

Planning Commission

Staff Report

August 29, 2019



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|--------------------------|-------------------------------------|
| Case No: | 18ZONE1086 |
| Project Name: | Clover Senior Housing |
| Location: | 8700 Old Bardstown Road |
| Owner(s): | George E Koppel Jr Rev Trust |
| Applicant: | Clover Communities Bardstown LLC |
| Jurisdiction: | Louisville Metro |
| Council District: | 22 – Robin Engel |
| Case Manager: | Dante St. Germain, AICP, Planner II |

REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-7 Multi-Family Residential
- **Detailed District Development Plan** with Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located at the intersection of Old Bardstown Road and Fairmount Road. There are two properties which the applicant proposes to consolidate, then re-divide, with a parcel approximately 7 acres in area to be rezoned to R-7 in order to construct a 128-unit senior living facility. The site is surrounded by R-4 zoned properties, except to the east across Old Bardstown Road, where there is a small commercial activity center zoned C-1 Commercial. The property to the immediate north of the site is zoned R-4, but is being used as a commercial dog kennel. The other adjacent properties are single family residential or undeveloped.

This case was previously heard at the August 15, 2019 Planning Commission public hearing. The applicant at that time agreed to another binding element restricting the age of residents to 55 years and older. This suggested binding element is listed in Attachment 4 as Binding Element # 8.

STAFF FINDING

Staff finds that the proposal generally meets the guidelines of the Comprehensive Plan and requirements of the Land Development Code. No waivers or variances are being requested.

TECHNICAL REVIEW

Land Development Code (Louisville Metro)

Plan 2040

Fern Creek Small Area Plan

MSD and Transportation Planning have provided preliminary approval of the proposal.

INTERESTED PARTY COMMENTS

Staff received an email from neighbor J. R. Bedel in opposition to the rezoning. Mr. Bedel stated that traffic on Bardstown Road and Old Bardstown Road is already bad and this proposal will worsen it.

STANDARD OF REVIEW FOR REZONING

Criteria for granting the proposed form district change/rezoning: *KRS Chapter 100.213*

1. The proposed form district/rezoning change complies with the applicable guidelines and policies Plan 2040; **OR**
2. The existing form district/zoning classification is inappropriate and the proposed classification is appropriate; **OR**
3. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in Plan 2040 which have substantially altered the basic character of the area.

STAFF ANALYSIS FOR CHANGE IN ZONING

The site is located in the Neighborhood Form District

The Neighborhood Form is 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. New neighborhoods are encouraged to incorporate these different housing types within a neighborhood as long as the different types are designed to be compatible with nearby land uses. These types may include, but not be limited to, large lot single family developments with cul-de-sacs, traditional neighborhoods with short blocks or walkways in the middle of long blocks to connect with other streets, villages and zero-lot line neighborhoods with open space, and high density multi-family housing.

The Neighborhood Form may contain open space and, at appropriate locations, civic uses and neighborhood centers with a mixture of uses such as offices, retail shops, restaurants and services. These neighborhood centers should be at a scale that is appropriate for nearby neighborhoods. The Neighborhood Form should provide for accessibility and connectivity between adjacent uses and neighborhoods by automobile, pedestrian, bicycle and transit.

Neighborhood streets may be either curvilinear, rectilinear or in a grid pattern and should be designed to support physical activity for all users and invite human interaction. Streets are connected and easily accessible to each other, using design elements such as short blocks or bike/walkways in the middle of long blocks to connect with other streets. Examples of design elements that encourage this interaction include narrow street widths, street trees, sidewalks, shaded seating/gathering areas and bus stops. Placement of utilities should permit the planting of shade trees along both sides of the streets.

Following is staff's analysis of the proposed rezoning against the Goals, Objectives and Policies of Plan 2040.

