

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO PLANNING COMMISSION
January 17, 2023**

A special meeting of the Louisville Metro Planning Commission was held on January 17 2023 at 6:30 p.m. at Central Government Center, 7201 Outer Loop, Louisville, Kentucky.

Commission members present:

Marilyn Lewis, Chair
Jeff Brown
Rich Carlson
Suzanne Cheek
Te'Andre Sistrunk
Jim Mims

Commission members absent:

Michelle Pennix
Patti Clare
Lula Howard
Bill Fischer

Staff Members present:

Emily Liu, Director
Brian Davis, Assistant Director
Julia Williams, Planning Manager
Beth Stuber, Planning Supervisor
Dante St. Germain, Planner II
Laura Ferguson, Assistant County Attorney

Others Present:

The following matters were considered:

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

Request: Change in Zoning from R-4 to R-7, Waivers, Alternative Plan for Connectivity, and Detailed District Development Plan with Binding Elements

Project Name: 4700 S Hurstbourne Parkway Apartments

Location: 4700 S Hurstbourne Parkway, Parcel ID 004405130000, 004404680000

Owner: 4700 S Hurstbourne Parkway LLC

Applicant: 4700 S Hurstbourne Parkway LLC

Representative: Bardenwerper, Talbott & Roberts, Mindel Scott

Jurisdiction: Louisville Metro

Council District: 26 – Brent Ackerson

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.)

This case was heard at the same time at 22-ZONE-0076.

Agency Testimony:

00:06:33 Dante St. Germain discussed the case summary, standard of review and staff analysis from the staff reports (see video of PowerPoint presentation). St. Germain stated the applicant has updated the plan for 22-ZONE-0076 by showing the access road between Bardstown Road and Hurstbourne Lane as a public right-of-way. The applicant took the request to the December 8, 2022 Land Development & Transportation Committee meeting after the previous Planning Commission hearing.

The following spoke in favor of this request:

Nick Pregliasco, Bardenwerper Talbott & Roberts, 1000 N. Hurstbourne Parkway, 2nd Floor, Louisville, KY 40223

Kent Gootee, 5151 Jefferson Boulevard, Louisville, KY 40219

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

Summary of testimony of those in favor:

00:14:00 Nick Pregliasco spoke in support of the applications and presented a PowerPoint presentation (see video). Pregliasco said the northern portion was initially submitted as an individual application. The southern portion was added after the applicant was able to purchase the additional properties, which allowed the development to connect to multiple roads and provide the access that was needed. The updated plan does include the public roadway connecting Bardstown Road and Hurstbourne Parkway. Pregliasco estimates the public road will cost at least \$1 million to construct.

There are some other slight changes that result from the public roadway. First, a stub to the neighboring property was eliminated because that property adjoins the right-of-way now. Second, the dumpster/trash compactor in this area was relocated. Seventeen parking spaces that were along the private roadway were removed. Finally, the entrance off Hurstbourne Parkway was slightly reconfigured as well to meet the standards for a public roadway.

00:28:10 Pregliasco presented some additional binding elements that the applicant is willing to agree to as part of the proposed development.

00:33:24 The Planning Commission asked questions of the applicant.

00:33:53 Commissioner Mims asked for a surety that the roadway would be constructed and recorded. Pregliasco stated that each development would be restricted to no more than 199 total units until the roadway was constructed, so it would have to be constructed to fully develop the site.

00:35:21 Commissioner Carlson asked for clarification about the unit restriction connected to the construction of the roadway. Pregliasco said they would look at the language of the binding element.

00:38:30 Commissioner Sistrunk asked for clarification about the gated connection to Laurel Springs Drive. Pregliasco explained that the connection would only be used by emergency vehicles.

00:42:38 Kent Gootee spoke in support of the application. Gootee answered a question regarding the construction schedule of the site, which he anticipates would go from east to west on the site. Commissioner Mims asked if the roadway would be built concurrently with the apartment construction. Gootee said the road would be built with the development. Pregliasco said for the northern of the two projects, that would be

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

limited to 199 units until the full roadway between Bardstown Road and Hurstbourne Parkway is constructed. Commissioner Carlson is having trouble with the distribution of units before and after the construction of the public roadway.

