

Land Development and Transportation Committee
Staff Report
May 30, 2019



Case No:	19DEVPLAN1072
Project Name:	Timberbend Subdivision Section 5C
Location:	River Trail Drive/5611 Cooper Chapel Road
Owner(s):	Ricky Harris, Harris Acquisitions
Applicant:	Matt Ricketts, NTS Development Co.
Jurisdiction:	Louisville Metro
Council District:	24 – Madonna Flood
Case Manager:	Lacey Gabbard, AICP, Planner I

REQUESTS:

1. **Revised Detailed District Development Plan/Revised Preliminary Subdivision Plan with removal of Binding Elements on the subject site**

CASE SUMMARY/BACKGROUND

The subject site is zoned R-5 Residential Single family in the Neighborhood form district. It is located in the Okolona area, north of Cooper Chapel Road at the end of Nameless Way. The applicant is proposing a revision to the previous plan from twenty to (22) lots to two (2) lots on a little less than 7 acres.

Previous cases:

- 9-27-05: Change in zoning from R-4 Single Family Residential to R-5 Single Family Residential
- 10-18-05: Timberbend Section 5 subdivision plan

Since the applicant is proposing development of this site into two single family lots, staff is recommending removal from the subject site all Binding Elements and Conditions of Approval related to 9-27-05 and 10-18-05. The Binding Elements and Conditions of approval pertain to the subdivision, and are not typically applicable to single family residential development.

Per the approved plan for 9-27-095, the two River Trail Drive stub streets were to be connected through the subject site. In order to preserve future connectivity, staff recommends the addition of a site plan Binding Element requiring that River Trail Drive be completed through the subject site should the lots be subdivided into multiple lots:

- If the subject site is redeveloped as a subdivision, River Trail Drive shall be connected through the subject site.

Landscape plan 14LSCAPE1023 includes the subject site as well as a portion of the Timberbend Subdivision which has already been developed. In order to ensure that landscape requirements for the subdivision are still being met without the tree canopy provided by the subject site, staff recommends the addition of a Binding Element:

- A revised landscape plan must be submitted and approved prior to any clearing or grading on the subject site.

STAFF FINDINGS

The development plan and subdivision plan are justified and meet the standard of review.

TECHNICAL REVIEW

Public Works and MSD have provided their preliminary approvals.

INTERESTED PARTY COMMENTS

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

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 do 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 portion of Timberbend Subdivision Section 5 located to the north of 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. Public Works' preliminary approval is pending the sidewalk waiver requests. MSD has provided preliminary approval.

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

STAFF: There are no open space requirements related to this development.

- (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 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.

- (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. Appropriate landscape buffering and screening will be provided to

screen adjacent properties and roadways. Buildings and parking lots will meet all required setbacks.

- (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.

REQUIRED ACTIONS:

- **APPROVE or DENY the Revised Detailed Development Plan/Revised Preliminary Subdivision Plan and Binding Element Amendments on the subject site**

