

**PLANNING COMMISSION MINUTES**  
**February 29, 2024**

**PUBLIC HEARING**

**CASE NO. 23-ZONE-0111**

Request:	Change in Zoning from R-4 to R-5A with Detailed District Development Plan and Binding Elements, Modified Conditional Use Permit and Major Preliminary Subdivision
Project Name:	Cedar Creek Road Patio Homes
Location:	10309 Cedar Creek Road
Owner:	Tammy & Gerry Boston
Applicant:	JCSS LLC
Representative:	Bardenwerper, Talbott & Roberts
Jurisdiction:	Louisville Metro
Council District:	23 – Jeff Hudson
Case Manager:	Dante St. Germain, AICP, Senior Planner

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Office of Planning offices, 444 S. 5th Street.)

**Agency Testimony:**

03:24:32 Dante St. Germain provided an overview of the request and presented a PowerPoint presentation (see video for details).

**The following spoke in favor of this request:**

Nick Pregliasco, 1000 N Hurstbourne Pkwy, Louisville, KY 40223

**Summary of testimony of those in favor:**

03:30:48 Nick Pregliasco spoke in support of the request and presented a PowerPoint presentation. Pregliasco elaborated on the zone change from R-4 to R-5A and a Modified CUP to allow a 47-unit patio home community to be located on approximately 11 acres (see recording for detailed presentation)

**The following spoke in opposition:**

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Wallace Craig, 8627 Warbler Branch Way, Louisville, KY 40229

#### **Summary of testimony of those in opposition:**

03:45:54 Wallace Craig spoke in opposition to the request. Craig mentioned the main concern is if they do not permit construction vehicles coming through Heritage Creek, traffic will double and become an issue. Craig asked who was responsible for putting down the blacktop at Ceder Creek (see recording for details)

03:48:20 Nick Pregliasco responded to Mr. Craigs questions pertaining to possible damages to the roadway near Ceder Creek and explained that the Elite Homes who is the developer, would be responsible for putting down blacktop (see recording for details)

#### **Rebuttal:**

03:52:47 Nick Pregliasco spoke in rebuttal. Pregaliasco mentioned that when the process started for the development the idea was to move forward with 30 units and not make a full connection but felt it would have not been a good plan overall. Pregliasco responded to Commission Member questions (see recording for details)

#### **Deliberation:**

03:56:13 Planning Commission deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Office of Planning website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

#### **Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential**

03:56:58 On a motion by Commissioner Carlson, seconded by Commissioner Fischer, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

**WHEREAS**, the Planning Commission finds the proposal meets Plan 2040 Community Form: Goal 1 because the proposal is not for higher intensity or density uses. The proposed zoning district would permit residential development which is similar in scale and intensity to adjacent uses.

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**WHEREAS**, the proposal meets Community Form: Goal 2 because the proposal would provide new residential uses.

**WHEREAS**, the proposal meets Community Form: Goal 3 because no wet or highly permeable soils, or severe, steep, or unstable slopes are evident on the site.

**WHEREAS**, the proposal meets Community Form: Goal 4 because no distinctive cultural features are evident on the site. No historic assets are evident on the site.

**WHEREAS**, the proposal meets Mobility: Goal 1 because the proposed zoning district would not permit higher density or intensity uses.

**WHEREAS**, the proposal meets Mobility: Goal 2 because access to the site is via two stub streets, Vision Place and Sandhill Preserve Drive, which would pass traffic through areas of development which are similar in intensity and density. **WHEREAS**, the proposal meets Mobility: Goal 3 because the site is easily accessible by bicycle and car. Transit may be attracted to the area in the future with additional development. Access by pedestrians and people with disabilities will be improved as the sidewalk network develops. Transportation Planning has approved the proposal.

**WHEREAS**, the proposal meets Community Facilities: Goal 2 because the relevant utilities have approved the proposal. Louisville Water Company has approved the proposal. MSD has approved the proposal.

**WHEREAS**, the proposal meets Livability: Goal 1 because tree canopy will be preserved, and the intermittent stream will be protected. Karst features are located on the site and will be mitigated by the applicant during construction. The site is not located in the regulatory floodplain.

