

General Waiver Justification:

In order to justify approval of any waiver, the Planning Commission or Board of Zoning Adjustment considers four criteria. Please answer **all** of the following questions. Use additional sheets if needed. **A response of yes, no, or N/A is not acceptable.**

1. Will the waiver adversely affect adjacent property owners?

The waiver relief will allow for the applicant to properly handle drainage throughout the development, as reviewed and approved by MSD, which will benefit adjacent property owners. The relief to allow the rear yards of the proposed lots be occupied by drainage easements will not adversely affect adjacent property owners because the easements will be imperceptible from the vantage point of the adjacent properties because the affected rear yards occupied by easements will appear as normal rear yards of residential properties. Moreover, all associated required rear yard building setbacks will comply with LDC requirements. Accordingly, the waiver will not adversely affect adjacent property owners.

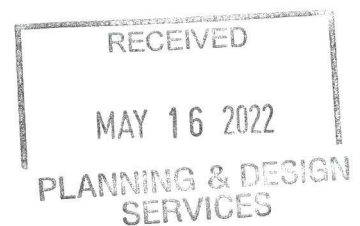
2. Will the waiver violate the Comprehensive Plan?

The development is within the Neighborhood Form District. Plan 2040's Community Form Plan Element Goal 3, Policy 1 that encourages creation of common, usable and accessible open space in new residential development. The requested waiver is not incongruent nor violative with Plan 2040. Here, the rear yard areas where the drainage easements will overlap will remain usable by the resident and will not appear as anything other than a rear yard. By not making the lots larger we are able to provide significant percentage of open space.

3. Is extent of waiver of the regulation the minimum necessary to afford relief to the applicant?

The extent of the waiver will afford relief to the applicant to be able to provide the required MSD storm and drainage easements at the rear of the lot yards. The rear yards of the proposed lots will allow for use of said backyards, therefore, the extent of waiver of the regulation is the minimum necessary to afford relief to the applicant.

4. Has either (a) the applicant 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 would (b) the strict application of the provisions of the regulation deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant?



The layout of the property was done in a manner to minimize stream crossings and reduce removal of existing tree cover. Through these measures we have been able to save a quarter of the property in open space. The R-4 Zoning in this Neighborhood Form District requires a 25' minimum back yard setback and the strict application of the provisions of LDC Section 7.3.30.E would require a much larger rear yard setback, therefore depriving the applicant of reasonable use of that additional setback area; and would require us to use large lots therefore limiting the amount of open space.

Contact Information:

Owner: Check if primary contact

Name: _____

Company: Wind Dance Farm, Inc. _____

Address: PO Box 348 _____

City: Floyds Knob State: IN Zip: 47119

Primary Phone: _____

Alternate Phone: _____

Email: _____

Owner Signature (required):



Applicant: Check if primary contact

Name: Clayton Properties Gorup, Inc. _____

Company: DBA Elite Homes _____

Address: 16218 Shelbyville Road _____

City: Louisville State: KY Zip: 40245

Primary Phone: 502-641-3178 _____

Alternate Phone: _____

Email: Curtis.mucci@elitebulthomes.com _____

Attorney: Check if primary contact

Name: _____

Company: _____

Address: _____

City: _____ State: _____ Zip: _____

Primary Phone: _____

Alternate Phone: _____

Email: _____

Plan prepared by: Check if primary contact

Name: Doug Schultz _____

Company: Sabak Wilson and Lingo _____

Address: 608 S. Third Street _____

City: Louisville State: KY Zip: 40245

Primary Phone: 502-584-6271 _____

Alternate Phone: _____

Email: Doug.schultz@swlinc.com _____

