

Planning Commission

Staff Report

August 5, 2021



Case No:	21-RSUB-0007
Project Name:	Glenmary Farms
Location:	8000 & 8001 Dobson Lane, Parcel ID 005700790000
Owner(s):	Glenmary Farms LLC
Applicant:	Glenmary Farms LLC
Jurisdiction:	Louisville Metro
Council District:	22 – Robin Engel
Case Manager:	Dante St. Germain, AICP, Planner II

REQUESTS

- **Waiver** from 7.3.30.E to allow a drainage easement to overlap a rear yard by more than 15% (21-WAIVER-0081)
- **Major Preliminary Subdivision** with Development Potential Transfer and review of land-disturbing activity on slopes greater than 20%

CASE SUMMARY/BACKGROUND

The applicant proposes a new 103-lot subdivision on three contiguous parcels approximately 61.42 acres in area. Big Run crosses the south-eastern portion of the site, running through an area of steep slopes. The applicant proposes to utilize the Development Potential Transfer provisions of the Land Development Code (LDC) section 4.7.7 to increase density on the flatter areas of the site while preserving most of the slopes in a conservation easement. The proposed conservation easement encompasses the required buffers around Big Run and will be located in a non-buildable lot.

Two of the lots on the current subdivision were the subject of a previously-approved 80-lot subdivision, under docket 18SUBDIV1025. The new proposal is a revised subdivision encompassing an additional parcel and an additional 23 lots.

A sanitary sewer is located on the opposite side of Big Run from the proposed subdivision. The applicant proposes to connect to this sewer line to provide service to the subdivision, requiring the service line to cross Big Run and the protected waterway buffer zones. The Planning Commission reviewed and approved the previous subdivision's proposal to cross the protected waterway under docket 18SUBDIV1025. The crossing remains the same on the new plan now under consideration.

LDC section 4.7.5 regulates land disturbing activity on slopes greater than 20%. The land disturbing activity relating to the sewer line has already been reviewed and approved under docket 18SUBDIV1025. Some of the slopes are located on buildable lots and outside the proposed conservation easement, where construction of homes might take place. The Commission is authorized by section 4.7.5.B to review this activity.

The requested waiver is necessitated by some of the lots' rear yards overlapping an MSD drainage easement by more than 15%.

STAFF FINDING

Staff finds that the proposed subdivision generally meets the requirements of the Land Development Code, with the exception of the requested waiver, and is in compliance with the Development Potential Transfer requirements with respect to lot size and number of permitted lots. Staff finds that the requested waiver is adequately justified and meets the standard of review. The Commission must make a finding regarding the standard of review for land disturbing activity on slopes greater than 20%.

TECHNICAL REVIEW

Land Development Code (2021) Louisville Metro

Plan 2040

The plan has received preliminary approval from all applicable agencies.

INTERESTED PARTY COMMENTS

Two interested neighbors submitted emails in opposition to the proposed subdivision.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 7.3.30.E

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

STAFF: The waiver will not adversely affect adjacent property owners as the overlap between the rear yard and the drainage easement is not likely to be visible outside the property or increase drainage off the property.

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

STAFF: The waiver will not violate specific guidelines of Plan 2040 as Plan 2040 does not address overlap between required yards and drainage easements.

- (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 as the overlap is made necessary by MSD generally requiring drainage easements to be in rear yards.

- (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: 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 by requiring excess rear yard be reserved on lots that have the drainage easement, negatively impacting the building envelopes.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR SECTION 4.7.5.B TO ALLOW LAND DISTURBING ACTIVITY ON SLOPES GREATER THAN 20% ON LOTS CREATED BY MAJOR SUBDIVISION

Land disturbing activities on slopes greater than 20% is permitted on lots created by major subdivision after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the following standards:

- (a) The Commission finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,

STAFF: The applicant must demonstrate to the Commission that the design and configuration of the potential building construction is the minimum disturbance of slopes greater than 20%.

- (b) Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,

STAFF: The applicant has placed a note on the plan indicating that compatible utilities shall be placed in a common trench unless otherwise required by the applicable agencies.

- (c) The Planning Commission may approve the activity if the geotechnical report opines and demonstrates that:

a. The slope's ground surface and subsurface are not unstable;

b. Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on- site and on adjacent lands; and,

c. If a geotechnical report is required, the applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

STAFF: A geotechnical report was required and provided by the applicant. The applicant must demonstrate compliance with all other provisions to the Commission.

- (d) The activity is in keeping with the Comprehensive Plan.

