

# Development Review Committee

## Staff Report

September 30, 2020



|                          |                                |
|--------------------------|--------------------------------|
| <b>Case No:</b>          | 20-WAIVER-0088                 |
| <b>Project Name:</b>     | LDC Waiver                     |
| <b>Location:</b>         | 14831 Ava Brook Circle         |
| <b>Owner(s):</b>         | Keith Lane                     |
| <b>Applicant:</b>        | Keith Lane                     |
| <b>Jurisdiction:</b>     | Louisville Metro               |
| <b>Council District:</b> | 19 – Anthony Piagentini        |
| <b>Case Manager:</b>     | Lacey Gabbard, AICP, Planner I |

### **REQUEST:**

1. **Waiver** of Land Development Code Section 7.3.30.F to allow a swimming pool on a residential lot to encroach into the 15 foot buffer yard at the rear of the property

### **CASE SUMMARY/BACKGROUND**

The subject site is zoned R-4 Single Family Residential in the Neighborhood form district. It is located on the east side of Ava Brook Circle, in the Reserve at Fox Run in the Floyds Fork DRO.

The applicant has received a building permit (RES-NEW-19-00276) for a 4,945 square foot two story residential structure. They are proposing to construct a 14 x 28 inground swimming pool (RES-POOL-20-00106) at the rear of the residential structure, which the applicant is requesting to encroach into the 15 foot buffer yard at the rear of the property. This buffer yard is required by Land Development Code section 7.3.30.F and is shown on 16DEVPLAN1005 and 16SUBDIV1000 for the Reserve at Fox Run.

The proposed pool will encroach into an approximately 30 foot section of the buffer yard by about 5-7 feet. Aside from the area of encroachment, the buffer yard plantings will be provided as required.

### **STAFF FINDINGS**

The waiver request is adequately justified and meets the standard of review. Staff recommends that the Development Review Committee discuss with the applicant their reasons and support for the proposed placement of the swimming pool, and why it could not be moved closer to the residential structure to decrease the area of encroachment.

### **TECHNICAL REVIEW**

MSD and Public works have provided preliminary plan approval.

### **INTERESTED PARTY COMMENTS**

Staff has received no comments from interested parties concerning this case.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 7.3.30.F  
TO ALLOW A SWIMMING POOL ON A RESIDENTIAL LOT TO ENCROACH INTO THE  
15 FOOT BUFFER YARD AT THE REAR OF THE PROPERTY**

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

STAFF: The waiver will not adversely affect adjacent property owners since the buffer yard at the rear of the property abuts a 22 acre parcel owned by the Future Fund which is not currently developed. Additionally, the applicant is proposing to provide all buffer yard requirements with the exception of the area where the pool is proposed to encroach.

- (b) The waiver will not violate specific guidelines of Plan 2040; and

STAFF: The waiver will not violate Land Use & Development Goal 1, Policy 10 which calls for the mitigation of impacts caused when incompatible developments unavoidably occur adjacent to one another. Buffers should be used between uses that are substantially different in intensity or density.

The waiver request is for a swimming pool on a residential lot, which abuts other residentially zoned lots. The uses are not incompatible and do not differ in intensity or density. Additionally, the proposed swimming pool will only encroach into a portion of the buffer yard, and a majority of it will remain intact.

- (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 they would not be able to build the swimming pool otherwise.

- (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 because he would otherwise not be able to construct the swimming pool.

