

**Land Development and Transportation
Committee
Staff Report
June 23, 2022**



Case No:	22-MSUB-0002
Project Name:	Wind Dance Subdivision
Location:	2416 Clark Station Road
Owner(s):	Wind Dance Farm, INC.
Applicant:	Sabak Wilson and Lingo, INC.
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Molly Clark, Planner I

REQUEST(S)

- A **waiver** from section 7.3.30.E of the Land Development Code to allow more than 15% of a required rear yard of a buildable lot to be occupied by a drainage easement, (22-WAIVER-0082).
- **Major Preliminary Subdivision** with conditions of approval

CASE SUMMARY/BACKGROUND

The applicant is proposing to create 244 buildable lots and 7 non-buildable lots on approximately 122.44 acres within the R-4 zoning district and Neighborhood Form District. A waiver is requested to allow lots within the subdivision to have a drainage easement occupy more than the allowable 15% of the rear yard. The proposed subdivision will have access to the adjacent subdivisions at Shakes Run and Catalpa Farms.

STAFF FINDING

Staff Finds that the proposal meets the requirements of the Land Development Code.

TECHNICAL REVIEW

Transportation Planning and MSD have preliminarily approved the proposal.

INTERESTED PARTY COMMENTS

Staff did receive a call early on that an adjoining property owner did not get a neighborhood meeting notice but was able to attend. Staff made sure they were on the mailing labels for notification on both 22-MSUB-0002 and 22-RSUB-0004.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners, as all required yards and screening will be provided on site. The site has environmental constraints such as intermittent streams, perennial streams, and steep slopes to develop around.

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

STAFF: According to Guideline 1, policy 4 Plan 2040 calls for new development and redevelopment to be compatible with the scale and site design of nearby existing development and with the desired patten of development within the Form District. The applicant is providing well over the lot minimums allowed in the existing form district which is the average lot size for the area this is located in. According to Guideline 4, Policy 11, Plan 2040 mentions that setbacks and lot dimensions are to be compatible with nearby developments. The proposed subdivision is keeping the same style lot configuration as the neighboring single family subdivisions and creating a stub where there could be future development. Within Guideline 13, policy 11, new developments should be appropriate in placement design and scale in terms of centers in Neighborhood Form Districts to ensure compatibility with nearby residences. The area for the proposed preliminary major subdivision is located next to two other recently constructed subdivisions and also the site has many environmental limitations.

- (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 is the minimum necessary to afford relief to the applicant, as there is no viable alternative to place drainage easements because the site has environmental constraints such as intermittent streams, perennial streams, and steep slopes to develop around.

- (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, as the site is limited in options to place sewer and drainage easements without creating flooding issues on adjacent single family lots.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver** from section 7.3.30.E of the Land Development Code to allow more than 15% of the rear yards of lots to be occupied by a utility easement, a detention basin, a retention basin or any other drainage easement **(22-WAIVER-0082)**.
- **APPROVED** or **DENY** the **Major Preliminary Subdivision Plan**

