

## Development Review Committee

### Staff Report

June 28, 2017



<b>Case No:</b>	17SUBDIV1002
<b>Project Name:</b>	12800 Rehl Road Subdivision
<b>Location:</b>	12800 Rehl Road
<b>Owners:</b>	Greg & Melissa Wilson
<b>Applicant:</b>	Greg & Melissa Wilson
<b>Representative(s):</b>	Dinsmore & Shohl, LLP – Clifford Ashburner
<b>Project Area/Size:</b>	5.3 acres
<b>Existing Zoning District:</b>	R-4 Single-Family Residential
<b>Existing Form District:</b>	N, Neighborhood
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	20 – Stuart Benson
<b>Case Manager:</b>	Joel P. Dock, Planner II

### REQUEST

- **Major Preliminary Subdivision Plan** to create 10 residential lots
- **Waiver** of Land Development Code (LDC), section 7.3.30.B to allow lots in a major subdivision to have access from a private roadway

### CASE SUMMARY

The applicant proposes to create ten single-family residential lots with two open space lots in Eastern Louisville Metro; roughly one mile West of the Interstate-265. Primary access to the subdivision will be achieved from Grand Lakes Drive via a fifty foot private access easement; No direct access to Rehl Road will be allowed. A portion of this fifty foot private access easement has previously been granted and partially constructed with the Grand Lakes Subdivision. The developer will continue the easement and complete roadway improvements. Because a private roadway is being utilized as primary access for lots created in a major subdivision a waiver is required.

### LAND USE/ZONING DISTRICT/FORM DISTRICT

The subject site is within the R-4, Single-family Residential zoning district and Neighborhood form district. It's surrounded on all sides by R-4, Single-family Residential zoning districts and neighborhood form districts, except that property across Rehl Road is within the SW, Suburban Workplace form district.

### PREVIOUS CASES ON SITE

Staff found no associated cases on the subject site.

### INTERESTED PARTY COMMENTS

Staff has not received any comments on the proposal.

### APPLICABLE PLANS AND POLICIES

Land Development Code

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER**  
Section 7.3.30.B to allow lots for detached houses to abut a private street

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

STAFF: The waiver will not adversely affect adjacent property owners as the road will be privately maintained by owners within the subject property.

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

STAFF: Guideline 8, Policy 1 suggests that developments be evaluated for their impact on the street and roadway system and air quality. Ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. The developer will bear the cost of improvements and maintenance of the private roadway until such time as an agreement can be reached with Louisville Metro Public Works to turn the roadway over to public right-of-way as outlined in the *Conditions of Approval* of this *Staff Report*.

- (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 applicant has run into considerable delays with the property owners of the land over which the existing portion of the easement resides. The creation of the private easement on the subject site allows the land to be developed and agreements for public rights-of-way to be considered at a later date.

- (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 as the Director of Public Works as consented to the creation of the private roadway understanding that there is a future possibility that the roadway will be turned over to the public.

**TECHNICAL REVIEW**

The major preliminary subdivision plan is in order and has received preliminary approvals from Transportation Planning Review and the Metropolitan Sewer District. The Director of Public Works as consented to the creation of the private roadway in accordance with LDC, section 6.2.1.D.

Conditions of Approval have been added to the end of this staff report to reflect the future intent of converting the proposed private roadway to public right-of-way. To create public right-of-way a revised major subdivision plat on the subject site will be required to create the boundaries of the roadway.

**STAFF CONCLUSIONS**

The Major Preliminary Subdivision Plan and Waiver appear to be adequately justified and meet the standard of review based on staff analysis in the staff report.

## REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Waiver** of Land Development Code (LDC), section 7.3.30.B to allow lots in a major subdivision to have access from a private roadway
- **APPROVE** or **DENY** the **Major Preliminary Subdivision Plan**

