

Land Development and Transportation Committee Staff Report May 19, 2022



Case No:	21-ZONE-0059
Project Name:	Oak Grove Road Subdivision
Location:	10212 & 10302 Oak Grove Road
Owner(s):	Estate of Doris Ann Parker, The Parker Living Trust
Applicant:	JS Acquisitions LLC
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel, 23 – James Peden
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Change in zoning** from R-R Rural Residential to R-4 Single Family Residential
- **Waivers**
 - #1 from 7.3.30.E to allow a rear yard to overlap a drainage easement by more than 15% (21-WAIVER-0099)
 - #2 from 5.9.2.A.1.a.ii to omit required stubs to abutting vacant parcels (21-WAIVER-0122)
- **Detailed District Development Plan/Major Preliminary Subdivision** with development potential transfer and Binding Elements

CASE SUMMARY/BACKGROUND

The subject site is located on Oak Grove Road west of the intersection with Thixton Lane and consists of two contiguous parcels. The applicant wishes to rezone the property to R-4 with a development potential transfer in order to construct a new 263-lot single-family subdivision.

Oak Grove Road is a secondary collector and scenic corridor at this location. The development is also proposed to utilize access from Mossy Creek Way, a local road going through an adjacent subdivision (Creek View). Cedar Creek runs through the property to the west.

The site is located within the study area for the Fern Creek Small Area Plan. The site is located in Quadrant III (the Southwestern Quadrant) and is within the Preservation Strategy Area, where the agricultural, rural character of the area is proposed to be preserved.

The site was downzoned from R-4 to R-R under areawide rezoning docket number 9868.

STAFF FINDING

The proposal has several outstanding issues as of the publication of this staff report. Land Development and Transportation Committee should ensure that these issues have been resolved prior to scheduling the hearing.

- A revised traffic impact study was requested from the applicant by Transportation Planning.

- A planning study of the roads serving the development was requested from the applicant by Transportation Planning. The planning study was to include a topographic survey and property survey to find the limits of disturbance and determine how much right-of-way is available for proposed improvements. The roads serving the site should be designed for 12' travel lanes and 6' earth shoulders. The planning study was also to include collision data and analysis of the surrounding roads and intersections, as well as capacity at intersections and turn-lane warrants.
- Planning and Design Services staff has concerns about potential future re-subdivision of the large lots in the north of the site.
- A geotechnical report will be required prior to development of the site.

TECHNICAL REVIEW

MSD has provided preliminary approval of the proposal. Transportation Planning has not approved the proposal.

INTERESTED PARTY COMMENTS

Numerous interested party emails have been received, either requesting additional information or in opposition to the request. Some of the comments related to some clearing that was performed on the property in order to conduct geotechnical work prior to the approval of the zoning change.

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 if all outstanding issues have been addressed.

