

LOUISVILLE METRO PLANNING COMMISSION MEETING MINUTES
CASE NUMBER 17ZONE1069 ONLY
MARCH 29, 2018

A meeting of the Louisville Metro Planning Commission was held on March 29, 2018 at 1:00 p.m. at the Old Jail Building, located at 514 W. Liberty Street, Louisville, KY 40202.

Commissioners present:

Vince Jarboe, Chair
Jeff Brown
Rich Carlson
Laura Ferguson
Lula Howard
David Tomes

Commissioners absent:

Ramona Lindsey
Marilyn Lewis, Vice Chair
Emma Smith
Robert Peterson

Staff members present:

Joe Reverman, Assistant Director, Planning & Design Services
Brian Davis, Planning & Design Manager
Julia Williams, Planning & Design Supervisor
Laura Mattingly, Planner II
Joel Dock, Planner II
Beth Stuber, Transportation Planning
Tony Kelly, MSD
Paul Whitty, Legal Counsel
Travis Fiechter, Legal Counsel
Kristen Padron, Management Assistant

The following matters were considered:

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1069

Request:	R-6 to R-7
Project Name:	Park Lake Apartments
Location:	7100 Leisure Lane
Owner:	Dennis Anderson, Park Lake Apartments, LLC
Applicant:	Park Lake Apartments, LLC
Representative:	Cliff Ashburner, Dinsmore & Shohl, LLP
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Laura Mattingly, 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. (The staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

Agency Testimony:

02:20:10 Laura Mattingly discussed the case summary, standard of review and staff analysis from the staff report.

The following spoke in favor of this request:

Clifford Ashburner, 101 S 5th Street, Suite 2500, Louisville, KY 40202

Summary of testimony of those in favor:

02:26:43 Clifford Ashburner summarized the applicant's proposal and showed a presentation. He has been working with MSD to come to an agreement so that MSD can be relieved of their maintenance responsibility for the existing pump station on the site. MSD proposed a solution just this morning, but his client has not had sufficient time to review the proposal. Mr. Ashburner feels that binding element 4.a. is sufficient to provide MSD the ability to withhold construction approval if necessary while they come to a solution. He responded to questions from the Commissioners.

02:45:00 Tony Kelly with MSD pointed out which buildings are serviced by the gravity system and which are serviced by the pump station. Mr. Kelly stated MSD proposed new language for binding element 4.a. to the applicant this morning, but they were uncomfortable with using that until they evaluate the maintenance cost and responsibility. County Attorney Paul Whitty stated that MSD already has ultimate authority to deny full construction approval until they are satisfied.

The following spoke in opposition to this request:

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1069

No one spoke.

Deliberation:

02:56:57 The Commissioners concur that the proposal is justified and that the binding elements are adequate.

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.

Change in Zoning

03:02:06 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on the Cornerstone 2020 Checklist, the applicant's justification, and testimony heard today, was adopted:

WHEREAS, the Louisville Metro Planning Commission finds that the proposal meets the Community Form guideline because the proposal is located in an area dominated by single family residences and will be offering more diverse housing options with additional multi-family. The development is located on a local road but is bounded by two streets and McNeely Lake Park, making impacts on the surrounding neighborhoods minimal. The Park Lake Apartments have existed for some time and the additional apartments will be similar in design and massing to the existing apartments. This is a compact apartment development with no new streets being created, and

WHEREAS, the Commission further finds that the proposal meets the Centers guideline because the proposal displays efficient use of land with a compact layout of buildings. This proposal is located adjacent to a park and a school. This development is located within an existing residential neighborhood. This proposal has one access point for this development only, but a shared access in this location is not appropriate, due to the property being bounded by existing roadways and then single family to the south. The parking is located in the most appropriate areas of the site, and sidewalks are existing. Pedestrian connections have been made where appropriate, and

WHEREAS, the Commission further finds that the proposal meets the Compatibility guideline because the scale of the proposed buildings is similar to those that are existing. The 4 story portions are set back away from the roadway where they will have the least impact on the pattern of development. The building design is compatible with existing buildings on site as well as surrounding single family homes. As this development is existing, it is not introducing a new type of density although the density is being increased. New construction is not directly adjacent to any single family residence and the four story portions of the proposed buildings face the lake, away from surrounding development. The proposal meets parking requirements and has met all transportation requirements. All lighting will face downward and will not shine into any adjoining properties. The proposal adds diversity in housing choices to the area by

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1069

proposing multi-family in an area that offers predominantly single family homes. The proposal is higher density and is not near an activity center or on an arterial. Conversely, this is an existing development and is located near natural amenities. The proposal is not near a transit route but has met ADA requirements and has pedestrian access to McNeely Lake Park. The proposal is appropriate and inclusive in that it offers a different housing choice for those that may not be able to afford or prefer single family homes. Buffers and setbacks are in compliance with LDC standards. All setbacks and building heights appear to be within LDC standards and are compatible with surrounding development, and

WHEREAS, the Commission further finds that the proposal meets the Open Space guideline because the applicant has provided double the required open space. The design respects the protected waterway buffer and meets tree canopy requirements, and

WHEREAS, the Commission further finds that the proposal meets the Natural Areas and Scenic and Historic Resources guideline because the design respects the protected waterway buffer and meets tree canopy requirements. The applicant has changed the location of one of the proposed buildings in order to not disturb an area with archeological deposits and a portion of a cave system. LOJIC did not identify any wetlands on site, and

WHEREAS, the Commission further finds that the proposal meets the Circulation guideline because Transportation requirements have been met. The proposal has adequate access and is not required to connect to any other abutting use due to the lower intensity of uses surrounding the development. No dedication of right of way is required, and