The subject site is close to Bardstown Road, which is a major arterial at this location and transit corridor. The nearest transit stop is approximately ½ mile away. However, reaching the transit stop in

an environment of poor sidewalk coverage may be challenging. The applicant will contribute to the sidewalk network by providing sidewalks along both Old Bardstown Road and Fairmount Road as required by the Land Development Code. Residents will have vehicle parking available and the applicant has stated that they will provide a shuttle service to the residents, although the details of the shuttle service are uncertain at this time.

The site is within Quadrant III (the Southwestern Quadrant) of the Fern Creek Small Area Plan. This neighborhood plan recommends mixed uses in the area between Old Bardstown Road and Bardstown Road, immediately adjacent to the subject site. The plan addresses existing rural and agricultural undeveloped land, but the subject lot is neither rural nor agricultural. Plan 2040, in the Housing goals, objectives and policies, recommends a greater variety of housing in all neighborhoods, to improve housing choice. Not far to the north of the subject site, the Traditions at Beaumont facility offers senior living, assisted living, and memory care services. The proposed zoning district will permit independent seniors more options for this neighborhood.

The proposed zoning district and site plan are generally in compliance with the plan elements of Plan 2040, and with the CHASE principles in the Comprehensive Plan.

All other agency comments should be addressed to demonstrate compliance with the remaining Goals, Objectives and Policies of Plan 2040.

A checklist is attached to the end of this staff report with a more detailed analysis. The Louisville Metro Planning Commission is charged with making a recommendation to the Louisville Metro Council regarding the appropriateness of this zoning map amendment. The Louisville Metro Council has zoning authority over the property in question.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (a) The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: There do not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided.

- (b) The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: 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.

- (c) The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space requirements are being met. Recreational open space will be provided with amenities.

- (d) 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;

STAFF: 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.

- (e) The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area. The site is adjacent to an existing commercial activity center and will provide an appropriate transition between that commercial activity and the lower-density residential uses to the west.

- (f) Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

REQUIRED ACTIONS

- **RECOMMEND** that Metro Council **APPROVE** or **DENY** the **Change-in-Zoning** from R-4 to R-7
- **APPROVE** or **DENY** the **Detailed District Development Plan with Binding Elements**

