

**Land Development and Transportation  
Committee  
Staff Report  
October 13, 2022**



<b>Case No:</b>	22-RSUB-0005
<b>Project Name:</b>	Roseborough Lots
<b>Location:</b>	7203 E Manslick Road
<b>Owner(s):</b>	Barbara Sworn
<b>Applicant:</b>	Land Design & Development
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	23 – James Peden
<b>Case Manager:</b>	Molly Clark, Planner II

**REQUEST(S)**

- **Waivers:**
  1. **Waiver** from section 7.3.30 E from the Land Development Code to allow more than a 15% overlap of the rear yard and sewer and drainage easement. (22-WAIVER-0152)
- **Revised Major Preliminary Subdivision** with proposed conditions of approval.

**CASE SUMMARY/BACKGROUND**

The applicant is proposing to create 10 single family buildable lots and 3 open space lots. The plan also shows a 6.77 acre tract that will be subdivided off of the major preliminary subdivision plan. The site is zoned R-4 single family residential in the Neighborhood Form District. This site is related to a previously approved major preliminary subdivision plan under 10-08-02 that was proposing 34 buildable lots.

**STAFF FINDING**

Staff finds that the proposed major preliminary subdivision and waivers are adequately justified and meet the standards of review.

**TECHNICAL REVIEW**

MSD and Transportation Planning have preliminarily approved the plan.

**INTERESTED PARTY COMMENTS**

Staff has not received any interested party comments.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 7.3.30.E to allow more than 15% of the rear yard to overlap with a proposed easement:**

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

STAFF: The waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the 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 overlap between required yards and drainage easements.

- (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 MSD generally requiring drainage easements to be in rear yards.

- (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: 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 excess rear yard be reserved on lots that have the drainage easement.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **WAIVER** from section 7.3.30 E from the Land Development Code to allow more than a 15% overlap of the rear yard and sewer and drainage easement. (22-WAIVER-0152)
- **APPROVE** or **DENY** the **Revised Major Preliminary Subdivision** with proposed conditions of approval.

