

Case No. 15VARIANCE1087

4319 Barbour Lane



**Louisville Metro Board of Zoning Adjustment
Public Hearing**

**Joel P. Dock, Planner I
February 15, 2016**

Request

- **Variance** from section 4.8 and Table 4.8.1 of the Land Development Code (LDC) to allow the construction of a private access easement in the Protected Waterway Buffer of Little Goose Creek.
- The Southern line of the pavement encroaching into the buffer appears to be 35'-42'. The easement width extends 6' North & South of the Pavement.

Case Summary / Background

- The applicant proposes to construct a 30' private access easement with a finished pavement width of 18' in the 100' Protected Waterway Buffer of Little Goose Creek to serve five proposed single-family tracts.
- Little Goose Creek is a Perennial or Solid Blue-Line stream.
- Chapter 4, Section 8.6 prohibits structures or impervious surface in excess of 100 SF to be located in the buffer of a protected waterway
- Section 8.6.J of this chapter allows for roads, bridges, trails, and utilities to cross protected waterways if the crossing is the minimum necessary for installation, access, and maintenance; any disturbance required for installation is restored; the number of crossings is the minimum to provide adequate access; and the crossing is perpendicular to the stream or buffer.

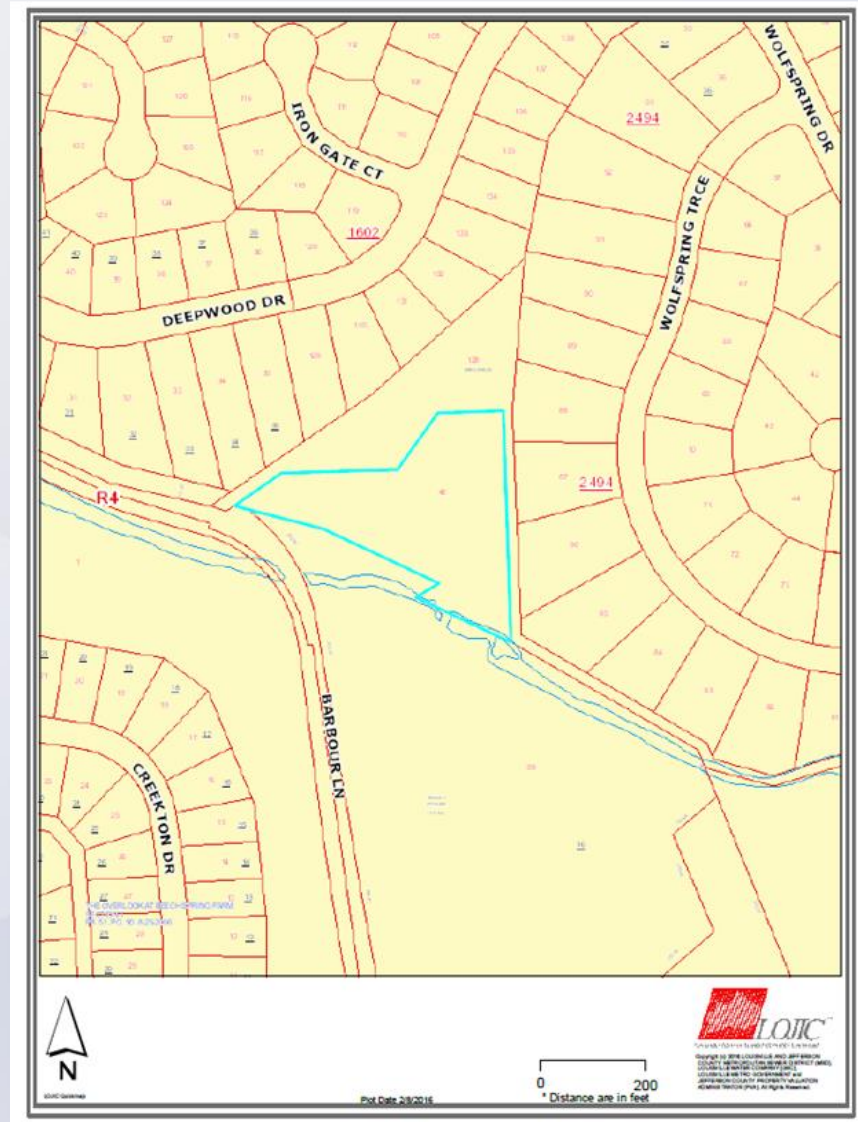
Zoning/Form Districts

- Subject Property:

- Existing: R-4/ N
- Proposed: R-4/ N

- Adjacent Properties:

- North: R-4/ N
- South: R-4/ N
- East: R-4/ N
- West: R-4/ N



Aerial Photo/Land Use

- **Subject Property:**
 - Existing: Single-Family Residential
 - Proposed: Single-Family Residential
- **Adjacent Properties:**
 - North: Single-Family/ Open Space
 - South: Single-Family/ Open Space
 - East: Single-Family/ Open Space
 - West: Single-Family/ Open Space



Proposed Easement Location



East



01/29/2016 03:13

Subject Site

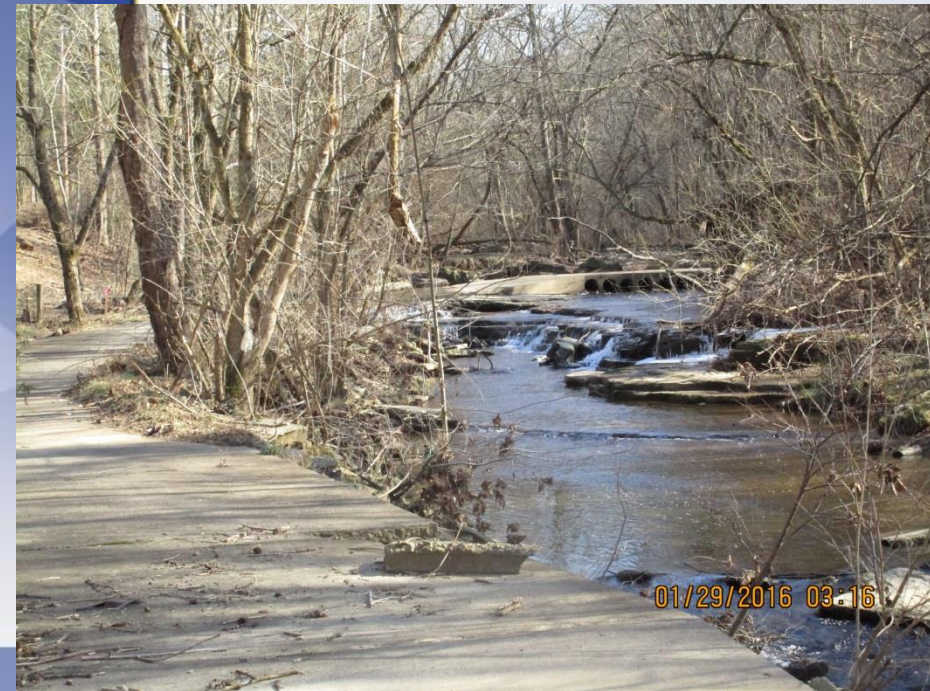
**West with Creek
to the Right**



01/29/2016 03:13



Little Goose Creek



Applicable Plans & Policies

- Cornerstone 2020
- Land Development Code (revised December 2015)

Technical Review

- The approval of case 15MINORPLAT1166 is contingent upon the outcome of this case.
- Site photos indicated that the existing drive appeared to be non-existent. The applicant stated that due to a lack of maintenance the road has been over-taken by grass.
- Steep slopes on site were confirmed on LOJIC to be in-excess of 20% slope. Due to the impact that construction on these steep slopes may have on the protected waterway staff would recommend that the submission of a geotechnical report in accordance with LDC 4.7.4.A.2 be placed as a Condition of Approval on this variance request.

Staff Analysis and Conclusions

- The variance request appears to be adequately justified and meets the standard of review.
- Staff would recommend to the Board that specific attention is given to the environmental analysis found in the Standard of Review and Staff Analysis of items (a) & (c), as well as Additional Considerations item (1) and Additional Consideration for Protected Waterway Buffer items (d) & (e).
 - “...It is hard to convincingly state that the granting of this variance will not adversely affect the public health, safety, or welfare. Using the existing grade would eliminate the need to excavate and disturb land just beyond the buffer to provide access to these lots which fall outside the buffer, however.”
 - “LDC 4.8.6.J requires that any land disturbance and/or removal of vegetation within the buffer be restored.”
 - “All property abutting Little Goose Creek is subject to the buffer...”
 - “The long term impact of altering the vegetation and run-off flowing into the stream within the limits of the buffer may have substantial negative impacts on the stability of this ecosystem and water-quality; subsequently, having an impact on the quality of the Ohio River.”

Required Actions

- APPROVE or DENY the Variance from section 4.8 and Table 4.8.1 of the Land Development Code (LDC) to allow the construction of a private access easement in the Protected Waterway Buffer of Little Goose Creek.
- The Southern line of the pavement encroaching into the buffer appears to be 35'-42'. The easement has a width of 6' North & South of the Pavement.