

# Land Development and Transportation Committee Staff Report September 26, 2024



<b>Case No:</b>	23-ZONE-0074
<b>Project Name:</b>	Revenant at Cedar Creek Addition
<b>Location:</b>	8004 & 8006 Cedar Creek Road
<b>Applicant:</b>	RCC 2 LLC, Revenant @ Cedar Creek LLC
<b>Representative:</b>	Bardenwerper, Talbott & Roberts
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Dante St. Germain, AICP, Senior Planner

## REQUESTS

- **Change in zoning** from R-4 Single Family Residential to R-6 Multi-Family Residential
- **Variance** from Land Development Code Section 5.3.1.C & Table 5.3.1 to allow proposed structures to exceed the maximum allowed height (allowed height: 35'; proposed height: 40'; proposed variance 5') (24-VARIANCE-0125)
- **Revised Detailed District Development Plan** with amendments to Binding Elements

## CASE SUMMARY

The subject site is located along Cedar Creek Road west of Bardstown Road, near the intersection with Cedar Garden Drive, and consists of one parcel. The applicant proposes to rezone the site to R-6 as part of a project to construct a new 348-unit multi-family development.

The site is surrounded by large-lot single-family residential uses, with a mobile home park abutting the site to the west. Cedar Creek runs through the west of the site. The majority of the site was previously zoned to R-6 under docket 20-ZONE-0060. The portion which remains R-4 is surrounded on three sides by the portion which was previously rezoned. A single set of binding elements is proposed to apply to the entire development with this revised plan.

## STAFF FINDING

The Land Development and Transportation Committee should discuss connectivity between the site and residential land uses to the north and south, specifically a previously proposed right-of-way that was shown at the rear of the site in case number 20-ZONE-0060. This right-of-way was intended to connect to a stub road one parcel away to the south, and carry it through to the north.

## TECHNICAL REVIEW

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

The site is located in the study area for the Fern Creek Small Area Plan, in Quadrant III (Southwestern Quadrant). This site is outside the preservation strategy area. Preservation of the rural, agricultural landscape is emphasized for the vicinity, but no particular recommendations are made for this site.

## **INTERESTED PARTY COMMENTS**

No interested party comments have been received by staff.

## **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.

## **REQUIRED ACTIONS**

- **Set** the public hearing date.

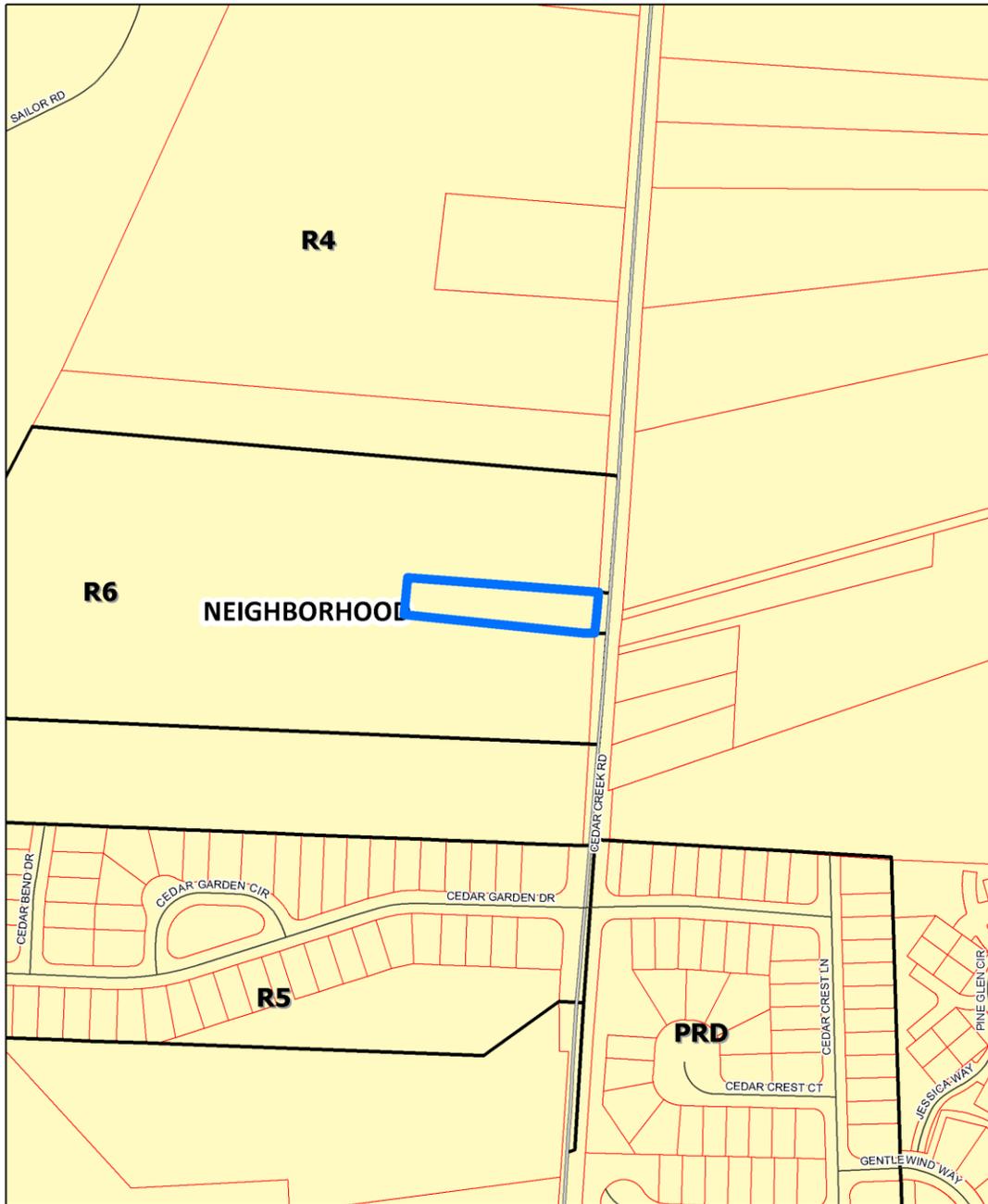
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>09/13/2024</b>	Hearing before LD&T	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22
	Hearing before PC	1 <sup>st</sup> and 2 <sup>nd</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements
4. Proposed Binding Elements

