

Land Development & Transportation Committee

Staff Report

September 24, 2020



| | |
|--------------------------|------------------------------------------------------|
| Case No: | 20-DDP-0038 / 20-MSUB-0006 |
| Project Name: | Lakeview Villas |
| Location: | 16900 Mallet Hill Drive |
| Owner(s): | Tiffany L. Nolot, Poe Family Realty Partnership, LTD |
| Applicant: | Don Karem, Karem Built Homes, Inc. |
| Jurisdiction: | Louisville Metro |
| Council District: | 19 – Anthony Piagentini |
| Case Manager: | Lacey Gabbard, AICP, Planner I |

REQUESTS:

1. **Waiver** from Land Development Code section 7.3.30.E and 7.3.30.F to waive more than 15% occupation of a rear yard with a drainage easement and to waive the 15 foot buffer yard (20-WAIVER-0070)
2. **Revised Detailed District Development Plan**
3. **Revised Preliminary Subdivision Plan**

CASE SUMMARY/BACKGROUND

The subject site is currently vacant and is located on the west side of Mallet Hill Drive, east of Crosstimbers Drive. It is a currently undeveloped parcel, zoned R-5A Residential Multi-Family in the Neighborhood form district, and is surrounded by other residentially zoned parcels.

The applicant proposes to construct a 20-lot single family residential subdivision on approximately 6.9 acres. Access will be provided via Mallet Hill Drive, which is classified as a local road. The applicant proposes to use the existing lake on the Polo Fields, LLC property to the south of the subject site for storm water management.

Previous cases:

- 09-080-99: Change in zoning from R-4 Single Family Residential to R-5A Multi-Family Residential for a multi-family patio home development with twenty-two (22) patio homes.

There is an associated variance request, 20-VARIANCE-0093, to omit the 100 foot Streambank Buffer associated with the Polo Fields Golf Course lake, which will be heard at the October 19, 2020 Board of Zoning Adjustment. The Land Development and Transportation Committee does not act upon this request.

STAFF FINDINGS

The Detailed District Development Plan and waivers are adequately justified and meet the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided preliminary plan approval.

INTERESTED PARTY COMMENTS

Staff has not received any comments pertaining to this request.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 7.3.30.E AND 7.3.30.F TO WAIVE MORE THAN 15% OCCUPATION OF A REAR YARD WITH A DRAINAGE EASEMENT AND TO WAIVE THE 15 FOOT BUFFER YARD

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

STAFF: The waiver will not adversely affect adjacent property owners as the rear yards overlap with easements that will only affect the property owners of the new lots. The rear yards mainly abut the Polo Fields property.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address drainage easements, and addresses yard requirements only as buffers between incompatible uses. The adjacent uses are not incompatible with the proposed use. The Polo Fields property is zoned residential but it is used as a golf course.

- (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 overlap is made necessary by a easements to the rear of the new lots, which is the appropriate place for easements. Additionally, there is a 25 foot rear yard that is being provided.

- (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 or would create an unnecessary hardship on the applicant by requiring the applicant to move the easement or extend the rear yards, either of which would reduce the usability of the property

STANDARD OF REVIEW AND STAFF ANALYSIS FOR DDDP

- (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: There do not appear to be any environmental constraints or historic resources on the subject site, aside from the 100 foot Streambank Buffer for which there is a separate variance request. Tree canopy requirements of the Land Development Code will be provided on the subject site. There is a small area of floodplain that will not be significantly impacted.

- (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. Public Works and MSD have provided preliminary approvals.

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

STAFF: There are no Outdoor Amenity Area or open space requirements with this proposal, though approximately one acre of open space is being provided.

- (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 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 **Waivers**
- **APPROVE** or **DENY** the **Revised Detailed District Development Plan**
- **APPROVE** or **DENY** the **Revised Preliminary Subdivision Plan**