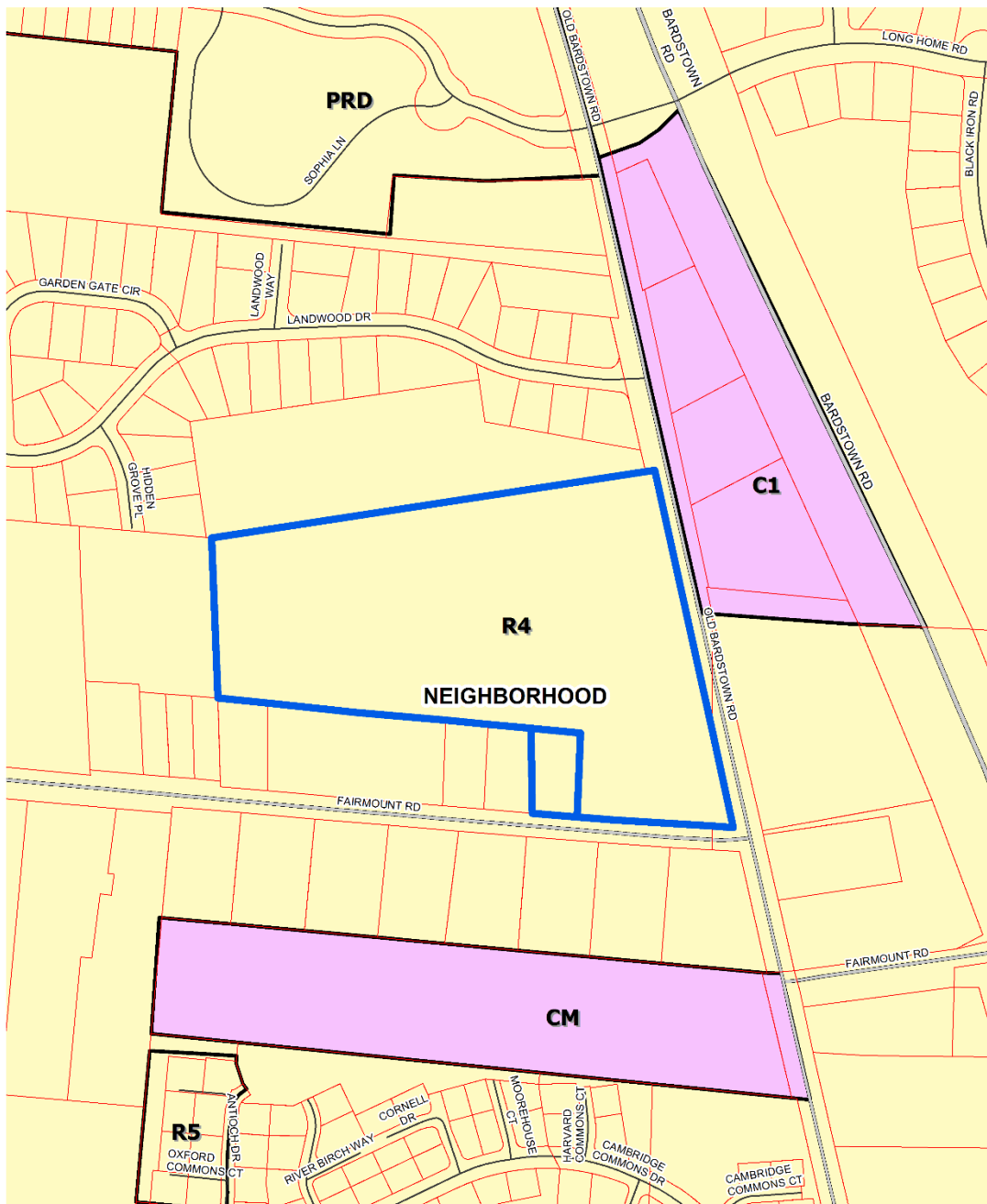
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|------------|---------------------|---|
| 07/11/2019 | Hearing before LD&T | 1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 22 |
| 07/30/2019 | Hearing before PC | 1 st and 2 nd tier adjoining property owners Registered Neighborhood Groups in Council District 22 |
| 08/05/2019 | Hearing before PC | Sign Posting on property |
| 08/02/2019 | Hearing before PC | Legal Advertisement in the Courier-Journal |

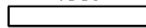
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Staff Plan 2040 Checklist
4. Proposed Binding Elements

1. Zoning Map



8700 Old Bardstown Road
feet



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Map Created: 12/27/2018



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2. Aerial Photograph



8700 Old Bardstown Road
feet

290

Map Created: 12/27/2018



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3. Staff Plan 2040 Checklist

- + Exceeds Guideline
- ✓ Meets Guideline
- Does Not Meet Guideline
- +/- More Information Needed
- NA Not Applicable

Neighborhood: Residential

| # | Plan 2040 Plan Element | Land Use & Development Policy | Staff Finding | Staff Analysis |
|---|------------------------|--|---------------|--|
| 1 | Community Form: Goal 1 | 7. Locate higher density and intensity uses near major transportation facilities and transit corridors, employment centers, in or near activity centers and other areas where demand and adequate infrastructure exists or is planned. | ✓ | The subject site is located near an activity center and near a transit corridor. The proposed zoning district would allow higher density and intensity uses. |
| 2 | Community Form: Goal 1 | 9. Ensure an appropriate transition between uses that are substantially different in scale and intensity or density of development. The transition may be achieved through methods such as landscaped buffer yards, vegetative berms, compatible building design and materials, height restrictions and setback requirements. | ✓ | The required buffers will be provided. The proposed zoning district would create an appropriate transition between the commercial uses to the east and the lower-density residential uses to the west. |
| 3 | Community Form: Goal 2 | 9. Encourage new developments and rehabilitation of buildings that provide commercial, office and/or residential uses. | ✓ | The proposed zoning district would permit new development that provides residential uses. |
| 4 | Community Form: Goal 3 | 10. Encourage development to avoid wet or highly permeable soils, severe, steep or unstable slopes where the potential for severe erosion problems exists in order to prevent property damage and public costs associated with soil slippage and foundation failure and to minimize environmental degradation. | ✓ | No wet or highly permeable soils, or severe, steep or unstable slopes are evident on the site. |
| 5 | Community Form: Goal 4 | 2. Encourage preservation of distinctive cultural features including landscapes, natural elements and built features. | ✓ | No distinctive cultural features are evident on the site. |