1. Zoning Map



8004 Cedar Creek Road

feet



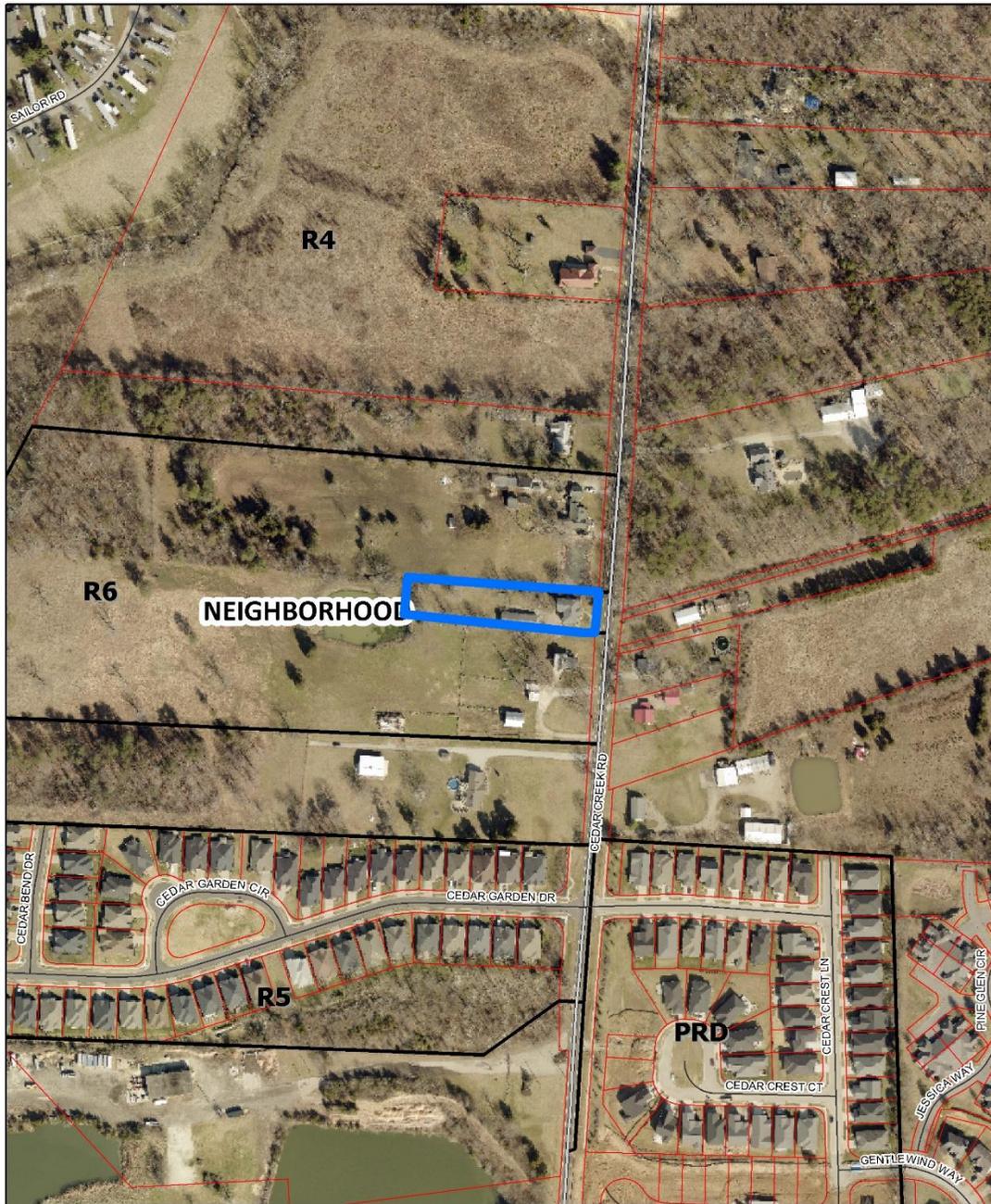
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Map Created: 5/21/2024



