

MEETING DATE: March 28, 2023

STAFF: Stuart Borders, Senior Planner

PROJECT NAME: Carter multifamily rezoning

CASE NUMBER/REQUEST: **Case 23-125-03 – Rezoning/PUD – 10101 E. Kentucky Road** – A request by Christopher Carter to rezone this property from C-1 (Neighborhood Commercial) to R-30/PUD (High Density Residential/Planned Unit Development) and approve a Preliminary Development Plan.

APPLICANT/OWNER: Christopher Carter, Milewide Inc.

PROPERTY ADDRESSES: 10101 E. Kentucky Road

SURROUNDING ZONING/LAND USE:

- North:** O-1 (Residential-Office), C-1; Single family homes, triplex, school site
- South:** C-1; Single family homes
- West:** C-1; Single and multi-family homes
- East:** R-6 (Single family residential), C-1; Single family homes, vacant lot

PUBLIC NOTICE:

- Letters to adjoining property owners – March 9, 2023
- Public Notice published in the Independence Examiner – March 11, 2023
- Signs posted on property – March 10, 2023

FURTHER ACTION:

Following action by the Planning Commission, this rezoning request is scheduled for first reading by the City Council on May 1, 2023 and the public hearing/second reading on May 15, 2023.

RECOMMENDATION

Staff recommends **APPROVAL** of this rezoning request with the following conditions be included with the preliminary development plan consisting of the attached photographs of the site:

1. The number of dwelling units in the building is limited to three units.
 2. Install a six privacy fence along the southern (rear) property line.
 3. The City Council approves a 30% density increase to allow the building to retain three dwelling units.
 4. If required by the Fire Department, the dumpster must be relocated to a safer site.
 5. The owners must obtain and maintain the proper City business and landlord licenses.
 6. Before any business/landlord licenses are approved however, the 10101 and the 10103 properties must be replatted to shift the common lot line east five to ten feet to provide more area for the 10101 lot and the necessary parking for this structure. The
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distance for the line relocation will depend on the distance between the structures on the two lots.

PROJECT DESCRIPTION & BACKGROUND INFORMATION

PROJECT DESCRIPTION: – A request by Christopher Carter of Milewide Inc. (Milewide) to rezone this property from C-1 (Neighborhood Commercial) to R-30/PUD (High Density Residential/Planned Unit Development) and approve a Preliminary Development Plan.

Current Zoning:	C-1 (Neighborhood Commercial)	Proposed Zoning:	R-30/PUD (High Density Residential/Planned Unit Development)
Current Use:	Triplex	Proposed Use:	Tri-plex
Building Area:	1,880 square feet+/-	Property Size:	0.08 acres

Zoning History 1965 – Present: C-1 (Neighborhood Commercial)

PROPERTY HISTORY

The November 1965 zoning map shows a small neighborhood commercial area at the intersections of Kentucky Road and Cedar and Huttig Avenues. This commercial node encompassed about 25 lots zoned C-1. With few exceptions, these properties are now in residential use, even those originally constructed for commercial use. Over the past decade, three of the lots have been rezoned: two lots to residential use (R-6/R-12) and the other to office (O-1). According to Milewide, decades ago this 10101 building was a corner grocery store, then later, a bait shop.

PHYSICAL CHARACTERISTICS OF PROPERTY

The lot itself is small, being only 35 feet by 100 feet (3,500 SF) in size. Milewide states the two-story building contains 1,880 SF and was divided into three dwellings about 40 years ago. The lower-level features two units; the upper level contains a single unit, accessed by an exterior stairway on the building’s eastern side. The building is situated close to the west property line of Cedar Avenue, just south of the right-of-way line of Kentucky Road. The portions of the lot not containing building on its south and east sides are yard area or parking area, respectively.

CHARACTERISTICS OF THE AREA

With the few commercial exceptions noted above and an elementary school to the northwest, the area consists of mostly older homes constructed on average to small sized lots constructed in the middle of the last century.

PROPOSAL: After purchasing the property last November, Milewide now seeks to rezone this property to R-30/PUD to bring it into conformance with the current zoning standards. The company states it has no plans to further develop the site with more buildings or dwelling units. As the applicant plans no improvements to the site at this time, the preliminary development plan to be approved with the rezoning consists of the attached aerial photograph and photographs of the building and property.