The following spoke in opposition to this request:

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Bob Gunter, 4903 Walnut Hills Drive, Louisville, KY 40299

Madison Hicks, 4905 Walnut Hills Drive, Louisville, KY 40299

Summary of testimony of those in opposition:

00:50:40 Steve Porter spoke in opposition to the request. Porter stated the residents do not oppose apartments, but they do oppose the proposed density and height of some of the buildings. Porter agrees with the proposed lighting binding element. Porter said the plan still shows a sidewalk going over to Laurel Spring Drive, which he and his clients do not feel is needed or warranted. Porter and his clients believe elevations should come back before the Development Review Committee, not just to staff, so the public has an opportunity to review and comment on them.

Porter had some comments about the binding elements regarding the number of units. He thinks the binding element for the northern development should not reference Laurel Spring Drive at all. Porter would rather the binding element restrict issuance of certificates of occupancy prior to construction of the road to make sure it is constructed.

00:59:30 Bob Gunter spoke in opposition to the request. Gunter asked about a traffic study for the southern property. Gunter believes the buffering is not adequate and would like to have some transition to his and his neighbors' properties. Gunter said the road appears to be needed to connect the apartments to any future commercial development on the southern site.

The proposed development is taking away all the natural resources on the site and he would like the applicant to scale back the development to preserve some of what is on the site.

Gunter believes the public road is going to funnel traffic to Bardstown Road and Hurstbourne Parkway and he believes this will lead to an increase in the number of accidents at those locations.

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

Gunter is concerned about pollution caused by the additional traffic that will be associated with this development. This will have a negative impact on the properties that abut these intersections.

01:12:00 Madison Hicks spoke in opposition to the request. She is concerned about the additional traffic and congestion that could be brought on by the proposed development, as well as the pollution associated with that. Hicks stated there are no sidewalks, bike accommodations, or public transportation options to meet the mobility goals in Plan 2040. Hicks believes the road and development will destroy the final remaining green space along Hurstbourne Parkway. Air quality will be impacted by the additional traffic as well as the destruction of so many trees on the site.

01:19:51 Commissioner Sistrunk asked for confirmation about the sidewalk to Laurel Springs Drive.

Commissioner Mims said Laurel Springs Drive could be a pedestrian connection from the development to Watterson Trail and asked if that would be a problem. Porter said this could potentially disrupt the area if people ride bikes and motorized scooters through the area.

Commissioner Sistrunk asked for clarification about the proposed gate at Laurel Springs Drive.

Rebuttal

01:25:01 Nick Pregliasco provided rebuttal to the opposition. Pregliasco stated the traffic study that was submitted to the file was for both developments combined. Pregliasco said the applicant would come back in the future with a commercial development for the portion of the development along Bardstown Road. Pregliasco said sidewalks would only be provided internally and along both frontages. The applicant did not eliminate the connection to Laurel Springs Drive because Laurel Springs Drive is a public road, they did not want to add a waiver, and the applicant felt staff would not support such a request.

The purpose of the internal roadway is twofold: for a public safety reason and to address the traffic impact that either/both developments could have on the intersection of Bardstown Road and Hurstbourne Parkway. Pregliasco asked to reword the binding element for both cases to say the combined total number of units will be limited to 199 units until the roadway is dedicated to public use.

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

Pregliasco believes the proposal provides adequate buffers to the adjoining properties. The proposal is on major arterials near shopping and employment and is an appropriate location for a housing development of this size.

01:34:01 Commissioner Cheek asked if Laurel Springs Drive was public or private. Pregliasco stated it is a publicly dedicated roadway.

Pregliasco stated the applicant is agreeable to have the elevations come back to the Development Review Committee.

Commissioner Carlson asked Nick Pregliasco if the new street would meet the definition of a complete street. Kent Gootee said the street would have 24 feet of pavement, sidewalks and street trees, but there isn't a bike lane. In response to another question from Commissioner Carlson, Gootee said there is a sidewalk going from Laurel Springs Drive through the development to Bardstown Road.

Commissioner Mims said he is comfortable with the binding element language regarding the 199-unit limit that Nick Pregliasco proposed. Commissioner Carlson asked to add that any amendment to this binding element should have to come to the Planning Commission for consideration.