**WHEREAS**, the proposal meets Housing: Goal 1 because the proposal would increase the variety of housing types in the neighborhood. The proposal would support aging in place by providing an increased variety of ownership options and price points in the neighborhood

**WHEREAS**, the proposal meets Housing: Goal 2 because the proposal would encourage intergenerational mixed-income development by increasing the variety of housing options and price points in the neighborhood.

**WHEREAS**, the proposal meets Housing: Goal 3 because the proposal would encourage the provision of fair and affordable housing in Louisville Metro by increasing the variety of

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ownership options and unit costs in the neighborhood. No existing residents will be displaced by the proposal. The proposed zoning district would permit innovative methods of housing.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** that the Louisville Metro Council **APPROVE** the change in zoning from R-4 Single-Family Residential to R-5A Multi-Family Residential.

The vote was as follows:

**YES: Commissioners Carlson, Cheek, Kern, Sistrunk, Fischer, Pennix, and Howard**  
**ABSENT: Commissioner Mims**

#### **Modified Conditional Use Permit to modify the CUP area as defined in 18CUP1022 (23-MCUP-0012)**

03:57:58 On a motion by Commissioner Carlson, seconded by Commissioner Fischer, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

**WHEREAS**, the proposal is consistent with Plan 2040. Existing structures will be re-used. The use of the site will be unchanged, except that a portion will no longer be used for the Conditional Use Permit, and

**WHEREAS**, the proposal is compatible with the area and form district as the proposed use of the site is unchanged from the current use, except that some of the area which has been designated for the Conditional Use Permit will be reduced, and

**WHEREAS**, MSD and Transportation Planning have approved the site plan prior to docketing of the case, and

**WHEREAS**, the development on the property affected by the Conditional Use Permit is proposed to remain unchanged, with only the site area reduced. The new site area will be at least two acres; now, therefore be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **CONTINUE** the Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential

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**The vote was as follows:**

**YES: Commissioners Carlson, Cheek, Kern, Sistrunk, Fischer, Pennix, and Howard**  
**ABSENT: Commissioner Mims**

**Major Preliminary Subdivision**

03:58:55 On a motion by Commissioner Carlson, seconded by Commissioner Fischer, the following resolution, was adopted:

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Major Preliminary Subdivision.

**The vote was as follows:**

**YES: Commissioners Carlson, Cheek, Kern, Sistrunk, Fischer, Pennix, and Howard**  
**ABSENT: Commissioner Mims**

**Detailed District Development Plan with Binding Elements**

03:59:00 On a motion by Commissioner Carlson, seconded by Commissioner Fischer, the following resolution, based on the staff analysis contained in the standard of review in the staff report and evidence and testimony heard today, was adopted:

**WHEREAS**, tree canopy and an intermittent stream are present on the site. Required tree canopy will be preserved. The required 25' MSD buffer around the intermittent stream will be provided.

**WHEREAS**, Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided, and Metro Public Works has approved the preliminary development plan.

**WHEREAS**, no open space requirements are pertinent to the request.

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**WHEREAS**, the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

**WHEREAS**, the overall site design is compatible with existing and projected future development of the area. The development will connect two existing stub streets and provide another stub for future connection to Cedar Creek Road. The proposal would permit housing that is of generally a similar density to the existing development in the vicinity.

**WHEREAS**, the development plan conforms to applicable guidelines and policies of the Land Development Code, with the exception of the requested waiver, and conforms with the Comprehensive Plan.

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan with Binding Elements **SUBJECT** to the following 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:

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- a. The development plan must receive full construction approval from Construction Review, Louisville Metro Public Works, and the Metropolitan Sewer District.
  - b. 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.
  - c. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
  - d. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the February 29, 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. All property owners within 500 feet of a proposed blasting location shall be notified 30 days before any blasting operations occur and be offered pre-blast surveys. Any homeowners who opt to have a pre-blast survey conducted shall be provided copies of all materials resulting from that survey, including any photos and/or videos. Any blast surveys shall be done in a manner consistent with Kentucky Blasting Regulations.
8. A qualified geotechnical consultant's services shall be retained during construction to call if/when sinkholes are encountered. Care shall be taken during earthwork to

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investigate and properly remediate potential sinkholes, per the geotechnical engineer's recommendations.

**The vote was as follows:**

**YES: Commissioners Carlson, Cheek, Kern, Sistrunk, Fischer, Pennix, and Howard**

**ABSENT: Commissioner Mims**