

# Land Development and Transportation Committee Staff Report

August 12, 2021



<b>Case No:</b>	21-MSUB-0006
<b>Project Name:</b>	Ernspike Etawah Avenue
<b>Location:</b>	Etawah Avenue Parcel #0021-0501-0000
<b>Owner(s):</b>	Etawah Woods, LLC
<b>Applicant:</b>	Etawah Woods, LLC Inc
<b>Jurisdiction:</b>	City of Lyndon
<b>Council District:</b>	7 – Paula McCraney
<b>Case Manager:</b>	Joel Dock, AICP, Planning Coordinator

## REQUEST(S)

- **Waiver** of Land Development Code (LDC), section 5.8 to not provide sidewalks within the public right-of-way
- **Waiver** of LDC, section 7.3.30 to allow lots for detached homes to not abut a public street
- **Major Preliminary Subdivision**

## CASE SUMMARY

A subdivision to create 7 residential building lots and 1 lot for detention and floodplain management is proposed. The site is at the terminus of an existing local roadway, Etawah Avenue, which connects to La Grange Road. The terminus of the road will be completed with a cul-de-sac which serves 4 lots and contain a private access road serving the remaining 3 lots. The road currently accommodates 45 lots; not all developed at this time. Sidewalks are not present on Etawah Avenue.

## STAFF FINDING

The requested waivers have been adequately justified for approval based on staff's analysis contained in the standard of review. With approval of the waivers, the subdivision is also in order for approval.

## TECHNICAL REVIEW

- The City of Lyndon submitted a letter for this application indicating that Etawah Avenue will be widened to a width between 18' and 20' and that plan does not include sidewalks. The City of Lyndon has voiced their support for the applicant's request to not include sidewalks and provide access utilizing a private road for 3 lots. The letter was included in the public meeting materials.

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (sidewalks)

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

STAFF: The waiver will not adversely affect adjacent property owners as the site is at the end of a terminating roadway where no sidewalks are present or proposed in the future along the roadway.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate related guidelines of Plan 2040 as pedestrian mobility would not be enhanced by constructing sidewalks on the cul-de-sac only that will not be connected.

- (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 the City Of Lyndon intends to improve Etawah Avenue but not provide sidewalks and provisioning sidewalk on the subject site would not result in an overall benefit.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER (private street)**

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

STAFF: The waiver will not adversely affect adjacent property owners as the street is not a through street and no sidewalks are proposed. For this reason, the use of a private roadway would not impact adjacent owners and their ability to access property or cross property on foot safely.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate related guidelines of Plan 2040 as the roadway providing access does not connect and no sidewalks are available now or in the future. Provisioning public streets would not result in an increase in mobility, pedestrian safety, transit use, or connectivity at his location.

- (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 based on the applicant's desire to not construct a public road.

- (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 the lots will still maintain access to a public roadway network.

### **REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 5.8 to not provide sidewalks within the public right-of-way
- **APPROVE** or **DENY** the **Waiver** of LDC, section 7.3.30 to allow lots for detached homes to not abut a public street
- **APPROVE** or **DENY** the **Major Preliminary Subdivision**