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2. Aerial Photograph



8004 Cedar Creek Road

feet



280

Map Created: 5/21/2024



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### 3. Existing 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. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.~~
  - ~~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 July 1, 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, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.~~
- ~~7. Developer shall contribute up to \$100,000 towards sidewalk design, right of way acquisition and construction of sidewalks from the development to Bardstown Road. Developer shall contribute up to \$50,000 of the \$100,000 toward sidewalk design and right of way acquisition within 60 days~~

~~of written request from the applicable government agency provided such request occurs not earlier than the issuance of its first building permit and not later than 3 years following the issuance of its first building permit. Developer shall contribute up to the remaining \$50,000 of the \$100,000 within 60 days of written request from the applicable government agency and proof that the applicable government agency has entered into a construction contract which commencement shall be within 60 days of execution provided such request occurs not earlier than one year following the issuance of its first building permit and not later than 5 years following the issuance of first building permit.~~

- ~~8. Developer shall reserve the area shown on the site plan for future stub road connections to the north and south at the locations shown on the site plan and will dedicate (and Metro Public Works shall accept) this area as public right-of-way within 60 days of written request of the dedication by Metro Public Works. In addition, Developer shall contribute \$218,610 to Metro Public Works (within 45 days of the earlier to occur of the issuance of the final certificate of occupancy or commencement of construction of the road by Metro Public Works) for the eventual construction by Metro Public Works of the stub road which construction shall complete the connection to the north or south as shown on the site plan. If the stub road construction has not commenced within 5 years of the date of the contribution under a contract requiring the completion of the stub road within 6 months after commencement of construction, Metro Public Works shall refund the contribution to Hagan Properties or its designees, successors or assigns.~~
- ~~9. Prior to the applicable government agency issuing the final certificate of occupancy, the developer or its successors and assigns shall design, pursuant to Metro Public Works standards, and complete the construction of a right turn lane on eastbound Cedar Creek Road at Bardstown Road. The required improvements shall be based on the TIS analysis dated February 16, 2021 prepared by Diane B. Zimmerman and submitted to Metro Public Works February 17, 2021. The improvements shall be limited to an eastbound right turn lane 200' in length of which 50' is a taper lane.~~

#### **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. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - 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. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the \_\_\_\_\_, 2024 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, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
7. Developer shall contribute up to \$100,000 towards sidewalk design, right of way acquisition and construction of sidewalks from the development to Bardstown Road. Developer shall contribute up to \$50,000 of the \$100,000 toward sidewalk design and right of way acquisition within 60 days of written request from the applicable government agency provided such request occurs not earlier than the issuance of its first building permit and not later than 3 years following the issuance of its first building permit. Developer shall contribute up to the remaining \$50,000 of the \$100,000 within 60 days of written request from the applicable government agency and proof that the applicable government agency has entered into a construction contract which commencement shall be within 60 days of execution provided such request occurs not earlier than one year following the issuance of its first building permit and not later than 5 years following the issuance of first building permit.
8. Prior to the applicable government agency issuing the final certificate of occupancy, the developer or its successors and assigns shall design, pursuant to Metro Public Works standards, and complete the construction of a right turn lane on eastbound Cedar Creek Road at Bardstown Road. The required improvements shall be based on the TIS analysis dated February 16, 2021 prepared by Diane B. Zimmerman and submitted to Metro Public Works February 17, 2021. The improvements shall be limited to an eastbound right turn lane 200' in length of which 50' is a taper lane.