Deliberation

01:46:30 Planning Commission deliberation. Commissioner Mims believes the level of mitigation associated with the public roadway is good for the community. Commissioner Brown said there are mechanisms to make improvements to the actual Bardstown/Hurstbourne intersection that he believes could be implemented in the future. Brown also stated the pedestrian connection to Laurel Springs Drive is necessary. Commissioner Cheek stated the overall connection is important to this development.

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 FROM R-4 TO R-7

01:51:50 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

WHEREAS, the Planning Commission finds that the proposal meets Community Form Goal 1 because the proposal is for higher density or intensity zoning, the site is located on S Hurstbourne Parkway and near activity centers at Watterson Trail and Bardstown Road, and appropriate transitions will be provided,

WHEREAS, the Commission also finds the proposal meets Community Form Goal 2 because the proposal would permit new development providing residential uses,

WHEREAS, the Commission also finds the proposal meets Community Form Goal 3 because no wet or highly permeable soils are evident on the site. A geotechnical engineering consultant will need to provide guidance on safe development on the site,

WHEREAS, the Commissioner also finds the proposal meets Community Form Goal 4 because no distinctive cultural features or historic assets are evident on the site,

WHEREAS, the Commissioner also finds the proposal meets Mobility Goal 1 because an existing marketplace corridor is located nearby at the intersection with Watterson Trail,

WHEREAS, the Commissioner also finds the proposal meets Mobility Goal 2 because access to the site is via S Hurstbourne Parkway, a major arterial at this location,

WHEREAS, the Commissioner also finds the proposal meets Mobility Goal 3 because the site is easily accessible by car and bicycle. Access via transit and by and pedestrians and people with disabilities will be improved by the development. There is no direct access to high-speed roadways proposed, and Transportation Planning has approved the proposal,

WHEREAS, the Commissioner also finds the proposal meets Community Facilities Goal 2 because the relevant utilities, as well as Louisville Water Company and Louisville Metropolitan Sewer District, have approved the proposal,

WHEREAS, the Commissioner also finds the proposal meets Livability Goal 1 because Tree preservation will be provided on the site and required tree canopy will be provided. The services of a qualified geotechnical engineering consultant will be required during construction to mitigate sinkholes. The sinkhole collapse feature located on the site will be avoided. The site is not located in the regulatory floodplain,

WHEREAS, the Commissioner also finds the proposal meets Housing Goal 1 because the proposed zoning district would increase the variety of housing types in the neighborhood and support aging in place by increasing the variety of housing in the neighborhood,

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

WHEREAS, the Commissioner also finds the proposal meets Housing Goal 2 because the proposed zoning district would permit inter-generational mixed-income development that is connected to the neighborhood and the surrounding area. The site is located in proximity to an activity center at the intersection of S Hurstbourne Parkway and Watterson Trail, and another is located at the intersection of S Hurstbourne Parkway and Bardstown Road, and

WHEREAS, the Commissioner also finds the proposal meets Housing Goal 3 because The proposal would increase the provision of fair and affordable housing by increasing the variety of ownership options and unit costs in Louisville Metro. No existing residents will be displaced by the proposal. The proposed zoning district would permit the use of innovative methods of housing; now therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** the Louisville Metro Council **APPROVE** the change in zoning from R-4 to R-7.

The vote was as follows:

YES: Commissioners Brown, Mims, Cheek, Sistrunk, Carlson and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

WAIVERS

01:53:45 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners as the setback to be encroached is the one along S Hurstbourne Parkway. The encroachment proposed is minimal,

WHEREAS, the Commission also finds the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages the development, preservation and maintenance of an interconnected system of scenic corridors and parkways. It encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. The applicant proposes enhanced landscaping and preservation of existing tree canopy to mitigate the encroachment, which is relatively minor,

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

WHEREAS, the Commission also finds the extent of the waiver is the minimum necessary to afford relief to the applicant as moving the buildings out of the parkway setback would move the development closer to the residences at the rear of the property,

WHEREAS, the Commission also finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as the applicant has proposed enhanced landscaping and tree preservation at the location of the encroachment in order to mitigate it,

