

Planning Commission

Staff Report

February 1, 2018



Case No:	17SUBDIV1024
Project Name:	Moore Farm
Location:	8613 & 8607 Beulah Church Rd
Owner(s):	Superior Builders, Inc.
Applicant:	Superior Builders, Inc.
Jurisdiction:	Louisville Metro
Council District:	23 – James Peden
Case Manager:	Jay Lockett, Planner I

REQUEST(S)

- **Variance** of Land Development Code table 5.3.1 and section 5.3.1.C.4 to allow an existing garage to be setback 12' and an existing house to be setback 20' rather than the required 45' along Glaser Ln.
- **Variance** of Land Development Code table 5.3.1 to allow an existing house to be setback 23' rather than the required 30' from proposed Street A.
- **Waiver** of Land Development Code table 10.3.1 to allow an existing house to encroach into the required 50' Parkway Buffer and 75' Parkway Setback along Beulah Church Rd
- **Waiver** of Land Development Code section 5.8.1.B to not provide a sidewalk along proposed Street A.
- **Major Preliminary Subdivision**

CASE SUMMARY/BACKGROUND

The applicant is proposing a Major Preliminary Subdivision to construct 21 buildable lots on approximately 7.85 Acres. Existing structures are proposed to remain on 3 of the lots, and the applicant has requested 2 variances and a waiver to accommodate those structures. The applicant also requests a waiver to not provide a sidewalk along a proposed street within the development.

STAFF FINDING

The requests are adequately justified and meet the standards of review.

TECHNICAL REVIEW

There are no outstanding technical review issues associated with these requests.

INTERESTED PARTY COMMENTS

Staff has received an email from a citizen in the Highview area concerned about traffic.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE OF LDC TABLE 5.3.1 AND SECTION 5.3.1.C.4 TO ALLOW AN EXISTING GARAGE TO BE SETBACK 12' AND AN EXISTING HOUSE TO BE SETBACK 20' RATHER THAN THE REQUIRED 45' ALONG GLASER LN

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

STAFF: The variance will not adversely affect the public health, safety or welfare because the variance will allow the existing structures to remain, and they currently do not pose any threat to public health, safety or welfare.

- (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 because the structures already exist and contribute to the residential character of the area.

- (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 because the structures already exist and do not cause any public nuisance or hazard.

- (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 the zoning regulations because the structures already exist and were constructed prior to the adoption of current zoning regulations.

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 variance is needed because the applicant must dedicate public right-of-way as part of this project, bringing the property line closer to the existing structures.

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 create an unnecessary hardship on the applicant because the existing structures would have to be removed despite being usable.

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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE OF LDC TABLE 5.3.1 TO ALLOW EXISTING HOUSE TO BE SETBACK 23' RATHER THAN THE REQUIRED 30' ALONG PROPOSED STREET A

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

STAFF: The variance will not adversely affect the public health, safety or welfare because the variance will allow an existing structure to remain and it currently does not pose any threat to public health, safety or welfare.

- (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 because the structure already exists and contributes to the residential character of the area.

- (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 because the structure already exists and does not cause any public nuisance or hazard.

- (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 the zoning regulations because the structure already exists and was constructed prior to the adoption of current zoning regulations.

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 variance is needed because the applicant must install a frontage road required by the Land Development Code in order to prevent direct access to an arterial class roadway.

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 create an unnecessary hardship on the applicant because the existing structure would have to be removed despite being usable.

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.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF TABLE 10.3.1 TO ALLOW AN EXISTING HOUSE TO ENCROACH INTO THE REQUIRED 50' PARKWAY BUFFER AND 75' PARKWAY SETBACK ALONG BEULAH CHURCH RD

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

STAFF: The waiver will not adversely affect adjacent property owners since the house is existing, and all required plantings can still be provided.

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

STAFF: Guideline 3, Policy 9 of Cornerstone 2020 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate. Guideline 3, Policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate 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 3, Policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered. Guideline 13, Policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas. Guideline 13, Policy 7 calls for protection of the character of parkways and scenic byways and corridors through standards for buffers, landscape treatment, lighting and signs. The waiver will not violate the comprehensive plan, as the house is already exists and all required parkway plantings can still be installed.

- (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 the house already exists, and no expansion of the structure is proposed.

- (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 regulation would deprive the applicant of the reasonable use of the land and would create an unnecessary hardship as the structure would have to be removed despite being useable, and the proposed lot would not be buildable due to the setback requirement.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF LAND DEVELOPMENT CODE
SECTION 5.8.1.B TO NOT PROVIDE A SIDEWALK ALONG PROPOSED STREET A:**

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

STAFF: The waiver will not adversely affect adjacent property owners since sidewalks will still be provided along Beulah Church Rd and Glaser Ln.

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

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. Sidewalks provided along Beulah Church Rd will serve the 4 lots along proposed Street A.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant since sidewalks will still be provided along the outside of the subdivision to serve residents and the larger community.

