

Development Review Committee
Staff Report
March 16, 2022



Case No:	21-DDP-0099/21-WAIVER-0129
Project Name:	Meadows Point
Location:	14714 Old Henry Rd
Owner(s):	Meadows Point LLC
Applicant:	Meadows Point LLC
Jurisdiction:	Louisville Metro
Council District:	17 – Markus Winkler
Case Manager:	Jay Lockett, AICP, Planner II

REQUEST(S)

- **Waiver** of Land Development Code section 7.3.30.E to allow a drainage easement to overlap more than 15% of a required yard for units 1-27.
- **Revised Detailed District Development Plan**

CASE SUMMARY/BACKGROUND

The applicant is proposing to construct 31 semi-detached residential dwelling units on approximately 5.69 acres. The subject site is zoned PRD in the Neighborhood form district and was rezoned under docket 18ZONE1033 with an approved development plan. During the process of MSD construction plan review, it was determined that the original proposed location of structures could not accommodate the required drainage and sewer infrastructure. The applicant has shifted the position of some structures in consultation with MSD. There is no proposed change to the number of units, binding elements, elevations or buffering from what was previously approved.

STAFF FINDING

The requests are adequately justified and meet the standards of review. The development is similar to what was previously approved, shifting certain elements to accommodate necessary infrastructure on site.

TECHNICAL REVIEW

The plan has received preliminary approval from MSD and Transportation Planning staff.

The Board of Zoning Adjustment will consider a modified variance and two new variances relating to encroachments into required front and rear yards at the 4-18 meeting.

INTERESTED PARTY COMMENTS

Staff has received no comments concerning this proposal.

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. All buffering and screening required by the Land Development Code and the previously approved binding elements will be provided.

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

STAFF: The waiver will not violate the Comprehensive Plan. The development will be compatible with other development in the area and the form district. The waiver will not result in a nuisance or hazard to the public.

- (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 since as they have minimized the requested encroachment while still leaving adequate room for necessary 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 deprive the applicant of the reasonable use of the land. The proposed development is similar to the previous approval, with certain elements shifted to accommodate necessary infrastructure.

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: The applicant has provided for protection of an intermittent stream on the subject site. Tree canopy requirements of the Land Development Code will be met on the subject site, including required tree preservation.

- 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: Required open space has been provided with this plan, including recreational open space and areas set aside to preserve natural areas along the front of the site.

- 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, including the parkway buffer and all required perimeter screening.

