

Planning Commission Staff Report

December 20, 2018



Case No:	18SUBDIV1017
Project Name:	Club Hill Drive
Location:	915 South Park Rd. & 1901-1933 Club Hill Dr.
Owner(s):	South Park Country Club
Applicant:	South Park Country Club
Representative(s):	Milestone Design Group
Jurisdiction:	Louisville Metro
Council District:	13 – Vicki Aubrey Welch
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Waiver** of Land Development Code (LDC), section 5.3.1.C to reduce the minimum width as shown on the preliminary subdivision plan
- **Waiver** of LDC, section 7.3.30.B to allow detached single-family homes to be served by a private road
- **Variance** from LDC, section 5.3.1.C to reduce the required front, side, street side, and/or rear yards for existing structures as shown on the preliminary subdivision plan
- **Major Preliminary Subdivision Plan** for 22 single-family lots

CASE SUMMARY

A major subdivision is requested to create individual lots for 17 existing residential dwellings and 5 lots for future development. The property was originally developed as lake cottages/cabins. Additions and new construction has occurred on the subject site throughout the years. The Board of Zoning Adjustment found in 2006 that the land was developed prior to 1943 and changes to the property had been made over the years. The Board recognized that nonconforming rights exist. The applicant indicated that the residences have been sold based on the boundaries of lease lines in lieu-of lots being created. The request allows for the residences and associated accessory structures to be placed on individual lots in compliance with the R-4 zoning district, with the exception of the requested relief.

Variance and waiver details are provided in the Technical Review.

STAFF FINDING

The major preliminary subdivision plan conforms to the greatest extent possible with the Land Development Code. The requested variances and waivers appear to be adequately justified based on staff's analysis contained in the standard of review.

TECHNICAL REVIEW

Associated Cases

- B-258-05 & B-259-05: Appeal of Refusal Letter issued by the construction review division for single-family residential permits. The Board found that nonconforming rights exist. New construction was permitted at 1929 & 1933 Club Hill Drive.

Waiver

- Lot width (60' required) for proposed lots 11, 12, 14, 15, & 16

Variances

- Front/street side yard (30' required) for primary residences on lots 7-17
- Front/street side yard (30' required) for accessory structures on lots 5-11 & 14-16
- Side yard for primary residences (5' required) on lots 9-12, 15 & 16
- Side yard for accessory structures (2' required). No variances appear to be needed.
- Rear yard (25' required with 30% encroachment allowed and no closer than 5') on lots 1

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (lot width)

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

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent residential owners are a party to the proposed subdivision and the requested lot width is the result of existing conditions.

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 3, Policy 23 calls for setbacks, lot dimensions and building heights to be compatible with those of nearby developments that meet form district standards. Due to the existing conditions of the current residences, the proposed lot width is consistent with these existing conditions and compatible with development that is a party to this unique request.

- (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 as existing conditions prevent compliance with the minimum standards.

- (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 existing conditions prevent compliance with the minimum standards.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (private road)

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

STAFF: The waiver will not adversely affect adjacent property owners as the road is used privately for the benefit of the residents and will continue to be used in the same manner.

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Guideline 8, Policy 11 calls for development to provide for an appropriate functional hierarchy of streets and appropriate linkages between activity areas in and adjacent to the development site. The proposed private access easement will not increase the classification of the existing road and no linkages to other networks are available or appropriate for connection to this road due to the unique circumstances of existing residences.

- (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 a private roadway best serves the needs of the existing conditions.

- (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 a private roadway best serves the needs of the existing conditions.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE (setbacks)

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

STAFF: The requested variance will not adversely affect the public health, safety or welfare as the variances requested are for all intents and purposes the result of existing conditions. The separation between structures and the current use of structures will remain unchanged upon the granting of relief.

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

STAFF: The requested variance will not alter the essential character of the general vicinity as the separation between structures remains unchanged.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public as the separation between structures remains unchanged.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the property is currently nonconforming to the zoning district regulations and the proposed relief allows for proposed lot creation to bring the site into compliance with the density requirements of the district.

ADDITIONAL CONSIDERATIONS:

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

STAFF: The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone as the site was originally developed as lake cottages and have since been sold based on lease lines. The variances allow for individual lots to be created in conformance with the density of the district.