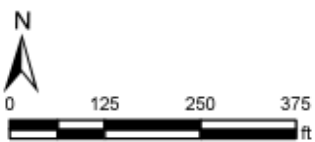
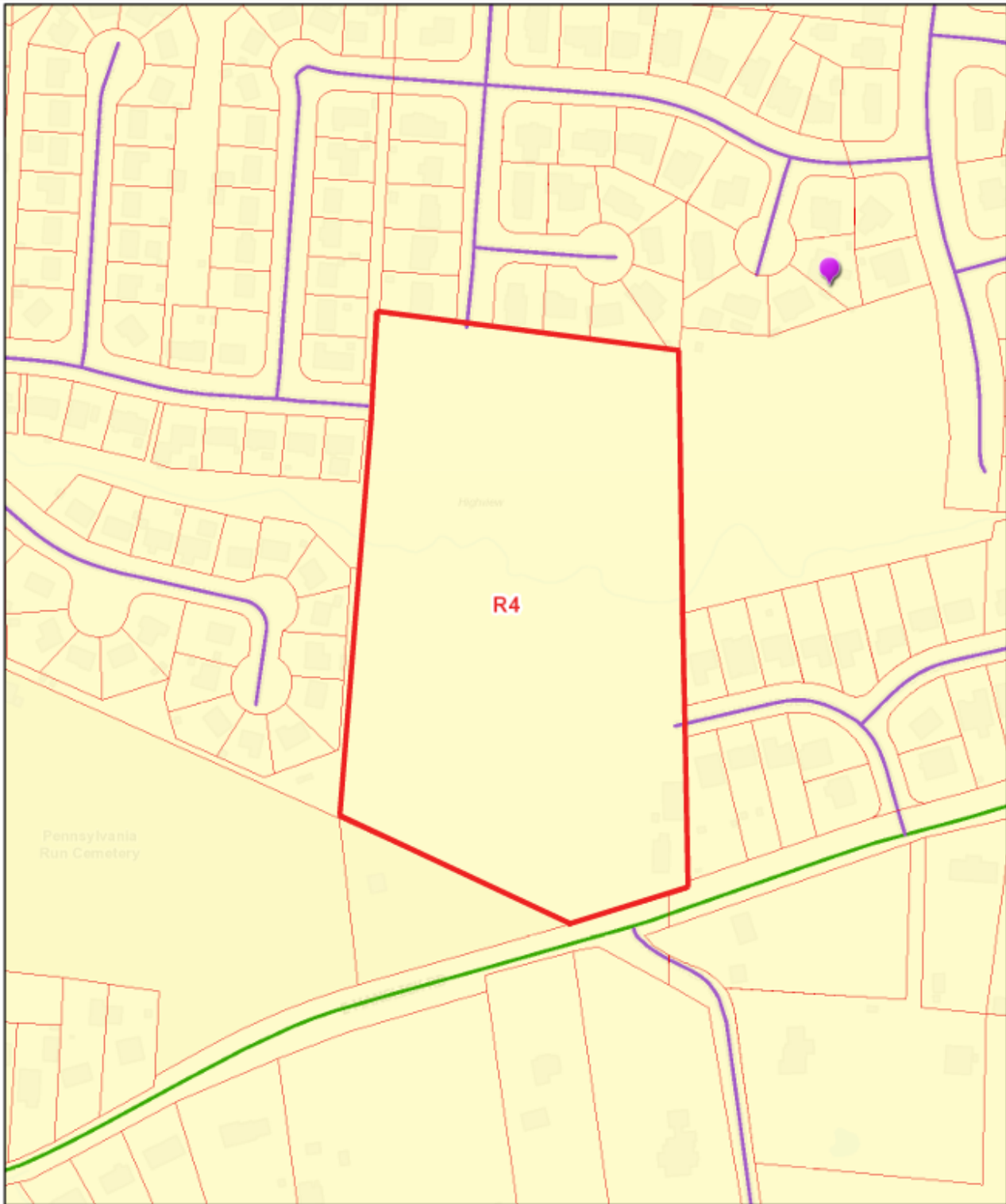
**NOTIFICATION**

Date	Purpose of Notice	Recipients
09/30/22	Hearing before LD&T 10/13/22	1 <sup>st</sup> tier adjoining property owners and current residents Registered Neighborhood Groups in Council District 23

**ATTACHMENTS**

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

1. **Zoning Map**



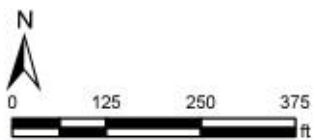
Friday, August 5, 2022 | 11:19:38 AM



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

2. Aerial Photograph



Friday, August 5, 2022 | 11:07:29 AM



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**3. Existing Conditions of Approval - DOCKET NO. 10-08-02**

*If the TRC approves the plan, staff suggests approval on condition that:*

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 the Planning Commission staff's landscape architect 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. ~~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."~~

~~8. The signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat.~~

~~9. Encroachment permits shall be required from County Works Department and K.D.O.T prior to construction beginning.~~

~~10. During construction the access connection to Rome Beauty Way and Roseborough Road shall be blocked. Construction access shall be from East Manslick Road~~

#### **4. Proposed Conditions of Approval**

1. The development shall be in accordance with the approved Major Preliminary Subdivision 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 Tree Preservation Plan for approval by Planning and Design staff showing trees/tree masses to be preserved prior to beginning any construction procedure (i.e. clearing, grading, demolition). 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. 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.
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. 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.
6. 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."
7. 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.
8. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for Roseborough Rd. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
9. 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.
10. 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 larvicide 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.



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. A minor plat creating the proposed subdivision boundary will need to be recorded prior to recording of the record plat.
13. 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.