

Board of Zoning Adjustment Staff Report

June 7, 2021



Case No:	21-VARIANCE-0031/21-VARIANCE-0032
Project Name:	Cedar Creek Crossing
Location:	7704-7718 Bardstown Road & 7509 Cedar Creek Road
Owner(s):	Real Properties Plus II, LLC; Park Community Credit Union; Cindy Sue daily
Applicant:	Hogan Real Estate
Representative(s):	Dinsmore & Shohl, LLP – Cliff Ashburner
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Variances**

1. 21-VARIANCE-0031 – **Variance** from LDC, section 5.3.1 to exceed the maximum setback along a parkway from 95' to 265' on Tract 6
2. 21-VARIANCE-0032 – **Variance** from Land Development Code (LDC), section 8.3.3/Table 8.3.3 to allow signage to exceed the maximum as specified below:

Tract	Permitted (height – feet / area – square feet)	Requested (height – feet / area – square feet)
Tract 1 (parkway)	6/60	9/72
Tract 2 (parkway)	6/60	9/72
Tract 3 (parkway)	6/60	9/72
Tract 4 (parkway)	6/60	9/72
(collector)	8/60	9/72
Tract 5	6/60	No signage requested
Tract 6 (parkway)	6/60	16/120
(collector)	12/100	16/120

CASE SUMMARY/BACKGROUND

The revised detailed district development plan proposes a mixed-use development across 6 separate tracts connected through parking lots. The revised plan was heard by the Development Review Committee on May 19, 2021 and forwarded to the Planning Commission for review on June 3, 2021. Restaurants, medical office, coffee shop and retail have been proposed resulting in a total building footprint of roughly 44,000 sq. ft. Access will be provided from Bardstown and Cedar Creek Roads. Bardstown Road is a designated parkway; a designation intended “to ensure a quality visual experience on developing corridors and to protect and improve the visual experience on established corridors.” Individual or multi-tenant signage is proposed on each tract, except for tract 5. On-premise multi-tenant signage is permitted by the Land Development Code as described in the variance request.

STAFF FINDING

Variance #1 has been adequately justified based on staff's analysis contained in the staff report. Variance #2 to exceed maximum requirements for signage has not been adequately justified based on staff's analysis contained in the standard of review. The proposed sign size and area for multiple signs across the development site would reduce the visual experience along this section of a developing parkway. When developing in this section of the corridor it is important to maintain the parkway to set the stage for the pattern of development intended for the area. That pattern is established by the parkway which calls for reduced signage and enhanced landscaping.

TECHNICAL REVIEW

- **Signs.** Freestanding on-premises signs are permitted for each lot of the development site. However, it is preferred by staff that signage be consolidated to a signature entrance or multi-tenant shopping center sign at primary entrances to the development site in-lieu-of individual signage for each site to improve the visual quality and reduce distractions along Bardstown Road, a designated parkway. Signs on each lot may be multi-tenant and serve multiple users on a premise. Signage on Tract 1 includes a multi-tenant sign but one of those tenants is located off-premises on Tract 5. This issue is being considered with the revised plan presented to the Development Review Committee on May 19 and Planning Commission on June 3.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (1)

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

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the setback does not impede the safe movement of vehicles or pedestrians.

- (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 as the setback is being proposed in combination with out-lot development that seeks to be located within the required setbacks. The setback does not encroach upon any parkway buffers or impact the provisioning of landscaping along the parkway; thus, preserving the intent of the parkway.

- (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 as the proposal does not affect public, health, safety, or welfare or the essential character of the general vicinity.

- (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 zoning regulations as the setback is being proposed in combination with out-lot development that seeks to be located within the required setbacks.

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 requested variance does not arise from special circumstances that do not generally applicable to land in the vicinity.

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 provisions of the regulation would deprive the applicant of reasonable use of the land as the setback proposed does not prevent the parkway from being developed as intended and out-lots with neighborhood services are provisioned along the frontage.

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 actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (2)

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

STAFF: The requested variances will not adversely affect public health, safety, or welfare as the setback does not impede the safe movement of vehicles or pedestrians.

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

STAFF: The requested variances will alter the essential character of the general vicinity as signage is being requested in excess of the parkway requirements in an area that is developing. The parkway signage requirements reduce the ordinary standards for signage in the neighborhood form district to enhance the visual experience along the parkway. When developing in this section of the corridor between I-265 and Cedar Creek Road, it is important to maintain the requirements of the parkway to set the stage for the pattern of development in the area. The desired pattern of the corridor is established by the parkway which calls for smaller signs and enhanced landscaping.

- (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 as most signs are consistent with what is permitted on an arterial roadway within the Neighborhood form where sites aren't adjacent to parkways.

