

Land Development & Transportation Committee

Staff Report

March 09, 2017



Case No:	16DEVPLAN1240/16SUBDIV1016
Request:	Revised Detailed District Development Plan, Revised Preliminary Subdivision Plan and Waiver
Project Name:	Orell Station III
Location:	11917 Lower River Rd
Owner:	TSB Development, Inc.
Applicant:	TSB Development, Inc.
Representative:	BlueStone Engineers, PLLC
Jurisdiction:	Louisville Metro
Council District:	14 – Cindi Fowler
Case Manager:	Jay Luckett, Planner I

REQUEST

- Revised Detailed District Development Plan
- Revised Preliminary Subdivision Plan
- Waiver of Section 5.4.2.B.1 to allow single family access to collector level roadway without providing either the access road or alley and also not providing the 20' landscape buffer area.

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing/Proposed Use: Vacant/Residential

Plan Certain Docket #: 9-10-07/10-6-07, 10682, 13DEVPLAN1031, and 15DEVPLAN1082.

The applicant is proposing a revised development plan/preliminary subdivision plan for the 8.27 acre tract at 11917 Lower River Rd which is currently zoned R-5A Residential Multi-Family. The development consists of the following: this tract was previously approved as 89 townhome units under docket 15DEVPLAN1082 per the approved plan dated 10-01-15. This revision would make this section into five large single family or duplex lots. The remaining undeveloped portion of the larger site referred to as Tract 2 on the current plan would have 62 single family dwelling units, which is unchanged from previously approved plans for that section. There would be some minor reconfiguring of lots to accommodate a retention basin within that section.

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Vacant	R-5A	N
Proposed	Residential	R-5A	N
<i>Surrounding Properties</i>			
North	Vacant/Ag/Single Family	R-4	N
South	Vacant/Ag/Single Family	R-4	N
East	Single Family	R-4	N
West	Single Family	R-5A	N

PREVIOUS CASES ON SITE

- 9-10-07/10-6-07: On June 7, 2007, the Planning Commission approved a request to change the zoning from R-4 to R-5A and a development plan for 168 patio home units.
- 10682: On June 25, 2008, the Development Review Committee approved a revised plan for the site with minor changes.
- 13DEVPLAN1031: On September 4, 2013, the Development Review Committee approved a revised development plan to allow the creation of five single family tracts with frontage along West Orell Road.
- 15DEVPLAN1082: On October 1, 2015 the Planning Commission approved a revised plan to allow the creation of six single family lots along West Orell Rd, as well as a waiver to allow direct access to a collector level road.

INTERESTED PARTY COMMENTS

No interested party comments have been received by staff.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020

Land Development Code

Ohio River Corridor Master Plan – Recommendation SW-21 “Adopt regulations and incentives for new development to protect the scenic quality of Lower River Road and the southwestern stretch of Dixie Highway. These roads should be designated as scenic byways for special landscaping and signage treatment and design controls, such as buffer and setback requirements, to protect visual quality. In addition, Lower River Road should be limited to two vehicular traffic lanes.”

STANDARD OF REVIEW AND STAFF ANALYSIS FOR RDDDP and AMENDMENT TO BINDING ELEMENTS

- (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 does not appear to be any environmental constraints or historic resources on the subject site. Tree canopy requirements of the Land Development Code will be provided on the subject site.

- (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 and the Kentucky Transportation Cabinet have approved the preliminary development plan.

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

STAFF: The open space requirements for the development have been met.

- (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 provisions 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.

- (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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 5.4.2.B.1 RESIDENTIAL CONNECTION TO COLLECTOR LEVEL ROADWAY:

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

STAFF: There are many properties along West Orell Road that have direct driveway access to the street; therefore the request is in keeping with the existing character of the area and appears to not have a significant impact on traffic flow along the street.

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

STAFF: The waiver does not violate Community Form/Land Use Guideline 3 Policy 1 Compatibility and Policy 3 Residential Compatibility because nearly all of the single family residential developments in the area have direct access to the roadway.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The applicant states that potential homebuyers prefer to have individual driveways.

- (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 applicant has agreed to provide the 50' Scenic Corridor setback recommended per the Ohio River Corridor Master Plan recommendation SW-21.

TECHNICAL REVIEW

- There are no outstanding technical issues.

