

Planning Commission
Staff Report
August 20, 2020



Case No:	20-RSUB-0004, 20-WAIVER-0071, 20-VARIANCE-0099
Project Name:	The Overlook at Eastwood
Location:	1313 Johnson Rd
Owner(s):	Clayton Property Group
Applicant:	Clayton Property Group
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini
Case Manager:	Jay Lockett, AICP – Planner I

REQUEST(S)

- **Waiver** of 7.3.30.E to allow greater than 15% of rear yards to be occupied by drainage easements. Applicable to proposed lots 74-68, 93-117, 276-275, 60-59 and 243-242.
- **Variance** of 7.11.10.C to allow certain lots at the end of cul-de-sacs to exceed the 25 -foot maximum front yard setback by up to 5 feet.
- **Revised Conservation Subdivision** to create 334 buildable lots on approximately 116.42 acres in the R-4 zoning district.

CASE SUMMARY/BACKGROUND

The applicant is proposing to develop a large vacant agricultural tract under the Conservation Subdivision regulations contained in Land Development Code section 7.11. The site is located on Johnson Rd between Shelbyville Rd and Aiken Rd in eastern Jefferson County.

The site was previously approved for 323 buildable lots under docket 17SUBDIV1011. This plan has 11 additional lots compared to the 2017 approved plan, while providing more open space and a greater degree of tree preservation.

STAFF FINDING

The site has some environmental constraints, including some areas of wetlands and ponds. Brush Run Creek borders the site along the eastern side. The use of the conservation subdivision rules will allow for a more clustered development pattern and will preserve large areas of land as conservation areas and open space. The smaller lot sizes allowed by the conservation subdivision standards allows for significantly less land to be cleared and developed, and less impervious surface to be constructed.

The development is within the bounds of Eastwood as described by the 2005 Eastwood Neighborhood Plan, but there are no specific recommendations for this property. That plan mainly concerns the area covered by the Village Form District centered on Shelbyville Rd.

The Variance and Waiver are adequately justified and meet the standards of review.

TECHNICAL REVIEW

The Floyd’s Fork Development Review Overlay affects a portion of the site. Any Signature entrances would have to adhere to the standards of the overlay contained in Land Development Code Section 3.1.7.D. A 60 foot scenic corridor buffer is being provided along Johnson Road in conformance with requirements of section 3.1.7.A.

The preliminary subdivision adheres to all applicable Land Development Code and Cornerstone 2020 policies, and has received preliminary approval from Transportation Planning and the Metropolitan Sewer District.

The applicant has completed the required Traffic Impact Study along with the 2017 application. KYTC has accepted the recommendation of the study to construct a dedicated right turn lane on Aiken Rd at the intersection with Johnson Rd.

CONSERVATION SUBDIVISION CREDIT TABLE

	17SUBDIV1011	20-RSUB-0004
Conservation Space Required	1,525,420 SF (30%)	1,521,343 SF (30%)
Conservation Space Provided	1,526,486 SF (30%)	1,764,280 SF (35%)
Full Credit Conservation Area	1,233,791 SF	1,487,194 SF
Half Credit Conservation Area (credit)	585,390 SF (292,695 SF)	554,173 SF (277,086 SF)
Tree Canopy Required	762,710 SF	2,028,457 SF
Tree Canopy Provided	930,786 SF	2,028,457 SF
Standard Layout Lots Allowed	316	316
Open Space Credit Lots (5%)	16	16
Tree Canopy Credit Lots (10%)	32	32
Total Buildable Lots Allowed Under 7.11	364	364
Lots Requested	323	334

INTERESTED PARTY COMMENTS

Staff has received an email from the Summit at Polo Fields community adjacent to the subject site with some questions and concerns about the development.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance will not adversely affect public health, safety, or welfare as the proposed reduction does not impede the safe movement of pedestrians or vehicles. The variance will allow for more flexibility in the layout of utility equipment and easements.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the surrounding area has a wide variety of suburban residential development with a mix of setbacks. The affected lots will be internal to the development and not apparent to adjacent properties.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance will not cause a hazard or nuisance to the public as the resultant setbacks will allow for greater flexibility in the siting of utility equipment within open space lots.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of zoning regulations as the setbacks are applicable to cul-de-sac lots with irregular geometry. The resultant development pattern will be in keeping with similar residential developments in the area.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance does not arise from special circumstances not generally applicable to land in the vicinity.

2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of reasonable use of the land as they could adjust the layout without a significant loss of lots. However, the request will allow for some flexibility for lots with irregular geometry at the ends of cul-de-sacs.

3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the site has not been developed and relief is being sought.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

- a. The waiver will not adversely affect adjacent property owners; and,

STAFF: The will not adversely affect adjacent property owners, as all required yards, screening and buffering will still be provided.

- b. The waiver will not violate the Comprehensive Plan; and,

STAFF: The waiver will not violate the comprehensive plan, as all required buffering and screening will still be provided. The waiver will allow for a more compact layout of lots, resulting in greater preservation of open space and tree preservation areas.

- c. The extent of 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. The resultant development will be largely similar to the previously approved plan as well as other residential development in the area.

- d. Either: 1. 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 2. 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. The layout of utility easements and lines is often determined by geology, the location of existing equipment and other conditions. Allowing for utility easements to overlap required yards will allow for a more compact development pattern and greater conservation areas.