| # | Plan 2040 Plan Element | Land Use & Development Policy | Staff Finding | Staff Analysis |
|----|------------------------|--|---------------|--|
| 6 | Community Form: Goal 4 | 3. Encourage preservation and/or adaptive reuse of historic sites listed on or eligible for the National Register of Historic Places and/or recognized by the Louisville Metro Landmarks Commission or other national, state or local government historic preservation agencies. | ✓ | No historic assets are evident on the site. |
| 7 | Mobility: Goal 1 | 4. Encourage higher densities and intensities within or near existing marketplace corridors, existing and future activity centers, and employment centers to support transit-oriented development and an efficient public transportation system. | ✓ | The subject site is near an existing activity center. The proposed zoning district would permit higher density and intensity uses. |
| 8 | Mobility: Goal 2 | 4. Avoid access to development through areas of significantly lower intensity or density development if such access would create significant nuisances. | ✓ | Access to the site will be achieved from Old Bardstown Road, a primary collector. |
| 9 | Mobility: Goal 3 | 2. To improve mobility, and reduce vehicle miles traveled and congestion, encourage a mixture of compatible land uses that are easily accessible by bicycle, car, transit, pedestrians and people with disabilities. Housing should be encouraged near employment centers. | ✓ | The proposed zoning district would increase the mixture of compatible land uses in the vicinity. |
| 10 | Mobility: Goal 3 | 5. Evaluate developments for their impact on the transportation network (including the street, pedestrian, transit, freight movement and bike facilities and services) and air quality. | ✓ | Transportation Planning has approved the proposal. |
| 11 | Mobility: Goal 3 | 6. Ensure that those who propose new developments bear or share in rough proportionality the costs of transportation facilities and services made necessary by development. | ✓ | Transportation Planning has approved the proposal. |
| 12 | Mobility: Goal 3 | 9. When existing transportation facilities and services are inadequate and public funds are not available to rectify the situation, the developer may be asked to make improvements, roughly proportional to the projected impact of the proposed development, to eliminate present inadequacies if such improvements would be the only means by which the development would be considered appropriate at the proposed location. | ✓ | Transportation Planning has approved the proposal. |