STAFF CONCLUSIONS

The applicant is proposing to eliminate the previously approved multi-family residential component of the approved development in favor of continuing the pattern of large single family residential lots along West Orell Road and Lower River Road, while maintaining the standard subdivision single family residential within the interior of the development. The proposal includes sidewalks along West Orell Road and Lower River Road, as well as internally in the subdivision. The proposal connects to an existing stub road, Train Station Way, on the eastern property line and proposes a stub to a large vacant tract to the south. With the exception of the requested waiver, the proposed revised district development plan/preliminary subdivision plan meets the requirements of the Land Development Code.

The applicant is requesting to allow the five resultant lots of tract 1 to have direct access via driveway to Lower River Road. This would be in keeping with the general lot access pattern for single family homes in the area.

The standard of review has been met for the requested application. Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Development Review Committee must determine if the proposal meets the standards for approving the Revised Detailed District Development Plan and waiver request.

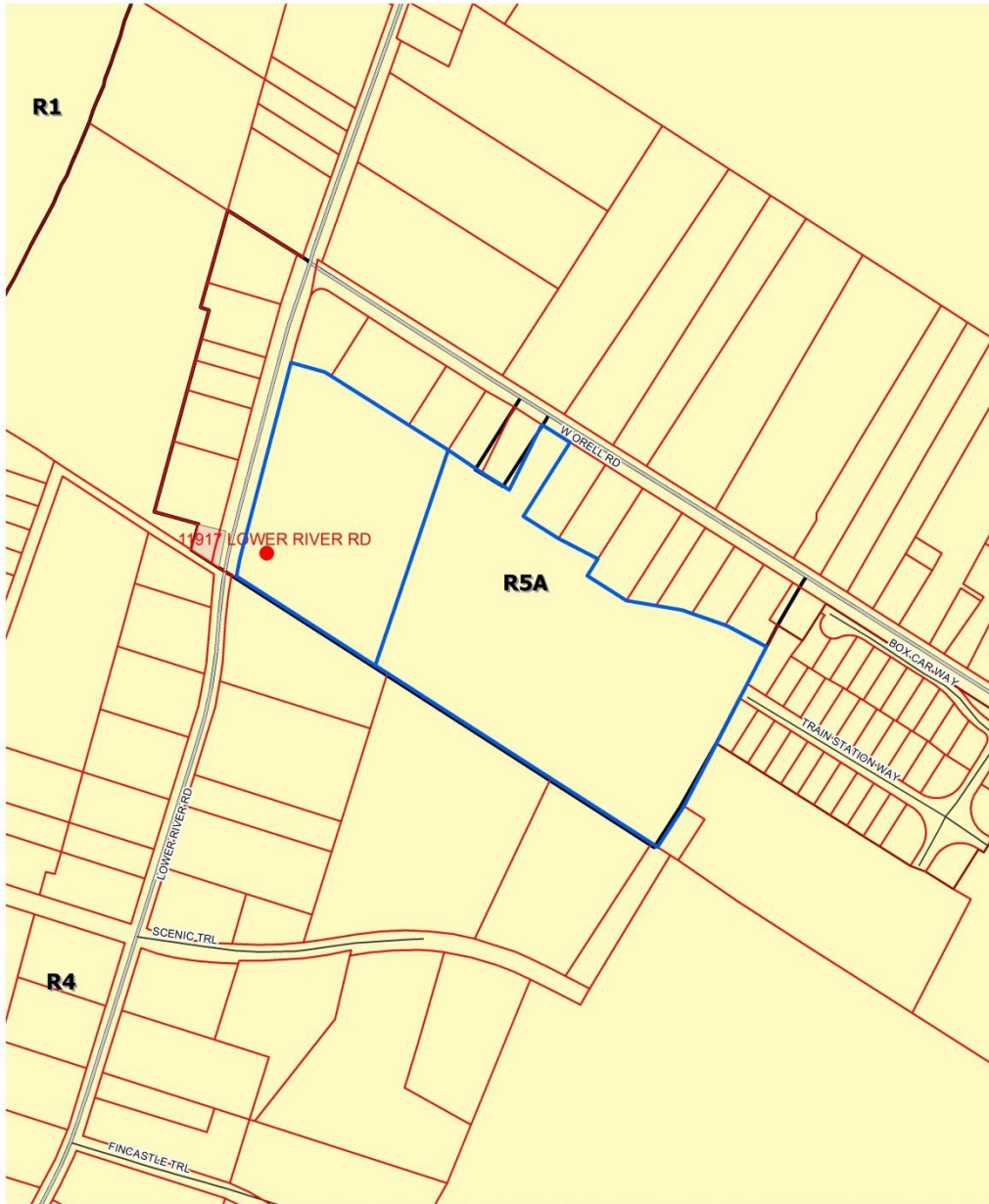
NOTIFICATION

Date	Purpose of Notice	Recipients
02/24/2017	Hearing before LD&T	1 st tier adjoining property owners Subscribers of Council District 14 Notification of Development Proposals

ATTACHMENTS

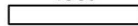
1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements w/highlighted changes.