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: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant as the property is currently nonconforming to the zoning district regulations and the proposed relief allows for proposed lot creation to bring the site into compliance with the density requirements of the district.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the subject property was initially developed prior to the adoption on zoning regulations in 1943 and the applicant is making a necessary request for relief to allow for the approval of a major preliminary subdivision plan.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 5.3.1.C to reduce the minimum width on lots 11, 12, 14, 15, & 16 to those widths indicated on the proposed subdivision plan
- **APPROVE** or **DENY** the **Waiver** of LDC, section 7.3.30.B to allow detached single-family homes to be served by a private road
- **APPROVE** or **DENY** the Variances from LDC, section 5.3.1.C to reduce the required front, side, street side, and rear yards for existing structures shown on the preliminary subdivision plan as follows:
 - Front/street side yard (30' required) for primary residences on lots 7-17
 - Front/street side yard (30' required) for accessory structures on lots 5-11 & 14-16
 - Side yard for primary residences (5' required) on lots 9-12, 15 & 16
 - Rear yard (25' required with 30% encroachment allowed and no closer than 5') on lots 1
- **APPROVE** or **DENY** the **Major Preliminary Subdivision Plan**

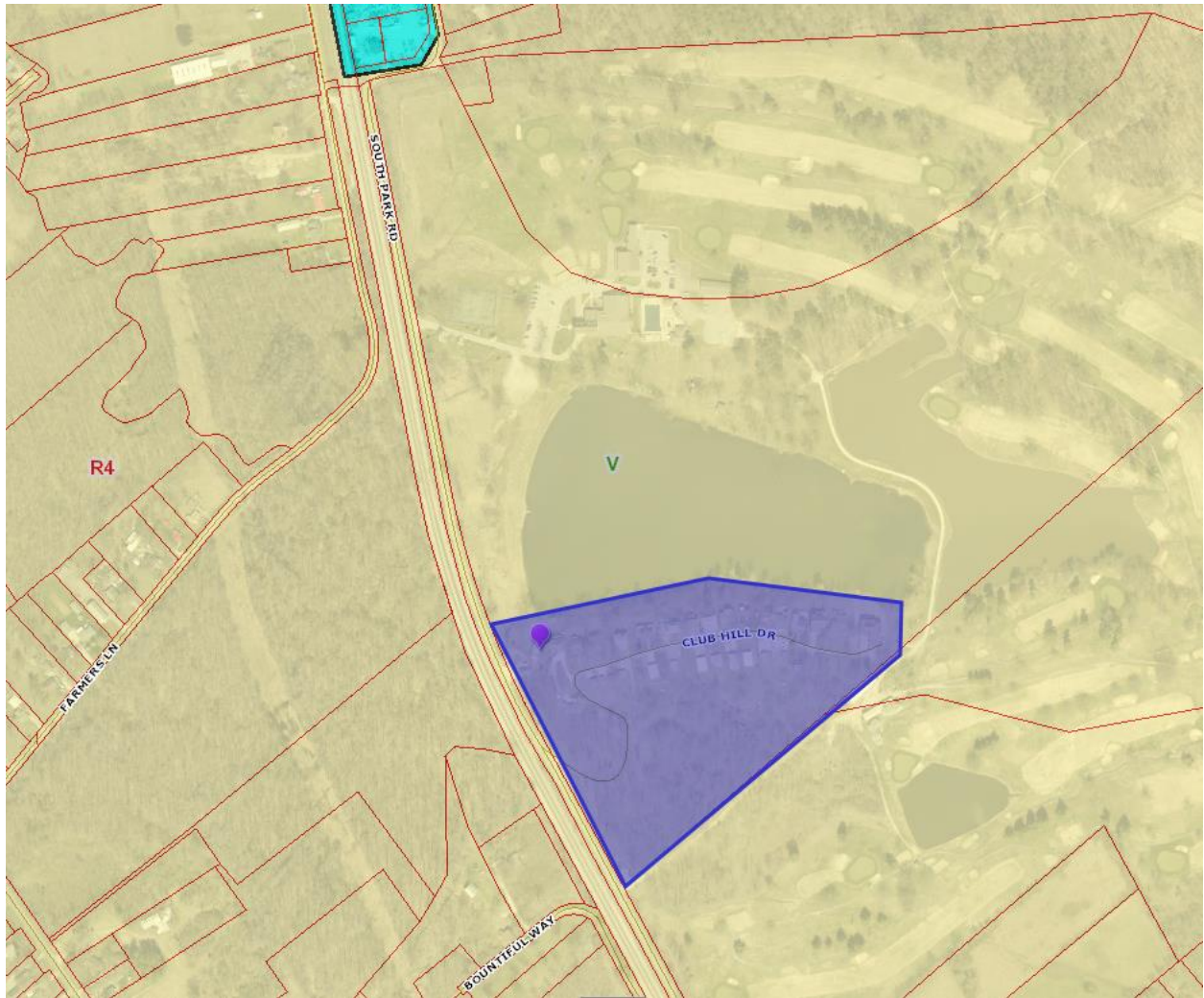
NOTIFICATION

Date	Purpose of Notice	Recipients
12/6/18	Hearing before LD&T	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 13

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 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. 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."
3. Open space 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
- 9. 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.