

# Planning Commission Staff Report

June 4, 2020



<b>Case No:</b>	20-RSUB-0001
<b>Project Name:</b>	The Breakers at Prospect
<b>Location:</b>	7800 Sutherland Farm Road
<b>Owner(s):</b>	The Breakers at Prospect, LLC
<b>Applicant:</b>	The Breakers at Prospect, LLC
<b>Representative(s):</b>	Dinsmore & Shohl, LLP; Sabak, Wilson & Lingo, Inc.
<b>Jurisdiction:</b>	City of Prospect
<b>Council District:</b>	16 – Scott Reed
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

## REQUEST(S)

- **Revised Major Preliminary Subdivision Plan** with review of wetland buffer area crossing and cul-de-sac length

## CASE SUMMARY

A major preliminary subdivision for 72 single-family lots was approved by the Planning Commission on August 12, 2019, case 19SUBDIV1001. The revised subdivision shifts proposed Sutherland Farm Road east to avoid disturbance of jurisdictional wetlands. These wetlands will remain on Lots 2-8 & 10, and each of these lots, except lots 1, 2, & 10, will be served by shared access easements in-lieu-of individual crossings over the wetland area connecting to the public way. The developer also proposes to avoid disturbance of the wetland and its associated buffer in the southernmost corner of the development site through the construction of a bridge spanning these features. With these revisions, the total number of lots for the development is reduced to 70 lots.

## STAFF FINDING

The proposed subdivision conforms to all subdivision and zoning/form district regulations as contained in the Land Development Code (City of Prospect). It further conforms to those conditions allowing for the Planning Commission to approve the wetland buffer area crossing and length of the cul-de-sac.

## TECHNICAL REVIEW

- Preliminary approval has been received by MSD and Transportation Planning/DPW.
- Jurisdictional wetlands less than 0.1 acres are not regulated as protected waterways by the Land Development Code (LDC). The LDC provides that any disturbance to a jurisdictional wetland is subject to federal laws, regulations, and approval; therefore, the wetlands across lots 1-8 & 10 are not required to provide buffers, and disturbance of those wetlands, which is not proposed, is under the jurisdiction of the federal government and not the Planning Commission. *Reference: LDC (City of Prospect), sections 4.8.3.A.2 & 4.8.5.B.*
- Preliminary approval for the use and width of private access easements to serve lots 3-8 has been received from Public Works and Anchorage/Middletown Fire & EMS. Each of these lots

retains frontage on a public road as required. *Reference: LDC (City of Prospect), sections 6.2.7.B.8, 6.2.8, & 7.3.30.B.*

- Stream and buffer area crossings of protected waterways, including wetlands and their associated buffers are permitted upon approval by the Planning Commission. The applicant proposes one perpendicular roadway crossing of a protected waterway and buffer in the southernmost corner of the development site. The applicant does not intend to disturb this area in a manner that requires federal approval. A bridge will be provided to fully span the wetland and buffer area. *Reference: LDC (City of Prospect), section 4.8.6.J.*
- The proposed cul-de-sac beginning at Eads Place to its terminus exceeds 1,500 feet. It is approximately 2,000 feet. Cul-de-sacs exceeding 1,500 feet are permitted with approval of the Planning Commission upon a finding that natural features are impractical to traverse or connectivity to adjacent land is blocked. Adjacent lands are built-out for the Sutherland and Innisbrook subdivisions and all stubs from these lands have been connected. There are no additional roadway stubs or connections available. The result of looping the road back to connect with proposed Street 'A' would appear to result in disturbance of open space, water features and proposed Tree Canopy preservation. *Reference: LDC (City of Prospect), section 5.8.4.B.1.a.*

**REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Major Preliminary Subdivision Plan** with wetland buffer area crossing and cul-de-sac length as shown on the preliminary plan and subject to existing conditions of approval.

