

Land Development and Transportation Committee
Staff Report
October 12, 2017



Case No:	17SUBDIV1012
Project Name:	Brooke Stone Estates
Location:	4121 Billtown Rd
Owner(s):	MRC Development Group
Applicant:	MRC Development Group
Jurisdiction:	Jeffersontown
Council District:	20 – Stuart Benson
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- Waiver from Land Development Code table 5.3.1 to allow the creation of a lot below the minimum allowable width in the R-4 zoning district within the Neighborhood Form District.
- Waiver of Land Development Code section 7.8.60.B.4 to allow a single family lot to have direct access to Billtown Rd, a Minor Arterial
- Preliminary Major Subdivision Plan

CASE SUMMARY/BACKGROUND

The applicant is proposing to create 46 buildable lots on approximately 13.9 acres. The existing home on the site is to remain, to be incorporated onto a new lot within the subdivision. The existing lot is a flag lot, and the long parcel that makes up the access portion is to be a residual lot that maintains access directly to Billtown Rd. That lot is intended to be developed and sold as a single home, not a part of the Home Owners Association rules applicable to the rest of the subdivision. The two waivers requested in this case are relating to conditions on that residual lot. The remainder of the subdivision will be served by a street network that connects to existing stub streets from adjacent subdivisions. There is an existing unimproved public right-of-way on the site that is to be closed in association with this subdivision.

STAFF FINDING

The subdivision plan meets or exceeds all regulations in Chapter 7 of the Land Development Code for Major Preliminary Subdivisions, with the exception of the two waivers requested.

The waivers both appear to be adequately justified and meet the standard of review.

TECHNICAL REVIEW

Transportation Planning and the Metropolitan Sewer District have given preliminary approval for this request.

There is an unimproved right of way on the site that is proposed to be closed as part of this development.

A portion of the existing Sundrop Ln to the south of the site will need to be renamed to match the proposed extension of Truman Dr.

INTERESTED PARTY COMMENTS

Staff has received no inquiries from interested parties concerning this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE TABLE 5.3.1 TO ALLOW THE CREATION OF A LOT BELOW MINIMUM ALLOWABLE WIDTH

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

STAFF: The requested waiver will not adversely affect adjacent property owners, as the resultant lot pattern will be substantially in keeping with the existing residential character of the area.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 1 requires new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. The resultant lot will be similar in scale and development pattern to other residential lots along Billtown Rd.

- (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. The portion of the lot already exists at a substandard width, and the owner is unable to purchase additional land from adjacent property owners to make up the difference.

- (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, as the existing lot is of substandard width at the point where it abuts Billtown Rd. Without the waiver, a significant portion of this parcel would not be usable.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE TABLE SECTION 7.8.60.B.4 TO ALLOW A SINGLE FAMILY LOT DIRECT ACCESS TO A MINOR ARTERIAL LEVEL ROAD.

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

STAFF: The requested waiver will not adversely affect adjacent property owners, as the driveway already exists to serve the current home on the site. There will be no change in the number of entrances from Billtown Rd.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 1 requires new development and redevelopment with the scale and site design of nearby existing development and with the pattern of development within the form district. Guideline 3, Policy 23 states that setbacks, lot dimensions and building heights should be compatible with those of nearby developments that meet form district guidelines. Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. The resultant lot will be similar in scale and development pattern to other residential lots along Billtown Rd.

(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.

(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 create an unnecessary hardship on the applicant, as an existing curb cut already exists to serve this residual tract.