WHEREAS, the Commission also finds the waiver will not adversely affect adjacent property owners as the setback to be encroached is the one along S Hurstbourne Parkway,

WHEREAS, the Commission also finds the waiver not will violate specific guidelines of Plan 2040 as Plan 2040 encourages the development, preservation and maintenance of an interconnected system of scenic corridors and parkways. It encourages the preservation of important cultural resources, landscapes and scenic vistas in the design, maintenance and development of major thoroughfares and parkways. The applicant proposes enhanced landscaping to mitigate the encroachment. The encroachment of impervious surface into the parkway buffer will not be readily visible with the enhanced landscaping,

WHEREAS, the Commission also finds extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as moving the drive aisle out of the parkway setback would move the development closer to the residences across Laurel Spring Drive, and

WHEREAS, the Commission also finds the applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived as the applicant has proposed enhanced landscaping at the location of the encroachment in order to mitigate it; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE Waiver #1** from Land Development Code Section 10.2.5.A to permit a structure to encroach into the required parkway building setback (22-WAIVER-0150) and **Waiver #2** from Land Development Code Section 10.3.5.A to permit Vehicle Use Area to encroach into the required parkway buffer (22-WAIVER-0150).

The vote was as follows:

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

YES: Commissioners Brown, Mims, Cheek, Sistrunk, Carlson and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

ALTERNATIVE PLAN FOR CONNECTIVITY

01:54:37 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** the Louisville Metro Council **APPROVE** the proposed Alternative Plan for Connectivity.

The vote was as follows:

YES: Commissioners Brown, Mims, Cheek, Carlson, Sistrunk, and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

DETAILED DISTRICT DEVELOPMENT PLAN

01:55:16 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

WHEREAS, the Planning Commission finds some tree canopy is proposed to be preserved. The sinkhole collapse feature on the site is proposed to be preserved. The structure on the site is not proposed to be preserved. Required tree canopy will be provided,

WHEREAS, the Commission also finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan,

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

WHEREAS, the Commission also finds required open space and recreational open space are being provided to meet the needs of the proposed development,

WHEREAS, the Commission also finds 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,

WHEREAS, the Commission also finds the overall site design and land uses are compatible with the existing and future development of the area. The proposal would provide an appropriate transition between S Hurstbourne Parkway, a major arterial road, and the lower-intensity residential uses to the west, and

WHEREAS, the Commission also finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, with the exception of the requested waivers; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with 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 for review and approval; any changes/additions/alterations not so referred shall not be valid. The Planning Commission shall be the only body which can review and approve any changes to the binding elements.
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:

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the S Hurstbourne Parkway right-of-way.
 - c. 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. Such plan shall include, at a minimum, the screening plan for the parkway buffer and building setback encroachments as shown at the November 14, 2022 Planning Commission hearing and located in the case file as Exhibit A.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject site and the site to the south and recorded. 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.
 - f. The materials and design of proposed structures shall be reviewed and approved by the Planning Commission or a committee thereof.
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.
 7. A qualified geotechnical consultant's services be retained during construction to call if/when sinkholes are encountered. Care shall be taken during earthwork to

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

investigate and properly remediate potential sinkholes, per the geotechnical engineer's recommendations.

8. Development shall be limited to 199 units until such time as an ungated connection to Bardstown Road through the site at 4900 S Hurstbourne Parkway, is provided. The 199-unit limit shall be shared between the properties described under 22-ZONE-0012 and 22-ZONE-0076.
9. Applicant shall install a 3 ft hedge at end of drive aisle/parking lot at the southwest corner of the development as shown at the January 17, 2023 Planning Commission Public Hearing.
10. Applicant shall construct a 3 ft berm with 6 ft privacy fence along the west property line and Laurel Springs Drive property line, as shown on the January 17, 2023 Planning Commission Public Hearing. Developer/property owner shall maintain the fence in good repair, with any necessary repair or maintenance performed within 30 days of notice that repair or maintenance is needed. The privacy fencing shall be vinyl or wood with a finished side facing out.
11. All property owners within 500 ft of a proposed blasting location shall be notified 30-days before any blasting operation occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided with copies of all materials resulting from that survey, including any photos and/or videos. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
12. Applicant shall preserve the existing fencing and vegetation on Laurel Spring Dr. as shown at the January 17, 2023 Planning Commission Public Hearing.
13. The proposed connection to Laurel Springs Drive shall have an emergency access gate for emergency services and shall not be for resident access. Laurel Springs Drive access shall not be used as a construction entrance. Emergency access shall be coordinated with all responsible emergency service providers and approved by the responsible providers.
14. Lighting:
 - a. All exterior lighting, whether freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground.
 - b. No lighting shall have a correlated color temperature (CCT) exceeding 2700 degrees Kelvin.

