

Planning Commission Staff Report

November 7, 2019



Case No:	19SUBDIV1007
Project Name:	Caudill Farm
Location:	1901 Long Run Road
Owner(s):	The Caudill Family PTR LTD.; Caudill, Sandford Dan & Andrea; S. Dan Caudill Family Trust
Applicant:	The Caudill Family PTR LTD.; Caudill, Sandford Dan & Andrea; S. Dan Caudill Family Trust
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Major Preliminary Subdivision Plan (Development Potential Transfer)** with review of land disturbing activity on slopes greater than 20% and bridge crossing over protected waterway

CASE SUMMARY

This case was heard and voted upon by the Land Development & Transportation Committee on September 26, 2019. The motion to approve the major preliminary subdivision did not receive a unanimous vote (3-1); therefore, it has been forwarded for review to the full body of the Planning Commission.

A subdivision into 199 single-family lots on roughly 100 acres of land in eastern Louisville Metro is proposed. The subject property is more approximately located 1.5 linear miles north of Shelbyville Road along Long Run Road. The development provides 52 acres of open space containing perennial and intermittent streams, steep slopes, and tree canopy. The site also contains an inactive cemetery and archaeological remnants that are preserved by a previously created parcel owned by Louisville Metro, as well as a proposed public access easement. Two stub roadways are provided to property in Oldham County. Several open space areas adjoin residual tracts of land in Oldham County as well.

STAFF FINDING

The proposal meets or exceeds the requirements of the Land Development Code and subdivision regulations. Associated land disturbing activity on slopes greater than 20% appears to be adequately justified based on staff's analysis contained in the standard of review. The stream crossing for bridge replacement also appears to be acceptable and restoration is assured through conditions of approval.

TECHNICAL REVIEW

- Binding Element # 20 has been added and reads as follows:

Within 60 days of recording the record subdivision plat, the developer; its successors or assigns, shall pay to the Louisville Metro Government \$47,000 for the express purpose of planning and/or design of the Eastwood Cut-off intersection at Shelbyville Road.

- Development Potential Transfer allows for the following:
 - Lot sizes to be reduced in accordance with the alternative development incentives of the Neighborhood form district.
 - Setbacks to be applied as required for standard subdivision development in the R-4 zoning district.
 - The transferrable potential is based on the theoretical maximum allowable density of the zoning district containing the preserved slopes; therefore, the development potential of preserved areas is incorporated through reductions in lot sizes across the total area of the subdivision.
 - Areas of steep slopes may be present within single-family lots subject to the requirements of Chapter 4, Part 7.5 – Land Disturbing Activity on Slopes Greater than 20%. Areas within lots may not be used for development potential transfer.
 - All areas being considered for development transfer potential must be preserved as open space or by other acceptable means.

- A new bridge will replace the existing bridge that spans a protected waterway. Crossings for roads, bridges, trails and utilities are permitted in a buffer area and may cross the protected waterway subject to the Planning Commission’s approval authorized under Land Development Code, section 4.8.6.J. Land Development Code, section 4.8.6.K will require restoration for disturbance as a result of crossings or any other disturbance not otherwise authorized. The bridge crossing appears to result in the minimum amount of disturbance to achieve proper access to the proposed development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR LAND DISTURBING ACTIVITIES ON SLOPES GREATER THAN 20%

- (a) The Commission finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,

STAFF: The design and configuration of the development appears to result in the minimum disturbance of steep slopes as the relocation of these lots to another location within the development or the shifting of these lots to the south may result in disturbance of waterways on site. The site is constrained by two protected waterways and an intermittent stream. Each of these water features has been appropriately protected.

- (b) Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,

STAFF: Compatible on-site utilities will be provided in coordination with respective agencies. The developer shall work to place all utilities, where possible, in common trenches.

- (c) The Planning Commission may approve the activity if the geotechnical report opines and demonstrates that:
- a. The slope’s ground surface and subsurface are not unstable;
 - b. Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on- site and on adjacent lands; and,
 - c. If a geotechnical report is required, the applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

STAFF: The geotechnical report indicated that there was no evidence of slope instability, for example “scarp, leaning trees consistent with a slide, tension cracks,etc.” The report did indicate that the presence of manmade improvements might have resulted in erosion where “water runs down the slope as concentrated flow.” The report provides for mitigation measures and construction practices necessary to assure the stability of buildings and foundations to be constructed on the site

(d) The activity is in keeping with the Comprehensive Plan.

STAFF: Plan 2040 calls for the integration of natural features into the pattern of development. It provides that proposals should respect the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, the geotechnical report demonstrates that the proposal is in conformance with the aforementioned policies of the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Major Preliminary Subdivision Plan** with land disturbing activity on slopes greater than 20% and bridge crossing over protected waterway