STAFF: The activity is in keeping with the Comprehensive Plan as Plan 2040 encourages the conservation of natural resources, including steep slopes and streams. The majority of the slopes on the property will be preserved in a conservation easement, as will the stream buffer. Without the development potential transfer provision being applied to the site, more of the slopes would be disturbed by home building activities.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver**
- **APPROVE** or **DENY** the **Major Preliminary Subdivision**

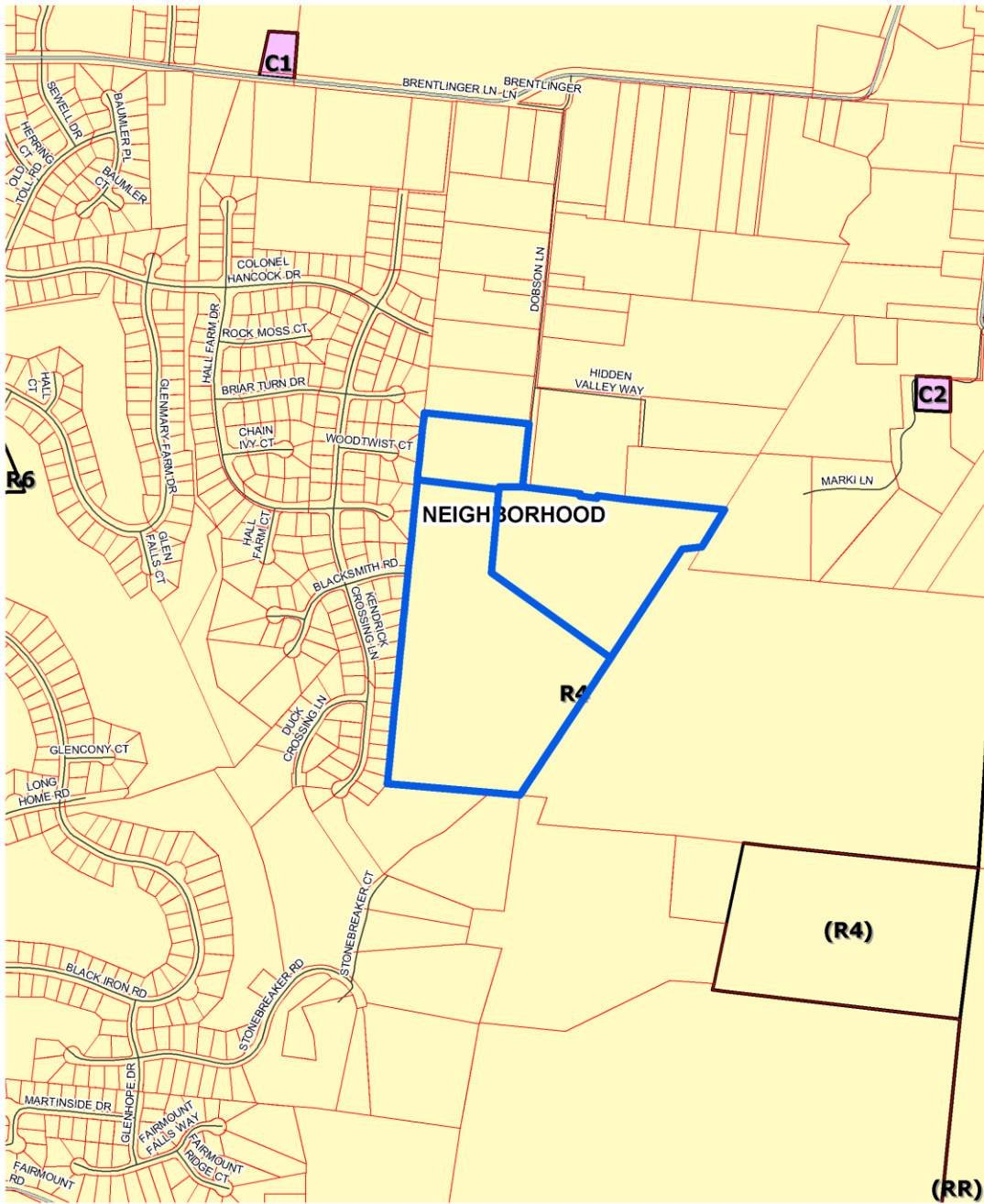
NOTIFICATION

Date	Purpose of Notice	Recipients
07/22/2021	PC Public Hearing	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 22 Persons who signed in at the neighborhood meeting

ATTACHMENTS

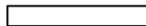
1. Zoning Map
2. Aerial Photograph
3. Proposed Conditions of Approval

