

Development Review Committee

Staff Report

October 31, 2018



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| Case No: | 18DEVPLAN1134 |
| Project Name: | Bristol Bluffs |
| Location: | 6203 Gellhaus Lane |
| Owner(s): | LDG Development, LLC |
| Applicant: | Bluffs of Bristol, LLC |
| Representative(s): | Dinsmore & Shohl, LLP – Clifford Ashburner |
| Jurisdiction: | Louisville Metro |
| Council District: | 20 – Stuart Benson |
| Case Manager: | Joel P. Dock, AICP, Planner II |

REQUEST(S)

- **Waiver** of Land Development Code (LDC), section 5.4.2 to not provide 20' LBA or orient the front façade on lots 1-8 towards the collector roadway
- **Waiver** of Land Development Code (LDC), section 7.3.30.F to not provide 15' buffer yard for lots 23-41
- **Revised Major Preliminary Subdivision/District Development Plan**

CASE SUMMARY

A revision to the recently approved single-family residential subdivision portion under case 16DEVPLAN1107 is requested. The previous section included 46 lots. The current proposal includes 41 lots. The layout remains relatively unchanged with the exception of the area of proposed lots 1-8. In this area the frontage road is being moved away from Gellhaus Lane and the lots will be oriented away from the collector roadway.

Associated Cases

- 9-36-06 & 10-28-06: Change in zoning from R-4, single family, to R-7, multi family, with a portion to remain R-4 and a preliminary subdivision plan to create 38 lots (Amended to R-6 at Metro Council).
- 10686 & 11486: Revised detailed development plan for 220 apartment units.
- 13DEVPLAN1043: Revised detailed plan for 216 apartments.
- 16DEVPLAN1107: Revised detailed plan for 216 multi-family units and 46 single-family lots

STAFF FINDING

The revised major preliminary subdivision/district development plan and waivers appear to be adequately justified and meet the standard of review based on staff's analysis in the staff report.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (LOTS 1-8)

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

STAFF: The waiver will not adversely affect adjacent property owners as the proposed lots will be elevated from the collector level roadway and are for single-family home construction.

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as the proposed lots will be elevated from the collector level roadway and the applicant has indicated that the grade is too steep to properly construct driveways.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the proposed lots will be elevated from the collector level roadway and the applicant has indicated that the grade is too steep to properly construct driveways.

- (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 or would create an unnecessary hardship on the applicant as the proposed lots will be elevated from the collector level roadway and the applicant has indicated that the grade is too steep to properly construct driveways.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVERS (LOTS 23-41)

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

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent property is owned by JCPS.

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as the area of the required buffer will be provided within the rear yards of single-family lots.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant.

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as the adjacent property is owned by JCPS.

- (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 or would create an unnecessary hardship on the applicant as the area of the buffer will be retained in the rear yards of single-family residential lots.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR REVISED DISTRICT DEVELOPMENT PLAN

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: All minimum tree canopy requirements will be met.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community are provided as sidewalks are provided and connectivity to adjacent sites is being made available.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: Open space is not required of the proposed development.

- d. 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;

STAFF: The Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The overall site design and land uses are compatible with the existing and future development of the area that contains as the proposal is a single-family section of a mixed-residential community that has previously been approved.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The development plan conforms to applicable guidelines and policies of the Comprehensive Plan as connectivity is being provided, minimum tree canopy compliance will be observed, and the proposed lot sizes are permitted by-right in the R-4 zoning district.

REQUIRED ACTIONS

- **APPROVE or DENY** the Waiver of Land Development Code (LDC), section 5.4.2 to not provide 20' LBA or orient the front façade on lots 1-8 towards the collector roadway
- **APPROVE or DENY** the Waiver of Land Development Code (LDC), section 7.3.30.F to not provide 15' buffer yard for lots 23-41
- **APPROVE or DENY** the **Revised Major Preliminary Subdivision/District Development Plan** subject to the exiting binding elements with revision to binding element #2