1. Zoning Map



16DEVPLAN1240

feet



400

Map Created: 2/28/2017



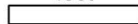
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2. Aerial Photograph



16DEVPLAN1240

feet



400

Map Created: 2/28/2017



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3. Existing Binding Elements w/Highlighted Changes

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. No further subdivision of the land into a greater number of lots than originally approved will occur without approval of the Planning Commission. 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 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 Planning Commission staff if the revisions are in keeping with the intent of the approved tree preservation plan. The plan shall exhibit the following:
 - 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/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. Before any permit (including but not limited to building, parking lot, change of use, site disturbance permit) is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. 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.
 - 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.
 - d. A minor plat or legal instrument shall be recorded consolidating the property into one lot. A copy of the recorded instrument shall be submitted to the Division of Planning and Design Services.
4. A note shall be placed on the preliminary plan, construction plan, and the record plat that states, "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. 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.
6. An original stamped copy of the approved Tree Preservation Plan shall be present on site during all clearing, grading, or construction activity and shall be made available to any DPDS inspector or enforcement office upon request.
7. All plans setting out Tree Canopy Protection Areas (TCPAs) must contain the following notes:
 - a. 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 development plan approval. As trees are lost thru natural causes new trees shall be planted in order to maintain minimum tree canopy as specified in Chapter 10, Part 1 of the LDC and as specified on the approved development or preliminary subdivision plan.
 - b. Dimension lines have been used on this plan to establish the general location of TCPAs and represent the minimum distances. The final boundary for each TCPA 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 TCPAs prior to site disturbance to protect the existing tree stands and their root systems. The fencing shall be located at least 3 feet beyond the edge of the tree canopy and shall remain in place until all construction is completed. When trees must be removed, the fence shall be relocated to protect all remaining trees within that TCPA.
 - d. No parking, material storage, or construction activities are permitted within the TCPAs beyond that allowed for preliminary site investigation work.
 - e. Clearing necessary to provide access for survey work, rock soundings or other usual and customary site investigations shall be permitted prior to Site Disturbance Approval. Preliminary site investigations shall be carefully planned to minimize the amount of clearing required. Clearing should follow proposed roadway centerlines and should not result in a clear access way of more than twenty (20) feet in width. Cleared access ways beyond proposed roadways to assess individual lots shall not exceed twelve (12) feet in width or encroach into any proposed open space lots. No trees exceeding eight (8) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.
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, TCPAs, WPAs.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 9. 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.
 10. 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.
 11. 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 the Chapter 10, Part 1 of the LDC. 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.
 12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the **March 09, 2017** ~~September 24, 2015~~ meeting of the **Land Development & Transportation Development Review Committee**.
 13. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall (1) provide sufficient funds to ensure there is no less than \$3000 cash in the homeowner's association account and (2) provide public amenities in the designated open space areas to be reviewed and approved by the staff Landscape Architect.
 14. The signature entrance plan shall be submitted to Planning Commission staff for review and approval prior to recording of the Record Plat.
 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 plan to mitigate any impact on the wetlands. The location of any wetlands and associated buffers must be identified on construction plans and/or record plats.

- ~~16. The applicant shall obtain approval of a detailed landscape plan for the 50-foot Landscape and Variable Berming Area along Lower River Road. The landscape buffer area shall be maintained by the property owners association. The landscape plan shall be submitted for review and approval by DPDS staff prior to record plat approval.~~
17. 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 approval of 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.
18. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right-of-way for **Road A Street A-D**. Such signs shall be installed prior to release of bonds for the installation of street infrastructure. *(Amended by June 25, 2008 meeting of DRC)*
19. 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.
20. Developer shall provide irrigation systems to ensure that the signature entrance to be located along West Orell Road ~~and Lower River Road~~ are properly watered.
21. The applicant shall provide a 20-foot pedestrian easement to Louisville Metro for public access to extend the Orell Road sidewalk from Lower River Road west along the northern property line of Tract 5 to the Ohio River Levee Trail to be recorded on the record plat. Developer is not responsible for the building of the sidewalk.
- ~~22. The applicant agrees to replace perimeter plantings located along Orell Road and Lower River Road for a period of 5 years after planting of said materials.~~