

# Board of Zoning Adjustment

## Staff Report

June 17, 2019



<b>Case No:</b>	19VARIANCE1045
<b>Project Name:</b>	McDeane Rd Apartments
<b>Location:</b>	5618 McDeane Rd
<b>Owner(s):</b>	R. Weston Marcum, McDeane Properties LLC
<b>Applicant:</b>	Gabe Fritz, McDeane Rd LLC by Winterwood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	12 – Rick Blackwell
<b>Case Manager:</b>	Lacey Gabbard, AICP, Planner I

### **REQUEST**

- **Variance** of Land Development Code Section 4.8.5 to allow a proposed drive lane and a portion of Building 5 to encroach into the 25 foot Wetland Buffer

### **CASE SUMMARY/BACKGROUND**

The subject site is in the Neighborhood form district and is zoned primarily R-5A Residential Multi-Family with a small R-5 Residential Single Family zoned portion between the entrances on McDeane Road and Bruns Drive at the north end of the property. The entire site is in the Neighborhood form district. It is located on the east side of the Illinois Central Railroad, at the terminus of Brick Kiln Lane. The site is currently undeveloped. The applicant is proposing to construct 198 apartments and 5 single-family lots on approximately 31 acres.

Two associated cases, 19DEVPLAN1059 and 19SUBDIV1005, were heard by the Land Development & Transportation Committee on 6/13/19. The Board of Zoning Adjustment does not act on this case.

### **STAFF FINDINGS**

Staff finds that the requested variance is adequately justified and meets the standard of review. The applicant is preserving most of the wetland buffer and the plan only proposes to encroach into a relatively small portion. However, staff recommends that the Board of Zoning Adjustment discuss potential mitigation measures that may be applied in order to compensate for the encroachment.

### **TECHNICAL REVIEW**

There are no outstanding technical review issues. MSD and Public Works have provided their preliminary approval of the proposed development plan and subdivision plan.

### **INTERESTED PARTY COMMENTS**

Staff has received emails of opposition from neighbors, as well as a letter from Councilman Blackwell. These are included in the case file.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE SECTION 4.8.5 TO ALLOW A PROPOSED DRIVE LANE AND PORTION OF BUILDING 5 TO ENCROACH INTO THE 25 FOOT WETLAND BUFFER**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect the public health, safety or welfare since the majority of the ponds and wetland will be undisturbed and the applicant is only proposing to encroach into a relatively small portion.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity since the applicant is proposing to preserve the majority of the pond and wetlands, which is the primary natural feature of the site and is proposed to be a central feature of the redeveloped site.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public since the pond is existing, and the applicant is proposing to preserve the majority of the wetland buffer. The variance is requesting to allow a proposed parking area/drive lane and a small portion of Building 5 to encroach into the wetland buffer. The drive lane and building do not appear to pose a hazard or nuisance.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations since the applicant is proposing to preserve the pond, the encroachment is minimal, and will allow residents to park and maneuver vehicles in the proposed the development.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The pond and wetlands are unique features. Additionally, steep slopes on the subject site present additional environmental constraints that restrict the layout of the site.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the regulation would deprive the applicant of reasonable use of the land or create an unnecessary hardship on the applicant since the pond, wetlands, and steep slopes present unique environmental features and irregular shapes that require a custom site design.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of action of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought, since the pond and wetlands are existing on site.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Variance**

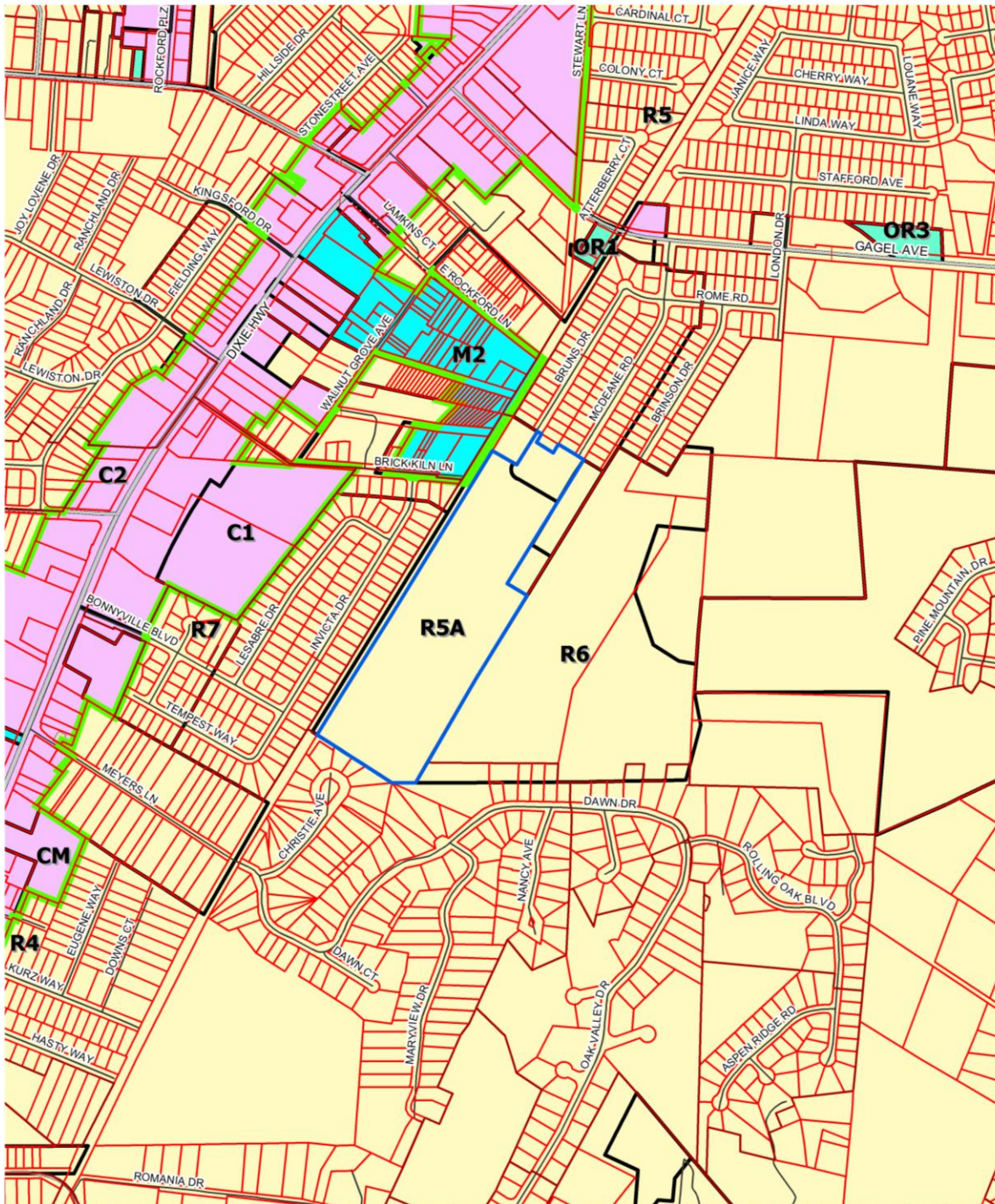
**NOTIFICATION**

Date	Purpose of Notice	Recipients
6-17-2019	Hearing before DRC	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 12

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan

1. **Zoning Map**



5618 McDEANE ROAD

feet

800

Map Created: 6/6/2019



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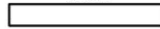


## 2. Aerial Photograph



5618 McDEANE ROAD

feet



800

Map Created: 6/6/2019



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### 3. Site Plan

