

**Land Development and Transportation
Committee
Staff Report
July 13, 2017**



Case No:	17SUBDIV1005
Project Name:	Garwood Place Subdivision
Location:	9400 Green Glade Ln
Owner(s):	Ralle Homes, LLC
Applicant:	Stephen Cox
Jurisdiction:	Louisville Metro
Council District:	17 – Glen Stuckel
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- Major Preliminary Subdivision to create 12 lots on 4.44 Acres in the R-4 and R-5a zoning districts.
- Waiver of 5.8.1.B to not provide sidewalks on the east side of the proposed public street.
- Waiver of 7.3.30 E and F to allow a retention basin and drainage easement to encroach more than 15% into a required rear yard and to overlap a required buffer and TCPA.

CASE SUMMARY/BACKGROUND

The applicant proposes to create 12 lots on 4.44 acres along N Hurstbourne Parkway in northeastern Jefferson County for development as single family homes, as well as create a new public street that will connect Garwood Place to Green Glade Ln. Lot 1 was part of a previous rezoning from R-4 to R-5a approved under docket 09-03-03. The remainder of the site is zoned R-4 and has not been the subject of any previous cases. The applicant is requesting a waiver to provide sidewalks only on the western side of the proposed public street, due to the presence of a TCPA along the eastern side of the street that is part of the adjacent rezoning. A second waiver is requested to accommodate a detention basin in the SW corner of the site.

STAFF FINDING

Staff finds that the Major Preliminary Subdivision Plan meets the minimum requirements of the Land Development Code, with the exception of the requested waivers. Staff finds the waiver of 5.8.1.B to not provide the sidewalk along the eastern side of the public street to be justified as installation would require the removal of portions of a Tree Canopy Protection Area (TCPA) that serves to buffer the adjacent multifamily development. Staff further finds the waiver of 7.3.30E and F to allow a retention basin to encroach required rear yards and buffer areas to be justified, as the retention is needed to address flooding and runoff issues that exist in the area.

TECHNICAL REVIEW

Preliminary approvals have been granted by both MSD and Transportation Planning.

Historic Preservation staff has concerns that the existing structures on site may be historic in nature, and requests that the applicant document the property via the Kentucky Historic Resources Survey.

INTERESTED PARTY COMMENTS

Robert Roos, Mayor of the City of Ten Broeck has expressed concerns that this development will contribute to significant flooding problems that exist in the areas downstream from this development.

Dennis Murphy, a representative for the Valencia at Springhurst HOA expressed concerns about through traffic on the private road that serves that development, as well as construction traffic associated with this development. He expressed support for the sidewalk waiver, as his organization values the existing TCPA over a new sidewalk on that side of the street.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF 5.8.1.B

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

STAFF: The waiver will not adversely affect adjacent property owners since adequate pedestrian connectivity will still be provided on site.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 7, Policy 1 states that developments should be evaluated for their impact on the street and roadway system and to ensure that those who propose new developments bear or reasonably share in the costs of the public facilities and services made necessary by development. Guideline 9, Policy 1 states that new development should provide for the movement of pedestrians, bicyclists and transit users with sidewalks along the streets of all developments where appropriate. The development will provide for adequate pedestrian connectivity as all proposed homes will be served by a sidewalk along their frontage that connects to the public network.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since sidewalks will still be provided on the western side of the street that connect to the existing public sidewalk network.

- (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 create an unnecessary hardship on the applicant, and would also negatively affect adjacent residents due to the existing TCPA that would be impacted by sidewalk construction on the eastern side of the proposed street.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR 7.3.30 E AND F

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

STAFF: The waiver will not adversely affect adjacent property owners since there is still significant TCPA area proposed along the properties, and the installation of the detention basin will help to mitigate existing problems with flood control in the area.

(b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigation when appropriate. Guideline 3, Policies 21 and 22 call for appropriate transitions between uses that are substantially different in scale and intensity or density, and mitigation of the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage, and visual nuisances. Guideline 13, Policy 6 calls for screening and buffering to mitigate adjacent incompatible uses. The intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter airborne and waterborne pollutants. The waiver will allow for the construction of a detention basin to help mitigate flooding in the area associated with storm runoff.

(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 all other required buffer yards and TCPA areas will be provided outside of the area needed to install the detention basin.

(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, as the detention basin is necessary to control flooding in the area and the natural grade of the land makes this part of the site the most suitable for the basin.