**REQUIRED ACTIONS:**

- **APPROVE** or **DENY** the **Waiver**

**NOTIFICATION**

| Date    | Purpose of Notice  | Recipients  |
|---------|--------------------|---|
| 9-30-20 | Hearing before DRC | 1 <sup>st</sup> tier adjoining property owners<br>Speakers at Planning Commission public hearing<br>Registered Neighborhood Groups in Council District 19 |

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph

[illegible]

feet

190

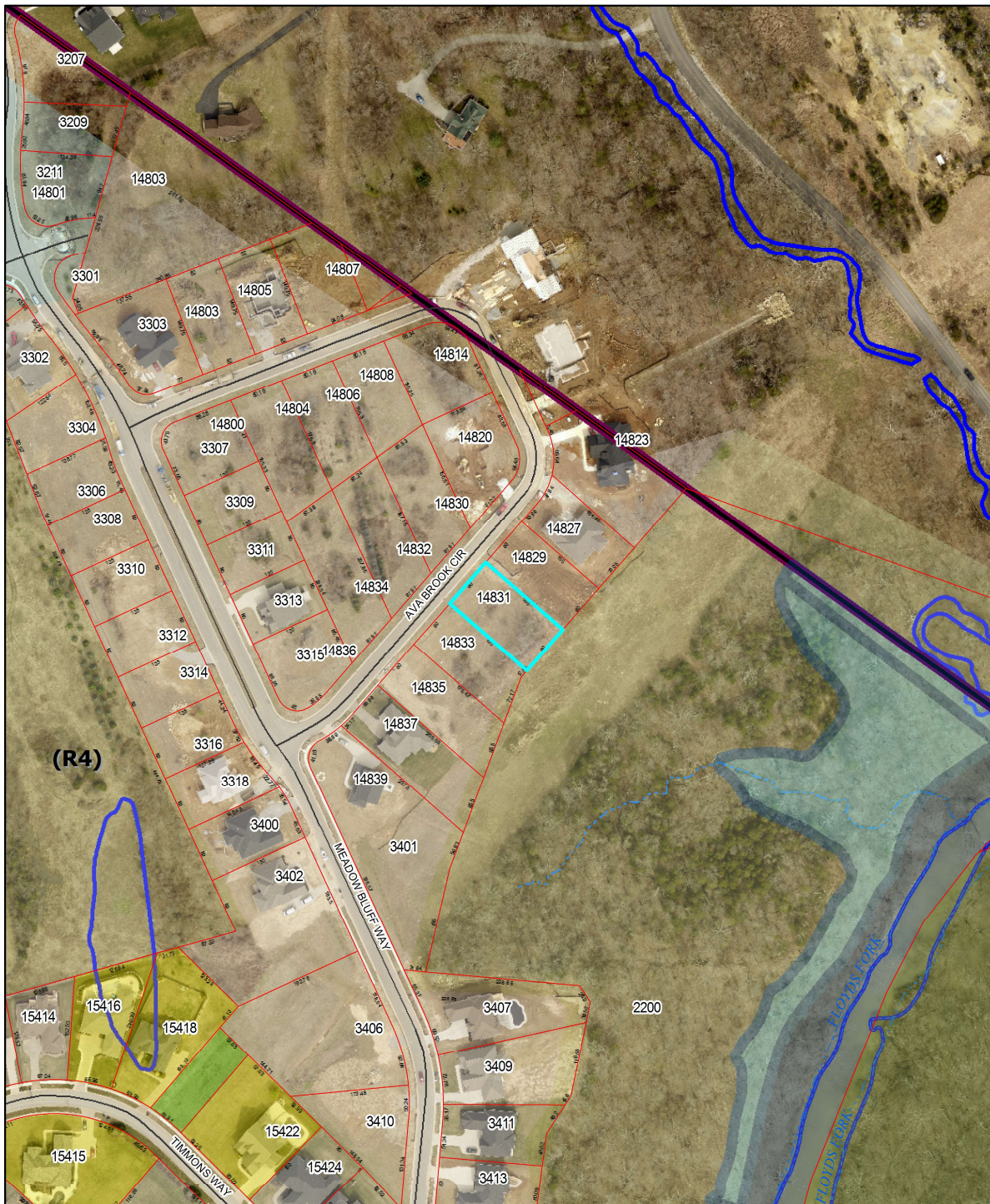
Map Created: 9/16/2020



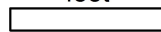
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## 2. Aerial Photograph



14831 AVA BROOK CIRCLE  
feet



190  
Map Created: 9/16/2020



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