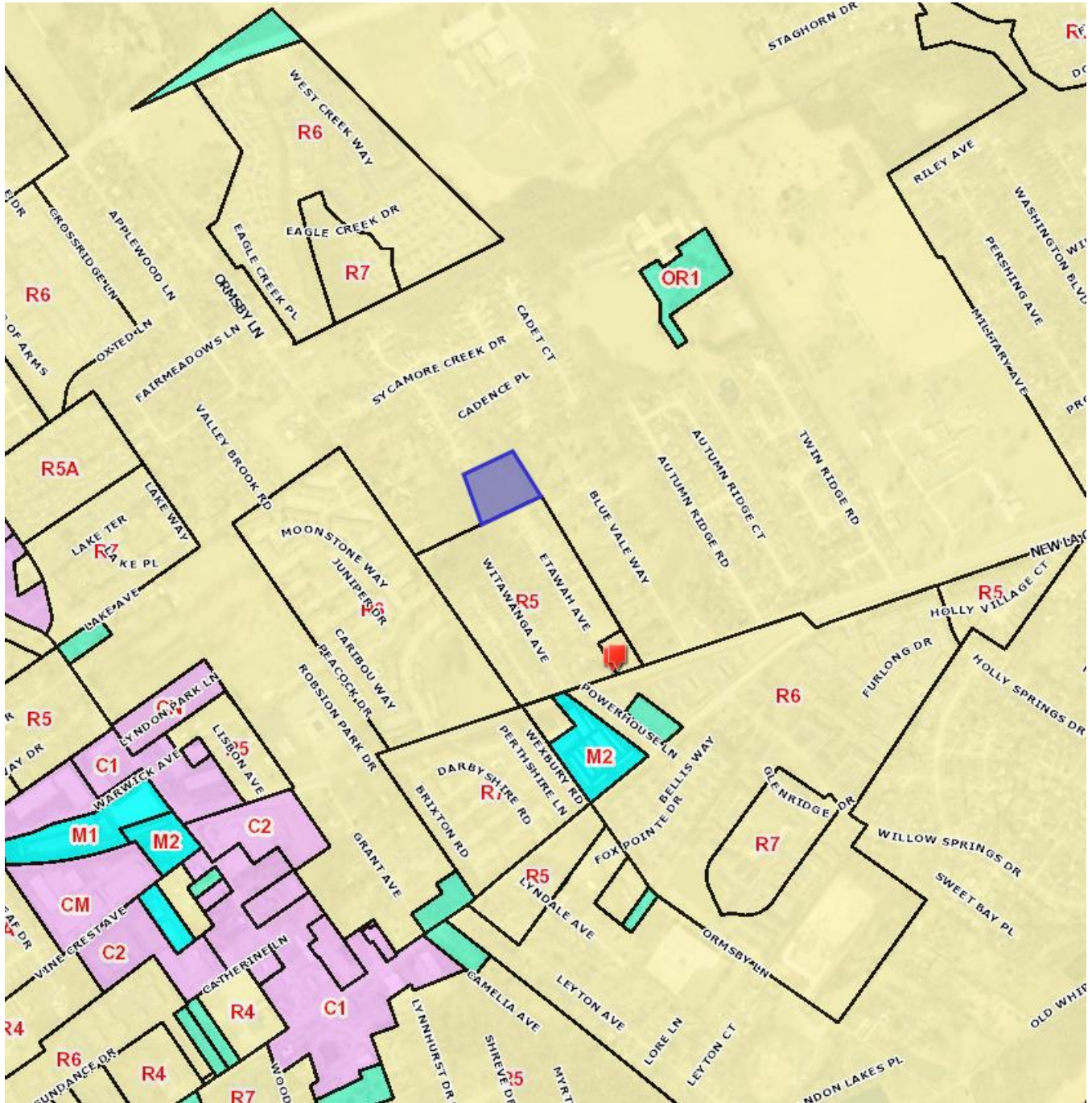
**NOTIFICATION**

Date	Purpose of Notice	Recipients
9/30/21	Hearing before LD&T	1 <sup>st</sup> tier adjoining property owners and residents Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 7

