

## PLANNING COMMISSION MINUTES

January 21, 2021

### PUBLIC HEARING

#### 20-ZONE-0080

Request: Change in Zoning from R-4 to R-7 with Detailed District Development Plan and Binding Elements  
Project Name: Cedar Creek Road Apartments  
Location: 7703-7705 Cedar Creek Road & Parcels 064702750000 & 064702730000  
Owner: Lonnie and Imogene Lawson, Garry and Denise Lawson  
Applicant: Highgates Development  
Representative: Frost Brown Todd/Mindel Scott & Associates  
Jurisdiction: Louisville Metro  
Council District: 22 – Robin Engel  
Case Manager: Dante St. Germain, AICP, Planner II

Notice of this public hearing appeared in The Courier Journal, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

#### Agency Testimony:

08:01:01 Dante St. Germain provided an overview of the request and showed a PowerPoint presentation (see staff report and recording for detailed presentation). The applicant is requesting a change in zoning from R-4 to R-7 to construct a new 168-unit multi-family residential development. The plan includes a private access easement stub to the south which was added at the request of the Land Development & Transportation Committee.

#### The following spoke in favor of this request:

Tanner Nichols, 400 West Market Street, Louisville, Ky. 40202  
David Mindel, Mindel, Scott and Associates, 5151 Jefferson Boulevard, Louisville, Ky. 40219  
Adam Kirk, 137 McClellan Springs Drive, Georgetown, Ky.

#### Summary of testimony of those in favor:

Tanner Nichols spoke on behalf of the applicant and presented a PowerPoint presentation (see video). Tanner Nichols stated this apartment development provides a

## PLANNING COMMISSION MINUTES

January 21, 2021

### PUBLIC HEARING

#### 20-ZONE-0080

good transition between the commercial activity along Bardstown Road and other properties on Cedar Creek Road.

Commissioner Mims asked about a traffic study. Tanner Nichols said the study showed a left turn lane was not warranted, but the applicant agreed to include one at the request of LD&T.

Adam Kirk stated there was no change of the level of service at the intersection of Bardstown and Cedar Creek. There was a 2-3 second increase in the overall delay. This development is generating 52 trips during the p.m. peak hour. The impacts are minimal.

Commissioner Mims asked if the proposal is in the area of the Fern Creek Area Study. Ms. St. Germain said the study does cover the proposed site but it's very old (2001). The Southeast Metro Regional Center Planning Study is a more recent study and those recommendations take precedence over the older one. There were no recommendations for this site.

Mr. Reverman asked if the right turn lane (assuming it's constructed) on Bardstown Rd. southbound onto Cedar Creek Rd. was included in the traffic study. Ms. Beth Stuber said that was verified this morning (expanded the scenarios). There was no change in level of service.

Mr. Mims asked if the right turn lane was being required. Ms. Stuber said it's been discussed and the other development on the corner will have more impact. The intersection is failing due to existing traffic.

### Deliberation

08:31:30 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.**

### Zoning Change from R-4 to R-7

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

**PLANNING COMMISSION MINUTES**  
**January 21, 2021**

**PUBLIC HEARING**

**20-ZONE-0080**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Community Form because, the site is located near Bardstown Road, a major transit corridor and activity corridor; the proposal would provide an appropriate transition between the more intensive commercial uses appropriate along the Bardstown Road corridor and the less intensive residential uses farther from the corridor.

~~**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Community Form because, the proposal would allow new development providing residential uses.~~

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

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 4: Community Form because, no distinctive cultural features are evident on the site. The site is lightly wooded and no built features are evident on site.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Mobility because, the site is located near an existing activity corridor along Bardstown Road, and the proposal would permit higher density and intensity uses.

~~**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Mobility because, access to the site is via Cedar Creek Road, a secondary collector at this location.~~

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Mobility because, the proposal will allow a mixture of compatible land uses in the neighborhood, and the proposal will improve accessibility by pedestrians and people with disabilities. The site is easily accessible by bicycle, car, and transit. The proposal will permit housing near an existing activity and employment center; Transportation Planning has approved the proposal; no direct residential access to high speed roadways is proposed.

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

**PLANNING COMMISSION MINUTES**  
**January 21, 2021**

**PUBLIC HEARING**

**20-ZONE-0080**

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Livability because, required tree canopy will be provided on the site. An intermittent stream on the site will be protected by required buffers; karst features on the site will be protected.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 1: Housing because, the proposal would increase the variety of housing types in the neighborhood and allow for accessory residential structures and apartments; the proposal would support aging in place by increasing the variety of housing near an existing activity corridor and transit corridor at Bardstown Road.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 2: Housing because, the proposal would permit and encourage inter-generational, mixed-income development near an existing activity corridor that is connected to the neighborhood and surrounding area; the proposal would permit housing in proximity to a multi-modal transportation corridor providing safe and convenient access to employment opportunities, as well as within proximity to amenities providing neighborhood goods and services. The proposal would permit higher density residential uses, located near a transit corridor and near an activity corridor.

**WHEREAS**, the Louisville Metro Planning Commission finds that the proposal meets Land Use & Development Goal 3: Housing because, the proposal would increase the variety of ownership options and unit costs throughout Louisville Metro; no existing residents are located on the site; the proposal would allow the use of innovative methods of housing.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to Metro Council the change in zoning from R-4, Single Family Residential to R-7, Multi-family Residential on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Carlson, Clare, Mims, Peterson, Sistrunk and Howard**  
**NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz and Lewis**

**Development Plan and Binding Elements**

**PLANNING COMMISSION MINUTES**  
**January 21, 2021**

**PUBLIC HEARING**

**20-ZONE-0080**

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

**WHEREAS**, required tree canopy will be provided on the site. An intermittent stream is located on the site; required buffers around the stream are being provided; and

**WHEREAS**, 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; and

**WHEREAS**, open space is being provided in compliance with the requirements of the Land Development Code; and

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

**WHEREAS**, the Louisville Metro Planning Commission finds, the overall site design is in compliance with existing and planned future development in the area. The proposal serves as a buffer between existing single-family development and proposed commercial development at the Bardstown Road corridor; and

**WHEREAS**, the Louisville Metro Planning Commission further finds the development plan conforms to applicable guidelines and policies of the Land Development Code and Plan 2040.

**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.

## PLANNING COMMISSION MINUTES

January 21, 2021

### PUBLIC HEARING

#### 20-ZONE-0080

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. A minor plat or legal instrument shall be recorded consolidating the parcels into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services; transmittal of the approved plans to the office responsible for permit issuance will occur only after receipt of said instrument.
  - 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 21, 2021 Planning Commission meeting. 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. 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,

**PLANNING COMMISSION MINUTES**  
**January 21, 2021**

**PUBLIC HEARING**

**20-ZONE-0080**

contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

**The vote was as follows:**

**YES: Commissioners Carlson, Clare, Mims, Peterson, Sistrunk and Howard**  
**NOT PRESENT AND NOT VOTING: Commissioners Brown, Daniels, Seitz and Lewis**