

# Planning Commission Staff Report

March 5, 2020



<b>Case No:</b>	19-MSUB-0007
<b>Project Name:</b>	Cedar Creek Springs Subdivision
<b>Location:</b>	7910 Cedar Creek Road & Heights Drive (parcels 064702220000 & 064702210000)
<b>Owner(s):</b>	Robert & Judy Allen
<b>Applicant:</b>	Cedar Heights Mobile Home Park LLC.
<b>Representative(s):</b>	Mindel Scott
<b>Project Area/Size:</b>	40.85 acres
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Dante St. Germain, Planner II

## REQUESTS

- **Waiver** from 7.3.30.E to allow a required rear yard of a buildable lot to overlap more than 15% with a drainage easement
- **Conservation Subdivision**

## CASE SUMMARY

The site is located along Cedar Creek Road at the intersection with Heights Drive. It consists of 40.85 acres of both cleared and uncleared land, mainly bordering Cedar Creek. The applicant proposes 88 buildable lots and 5 non-buildable lots on 36.90 net acres after right-of-way dedication.

The proposed conservation areas mostly consist of Cedar Creek and abutting land. A portion of the conservation area is within the 100-foot stream buffer around Cedar Creek. An intermittent tributary of Cedar Creek runs east-to-west through a portion of the site. The required 25-foot MSD buffer around the intermittent stream is also preserved. Some potential karst features are avoided by the proposed development. Other potential karst features are not preserved. Conservation areas are contiguous except for Lot 91.

For six lots, the rear of the lots, and consequently the rear facades of the houses, face Cedar Creek Road. In accordance with 7.11.10.D.2. the applicant has prepared a landscaping exhibit showing how the rear facades of the proposed houses will be screened from Cedar Creek Road. It is the responsibility of the Planning Commission to determine if the proposed landscaping is adequate.

### Conservation Subdivision Credit Table

<b>Subdivision Acreage</b>	36.90 acres
<b>Conservation Space Required</b>	12.26 acres (30%)
<b>Conservation Space Provided</b>	17.30 acres (42%)
<b>Tree Canopy Required</b>	6.13 acres (15%)
<b>Tree Canopy Provided</b>	20.43 acres (50%)
<b>Applicant's Conventional Subdivision Yield</b>	68
<b>Total Buildable Lots Allowed Under 7.11.10</b>	91
<b>Lots Requested</b>	88

## **STAFF FINDING**

The conservation subdivision plan meets or exceeds the requirements of the Land Development Code, specifically those guidelines contained in Chapter 7, Part 11: Conservation Subdivisions.

The requested waiver is adequately justified and meets the standard of review.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 7.3.30.E**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the rear yard overlap with a drainage easement will only affect the property owners of the new lots.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address drainage easements, and addresses yard requirements only as buffers between incompatible uses. The adjacent uses are not incompatible with the proposed use.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the overlap is made necessary by a drainage easement to the rear of the new lots, which is the appropriate place for a drainage easement.

- (d) Either:

(i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR

(ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by requiring the applicant to move the easement or extend the rear yards, either of which would reduce the usability of the property.

