

Board of Zoning Adjustment
Staff Report
September 4, 2018



Case No.	18CUP1022
Project Name	The Barn at Cedar Creek
Location	10309 Cedar Creek Road
Owner	Gerry and Tammy Boston
Applicant	Mindel Scott
Representative	Joyner Law Offices PLLC
Jurisdiction	Louisville Metro
Council District	22 – Robin Engel
Case Manager	Beth Jones, AICP, Planner II

REQUEST

- Conditional Use Permit for Private Proprietary Club (LDC 4.2.44)
 - Relief from Condition B to permit the existing 4 ft fence around the pool area to remain
 - Relief from Condition C to permit existing buffering and landscaping to satisfy the requirement
- Waiver of the requirement to provide a sidewalk along the property frontage (LDC 6.2.6.)
- Waiver of the requirement to provide pedestrian access to the event structure from the public right-of-way (LDC 6.2.6.)
- Request to permit existing landscaping to serve as an alternative to the required C-1 buffering standards (LDC 10.2.4, Exception 8)

CASE SUMMARY / BACKGROUND

The applicant proposes to operate a private event facility within an existing barn. The 25.29 acre site is located on the south side of Cedar Creek Road between Remembrance Lane and Reality Trail. It and adjoining properties are located in an R-4 Single-Family Residential Zoning District and a Neighborhood Form District.

In addition to the barn, the site is currently developed with a single-family residence, an in-ground pool with pool house and an accessory structure. The rear yard of the residence, including the pool and pool house, is enclosed by a four foot high fence. The site is accessed via a gated asphalt drive which leads to the residence, with the event barn at the rear and the accessory structure near the property line to the left. No new development of any kind is proposed.

Parking is available on an asphalt lot to the left of the residence and a concrete parking pad to the right of the residence. Just behind the concrete pad, beginning at the rear of the residence, is an additional gravel parking lot and a drive to the event barn. There is a concrete pad in front of the main barn entrance. Valets will park vehicles and use golf carts to transport event guests to and from the barn.

The barn consists of a 2,750 sq ft indoor area which includes restrooms and a food and beverage service area. An 1,100 sq ft covered outdoor deck is located on each side of the barn, and a 600

sq ft open air deck is at the rear. The site is not currently served by public sewers. (See Technical Review section for additional information.)

STAFF FINDINGS

The proposed development of the property for use as a Proprietary Club is compatible with surrounding land uses and meets all CUP requirements. Staff recommends approval of the requested reliefs, waivers and alternative landscaping based on specific conditions on the site.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets standards as established by the Land Development Code for modifying the existing Conditional Use Permit.

TECHNICAL REVIEW

The site is not currently served by public sewers. The proposal has been reviewed the Louisville Metro Department of Public Health & Wellness, which is permitting the applicant to operate with the existing septic system through the remainder of 2018 but will require improvements to the system before any event is held in 2019.

INTERESTED PARTY COMMENTS

No comments from interested parties have been received. Enforcement action has been initiated regarding use of the site.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR CONDITIONAL USE PERMIT

1. Is the proposal consistent with applicable policies of the Comprehensive Plan?

STAFF: The proposal is consistent with Comprehensive Plan policies regarding setbacks and landscaping and preserves significant open space.

2. Is the proposal compatible with surrounding land uses and the general character of the area, including such factors as height, bulk, scale, intensity, traffic, noise, odor, drainage, dust, lighting and appearance?

STAFF: The proposed modification is compatible with development in the vicinity.

3. Are necessary on-site and off-site public facilities such as transportation, sanitation, water, sewer, drainage, emergency services, education and recreation adequate to serve the proposed use?

STAFF: The site is not currently served by public sewers. The proposal has been reviewed by the Louisville Metro Department of Public Health & Wellness, which is permitting the applicant to operate with the existing septic system through the remainder of 2018. Improvements to the septic system are required before any event may be held in 2019. This requirement is confirmed through a Condition of Approval. Remaining public facilities and infrastructure are adequate to serve the site.