WHEREAS, the Commission further finds that the proposal meets the Transportation Facility Design guideline because this site is existing and will continue to gain access from a local road. Impacts on the surrounding single family areas appear to be negligible. By connecting to the existing street network, the appropriate linkages are made, and

WHEREAS, the Commission further finds that the proposal meets the Bicycle, Pedestrian and Transit guideline because sidewalks are provided and the site has a direct pedestrian connection to McNeely Lake Park and the future Louisville Loop directly adjacent to this site, and

WHEREAS, the Commission further finds that the proposal meets the Landscape Character guideline because the development is preserving the natural corridor that exists along McNeely Lake by not intruding into the waterway buffer, and

WHEREAS, the Commission further finds that the proposal meets the Infrastructure guideline because there are existing utility, public water, and MSD connections on site, and

WHEREAS, the Commission further finds that the subject property is located in the Neighborhood Form District adjacent to McNeely Lake and McNeely Lake Park. The property is bordered on the south and east by single-family residential development and on the north by a Jefferson County Public School. Although multi-family is generally encouraged to be closer to arterial roadways, Park Lake has been at this location for several decades, and the Applicant is

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1069

merely trying to redevelop portions of it. Therefore, the proposed redevelopment complies with the intent of Guideline I-Community Form, and

WHEREAS, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guideline 3-Compatibility. The proposed redevelopment involves additional buildings within the subject property and additional parking. The proposed redevelopment also includes the relocation of Park Lake's trash compactor to a more central location within the community, reducing noise and odor issues to the extent they exist. The addition of parking on the subject property should address street parking issues in the adjacent neighborhood by making parking more convenient for residents. The addition of new units in the apartment community should provide additional housing opportunities for those in the area, as the community is currently 100% occupied. The proposed redevelopment will allow for an increased variety of housing by providing new units in the existing apartment community and adjacent to McNeely Lake. The proposed redevelopment also matches existing buffers along its perimeter, and

WHEREAS, the Commission further finds that the proposed redevelopment complies with the intent and applicable Policies of Guidelines 4-Open Space and 5-Natural Areas and Scenic and Historic Resources. The proposed redevelopment will observe buffers and setbacks along McNeely Lake and will maintain the existing path along the lake shore. The proposed redevelopment also contains the required amount of open space and is adjacent to McNeely Lake Park, another significant recreational area, even absent the lake itself, and

WHEREAS, the Commission further finds that the proposed redevelopment complies with the intent and applicable policies of Guideline 7-Circulation. The proposed redevelopment is contained within the existing development site and does not involve the extension of any roads. The proposed redevelopment will increase the amount of off-street parking available to the apartment community up to the level required by the LDC. The Applicant will also provide access across its lake frontage for the existing pedestrian path surrounding McNeely Lake, and

WHEREAS, the Commission further finds that the proposed redevelopment complies with the intent and applicable policies of Guideline 9-Bicycle Pedestrian and Transit. The subject property was developed as apartments several decades ago and is located adjacent to McNeely Lake Park, providing pedestrian and bicycling opportunities for residents. Although the subject property is not located near transit, adding units should not be prevented by a lack of transit opportunities, and

WHEREAS, the Commission further finds that the proposed redevelopment complies with the intent of and applicable policies of Guidelines 10 and 11. The proposed redevelopment will follow all MSD regulations regarding stormwater runoff both during and after construction. The proposed redevelopment is observing all required buffers from McNeely Lake and will incorporate water quality control measures as required by MSD, and

WHEREAS, the Commission further finds that the proposed redevelopment complies with the intent and applicable policies of Guideline 13-Landscape Character. The proposed

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1069

redevelopment will comply with tree canopy requirements of the LDC and will provide landscaping where required by the LDC; now, therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-6, Multi-Family Residential to R-7, Multi-Family Residential on 10.83 acres of property described in the attached legal description be **APPROVED**.

The vote was as follows:

YES: Brown, Howard, Tones, Carlson, Jarboe, and Ferguson

NOT PRESENT: Lindsey, Peterson, Smith, and Lewis

Detailed District Development Plan

03:03:04 On a motion by Commissioner Carlson, seconded by Commissioner Howard, the following resolution, based on testimony heard today, was adopted:

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 Develop Louisville, 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.

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1069

Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter. Applicant shall also provide an alternative design for the Leisure Lane parking addition to encourage the preservation of the existing trees along the southern side of Leisure Lane, if feasible.

- 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.
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. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system permitted on the site.
7. 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.
8. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the March 29, 2018 Planning Commission meeting.
9. No land disturbance will occur on the southeast portion of the site where the Kentucky Heritage Council has identified Durrett's Cave and associated archeological deposits in the area labeled "karst area."
10. The applicant, developer, or property owner will work with the Louisville Metro Government to allow a portion of the Louisville Loop to cross the property along the banks of McNeely Lake. This area will be recorded as an easement or transferred as a fee simple property at the applicant, developer, or owner's expense within 60 day requests of Metro Government on a mutually agreed upon legal description provided by Metro Government.
11. Applicant will install additional fire hydrants as requested by the fire department, not to exceed the number and spacing of hydrants required by the fire hydrant ordinance. Construction features will be added to prevent vehicles from blocking access to fire hydrants.
12. Sidewalk connection to the existing sidewalk to the south shall be provided prior to the issuance of the first Certificate of Occupancy.

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

PUBLIC HEARING

CASE NUMBER 17ZONE1069

The vote was as follows:

YES: Brown, Howard, Tones, Carlson, Jarboe, and Ferguson

NOT PRESENT: Lindsey, Peterson, Smith, and Lewis

**PLANNING COMMISSION MINUTES
MARCH 29, 2018**

ADJOURNMENT

Chairman

Division Director