**ATTACHMENTS**

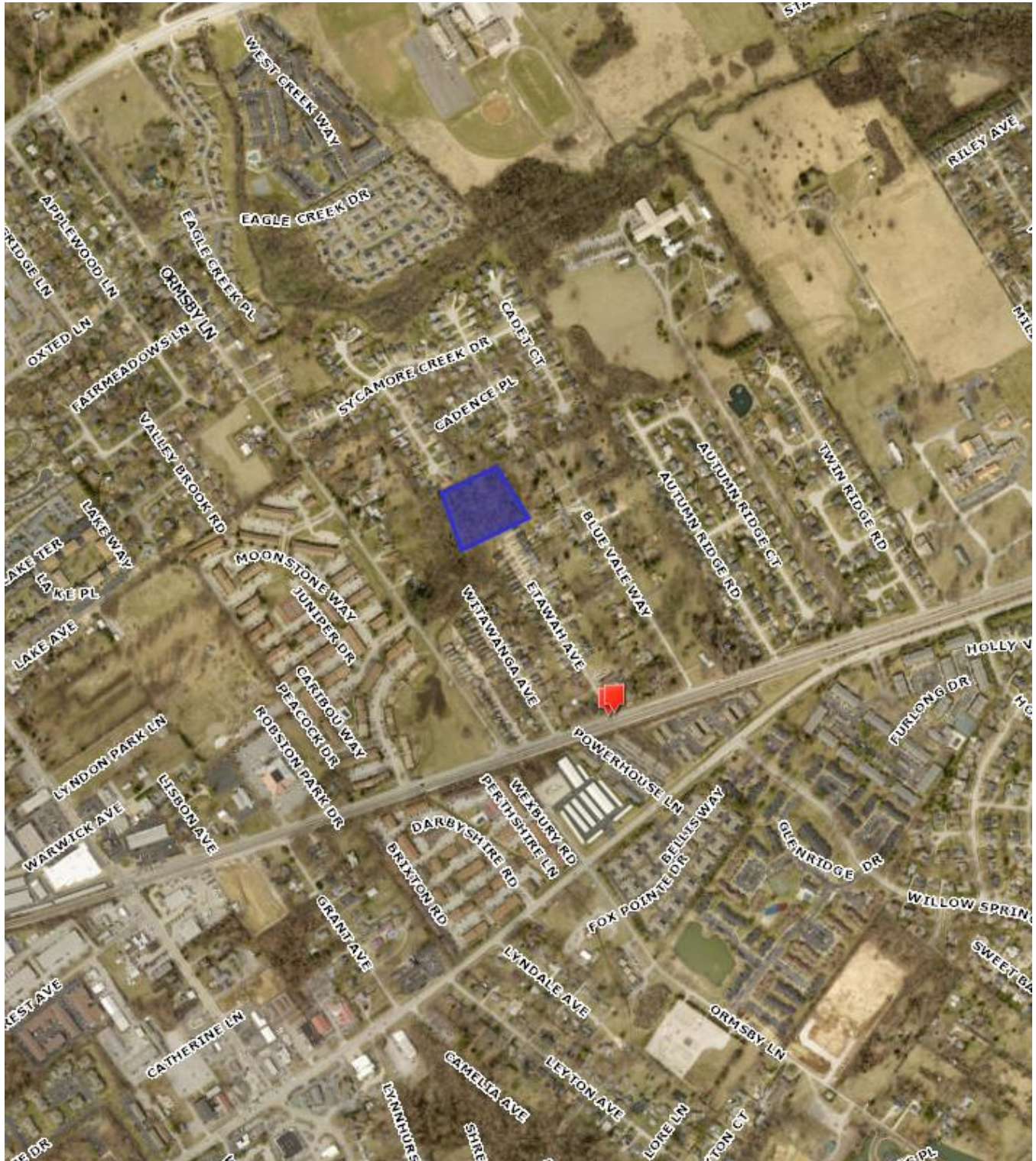
1. Zoning Map
2. Aerial Photograph
3. Proposed Conditions of Approval

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. An address shall be obtained prior to requesting approval of the record subdivision plat. Address numbers shall be displayed on each structure prior to requesting a certificate of occupancy for that structure.
4. 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.
5. 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.
6. 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 larvacide 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.
7. 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.
8. 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.
9. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission.
  1. Articles of Incorporation in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  2. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  3. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
10. 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.

11. If proposed, the signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
12. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan, construction plan and the record plat 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."