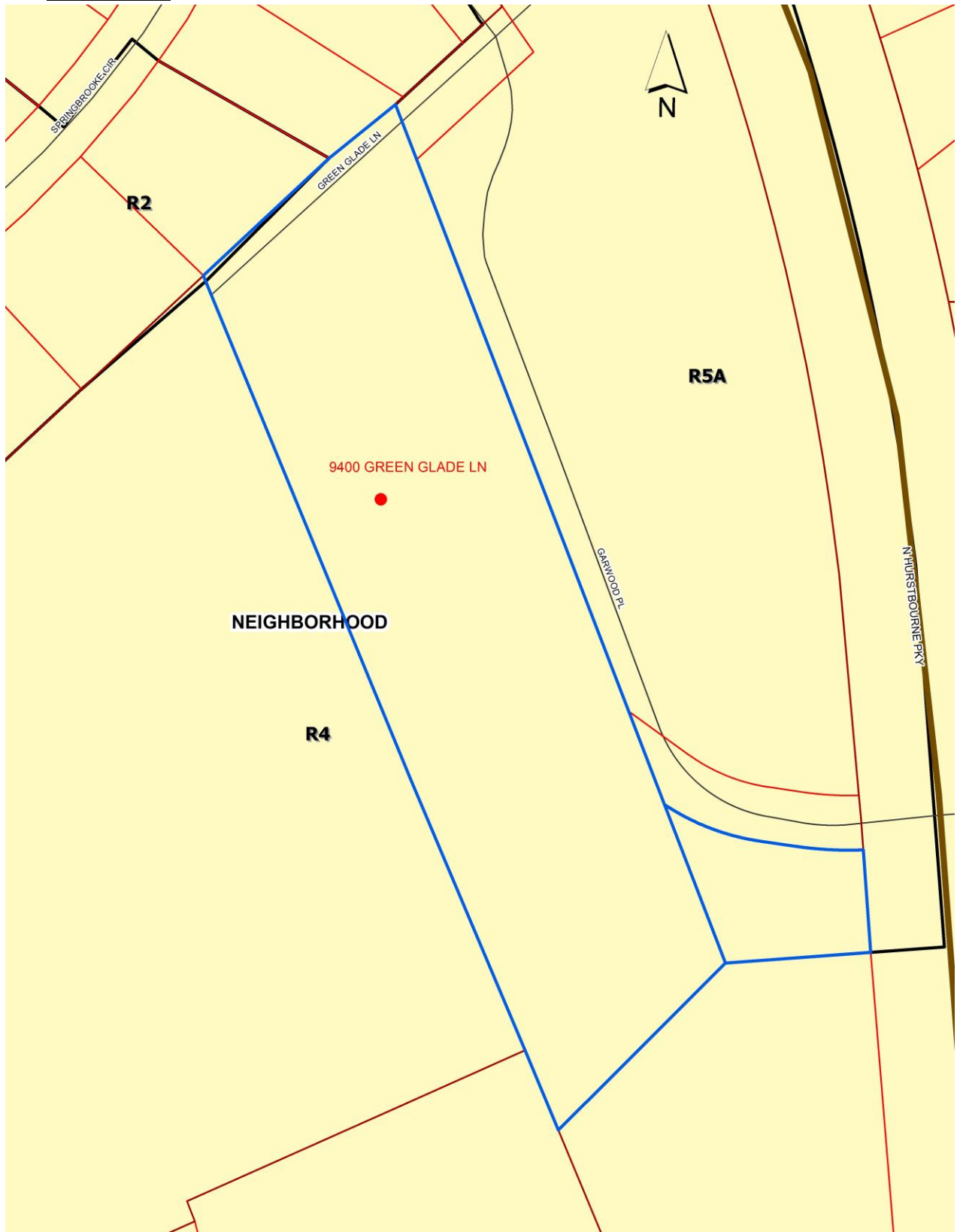
NOTIFICATION

Date	Purpose of Notice	Recipients
02/06/17	Neighborhood Meeting	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 17
06/21/17	Hearing before LD&T	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 17

ATTACHMENTS

1. Zoning Map
2. Aerial Photograph
3. Existing Binding Elements applicable to lot 1 only
4. Proposed Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



3. Existing Binding Elements from Docket No. 9-9-03V– Applicable to Lot 1 Only

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes, additions or alterations of any binding element(s) shall be submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.
2. The density of the development shall not exceed 2.26 dwelling units per acre (12 units on 5.31, acres).
3. No outdoor advertising signs, small free-standing signs, pennants, balloons, or banners shall be permitted on the site.
4. There shall be no outdoor storage, display or sales except as permitted under Section 9.7 of the Jefferson County Development Code and within designated areas on the approved development plan.
5. Outdoor lighting (for parking lot illumination and security) shall be directed down and away from surrounding residential properties. Lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible offsite.
6. 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.
7. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
 - a. The development plan must receive full construction approval from Metro Public Works and Metro Code Enforcement and the Metropolitan Sewer District (700 West Liberty).
 - b. Encroachment permits must be obtained from the Kentucky Department of Transportation: Bureau of Highways.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Article 12 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
8. If a building permit is not issued within one year of the date of approval of the plan, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.

9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land 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.
10. 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.
11. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
12. The materials and design of proposed structures shall be substantially the same as depicted in the rendering as presented at the June 5, 2003 Planning Commission meeting.
13. Applicant shall submit a landscape plan for approval by the Planning and Design Services Landscape Architect showing the location and type of supplemental plantings to be located along or near the top of the berm located between the development and Hurstbourne Parkway for the entire length of the development adjoining the berm. Approval shall be required prior to issuance of any permits for the development. Weather permitting; planting shall occur prior to the issuance of building permits for any lots.
14. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

4. 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. 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 Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from Louisville Metro Public Works.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
3. The applicant, developer, or property owner shall provide copies of these conditions of approval 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.
 4. 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.
 5. 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.
 6. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary plan and construction plan 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."
 7. Prior to the recording of the Record Plat for this development, the applicant shall provide to Planning and Design Services Historic Preservation Staff a completed Kentucky Historic Resources Survey to document the existing structures on site.
 8. All construction traffic shall access the site only through the Garwood Place public ROW as indicated by the shaded area on the approved Major Preliminary Subdivision Plan. No construction related traffic should use the private portion of Garwood Place to access the site.