

Development Review Committee

Staff Report

May 11, 2022



Case No:	22-DDP-0012/22-RSUB-0003/22-WAIVER-0035
Project Name:	Bristol Bluffs
Location:	6203 Gellhaus Ln
Owner(s):	LDG development LLC
Applicant:	LDG development LLC
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Jay Lockett, AICP, Planner II

REQUEST(S)

- **Waiver** of Land Development Code section 7.3.30.F to waive a required Tree Canopy Credit Area and allow a sewer and drainage easement to overlap a required landscape buffer area by up to 100 percent for lots 14-18.
- **Revised Detailed District Development Plan/Revised Major Preliminary Subdivision Plan**

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct 18 buildable lots on approximately 15 acres. The subject site is located within the R-4 zoning district, with a small sliver in the R-6 zoning district. The subject site is in the Neighborhood form district and is near the Fern Creek area of southeastern Louisville Metro. The site was originally associated with a rezoning and approved plan under docket 9-36-06 for a mix of multifamily and single-family development. The multifamily portion was constructed per an approved revised plan under docket 16DEVPLAN1107. The single-family portion of the development was most recently approved for 41 buildable lots under docket 18DEVPLAN1134. That plan contained an error in the zoning layer which has since been corrected.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The development is consistent with the previously approved plans for the site, and the waiver is the minimum necessary to provide relief to the applicant.

TECHNICAL REVIEW

There are no outstanding technical issues associated with this request.

INTERESTED PARTY COMMENTS

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

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 7.3.30.F

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

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent Jefferson County Public School site is heavily forested in the area of the buffers and unlikely to be used for residential development.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as the adjacent site is unlikely to be developed for residential use and all required tree canopy standards will be met on the subject site.

- (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 encroachment is minimized to allow for installation of sewer infrastructure.

- (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 topography of the site dictates where sewer infrastructure needs to be installed. The JCPS property is wooded in this area and unlikely to be developed for a residential use.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- (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: The site has areas of steep slopes, and the applicant will minimize disturbance and develop according to the geotechnical report performed on the site. The development will include the full protected waterway buffer for Chenoweth Run at the rear of lot 10.

- (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 has been provided, and Metro Public Works has approved the preliminary development plan.

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

STAFF: There are no open space requirements pertinent to the current proposal.

- (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 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.

- (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. Appropriate landscape buffering and screening will be provided to screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- (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 and to requirements of the Land Development Code.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**

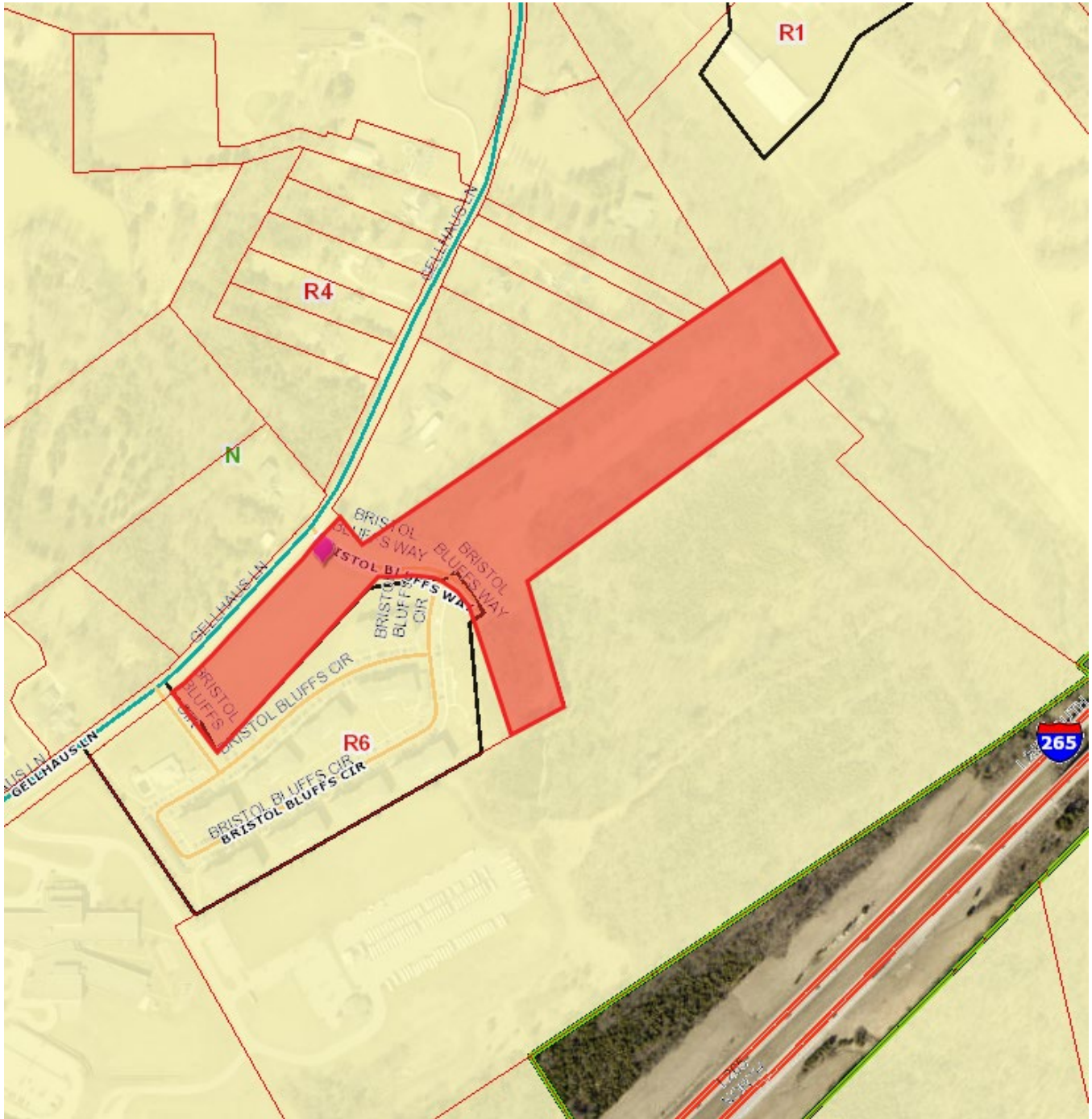
NOTIFICATION

Date	Purpose of Notice	Recipients
4-28-22	Hearing before DRC	1 st tier adjoining property owners and residents Registered Neighborhood Groups in Council District 20 Speakers at previous public hearings

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements

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 3.42 dwelling units per acre (41 units on 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 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.
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 Gelhaus 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.