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0012

- c. No parking lot light fixtures shall be more than fourteen feet high, measured from ground level.

The vote was as follows:

YES: Commissioners Brown, Mims, Cheek, Sistrunk, Carlson and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

Request: Change in Zoning from R-4 & C-2 to R-6, C-1 and C-2,
Waivers, Variance, and General Plan with Binding Elements
Project Name: 4900 S Hurstbourne Parkway Apartments
Location: 4900 S Hurstbourne Parkway, 5119 & 5201 Bardstown
Road, Parcel ID 005002700000, 0050027100000
Owner: 4700 S Hurstbourne Parkway LLC, Southeast Storage LLC,
Roman Catholic Bishop of Louisville
Applicant: 4700 S Hurstbourne Parkway LLC
Representative: Bardenwerper, Talbott & Roberts, Mindel Scott
Jurisdiction: Louisville Metro
Council District: 26 – Brent Ackerson
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.)

This case was heard at the same time at 22-ZONE-0012.

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.

01:46:30 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.

CHANGE IN ZONING FROM R-4 & C-2 to R-6, C-1 and C-2

01:58:57 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

WHEREAS, the Planning Commission finds that the proposal meets Community Form Goal 1 because the commercial zoning district proposed for this site is located along Bardstown Road, a commercial corridor. Multi-family zoning is proposed at the north of the site. The higher intensity proposed commercial zoning district is located along Bardstown Road, a transit corridor. The proposed zoning districts would not permit hazardous uses. Uses with air, noise and light emissions must comply with LMCO and LDC restrictions. The proposed zoning districts would not permit uses generating noxious odors, particulates or emissions. Access to the site is via Bardstown Road, a major arterial at this location, and S Hurstbourne Parkway, a major arterial at this location. The applicant must submit detailed plans for the commercially-zoned portions of the site. Noise impacts will be addressed at that time,

WHEREAS, the Commission also finds the proposal meets Community Form Goal 2 because the commercially-zoned portions of the site will be located along Bardstown Road, a commercial corridor, and the site is located near a commercial node at the intersection of S Hurstbourne Parkway and Bardstown Road. The site has appropriate access and connectivity. The commercially-zoned portions of the site will be located along Bardstown Road, a commercial corridor, and the site is located near a commercial node at the intersection of S Hurstbourne Parkway and Bardstown Road. The proposed zoning districts would encourage a more compact pattern of development. The proposed zoning districts would permit a mixture of compatible land uses. The proposed commercial zoning district would permit residential and office uses above retail and other mixed-use multi-story retail buildings. The proposal would permit new development providing commercial, office and/or residential uses. The proposal would require the applicant to provide detailed plans for the commercially-zoned portions of the site. Appropriate placement, design and scale will be addressed at that time,

WHEREAS, the Commission also finds the proposal meets Community Form Goal 3 because steep slopes are being largely avoided by the development. The stream is being avoided by the development. No wet or highly permeable soils are evident on the site. The site is partially located in the floodplain. The multi-family portion avoids encroachment into the floodplain. The applicant will need to submit detailed plans for the commercially-zoned portions of the site and floodplain impacts will be considered then. Karst terrain will be mitigated at the time of development,

WHEREAS, the Commission also finds the proposal meets Community Form Goal 4 because no historic assets or distinctive cultural features are evident on the site,

WHEREAS, the Commission also finds the proposal meets Mobility Goal 1 because the site is located near an existing activity center. The commercially-zoned portions of the site are located on Bardstown Road, a commercial corridor and transit corridor,