4. Does the proposal comply with the following specific standards required to obtain the conditional use permit requested?

4.2.44 Private Proprietary Clubs may be located in the R-R, R-E, R-1, R-2, R-3, R-4, R-5, U-N, R-5A, R-5B, R-6, R-7, OR-1, OR-2, OR-3, OTF, C-R or PTD Districts where such use is compatible in size and scale with surrounding land uses and where the lot contains at least 2 acres upon the granting of a Conditional Use Permit. Tennis centers, racquetball clubs or similar operations requiring large structures to house the facilities shall have a development plan approved by the Planning Commission prior to filing an application for a Conditional Use Permit.

A. All new buildings, structures and facilities shall be at least 30 feet from any property line.

STAFF: The site meets this requirement.

B. Outdoor swimming pools shall be enclosed with a fence at least six feet high.

STAFF: There is an existing in-ground pool directly behind the residence; it will not be made available to event guests. It is currently enclosed by a four foot high fence; the applicant has requested relief from this requirement in order to permit the existing fence to remain.

C. All recreation areas or play fields and parking lots shall be separated from adjacent properties by a solid fence or dense evergreen shrubbery plantings at least five feet high.

STAFF: The site includes existing asphalt, gravel and concrete parking areas, located a minimum of 120 ft from the nearest property line; no new parking areas are required. Side property lines nearest the parking areas are buffered by tree lines.

D. One sign only may be permitted showing the name and address of the club. An attached sign shall not exceed 30 square feet in area, shall be attached flat to the face of the building, and shall not project more than 18 inches from the face of the building. A free-standing sign shall not exceed 20 square feet in area per side, shall not have more than two sides, and shall not exceed a height of six feet. Either an attached sign or a free-standing sign may be permitted, but not both. No sign shall project into any required yard. The sign may be illuminated but non-flashing.

STAFF: The applicant has been informed of this requirement. Existing signage meets these standards.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS to provide a sidewalk along the property frontage AND to provide pedestrian access to the event structure from the public right-of-way (LDC 6.2.6.)

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

STAFF: The requested waivers will not adversely affect the public health, safety or welfare since sidewalks do not exist on adjoining properties.

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

STAFF: The requested waivers will maintain the essential character of the vicinity.

(c) The requested waivers will not cause a hazard or nuisance to the public.

STAFF: The requested waivers are not associated with excessive noise, vibration, odor or light.

(d) The requested waivers will not allow an unreasonable circumvention of zoning regulations.

STAFF: The requested waivers are not unreasonable based on public impact and existing development in the vicinity.

ADDITIONAL CONSIDERATIONS:

1. The requested waivers arise from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The site is the largest in the vicinity and connecting sidewalks do not exist on adjoining properties.

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: Since there are no sidewalks on adjoining properties, installing them on this site would be unnecessary.

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 subject parcel existed prior to the zoning regulation from which relief is being sought.