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

STAFF: The requested variance will allow an unreasonable circumvention of zoning regulations as the site does not appear to have any physical or environmental features that prevent compliance with the regulation and no development has occurred.

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 requested variance does not arise from special circumstances that do not generally applicable to land in the vicinity.

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 provisions of the regulation would not deprive the applicant of reasonable use of the land as signs can be provisioned in accordance with the standards.

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 actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

REQUIRED ACTIONS:

- **APPROVE or DENY the Variances:**
 - 21-VARIANCE-0031 – Variance from LDC, section 5.3.1 to exceed the maximum setback along a parkway from 95' to 265' on Tract 6
 - 21-VARIANCE-0032 – Variance from Land Development Code (LDC), section 8.3.3/Table 8.3.3 to allow signage to exceed the maximum as specified below:

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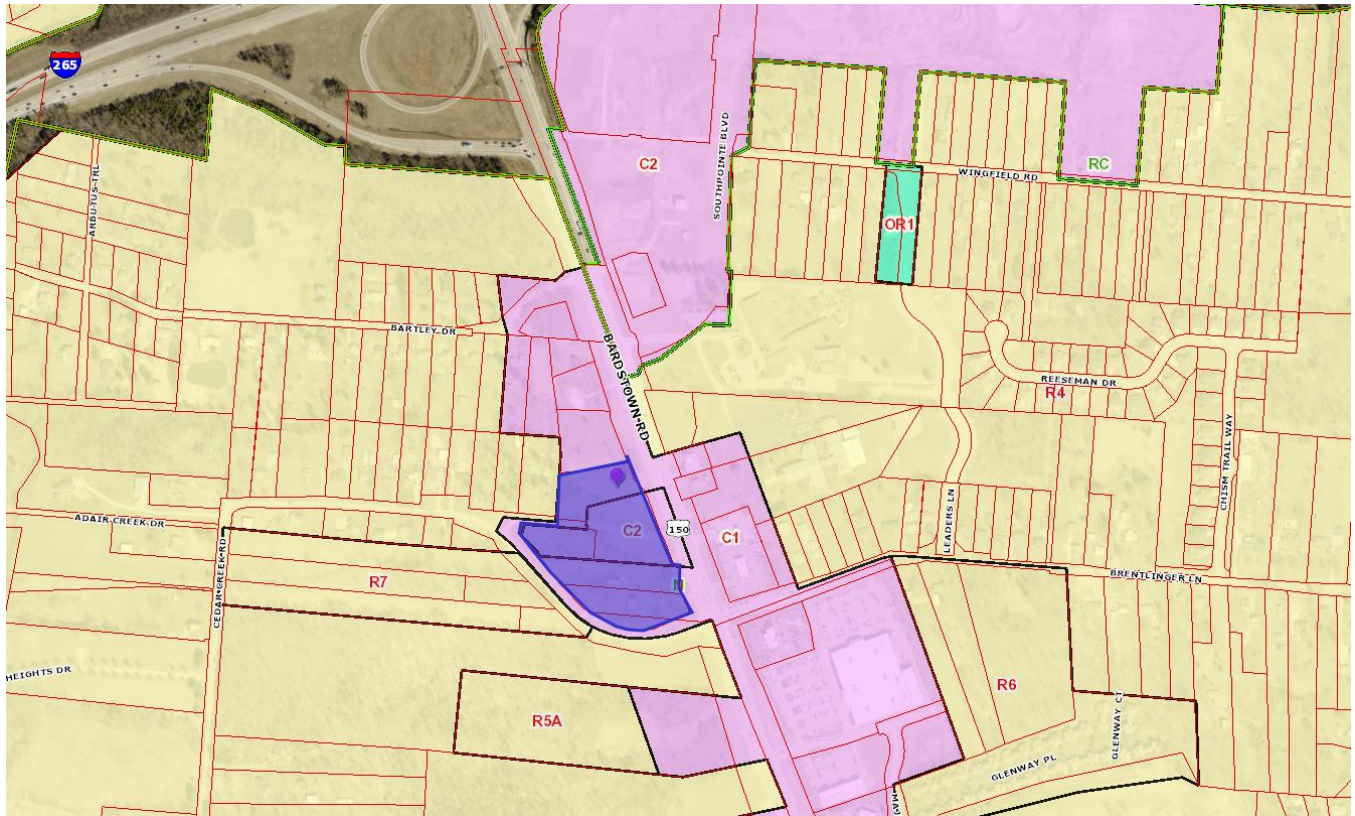
NOTIFICATION

Date	Purpose of Notice	Recipients
5/21/21	Hearing before BOZA	1 st tier adjoining property owners Speakers at previous public hearings Registered Neighborhood Groups in Council District 22

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph

1. Zoning Map



2. Aerial Photograph