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

WHEREAS, the Commission also finds the proposal meets Mobility Goal 2 because access to the site is via Bardstown Road, a major arterial at this location, and S Hurstbourne Parkway, a major arterial at this location,

WHEREAS, the Commission also finds the proposal meets Mobility Goal 3 because The proposed zoning districts will encourage a mix of complementary neighborhood-serving businesses and services. The site is easily accessible by bicycle, car, transit, pedestrians and people with disabilities. The proposal would permit higher density mixed-use developments to promote public transit and pedestrian use. Transportation Planning has approved the proposal,

WHEREAS, the Commission also finds the proposal meets Community Facilities Goal 2 because the relevant utilities, as well as Louisville Water Company and Louisville Metropolitan Sewer District, have approved the proposal,

WHEREAS, the Commission also finds the proposal meets Economic Development Goal 1 because the commercially-zoned portions of the site are located on Bardstown Road, a major arterial at this location,

WHEREAS, the Commission also finds the proposal meets Livability Goal 1 because the karst terrain on the site will be mitigated at the time of development. The site is partially located in the floodplain. The multi-family portion avoids encroachment into the floodplain. The applicant will need to submit detailed plans for the commercially-zoned portions of the site and floodplain impacts will be considered then. The proposal is not for critical facilities. The proposed zoning districts would not permit uses that store or use hazardous wastes,

WHEREAS, the Commission also finds the proposal meets Housing Goal 1 because The proposal would support aging in place. The residential area of the site would increase the variety of housing in the neighborhood and permit aging residents to remain in the neighborhood without having a maintenance requirement. The commercial area of the site would permit neighborhood-serving businesses in proximity to housing,

WHEREAS, the Commission also finds the proposal meets Housing Goal 2 because The proposal would permit inter-generational mixed-income and mixed-use development. The site is connected to the neighborhood and surrounding area. The proposal would permit housing in proximity to a multi-modal transportation corridor at Bardstown Road, and it would also permit commercial uses providing neighborhood goods and services in proximity to housing, and

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

WHEREAS, the Commission finds the proposal meets Housing Goal 3 because no existing residences will be displaced and the proposal would permit innovative methods of housing; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** the Louisville Metro Council **APPROVE** the change in zoning from R-4 & C-2 to R-6, C-1 and C-2.

The vote was as follows:

YES: Commissioners Brown, Mims, Cheek, Carlson, Sistrunk and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

VARIANCE

01:59:35 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

WHEREAS, the Planning Commission finds the requested variance will not adversely affect the public health, safety or welfare as the excess height will not affect sight lines, and

WHEREAS, the Commission finds the requested variance will not alter the essential character of the general vicinity as the excess height is unlikely to be noticeable from the right-of-way. S Hurstbourne Parkway is a designated parkway and plantings will need to be provided which will screen and soften the mass of the buildings,

WHEREAS, the Commission finds the requested variance will not cause a hazard or nuisance to the public as the excess height will not affect sight lines,

WHEREAS, the Commission finds the requested variance will not allow an unreasonable circumvention of the zoning regulations as the additional height will be used to provide improved interior improvements to the units rather than extra units,

WHEREAS, the Commission finds the requested variance does not arise from special circumstances which do not generally apply to land in the general vicinity or the same zone as the property is roughly rectangular and will be graded,

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

WHEREAS, the Commission finds the strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by preventing the applicant from providing future residents with an improved unit design, and

WHEREAS, the Commission 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 the applicant is requesting the variance and has not begun construction; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** a **VARIANCE** from Table 5.3.1 to permit structures to exceed the required 35-foot maximum building height (22-VARIANCE-0105).

The vote was as follows:

YES: Commissioners Brown, Mims, Cheek, Carlson, Sistrunk and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

WAIVER

02:00:18 On a motion by Commissioner Brown, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

WHEREAS, the Planning Commission finds the waiver will not adversely affect adjacent property owners as the required LBAs are internal to the site and would not buffer any adjoining property if provided,

WHEREAS, the Commission finds the waiver will not violate specific guidelines of Plan 2040 as Plan 2040 encourages appropriate buffering and transitions between uses that are significantly different in density or intensity. The zoning lines that require the LBA are internal to the site and the property owner can buffer the differing zoning districts informally if so desired,

WHEREAS, the Commission finds the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the zoning lines requiring the LBA

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

are internal to the site and provision of the required LBAs would not protect any other property, and

WHEREAS, the Commission 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 provision of the required landscape buffer area would make utilization of the lot less feasible; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE Waiver #1** from Land Development Code Section 10.2.4 to omit a required Landscape Buffer Area along an internal zoning line (22-WAIVER-0127).