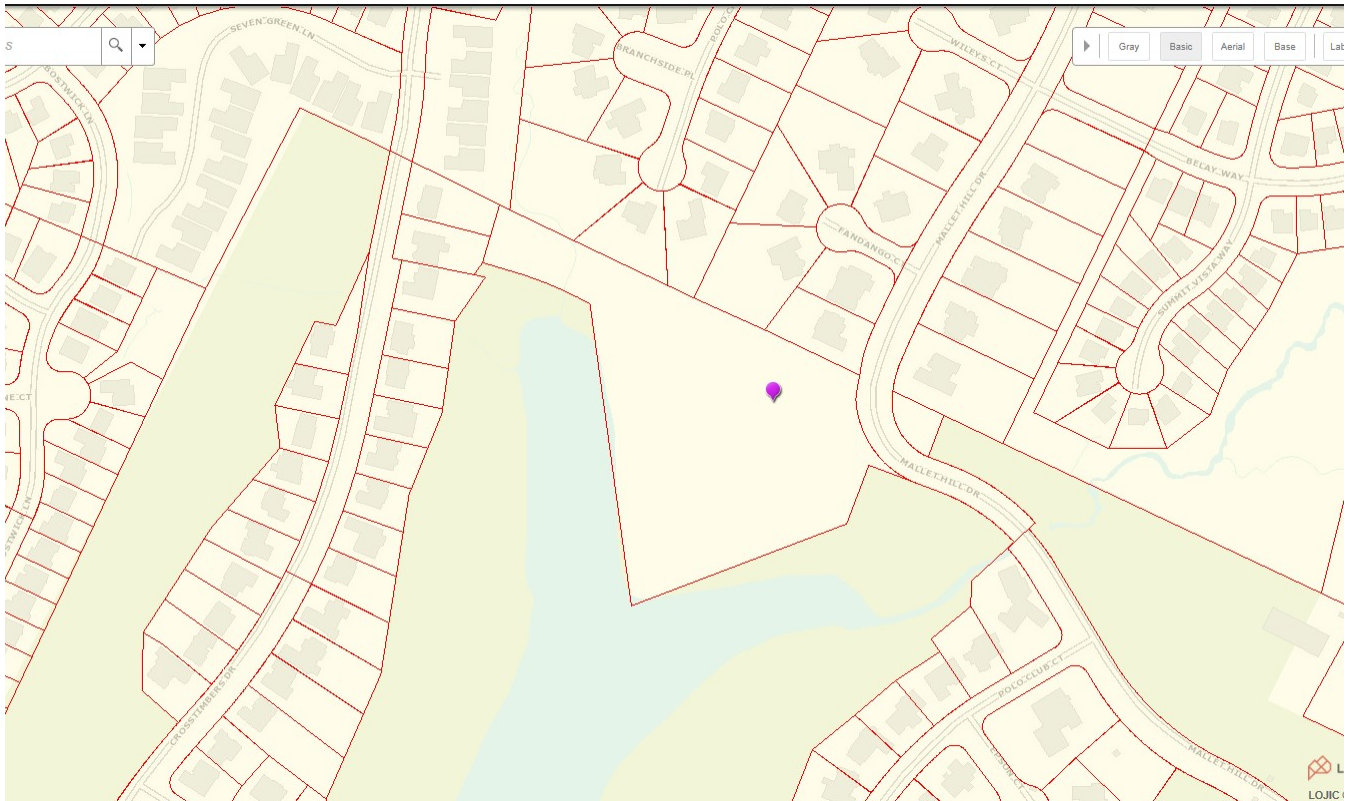
NOTIFICATION

| Date | Purpose of Notice | Recipients |
|----------------|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 9-24-20 | Hearing before LD&T | 1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 19 |

