:20 Mr. Ashburner asked Acting Chair Lewis to come out of deliberations to further address the commission. Acting Chair Lewis agreed. Mr. Ashburner stated, there seems to be a consensus on the zoning but less consensus about the design. Mr. Ashburner stated he would like to think about some of the comments and bring this case back in 2 -4 weeks with an alternate plan.

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.

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the August 6, 2020 Planning Commission public hearing to allow the applicant an opportunity to present an alternate plan for connectivity and allow opposition and others a chance to speak as well. Motion died for lack of a second.

02:47:54 Ms. Williams said the August 6, 2020 Planning Commission meeting is only 1 week away and would not allow time for staff to review a new plan. The next available date is August 20, 2020, which is already full.

02:50:30 Ms. Williams said September 3, 2020 would be the next available meeting date. Also, it should not be to discuss 1 or 2 issues because changing the plan may result in issues that will need to be discussed. We would want to respond to all the concerns.

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02:51:33 Mr. Reverman stated it needs to be verified with the applicant that they do want a continuance and if there will be changes made to the plan. Mr. Ashburner said he would like a continuance for September 3, 2020.

02:55:37

On a motion by Commissioner Howard, seconded by Commissioner Seitz, the following resolution was adopted.

RESOLVED, that the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the September 3, 2020 Planning Commission public hearing to allow the applicant time to address issues and/or change the plan.

The vote was as follows:

YES: Commissioners Brown, Carlson, Howard, Peterson, Seitz and Lewis

NOT PRESENT AND NOT VOTING: Commissioners Mims and Jarboe

AUDIO ISSUES: Commissioner Daniels