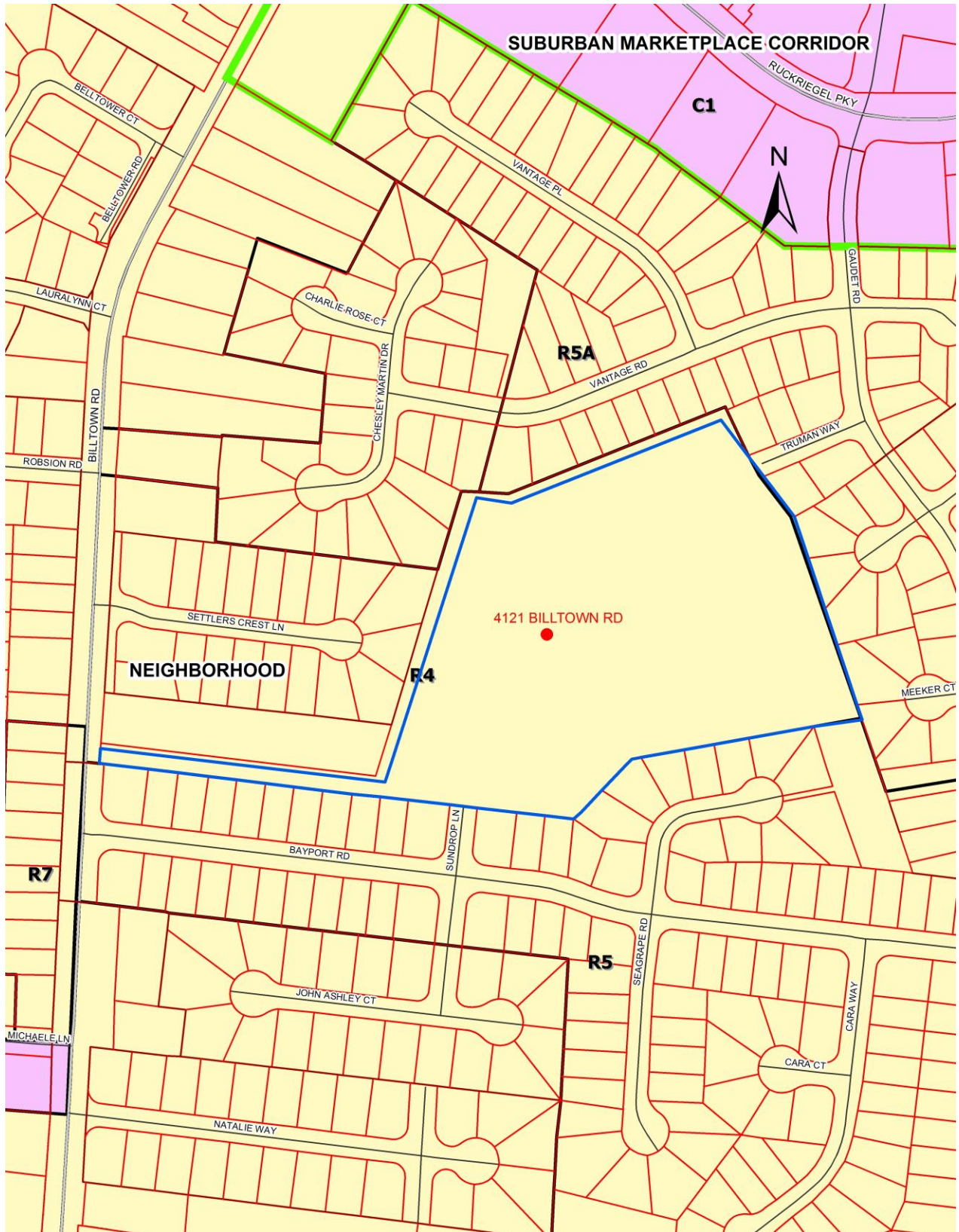
NOTIFICATION

Date	Purpose of Notice	Recipients
9-27-17	Hearing before LD&T	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 20

ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph



3. Proposed Conditions of Approval

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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from Louisville Metro Public Works or the Kentucky Department of Transportation, Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
3. The applicant, developer, or property owner shall provide copies of these conditions of approval 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. 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.
5. 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.
6. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan and construction plan 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."
7. 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 binding elements / conditions of approval.
 - c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
- 8. 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.
 - 9. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
 - 10. The section of Sundrop Ln that connects to the proposed Truman Way shall be formally changed to match prior to the recording of the record plat.
 - 11. The unnamed unimproved right-of-way that runs along the northern and western edges of the parcel shall be formally closed prior to the recording of the record plat.