## NOTIFICATION

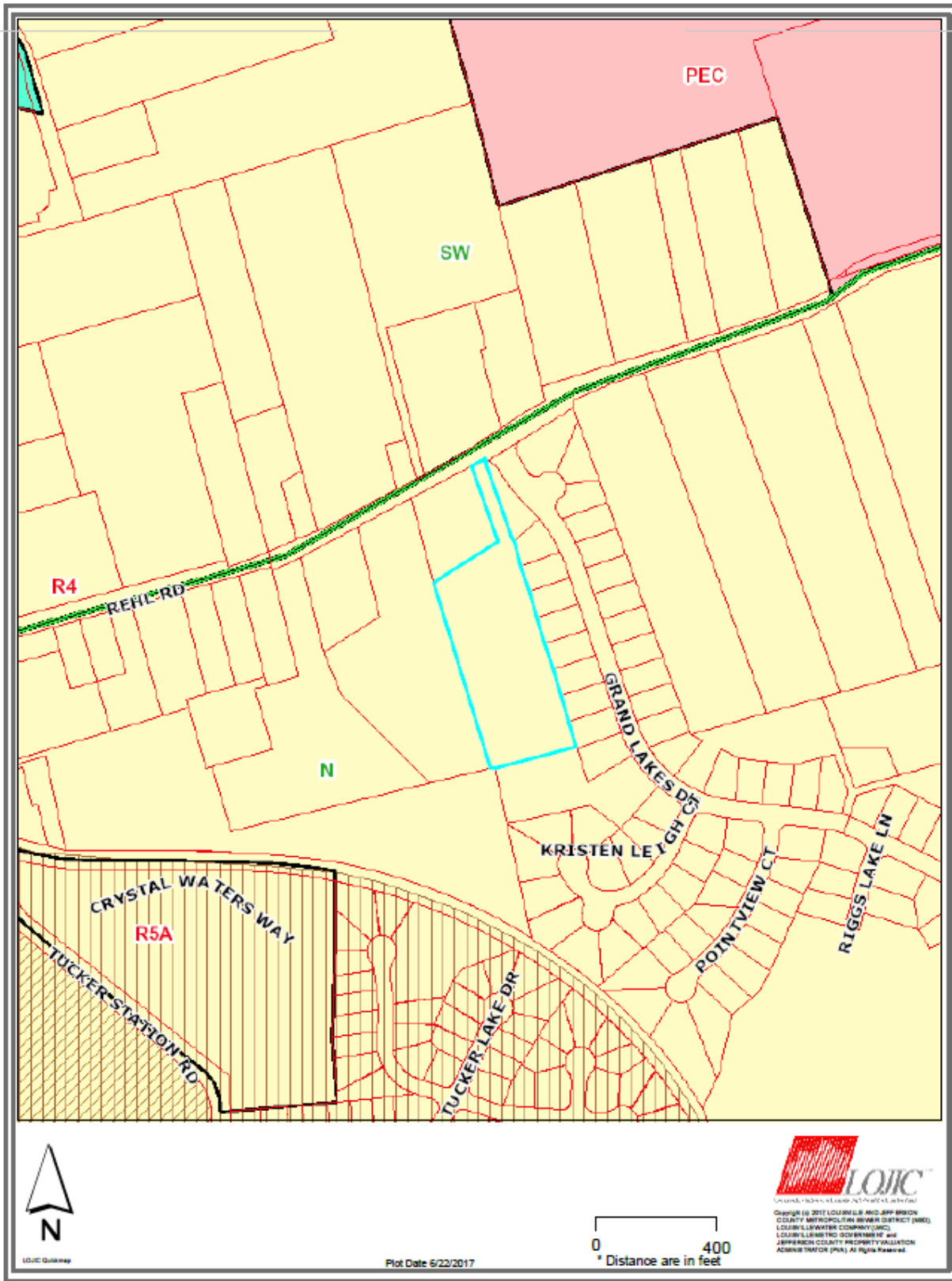
This case was initially scheduled for a meeting of the LD&T on April 13, 2017, but due to unresolved issues the case was deferred indefinitely to be noticed for a later meeting. It was again scheduled for LD&T on June 22, 2017, but notice was not proper due to the omission of the waiver request. Notification for Today's DRC meeting was proper.

Date	Purpose of Notice	Recipients
6/15/17	DRC	Adjoining property owners, applicant, representative, case manager, and neighborhood groups

## ATTACHMENTS

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

1. **Zoning Map**



2. Aerial Photograph





### **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. 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 Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from Louisville Metro Public Works.
  - c. 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.
  - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
3. The applicant, developer, or property owner shall provide copies of these conditions of approval 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.
4. 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 TCPAs etc.) and other issues required by these conditions of approval.
  - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
5. 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.
6. No direct access to Rehl Road shall be allowed.
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. Open space lots shall not be further subdivided or developed for any other use and shall remain as open space in perpetuity, except that the open space totaling 3,141 square feet and abutting to the West of the property at 3006 Grand lakes Drive may be consolidated and converted to a residential building lot in compliance with all applicable zoning and subdivision regulations without an amendment

to the Record Plat and approval of The Planning Commission. A note to this effect shall be placed on the record plat.

9. 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.
10. 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.
11. 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.
12. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan and construction plan 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."
13. Developer shall post a bond with Louisville Metro Department of Public Works for future maintenance of the private roadway. If the developer does not maintain the road in an acceptable condition, the bond shall be forfeited and a contractor will be hired by Public Works to perform any repairs or maintenance
14. There shall be an agreement between developer, Public Works and the existing Grand Lakes HOA to dedicate roadway "A" as public right-of-way through a record plat. Agreement shall be recorded prior to construction approval. The road shall be brought up to public road standards before it can be accepted as public right-of-way