1. Zoning Map



Glenmary Farms

feet



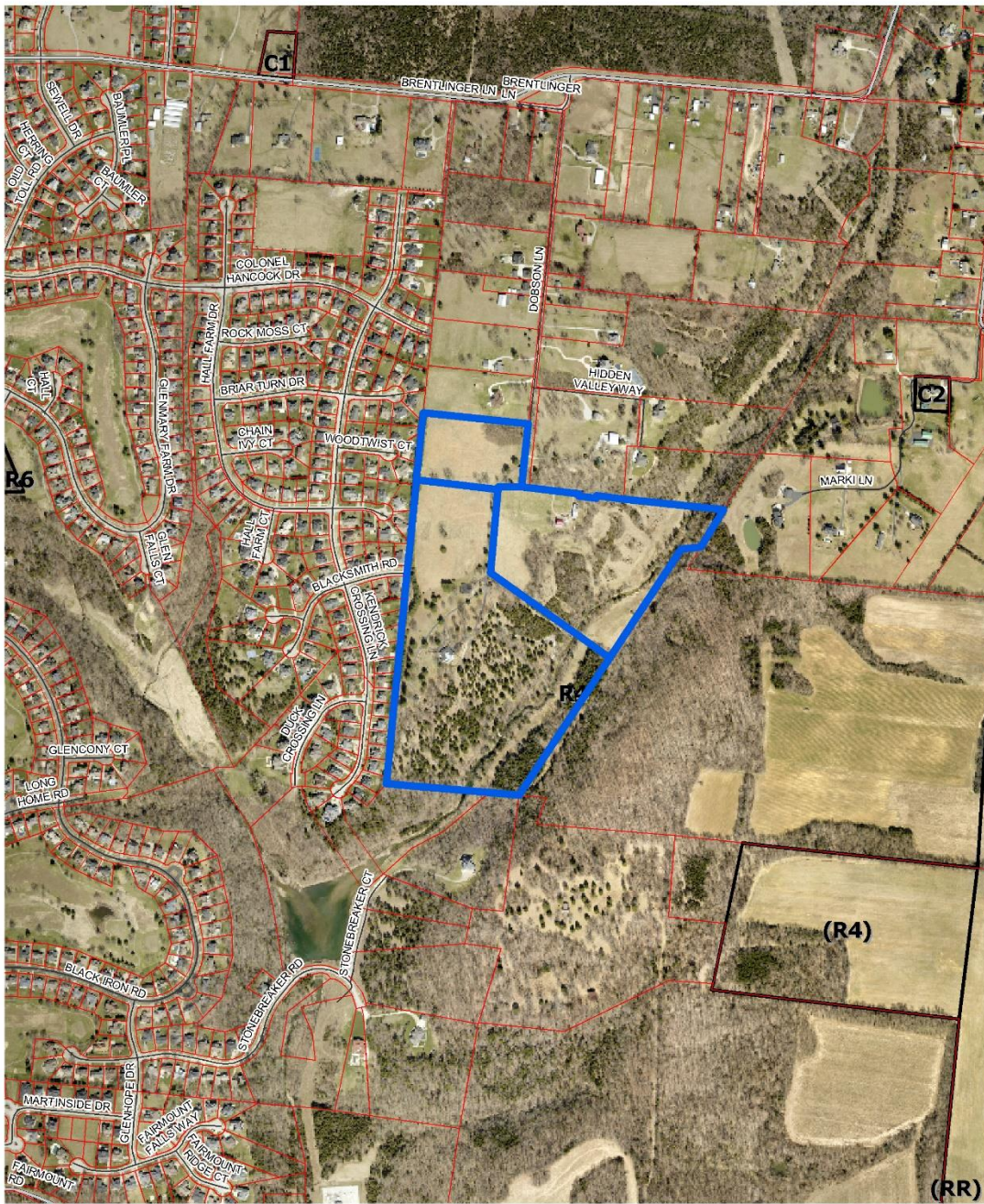
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Map Created: 7/28/2021



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2. Aerial Photograph



Glenmary Farms
feet

760

Map Created: 7/28/2021



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3. Proposed Conditions of Approval

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 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 information:
 - 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/large 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. 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.
4. 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."
5. 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.
6. 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.
7. Open space/conservation 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.
8. 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.
9. 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 larvicide 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.

10. 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.
11. 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.
12. 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.
 - d. A grant of conservation easement in a form acceptable to the Planning Commission legal counsel.
13. 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.
14. Any signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
15. 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."
16. Due to the significant amount of karst activity on this site. further exploration is needed to determine whether or not Lots 85, 86, 93, 94, 95 and 72 are buildable due to the existence of karst features on the lot near where a building pad would be. The determination must be made before approval of construction plans. Any karst features found on site must be shown on the record plat.