| # | Plan 2040 Plan Element | Land Use & Development Policy | Staff Finding | Staff Analysis |
|----|------------------------------|--|---------------|---|
| 13 | Mobility: Goal 3 | 10. Ensure that necessary improvements occur in accordance with long-range transportation plans and level of mobility criteria for all modes of travel. | ✓ | Transportation Planning has approved the proposal. |
| 14 | Mobility: Goal 3 | 21. Prevent safety hazards caused by direct residential access to high speed roadways. | ✓ | Direct residential access to high speed roadways is not proposed. |
| 15 | Community Facilities: Goal 2 | 1. Locate development in areas served by existing utilities or capable of being served by public or private utility extensions. | ✓ | The relevant utilities have approved the proposal. |
| 16 | Community Facilities: Goal 2 | 2. Ensure that all development has an adequate supply of potable water and water for fire-fighting purposes. Locate only very low-density land uses on sites that use on-lot sewage disposal systems or on a private supply of potable water. | ✓ | Louisville Water Company has approved the proposal. |
| 17 | Community Facilities: Goal 2 | 3. Ensure that all development has adequate means of sewage treatment and disposal to protect public health and to protect water quality in lakes and streams as determined by the Metropolitan Sewer District (MSD). | ✓ | MSD has approved the proposal. |
| 18 | Livability: Goal 1 | 5. Encourage development that recognizes and incorporates the unique characteristics of identified general landscape types and native plant communities (e.g., upland hardwood forest) throughout Louisville Metro. | ✓ | Tree canopy requirements will be met on the site. |
| 19 | Livability: Goal 1 | 17. Determine site susceptibility to erosion; identify the presence of on-site carbonate conditions and features that are vulnerable to site disturbance; identify the extent of existing groundwater use and the impacts of the project on groundwater resources, flow patterns, and existing and proposed surface drainage. Then mitigate potential hazards to such systems resulting from the project. | ✓ | Karst features have been identified on and near the subject site. The proposal avoids these features. |
| 20 | Livability: Goal 1 | 21. Mitigate negative development impacts to the integrity of the regulatory floodplain by encouraging development patterns that minimize disturbance and consider the increased risk of more frequent flooding events. | NA | The subject site is not located in the floodplain. |

| # | Plan 2040 Plan Element | Land Use & Development Policy | Staff Finding | Staff Analysis |
|----|------------------------|---|---------------|---|
| 21 | Housing: Goal 1 | 1. Encourage a variety of housing types including, but not limited to, detached and attached single family, multi-family, mixed use, zero lot line, average lot, cluster, and co-housing. Allow for accessory residential structures and apartments. Housing types should reflect the Form District pattern. | ✓ | The proposed zoning district would increase the variety of housing types in the general vicinity. |
| 22 | Housing: Goal 1 | 2. Promote housing options and environments that support aging in place. Encourage housing for older adults and people with disabilities to be located close to shopping and transit routes and, when possible, medical and other supportive facilities. | ✓ | The proposed zoning district would permit housing options that support aging in place. |
| 23 | Housing: Goal 2 | 1. Encourage inter-generational, mixed-income and mixed-use development that is connected to the neighborhood and surrounding area. | ✓ | The proposed zoning district would permit inter-generational mixed-income development. The proposed development plan would introduce senior housing. |
| 24 | Housing: Goal 2 | 2. Locate housing within proximity to multi-modal transportation corridors providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. Higher density, accessible residential uses should be located along transit corridors and in or near activity centers. | ✓ | The subject site is located in proximity to Bardstown Road, and a shuttle service will be provided by the applicant to improve the mobility of the residents. |
| 25 | Housing: Goal 3 | 1. Encourage provision of fair and affordable housing by providing a variety of ownership options and unit costs throughout Louisville Metro. Expand opportunities for people to live in quality, variably priced housing in locations of their choice by encouraging affordable and accessible housing in dispersed locations throughout Louisville Metro. | ✓ | The proposed zoning district would encourage the provision of fair and affordable |
| 26 | Housing: Goal 3 | 2. As neighborhoods evolve, discourage displacement of existing residents from their community. | ✓ | The subject site is undeveloped and no existing residents will be displaced. |
| 27 | Housing: Goal 3 | 3. Encourage the use of innovative methods such as clustering, mixed-use developments, co-housing, and accessory apartments to increase the production of fair and affordable housing. | ✓ | The proposed zoning district would permit the use of innovative methods of housing. |

4. Proposed 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 minor subdivision plat or legal instrument shall be recorded creating the lot lines as shown on the development plan. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
 - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the August 15, 2019 Planning Commission public hearing. A copy of the approved rendering is available in the case file on record in the offices of the Louisville Metro Planning Commission.
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 audible beyond the property line.
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 multi-family units shall be age restricted to 55 years of age and older to comply with the Fair Housing Act and the Housing for Older Persons Act.