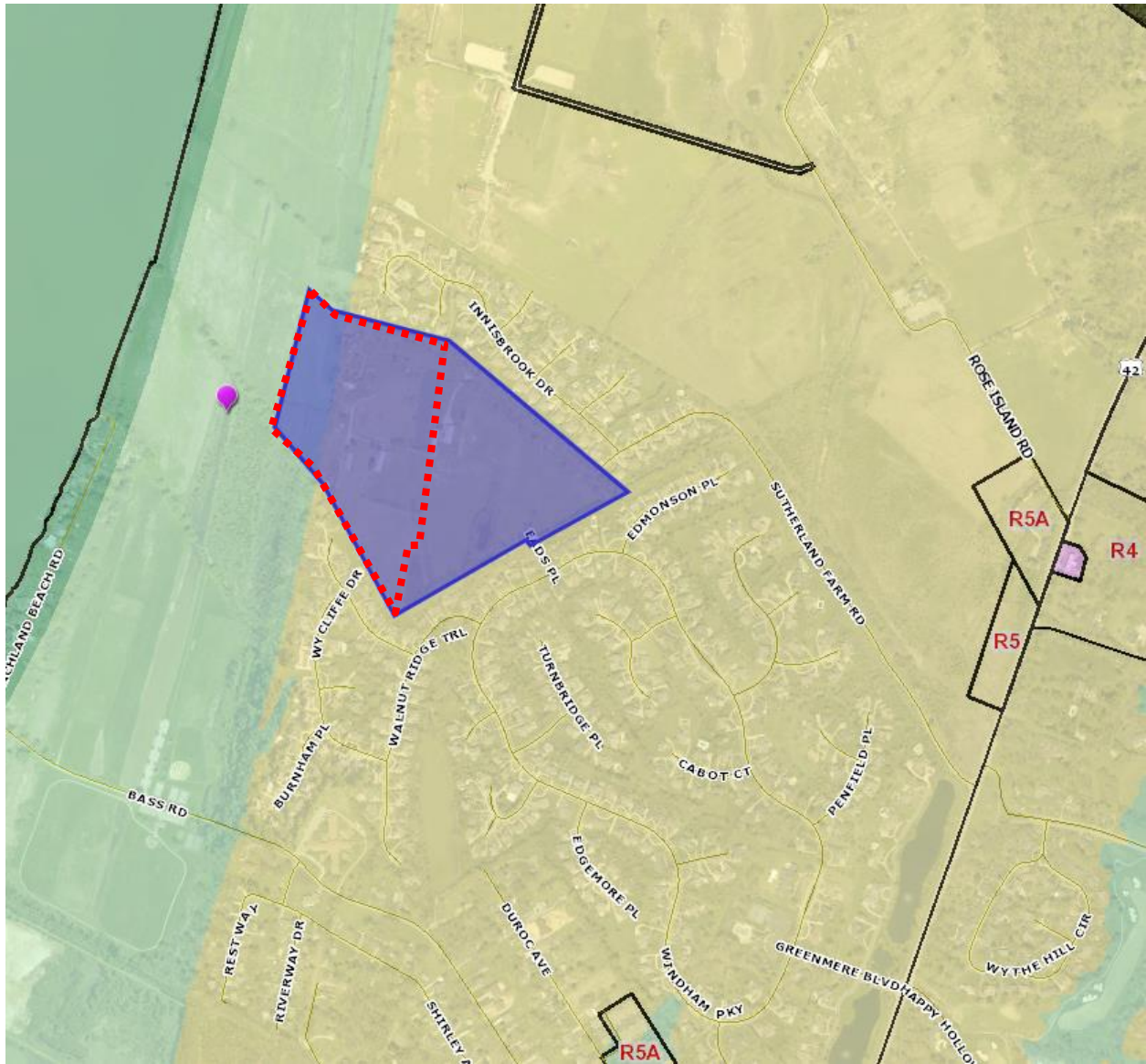
**NOTIFICATION**

Date	Purpose of Notice	Recipients
05/13/20	Hearing before Planning Commission	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16

**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval (19SUBDIV1001)

1. Zoning Map



2. Aerial Photograph



**3. Existing Conditions of Approval (19SUBDIV1001)**

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. 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. 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."
4. All street signs shall be installed by the Developer, and shall conform to 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.
5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public rights of way as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
6. Open space 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.
7. 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.
8. 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.
9. Trees will be preserved and/or provided on site and maintained thereafter 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 Chapter 10, Part 1 of the Land Development Code. 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.
10. 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.

11. 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, TPAs 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.
12. 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.
13. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. 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."
15. Limits of disturbance/building envelopes as shown on the preliminary plan shall be shown and recorded with the record subdivision plat.
16. There shall be no signage (other than required street signage) for the Breakers at Prospect at the Innisbrook/Sutherland Farm Road entrance at US Highway 42 or along any portion of Sutherland Farm Road except within the limits of the approved subdivision. Signage on Sutherland farm Road shall be restricted to 2 stone pillars (1 on each side of the road) and shall not exceed 10 feet in height.