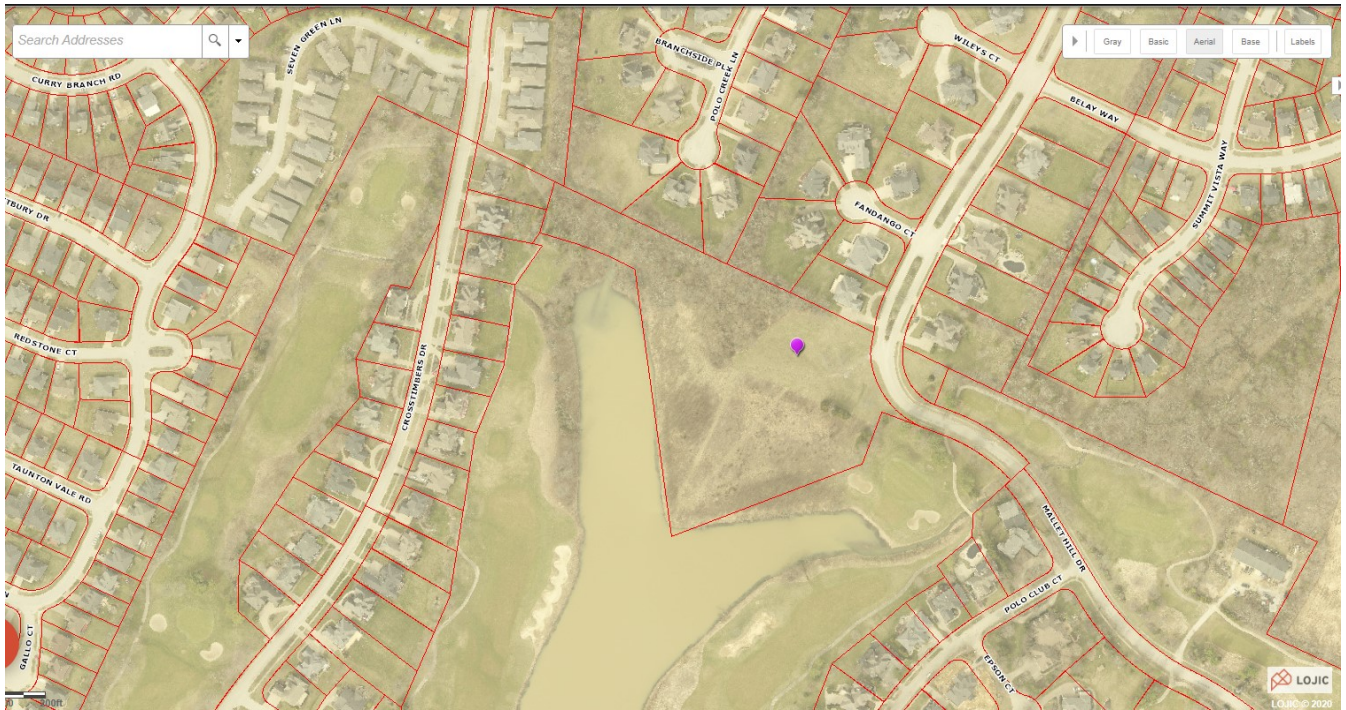
ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements (9-80-99)
4. Proposed Binding Elements

1. Zoning Map



2. Aerial Photograph



3. Existing Binding Elements (9-80-99)

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 2.61 dwelling units per acre (21 units on 7.89 acres).
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. ~~The development plan must receive full construction approval from the Jefferson county Department of Public Works and Transportation (400 Fiscal Court Building) and the Metropolitan Sewer District (700 West Liberty).~~
 - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in ~~Article 12~~ (and in conformance with the Parkway Policy) 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.
5. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. 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.
7. 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.
8. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.

9. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.

10. The site shall be developed in accordance with the woodland protection areas delineated on the site plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

11. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by Planning Commission counsel.

All plans setting out woodland protection areas must contain the following notes:

- a. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall be permanently preserved (all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan). All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.
- b. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
- c. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edges of the tree canopy and shall remain in place until all construction is completed.
- d. No parking, material storage or construction activities are permitted within the WPAs.

12. 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 Condominium 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 WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
- c. Bylaws of the Condominium Association in a form approved by the Counsel for the Planning Commission.

~~13. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the January 20, 2000 Planning Commission meeting.~~

4. Proposed Binding Elements

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The density of the development shall not exceed 2.61 dwelling units per acre (21 units on 7.89 acres).
3. 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.
4. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Construction Review, 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 (and in conformance with the Parkway Policy) 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.
5. If a building permit is not issued within one year of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
6. 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.
7. 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.
8. A soil erosion and sedimentation control plan shall be developed and implemented in accordance with the Metropolitan Sewer District and the USDA Natural Resources Conservation Service recommendations. Documentation of the MSD's approval of the plan shall be submitted to the Planning Commission prior to commencement of any clearing, grading, or construction activities.
9. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
10. The site shall be developed in accordance with the woodland protection areas delineated on the site plan and related notes. Any modification of the woodland protection area requires notification of adjoining property owners and LD&T action.

11. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with these binding elements and the approved plan. The form of such restrictions shall be approved by Planning Commission counsel.

All plans setting out woodland protection areas must contain the following notes:

- a. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site that shall be permanently preserved (all existing vegetation; all trees greater than 2" in caliper; selected trees as shown on the plan). All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of development plan approval. No further clearing, grading, construction or other land disturbing activity shall take place within designated WPAs beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat.
- b. Dimension lines have been used on this plan to establish the general location of WPAs and represent the minimum boundary of the designated WPAs. The final boundary for each WPA shall be established in the field by the applicant, developer, or property owner to include canopy area of all trees at or within the dimension line.
- c. Tree protection fencing shall be erected around all WPAs prior to Site Disturbance Approval to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edges of the tree canopy and shall remain in place until all construction is completed.
- d. No parking, material storage or construction activities are permitted within the WPAs.

12. 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 Condominium 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 WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
- c. Bylaws of the Condominium Association in a form approved by the Counsel for the Planning Commission.