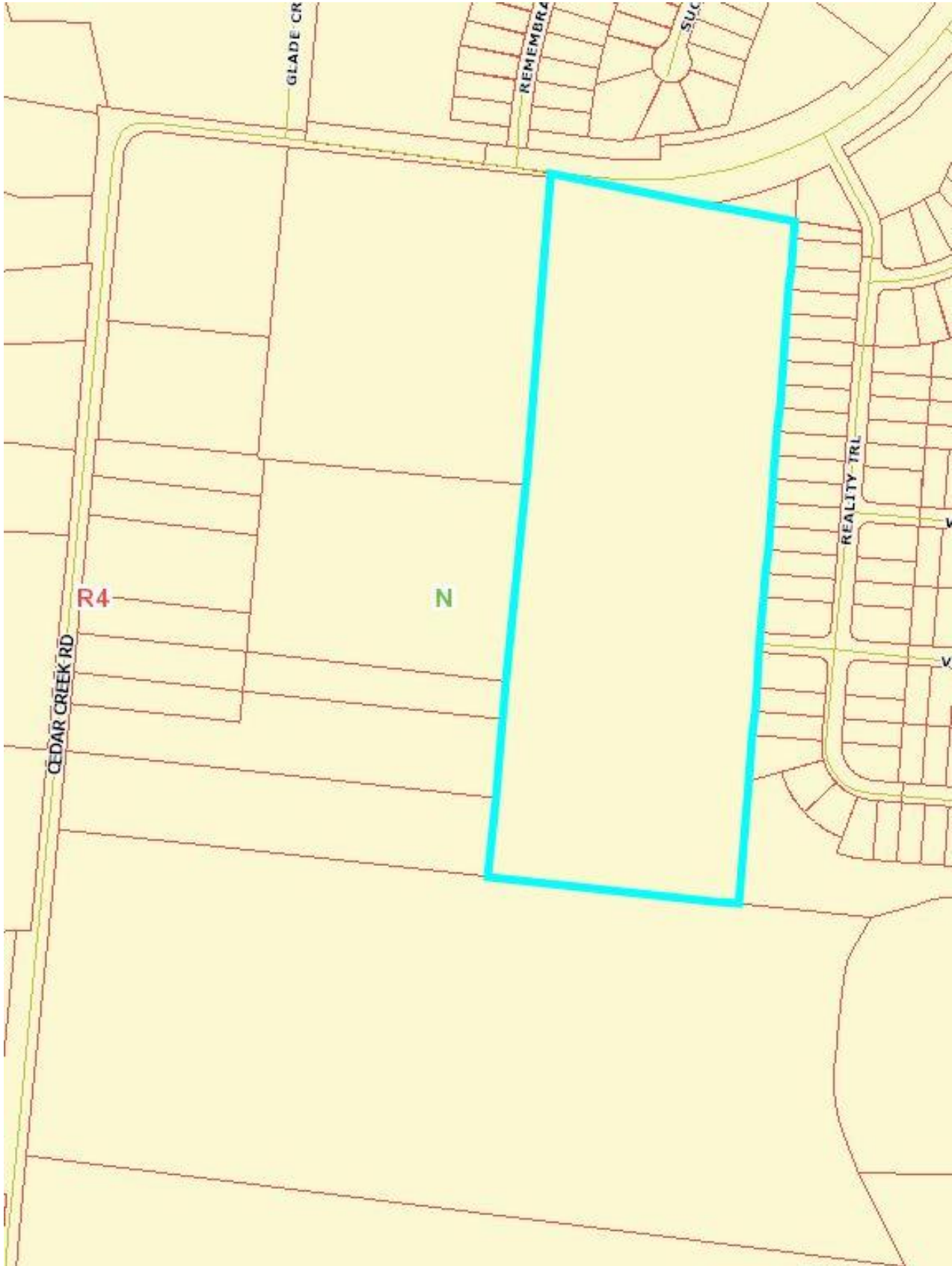
NOTIFICATION

Date	Purpose of Notice	Recipients
7/2/2018	Hearing before BOZA	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 22
8/23/2018	Hearing before BOZA	1st and 2nd tier adjoining property owners Registered Neighborhood Groups for Council District 22
		Sign Posting

ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Detail Aerial Photograph
- 4. Conditions of Approval

1. Zoning Map



2. Aerial Photograph



3. Detail Aerial Photograph



4. Conditions of Approval

1. The site shall be developed in strict compliance with the approved development plan, including all notes thereon. No further development shall occur on the site without prior review by and approval of the Board.
2. The Modified Conditional Use Permit shall be exercised as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a Private Proprietary Club without further review by and approval of the Board.
3. Louisville Metro Department of Public Health & Wellness permits events at the site through December 31, 2018 using the existing on-site waste disposal system. A new system must be installed before any event occurring on or after January 1, 2019. This new system must meet specifications and conditions contained in the Health Department Site Evaluation #195377.
4. The number of guests for any event shall be limited to no more than 150.