- 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**

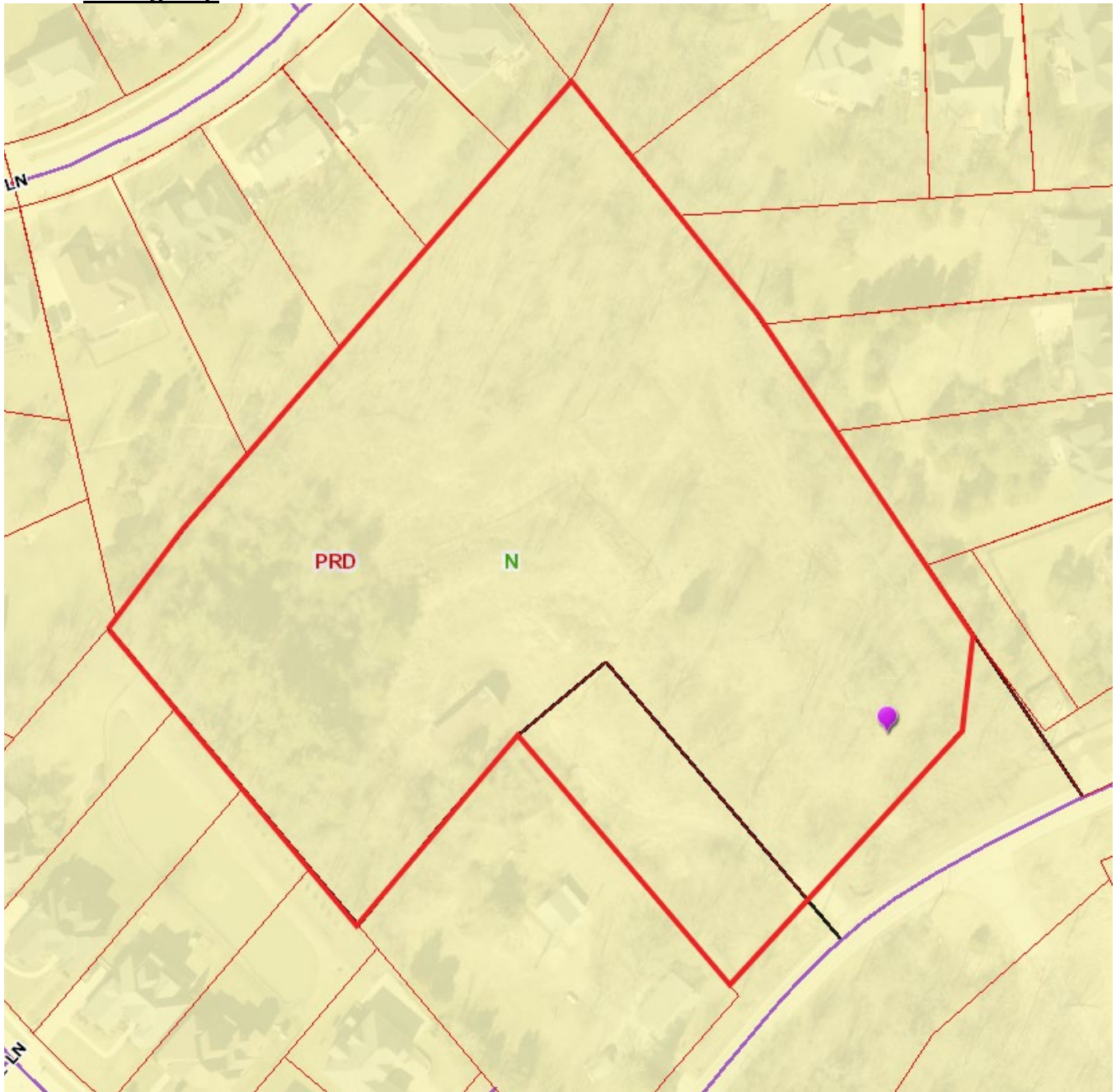
NOTIFICATION

Date	Purpose of Notice	Recipients
3-3-22	Hearing before DRC	1 st tier adjoining property owners and residents Speakers at the Planning Commission public hearing. Registered Neighborhood Groups in Council District 17

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 plan, all applicable sections of the Land Development Code (LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. 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 development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
4. 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.
5. 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 Develop Louisville, 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 Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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. 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, TTPAs) 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.
9. 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.
 10. 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."
 11. 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.
 12. 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.
 13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
 14. Cross connectivity to the proposed private road on the development site will be permitted should the adjacent Forester property ever develop residentially.
 15. Prior to the issuance of the 21st building permit, if KYTC Project No. 5-367.20 has not went into construction phase, the developer shall pay the sidewalk fee-in-lieu amount based on the cost of the 10' multi-use path construction.
 16. The building materials and design of the proposed structures shall be substantially the same as the building materials and design of the proposed structures depicted on the building elevations and renderings, as presented to the Planning Commission during its public hearing held on November 27, 2018. Building Materials of the proposed structures shall consist of the combination of 70-80% brick, 15-25% fiber cement, and 2-5% stone.
 17. Except for trees, vegetation and brush that pose a hazard or safety concern to persons or property, Applicant/Developer shall retain all existing vegetation, brush and trees' driplines within specifically identified areas, measured approximately 16 feet in depth, along the subject property's west and north perimeter property lines, as more specifically identified on the Applicant's Grading Worksheet, dated November 11 2018, as submitted to the administrative record for case no.

18ZONE1033. (On the Applicants grading worksheet, the 16-foot boundary to these areas along the west and north property lines where the above vegetation is to be retained are marked in red ink and further identified by arrows.) Dead or dying trees and vegetation, as determined by a licensed landscape architect or certified arborist, do not have to be retained within the specified area.

18. If any existing vegetation, brush, and/or trees located in the 16-foot area where vegetation, brush and/or trees are to be preserved, as required in Binding Element #17, are inadvertently destroyed during construction phase(s), an arborist or licensed landscape architect approved by Planning and Design will coordinate with developer to replace the same with Kentucky native species. Developer shall be responsible for the costs associated with replanting, including the hiring of the arborist or licensed landscape architect.
19. With the exception of lot #15 and the end of Street C, as they are depicted on the submitted Detailed District Development Plan for 18ZONE1033, Applicant/Developer shall attempt in good faith to retain vegetation, brush and trees within a 16-foot-wide area as measured from the subject property's perimeter boundary for all areas along the subject property's perimeter boundary not identified by binding element #2 on the west, north and east perimeter property lines of the subject property.
20. The proposed residential structure wall faces shall be constructed no closer than 33 feet from the west and north perimeter with the exception of unit 6 being setback 27' at its closest point from the northwest corner wall and 20' from the east perimeter as depicted on the proposed detailed district development plan/preliminary subdivision plan for case number 18ZONE1033.
21. No later than 180 days after construction activity specifically involving improvements to the portion of Old Henry Road adjacent to or including the development site has ceased, pursuant to KYTC Project No. 5-367.20, applicant/developer shall submit for approval to Louisville Metro Planning and Design Services a landscape/tree canopy plan whereon the required tree plantings shall establish a tree canopy of no less than 40% of the development site, as calculated in Chapter 10 of the Land Development Code. The cessation of construction activity referred to herein shall be confirmed by KYTC in writing (email correspondence is sufficient).
22. Amendments to Binding Elements shall require the Louisville Metro Council's approval.