The vote was as follows:

YES: Commissioners Brown, Mims, Cheek, Carlson, Sistrunk and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

DETAILED DISTRICT DEVELOPMENT PLAN/MAJOR PRELIMINARY SUBDIVISION

02:00:50 On a motion by Commissioner Carlson, seconded by Commissioner Sistrunk, based on the staff report and testimony heard at the November 14, 2022 and January 17, 2023 hearings, the following resolution was adopted:

WHEREAS, the Planning Commission finds the required tree canopy is proposed to be preserved. The stream running through the site will be preserved. Steep slopes are largely avoided by the development. The residences on the properties that front Bardstown Road are not proposed to be preserved,

WHEREAS, the Commission finds provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan,

WHEREAS, the Commission finds the required open space and recreational open space are being provided to meet the needs of the proposed development,

WHEREAS, the Commission finds the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community,

WHEREAS, the Commission finds the overall site design and land uses are compatible with the existing and future development of the area. The proposal would provide an appropriate continuation of the development at 4700 S Hurstbourne Parkway with a transition to future lower-intensity commercial uses along Bardstown Road, and

WHEREAS, the Commission finds the development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code, with the exception of the requested variance and waiver; therefore be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan/Major Preliminary Subdivision with 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 for review and approval; any changes/additions/alterations not so referred shall not be valid. The Planning Commission shall be the only body which can review and approve any changes to the binding elements.
2. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
3. Prior to development (includes clearing and grading) of any portion of the C-1 zoned areas of the site, the applicant, developer, or property owner shall obtain approval of a detailed district development plan in accordance with Chapter 11, Part 6. Each plan shall be in adequate detail and subject to additional binding elements.
4. 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.

PLANNING COMMISSION MINUTES
January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

5. 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. Encroachment permits must be obtained from the Kentucky Transportation Cabinet for any work in the S Hurstbourne Parkway or Bardstown Road right-of-way.
 - c. 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.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
 - e. A reciprocal access and crossover easement agreement in a form acceptable to the Planning Commission legal counsel shall be created between the subject site and the site to the north and recorded. 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.
 - f. The materials and design of proposed structures shall be reviewed and approved by the Planning Commission or a committee thereof.
6. 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.
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. A qualified geotechnical consultant's services be retained during construction to call if/when sinkholes are encountered. Care shall be taken during earthwork to

PLANNING COMMISSION MINUTES

January 17, 2023

PUBLIC HEARING

CASE NO. 22-ZONE-0076

investigate and properly remediate potential sinkholes, per the geotechnical engineer's recommendations.

9. Development shall be limited to 199 units until such time as the road connection to Bardstown Road is dedicated via record plat and constructed. The 199-unit limit shall be shared between the properties described under 22-ZONE-0012 and 22-ZONE-0076.
10. All property owners within 500 ft of a proposed blasting location shall be notified 30-days before any blasting operation occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided with copies of all materials resulting from that survey, including any photos and/or videos. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
11. Lighting:
 - a. All exterior lighting, whether freestanding or attached to any structure, including street lights and lighting for any signage, shall be fully shielded, shall utilize flat or hidden lenses, and shall be pointed directly to the ground.
 - b. No lighting shall have a correlated color temperature (CCT) exceeding 2700 degrees Kelvin.
 - c. No parking lot light fixtures shall be more than fourteen feet high, measured from ground level.

The vote was as follows:

YES: Commissioners Brown, Mims, Cheek, Carlson, Sistrunk and Lewis.

NO: No one.

NOT PRESENT AND NOT VOTING: Commissioners Clare, Pennix, Fischer, and Howard.

ABSTAINING: No one.

PLANNING COMMISSION MINUTES
January 17, 2023

ADJOURNMENT

The meeting adjourned at approximately 8:47 p.m.

Chair

Planning Director