With the diminutive size of the lot (3,500 SF) combined with the number of existing three units requires not only the higher density R-30/PUD zoning but will also require the City Council to approve a density increase to allow the property to retain its three units in lieu reducing it to just two units. City Code Section 14-902-04-C states:

The maximum allowable residential density of the base zoning district may be increased by up to 30% if the City Council determines that such an increase is warranted to support the public benefit likely to result from the proposed development and such density increase can be supported by existing and planned public facilities and services.

This density increase is listed as a condition approval in this report. These three units are already supported by current public facilities.

ANALYSIS

Consistency with *Independence for All*, Strategic Plan:

An objective of the Independence for All Strategic Plan is 'Build new housing units to fill a market need.' Although this application does not build more housing units, it does remove any nonconforming use barriers for the property so it can be repaired and leased, or the structure rebuilt in case of damage.

Comprehensive Plan Guiding Land Use Principles:

This site, along with all the properties in the vicinity, is designated for 'Residential Established Neighborhoods' by the City's Comprehensive Plan. Such areas would feature a variety of single family detached homes, attached single family homes, townhomes, and multi-family dwellings. As such, this proposed rezoning will be consistent with existing residential uses and zoning along the corridor.

Historic and Archeological Sites:

There are no apparent historic/archeological issues with this property.

Public Utilities:

Water, sanitary sewer, and electrical services are connected to this property.

Environmental:

Provided there is no changes made to the site relating to new construction or use of the existing open areas, Municipal Services has no environmental concerns.

CIP Investments:

There are no City capital improvement projects (CIP) planned for this area.

Zoning:

As noted previously, this site has been zoned C-1 since at least 1965. This zoning classification permits offices, restaurants, personal services, small retail, uses but not apartment buildings. Permitted R-30/PUD uses include apartments, multi-unit houses, and townhomes, and non-residential uses of churches, schools, government buildings, parks, cemeteries, home gardens, and field crops. Special Use Permit approval is required for homeless shelters, substance abuse treatment homes and domestic violence shelters.

Parking Surface:

A paved area abuts the east side of the building and provides parking for five to six cars. This paved area is partly on the adjoining single family home property to the east.

Buffering and Screening:

As the adjoining property to the south is zoned R-12, screening needs to be provided at the rear of 10101. The six-foot privacy fence, listed as a condition in this report, is to be constructed in addition to the existing vegetation.

REVIEW CRITERIA

Recommendations and decisions for proposed planned unit development rezoning and its accompanying preliminary development plan must be based on consideration of the criteria listed in Section 14-703-05-H:

1. **The consistency with the Comprehensive Plan.**
The City's Comprehensive Plan reflects this Residential Established Neighborhood use, and it will "Protect and enhance the viability, livability, and affordability of the City's residential neighborhoods..."
2. **The consistency with the PUD standards of Section 14-902, including the statement of purpose.**
This type of application is not expressly addressed in this section as it's not new development but it "ensures that development can be conveniently, efficiently and economically served by existing and planned utility services."
3. **The nature and extent of Common Open Space in the PUD.**
There is no open space provided with this application.
4. **The reliability of the proposals for maintenance and conservation of Common Open Space.**
There is no open space provided with this application, the applicant will own the entire property.
5. **The adequacy or inadequacy of the amount and function of Common Open Space in terms of the densities and dwelling types proposed in the plan.**
There is no open space provided with this application.
6. **The extent to which the proposed use will adversely affect the capacity of safety portions of the street network or present parking problems in the vicinity of the property. Whether adequate provision for public services, provides adequate control over vehicular traffic, and furthers the amenities of light and air, recreation, and visual enjoyment.**
This proposed project will not adversely affect traffic or the street network in the vicinity of the project.
7. **The extent to which the proposed use will have a substantially adverse effect on adjacent property and the development or conservation of the neighborhood area.**
As this property has been used for three dwelling units for many years, it's not expected this corrective rezoning will have any adverse impacts on the neighboring properties.
8. **Whether potential adverse impacts have been mitigated to the maximum practical extent.**
No significant impacts are expected with this application.
9. **Whether the Preliminary Development Plan represents such a unique development proposal that it could not have accomplished through use of (non-PUD) conventional zoning regulations.**

The existing use as a tri-plex requires a R-30/PUD due to the number of living units in the building in conjunction with the small area of the property itself.

10. **The sufficiency of the terms and conditions proposed to protect the interest of the public and the residents of the PUD in the case of a plan that proposes development over a period of years.**

This project will continue under one ownership.

EXHIBITS

1. Applicant's letter
2. Application
3. Notification Letter
4. Mailing Addresses
5. Aerial Photo
6. East, North, South, West Side Photos
7. Comprehensive plan map
8. Zoning map