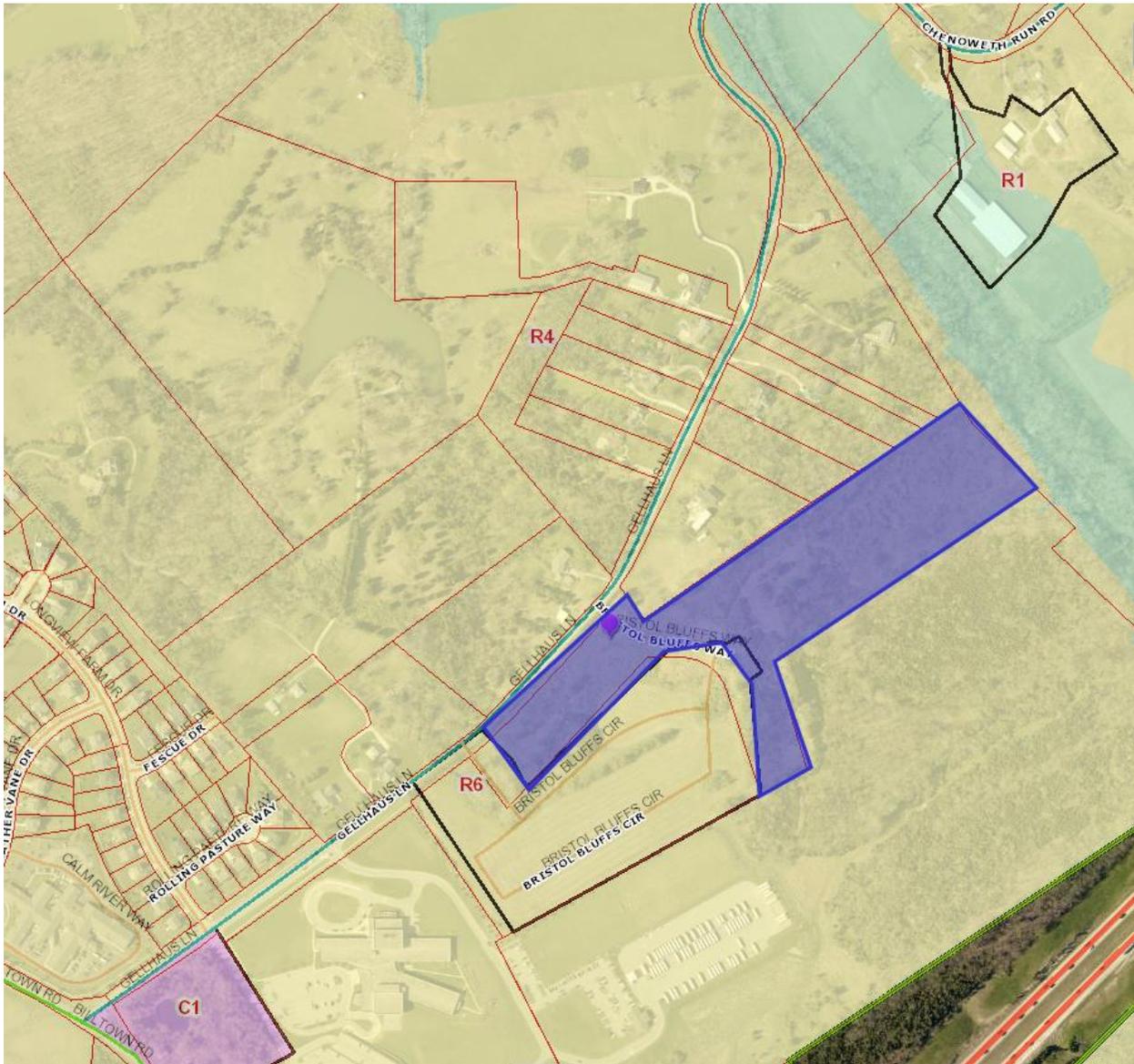
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|----------|--------------------|---|
| 10/19/18 | Hearing before DRC | 1 st tier adjoining property owners, attendees of neighborhood meeting, and others. Registered Neighborhood Groups in Council District 20 |

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements with revisions to binding element #2

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements with revision to binding element #2

1. The development shall be in accordance with the approved district development and preliminary subdivision plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. 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. The density of the development shall not exceed 17.10 dwelling units per acre (216 units on 2.63 net acres) on Parcel B. The density of the development on Parcel A shall not exceed ~~2.74~~ **3.42** dwelling units per acre (~~37 41~~ units on ~~43.50~~ **12 net** acres).
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. A note shall be placed on the preliminary subdivision 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."
6. 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.
7. 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. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:
 - a) Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
 - b) Dimension lines have been used on this plan to establish the general location of TCPAs and represent minimum distances. The final boundary for each TCPA shall be established in the field by the applicant/developer, or property owner to include canopy of all trees at or within the dimension line.
 - c) Tree protection fencing shall be erected around all TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at

least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.

- d) No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.
 - e) Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.
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, open space, TCPAs, WPAs.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
9. Trees will be preserved and/or provided on site 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 LDC and for open spaces shown on the development plan. The landscaping shall be substantially similar to that shown on the development plan and concept landscape submitted for this site. 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.
10. 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.
11. 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:
- 1. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - 2. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).

3. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
4. Location of construction fencing for each trees/tree mass designated to be preserved.
12. 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 Inspections, Permits and Licenses, 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 building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - c. A major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
13. 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.
14. 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.
15. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the July 28, 2016 Land Development & Transportation meeting.
16. At the time a building permit is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that the lighting of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained thereafter. No building permits shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
17. 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.
18. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for Street C. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.

19. 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.
20. 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.
21. 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: Larvacides shall be administered in accordance with the product's labeling. This language shall appear in the deed of restrictions for the subdivision.
22. Developer shall provide a west-bound right-turn lane on Billtown Road to Gellhaus Lane per KTC requirements. KTC permit required prior to construction approval by Metro Public Works.
23. As required by Public Works, the Gellhaus Lane Right-of-way shall be dedicated by deed or minor plat that must be recorded prior to Public Works construction approval or shall be recorded as part of the required record plat.
24. Developer shall be responsible for utility relocations, final surface overlay and striping associated with required road improvements. Gellhaus Lane shall be improved to provide a three-lane section per the approved schematic roadway and improvement striping plan provided (i.e. "Road Improvement Exhibit").
25. Prior to filling the existing pond on site, a geotechnical study shall be performed for review and approval by MSD (and Public Works).
26. No junked or unusable cars shall be stored on the property.
27. Any landscaping between an approved multi-family structure and the right-of-way of Gellhaus Lane shall be irrigated, and any landscaping material shall be removed and replaced within 60 days.