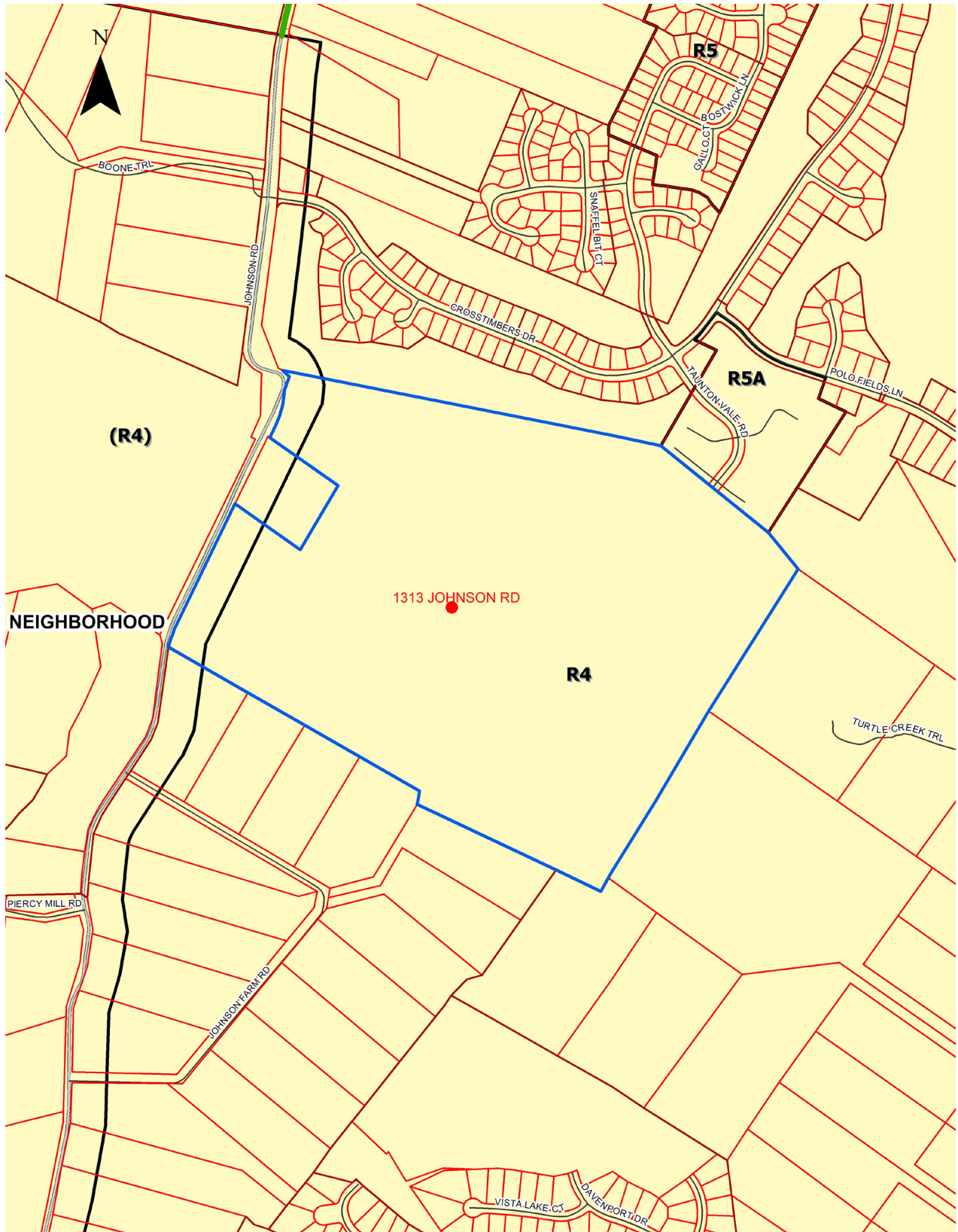
NOTIFICATION

Date	Purpose of Notice	Recipients
8-6-20	Hearing Before PC	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19 Speakers at the previous Planning Commission hearings

ATTACHMENTS

- 1. Zoning Map
- 2. Aerial Photograph
- 3. Existing Conditions of Approval

1. **Zoning Map**



2. Aerial Photograph



3. Existing 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 the Planning Commission staff's landscape architect 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 the Planning Commission staff's landscape architect 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. 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 in a form approved by Counsel for the Planning Commission and the Certificate of Incorporation of the Homeowners Association.
 - b. A deed of restriction in a form approved by counsel of the Commission outlining responsibilities for the maintenance of open space.
 - c. Bylaws of the Homeowners' Association in a form approved by Counsel for the Planning Commission.
6. 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.
7. 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."

8. Any proposed signature entrance shall be submitted to the Planning Commission staff for review prior to recording the record plat.
9. Any proposed signature entrance proposed within the Floyd's Fork Development Review Overlay shall adhere to the standards for signature entrances described in LDC Overlay standards.
10. 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.
11. Potential buyers of lots that are crossed by the Western KY Gas/Atmos Energy Easement shall be informed of the location of the easement, and language describing the location of the easement through these lots will be provided in the deeds.
12. The applicant shall coordinate with Planning and Design Services landscape architecture staff to ensure appropriate fast growing native trees and shrubs are provided within the 60' scenic corridor buffer along Johnson Rd per LDC requirements for the Floyd's Fork Development Review Overlay.
13. A Conservation Area Management Plan shall be submitted in conjunction with Staff's review of the Record Subdivision Plat. The Management Plan shall be in compliance with the approved Conservation Subdivision Plan and Land Development Code, Section 7.11.8. Legal restrictions, ownership, and the Conservation Area Management Plan shall be subject to review and approval by the Planning Commission Legal Counsel.