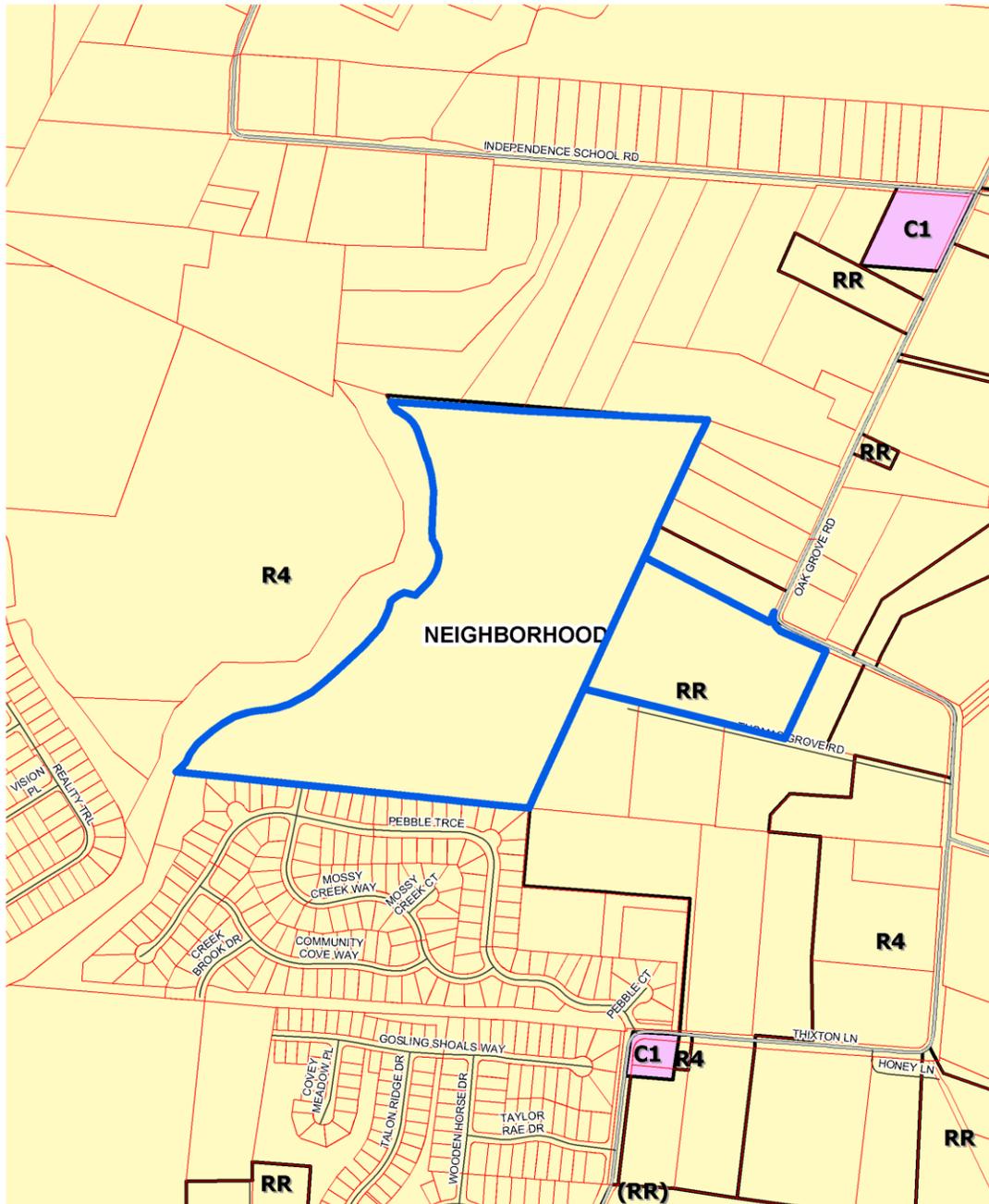
NOTIFICATION

Date	Purpose of Notice	Recipients
05/06/2022	Hearing before LD&T	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22 & 23
	Hearing before PC	1 st and 2 nd tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 22 & 23
	Hearing before PC	Sign Posting on property
	Hearing before PC	Legal Advertisement in the Courier-Journal

ATTACHMENTS

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

1. Zoning Map



10212 & 10302 Oak Grove Road

feet



630

Map Created: 4/20/2021



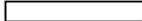
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2. Aerial Photograph



10212 & 10302 Oak Grove Road

feet



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Map Created: 4/20/2021



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3. Proposed Binding Elements

1. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
2. 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.
3. 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.
4. 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 trees and fences within buffer areas and other issues required by these binding elements / conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
5. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
6. Open space 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.
7. A note shall be placed on the preliminary plan, construction plan(s) and the record plat that states, "Construction fencing shall be erected to protect trees on site and 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 areas."
8. 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.
9. 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.
 10. 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.
 11. 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.
 12. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
 13. 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.
 14. 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.
 15. 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.
 16. The applicant/developer shall improve Independence School Road from Oak Grove Road to Cedar Creek Road to Department of Works standards, and complete all required improvements no later than recordation of the 160th lot.
 17. A right-turn lane on Thixton Lane at the intersection of Bardstown Road shall be constructed by the applicant/developer as shown at the December 16, 2021 Planning Commission hearing. All construction shall be completed and the right-turn lane shall be operational no later than recordation of the 160th lot.