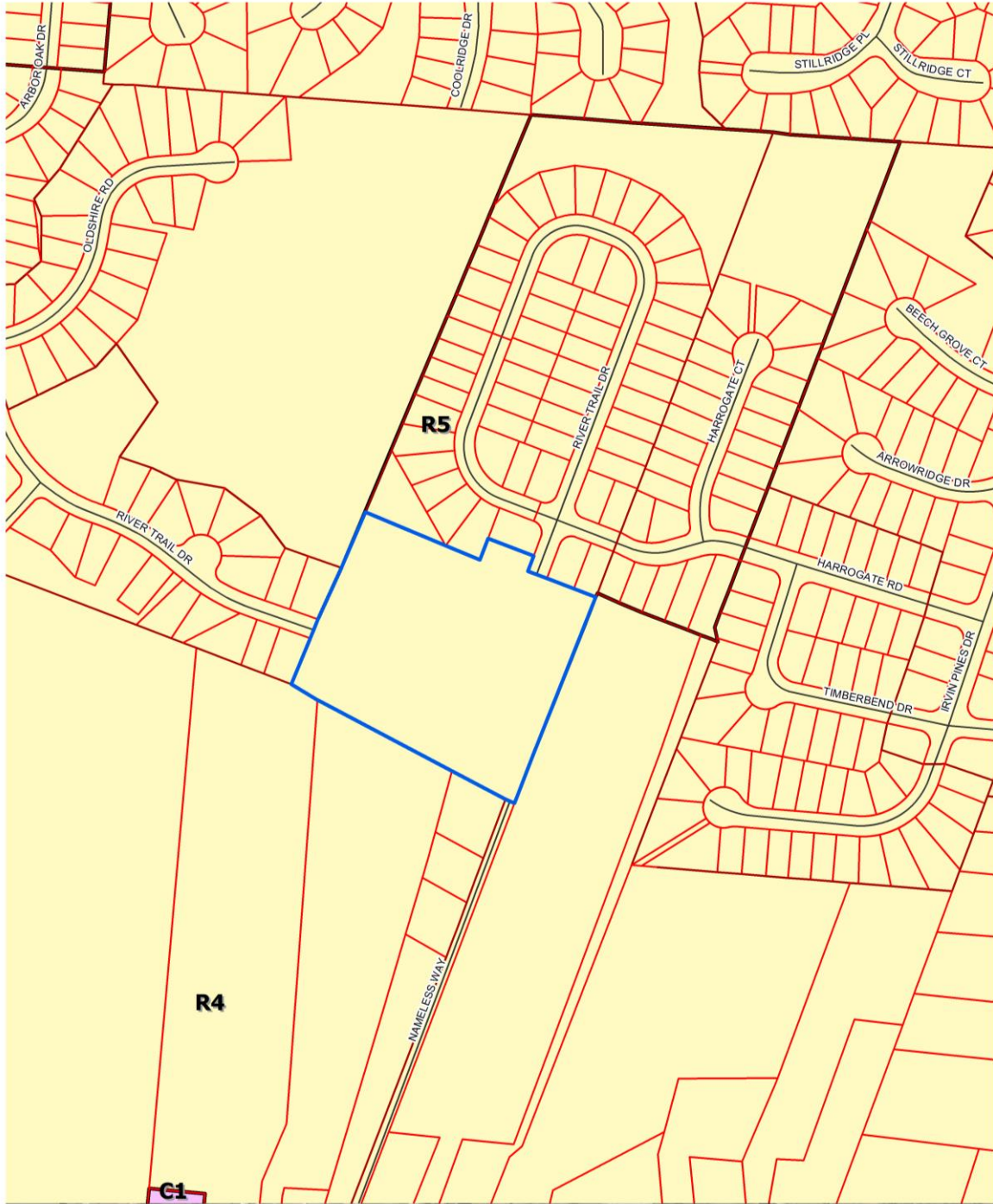
NOTIFICATION

Date	Purpose of Notice	Recipients
5-30-19	Hearing before DRC	1 st tier adjoining property owners Speakers at Planning Commission public hearing Registered Neighborhood Groups in Council District 24

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing General Plan Binding Elements and Conditions of Approval (9-27-05 and 10-18-05) to be removed from subject site
4. Proposed Subject Site Binding Elements

1. **Zoning Map**



TIMBERBEND SUBDIVISION SECTION 5  **LOJIC**

feet
320
Map Created: 4/2/2019

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2. Aerial Photograph



TIMBERBEND SUBDIVISION SECTION 5  LOJIC

feet
320

Map Created: 4/2/2019

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3. Existing General Plan Binding Elements and Conditions of Approval (9-27-05 and 10-18-05) to be removed from subject site

~~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. 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. 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.~~

~~3. The density of the development shall not exceed 3.5 dwelling units per acre (78 units on 22.3 acres).~~

~~4. The applicant shall submit a plan for approval by Planning Commission staff showing tree/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 information:~~

- ~~1. Proposed site plan (showing buildings, edges of pavement, property/lot lines, easements, existing topography, and other significant site features (LOJIC topographic information is acceptable)).~~
- ~~2. Preliminary drainage considerations (retention/detention, ditches/large swales, etc.)~~
- ~~3. Location of all existing trees/tree masses existing on the site as shown by aerial photo or LOJIC maps.~~
- ~~4. Location of construction fencing for each tree/tree mass designated to be preserved.~~

~~5. 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 Inspections, Permits and Licenses 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.~~

~~6. 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."~~

~~7. 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.~~

~~8. 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.~~

~~9. All plans setting out Tree Preservation Areas (TPAs), Tree Canopy Protection Areas (TCPAs) and/or Woodland Protection Areas (WPAs) must contain the following notes: **(note: remove any designation that does not apply)**~~

- ~~a. Tree Preservation Areas (TPAs) identified on this plan represent portions of the site the developer has designated to be left undisturbed during the development of roadways, utilities and similar infrastructure. These are not permanent preservation areas. Trees in these areas may be removed during construction of homes or buildings on individual lots.~~
- ~~b. 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 plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.~~
- ~~c. Woodland Protection Areas (WPAs) identified on this plan represent portions of the site on which all existing vegetation shall be permanently preserved. All clearing, grading, and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. No further clearing, grading, construction or other land disturbing activity shall take place beyond pruning to improve the general health of the tree or to remove dead or declining trees that may pose a public health and safety threat, or as needed for required utility installation.~~
- ~~d. Dimension lines have been used on this plan to establish the general location of TPAs, TCPAs, and WPAs and represent minimum distances. The final boundary for each TPA, TCPA, and/or WPA 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.~~
- ~~e. Tree protection fencing shall be erected around all TPAs, TCPAs and/or WPAs 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 TPA, TCPA or WPA. When a tree mass contains both TCPAs and TPAs or WPAs, fencing shall only be required at the outer most perimeter of that tree mass.~~
- ~~f. No parking, material storage, or construction activities are permitted within the TPAs, TCPAs, or WPAs beyond that allowed for preliminary site investigation work.~~
- ~~g. 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 (*) inches in diameter measured at breast height (DBH) shall be removed without prior approval by DPDS.~~
- ~~h. The site shall be developed in accordance with the Woodland Protection Areas (WPAs) delineated on the site plan and related notes. Any modification of the Woodland Protection Areas requires notification of adjoining property owners and LD&T action.~~
- ~~i. The applicant shall provide deeds of restriction ensuring that WPAs will be permanently protected in a manner consistent with the binding elements/conditions of approval and/or the~~

~~approved development plan. The form of such restrictions shall be approved by Planning Commission counsel.~~

~~10. 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, open space, TCPAs, and WPAs~~
- ~~c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.~~

~~11. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of any structure for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.~~

~~12. 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.~~

~~13. Prior to requesting certificates of occupancy, the developer shall post street signs and address numbers.~~

~~14. 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.~~

~~15. 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 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.~~

~~16. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.~~

~~17. The materials and design of proposed structures shall be substantially the same as depicted in the photographs and elevation renderings as presented at the June 16, 2005 Planning Commission meeting.~~

~~18. Street trees shall be provided as shown on the colored-up site plan contained in the exhibit books presented at the June 16, 2005 public hearing.~~

4. Proposed Subject Site Binding Elements

1. If the subject site is redeveloped as a subdivision, River Trail Drive shall be connected through the subject site.
2. A revised landscape plan must be submitted and approved prior to any clearing or grading on the subject site.