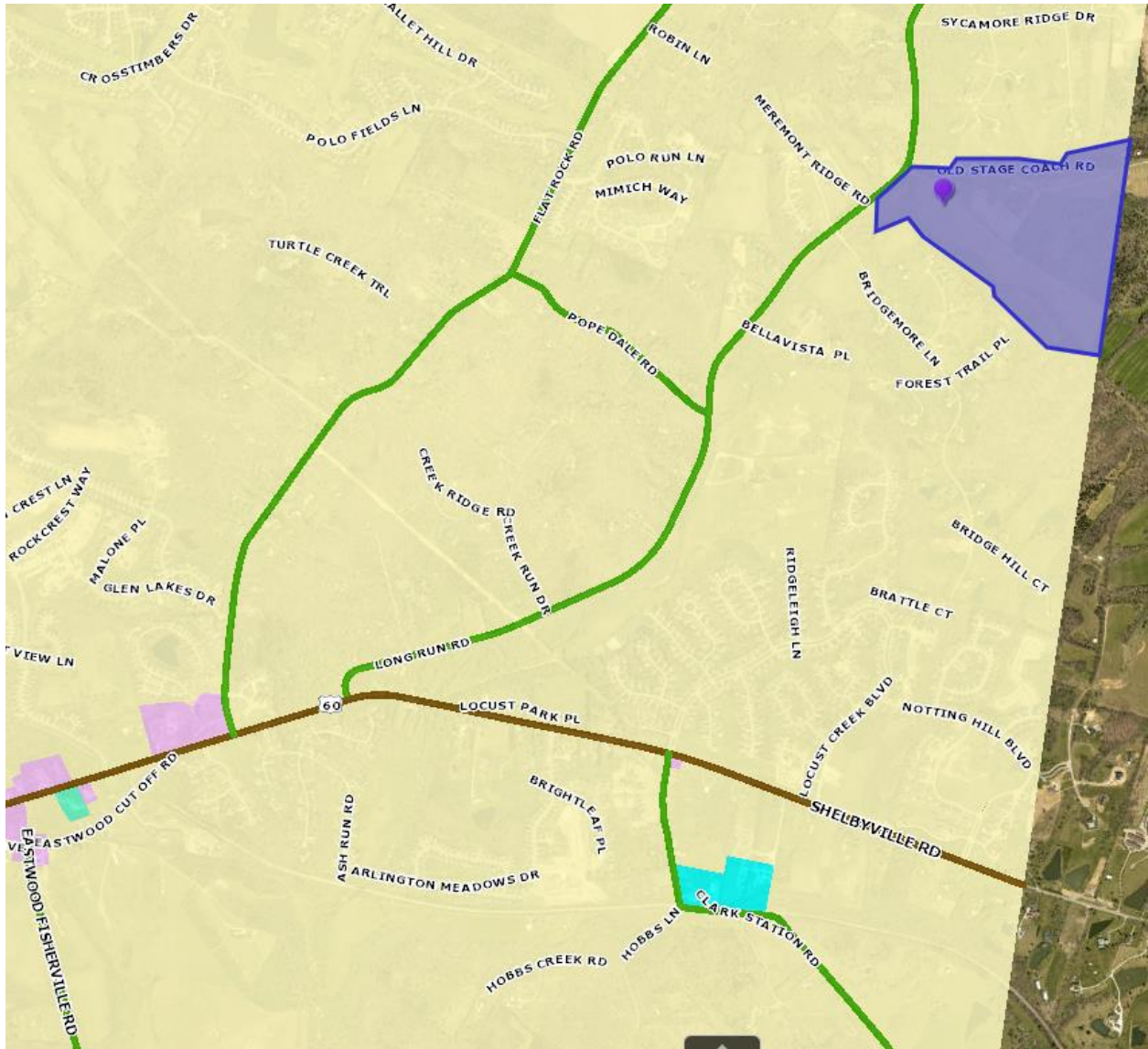
NOTIFICATION

Date	Purpose of Notice	Recipients
9/16/19	Hearing before Planning Commission	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19

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. 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.
3. 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."
4. All street signs shall be installed by the Developer, and shall conform to 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.
5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.

11. 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.
12. 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.
13. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. 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."
16. Building envelopes/limits on lots 121-135 & 82-85 shall be substantially similar to those shown on the preliminary plan and must be shown and recorded on the record subdivision plat.
17. Limits of disturbance as shown on the preliminary plan shall be shown and recorded with the record subdivision plat.
18. The developer and/or property owner shall be responsible for restoration of the streambank within the protected waterway as follows:
 - a. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
 - b. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless the County determines such vegetation would be inadequate to re-stabilize the bank. In instances where the County determines that planting of riparian vegetation is

inadequate to stabilize the stream bank alternate methods of stabilization, approved by the County shall be utilized.

- c. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.

19. Tree and Vegetation Removal within the protected waterway shall be subject to the following:

- a. Existing, healthy trees and vegetation within the Buffer Area shall be preserved, except for those areas designated by the Limits of Disturbance on the approved district development plan. Trees and vegetation shall be restored in accordance with Binding Element #5 for all areas within the buffer that lie between impervious surfaces and the Limits of Disturbance.
- b. This provision shall not prohibit any of the following: Removal of dead or diseased trees/vegetation (provided a live root system stays intact); removal of noxious weeds; Removal of non-native trees/vegetation that threaten native species growth or reintroduction; removal of fallen trees, tree limbs, brush and similar debris that accumulate naturally in river/stream beds and that impede river/stream flow, or removal of any other tree/vegetation that is a threat to the public health or safety; Removal of trees as part of an approved plan for stream side recreation or access (e.g. pedestrian trail) or as part of an approved utility or road construction project

20. Within 60 days of recording the record subdivision plat, the developer; its successors or assigns, shall pay to the Louisville Metro Government \$47,000 for the express purpose of planning and/or design of the Eastwood Cut-off intersection at Shelbyville Road.