## **REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Conservation Subdivision Plan**

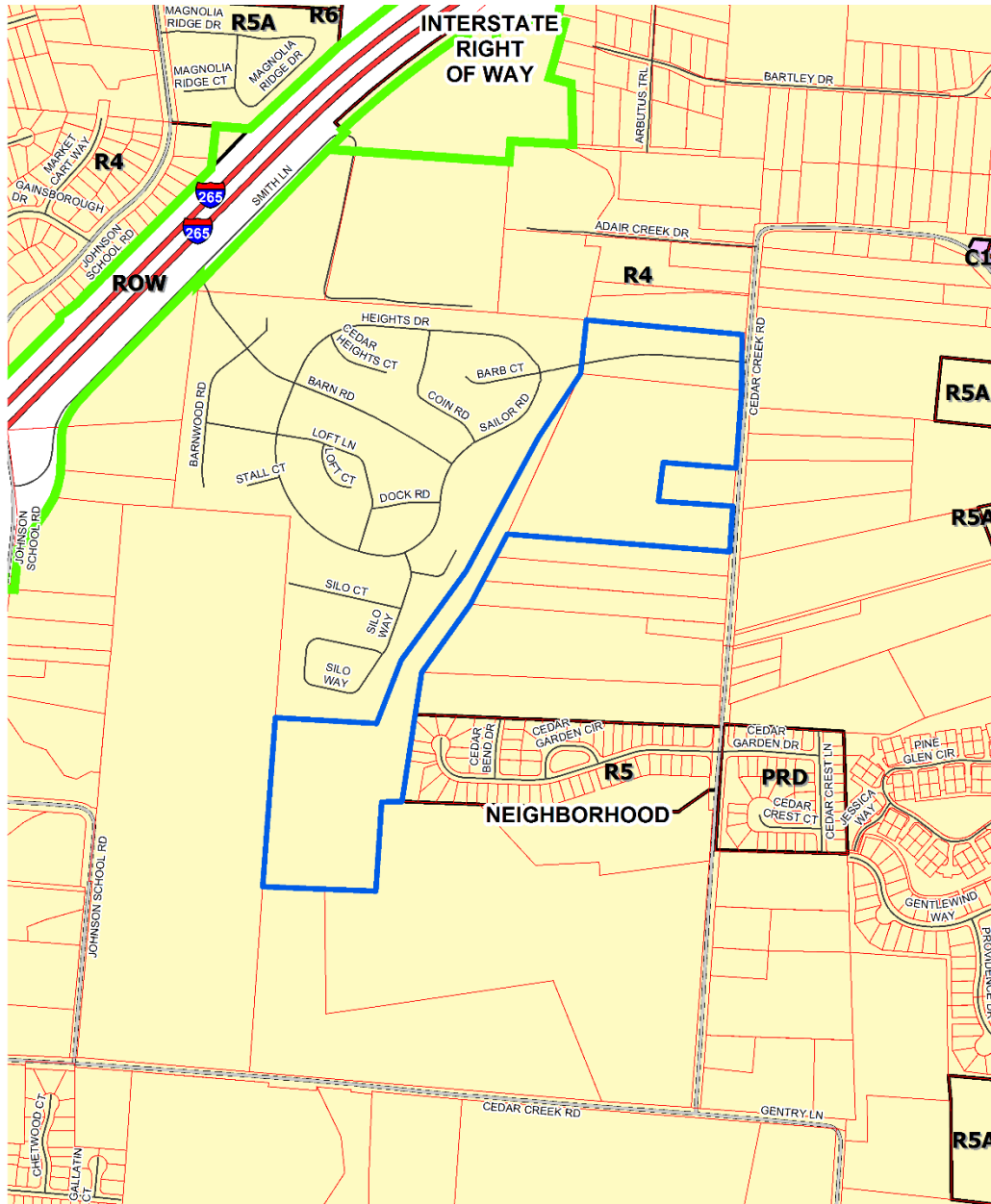
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
<b>01/31/2020</b>	Hearing before LD&T	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 22

**ATTACHMENTS**

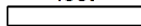
1. Zoning Map
2. Aerial Photograph
3. Conditions of Approval

1. **Zoning Map**



**Cedar Creek Springs**

feet



700

Map Created: 2/6/2020

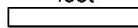


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2. Aerial Photograph



Cedar Creek Springs  
feet



700

Map Created: 2/6/2020



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### **3. Conditions of Approval**

1. The development shall be in accordance with the approved Residential Development Preliminary Plan. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission.
2. The applicant shall submit a plan for approval by Planning Commission staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). Adjustments to the tree preservation plan which are requested by the applicant may be approved by Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following information:
  - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
  - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
  - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
  - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, and construction activity and shall be made available to any DPDS inspector or enforcement officer upon request.
4. A note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected prior to any grading or construction activities - preventing compaction of root systems of trees to be preserved. The fencing shall enclose the area beneath the dripline of the tree canopy and shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."
5. All street signs shall be installed by the Developer, and shall conform with the Manual on Uniform Traffic Control Devices (MUTCD) requirements. Street signs shall be installed prior to the recording of the subdivision record plat or occupancy of the first residence on the street, and shall be in place at the time of any required bond release. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
6. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for "Street A", as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
7. Open space/conservation lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity. A note to this effect shall be placed on the record plat.
8. The developer shall be responsible for maintenance of all drainage facilities and undeveloped lots ensuring prevention of mosquito breeding, until such time as the drainage bond is released.
9. After release of the drainage bond, mosquito abatement on open space lots shall be the responsibility of the Homeowners Association. Accumulations of water in which mosquito larvae

breed or have the potential to breed are required to be treated with a mosquito larvicide approved by the Louisville Metro Health Department. Larvicides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.

10. Trees will be preserved and/or provided on site and maintained thereafter as required by Chapter 10, Part 1 of the Land Development Code and as indicated in the Tree Canopy Calculations on the Preliminary Subdivision Plan. The applicant shall submit a landscape plan for approval by Planning Commission staff for any trees to be planted to meet the Tree Canopy requirements of Chapter 10, Part 1 of the Land Development Code. A tree preservation plan shall be submitted for review and approval for any trees to be preserved to meet the Tree Canopy requirements of Chapter 10.
11. The applicant shall submit a landscape plan for approval by Planning Commission staff showing plantings and/or other screening and buffering materials to comply with the Chapter 10 of the Land Development Code prior to recording the record plat. The applicant shall provide the landscape materials on the site as specified on the approved Landscape Plan prior to issuance of Certificates of Occupancy for the site.
12. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  - a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs and other issues required by these conditions of approval.
  - c. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservations areas.
  - d. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
  - e. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property, and describing management objectives and techniques for each part of the property.
13. At the time the developer turns control of the homeowners association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowners association account. The subdivision performance bond may be required by the planning Commission to fulfill this funding requirement.
14. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat that states, "Construction fencing shall be erected at the edge of the limits of disturbance area, prior to any grading or construction activities. The fencing shall remain in place until all construction is completed. No parking, material storage, or construction activities shall be permitted within the fenced area."

16. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.