REQUIRED ACTIONS:

- **Approve or Deny the Variance** of Land Development Code table 5.3.1 and section 5.3.1.C.4 to allow an existing garage to be setback 12' and an existing house to be setback 20' rather than the required 45' along Glaser Ln.
- **Approve or Deny the Variance** of Land Development Code table 5.3.1 to allow an existing house to be setback 23' rather than the required 30' from proposed Street A.
- **Approve or Deny the Waiver** of Land Development Code table 10.3.1 to allow an existing house to encroach into the required 50' Parkway Buffer and 75' Parkway Setback along Beulah Church Rd
- **Approve or Deny the Waiver** of Land Development Code section 5.8.1.B to not provide a sidewalk along proposed Street A.
- **Approve or Deny the Major Preliminary Subdivision Plan.**

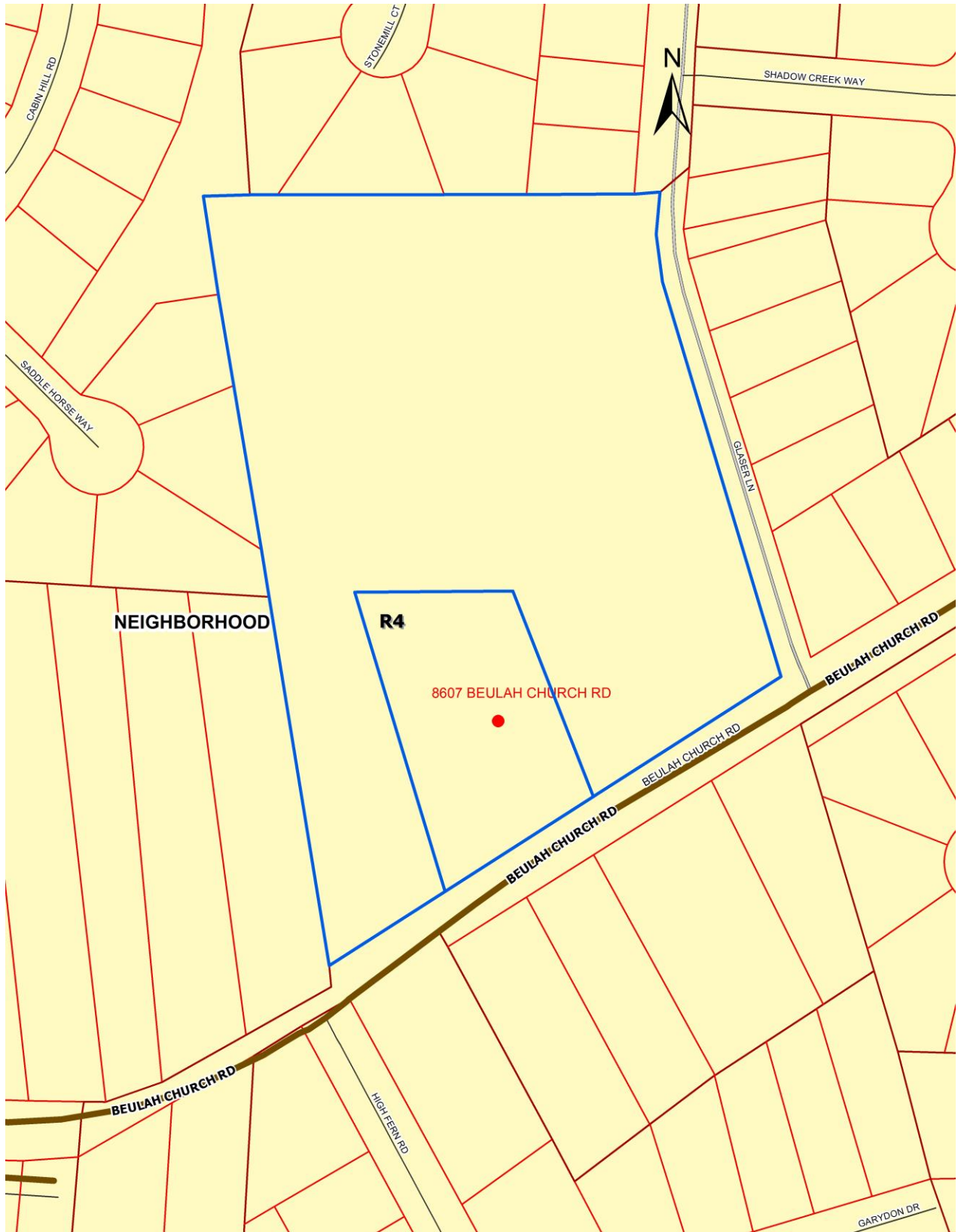
NOTIFICATION

Date	Purpose of Notice	Recipients
1-19-18	Hearing before Planning Commission	1 st tier adjoining property owners Neighborhood Meeting attendees not already on APO list. Registered Neighborhood Groups in Council District 23

ATTACHMENTS

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

1. **Zoning Map**



2. **Aerial Photograph**



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. 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. 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.