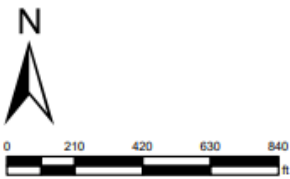
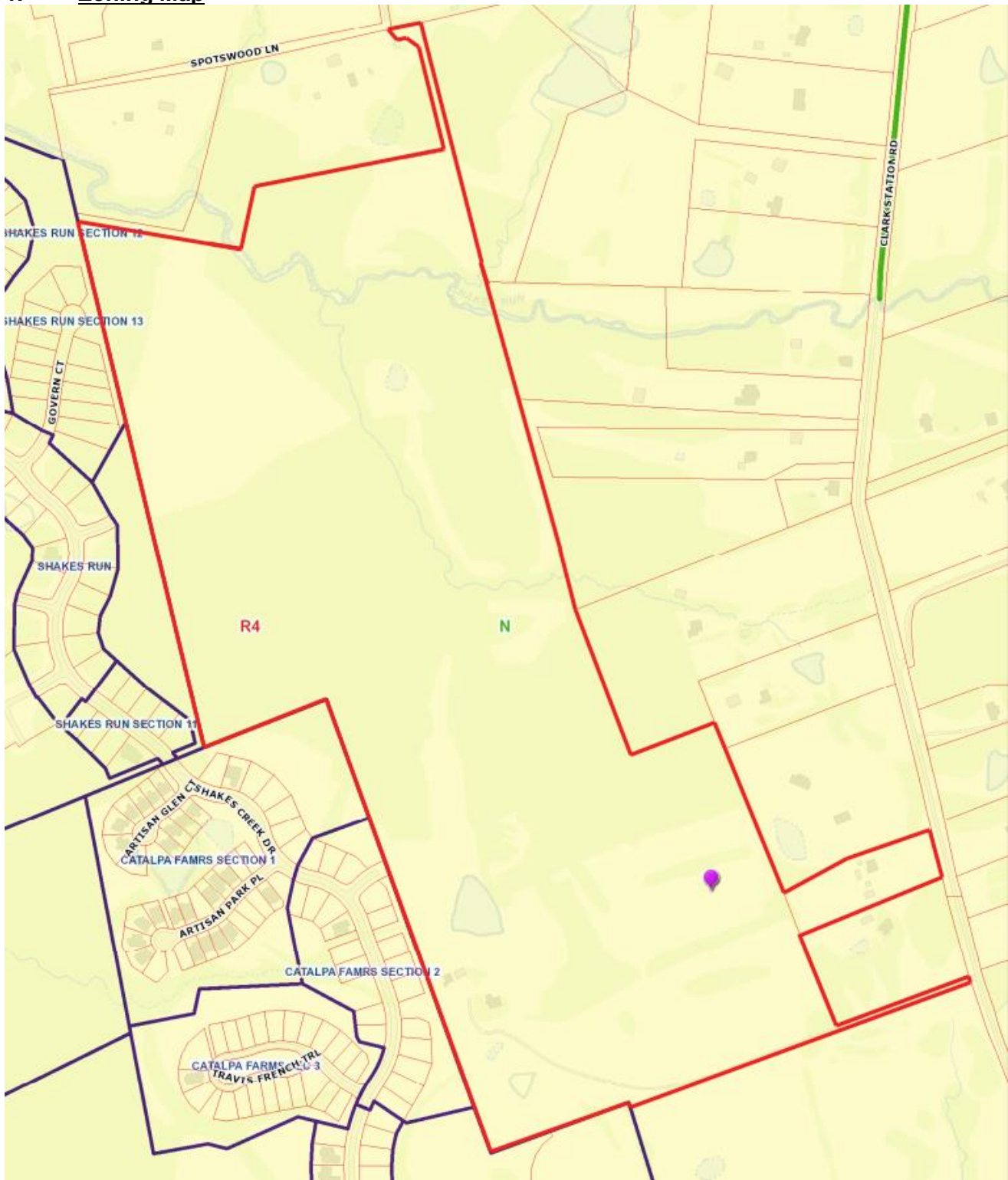
NOTIFICATION

Date	Purpose of Notice	Recipients
6/10/22	Hearing before LD&T	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 20

ATTACHMENTS

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

1. Zoning Map



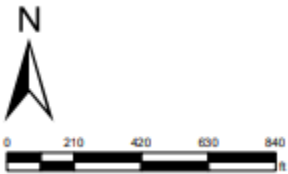
Wednesday, June 15, 2022 | 5:10:19 PM



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This map is not a legal document and should only be used for general reference and identification.

2. Aerial Photograph



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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. 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:
 - a. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable).
 - b. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.).
 - c. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.
 - d. Location of construction fencing for each tree/tree mass designated to be preserved.
3. 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.
4. 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."
5. 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.
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.
 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.
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. If proposed, the 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."