

**Land Development and Transportation Committee**  
**Staff Report**  
October 12, 2017



<b>Case No:</b>	17SUBDIV1016
<b>Project Name:</b>	Cedar Brook Section 3
<b>Location:</b>	9610 Cedar Creek Rd
<b>Owner(s):</b>	GP Enterprises, LLC
<b>Applicant:</b>	David Greenberg
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	22 – Robin Engel
<b>Case Manager:</b>	Jay Lockett, Planner I

**REQUEST(S)**

- Waiver of Land Development Code section 7.3.30.F to not provide the 15 foot buffer yard where the site abuts residential tracts greater than 5 acres.
- Revised Major Preliminary Subdivision

**CASE SUMMARY/BACKGROUND**

The site was originally approved under docket #10-06-03 as an Alternative Development Incentive (ADI) subdivision containing 23 buildable lots. As the ADI standards are no longer applicable, the applicant is now requesting to create 17 buildable lots on approximately 6.3 acres using the standard R-4 subdivision regulations.

**STAFF FINDING**

The Revised Major Preliminary Subdivision Plan meets the minimum requirements of the Land Development Code established for major subdivisions, with the exception of the requested waiver.

**TECHNICAL REVIEW**

The proposed revised preliminary subdivision plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District.

**INTERESTED PARTY COMMENTS**

Staff has received a call from a homeowner in the adjacent Cedar Brook Section 2 concerned about increased storm water runoff from this development.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE SECTION 7.3.30.F TO NOT PROVIDE THE 15 FOOT BUFFER YARD WHERE THE SITE ABUTS RESIDENTIAL TRACTS GREATER THAN 5 ACRES**

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

STAFF: The waiver will not adversely affect adjacent property owners, as the nearest home on an adjacent lot over 5 acres is at least 400 feet away from the subject site.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Adequate tree canopy will still be provided on site. Adjacent homes are significantly setback from 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.

- (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 provision would not deprive the applicant of reasonable use of the land; however the current layout represents a significantly less dense development than previously approved on this site. The buffer requirements were not in place when the subdivision was originally approved.

## NOTIFICATION

Date	Purpose of Notice	Recipients
9-28-17	Hearing before LD&T	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 22

## ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing and/or Proposed Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



### **3. Existing 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 the Planning Commission staff's landscape architect 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. 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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
  - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
  - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
6. 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.

7. 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.
8. The signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat.
9. A geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval.
10. A minor plat creating the proposed subdivision boundary will need to be recorded prior to recording of the record plat.
11. 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.
12. 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 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.
13. Prior to requesting certificates of occupancy, the developer shall post street signs and address numbers.
14. The location of lots sold for Level 1 or 2 Diversity Housing units may vary from those identified on this preliminary plan, however, the developer/owner shall be responsible for submitting an update report at 6-month intervals from the date of the recording of the record plat until the number of lots designated as Level 1 or 2 units have been sold. The update report shall identify the name of the recorded subdivision, the plat book and page number of the record plat, the actual lot numbers sold for Level 1 or 2 units, the name of the buyers, the type of units (detached unit/patio home/townhouse), the number of bedrooms, and the sale price of units. With the update report, the developer/owner shall submit deeds or other appropriate documentation and Qualified Buyer Verification Forms for all lots utilized to fulfill this incentive.
15. The applicant shall provide a wetlands determination letter from the US Army Corps of Engineers for this site prior to any clearing, grading or construction. If wetlands are identified, the applicant shall demonstrate to the Planning Commission that the wetlands on site will be preserved or shall revise the preliminary plan to mitigate any impact on the wetlands.
16. The property owner/developer shall obtain approval of a detailed landscape plan for the 30 foot Scenic Corridor Buffer along Cedar Creek Road. The Scenic Corridor Buffer shall comply with the landscaping requirements for Scenic Corridors as described in Chapter 10, Part 3 of the Land Development Code, and shall contain a continuous four-board horse fence. The

landscape plan shall be submitted for review and approval by DPDS staff prior to record plan approval.

17. The developer shall widen any areas of Beulah Church Road and Cooper Chapel Road roadway that are less than 18 feet wide to meet, at a minimum, the 18 foot pavement width requirement with a full depth asphalt section to match the existing roadway section as measured from edge of pavement to edge of pavement. A 12 inch minimum width shall be required for any areas where less than 12 inches will allow the requirement to be met. A skim coat overlay to tie the new pavement into the existing pavement will be required from the existing centerline of pavement to the proposed edge of pavement on the side to be widened.
18. The developer shall make all drainage improvements necessary as a result of the pavement widening within the right-of-way of Beulah Church and Cooper Chapel Road.
19. The Metro Public Works Department shall apply for the encroachment permit to perform the work within the State right-of-way. The Kentucky Department of Highways shall be responsible for the final surface overlay to be installed at their discretion. After construction and final acceptance of the improvements by the Department of Highways, any future maintenance of the roadway shall be the responsibility of the Department of Highways. No improvements will be made to the portions of Cooper Chapel and Beulah Church Roads that are currently required to be made as part of the Woodridge Crossings development.
20. The developer shall widen any areas of Cedar Creek Road that are currently less than 18 feet in width to meet at a minimum the 18 foot width requirement with a full depth asphalt section (minimum 14" depth) as measured from the outside edge line to outside edge line. An 18 inch minimum width shall be required for any areas where less than 18 inches will allow the requirement to be met. A skim coat overlay to tie the new pavement into the existing pavement will be required from the existing centerline of pavement to the proposed edge of pavement on the side to be widened.
21. The developer shall make all drainage improvements and relocate and existing fire hydrants and utility poles necessary as a result of the pavement widening within the right-of-way of Cedar Creek Road.
22. The Metro Public Works department shall be responsible for the final surface overlay to be installed at their discretion. After construction and final acceptance of the said improvements by the Metro Public Works department, any future maintenance of the roadway shall be the responsibility of the Metro Public Works department. No improvements will be made by the developer to the portions of Cedar Creek Road that are adjacent to the Woodridge Crossings subdivision since these portions are required to be completed by the developer of that project.

### **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.

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