

Planning Commission

Staff Report

July 7, 2022



Case No:	22-RSUB-0001
Project Name:	The Courtyards at Waterford Subdivision
Location:	11705 Waterford Road
Owner(s):	Red Bud Hill Development, INC
Applicant:	Mindel Scott
Jurisdiction:	Louisville Metro
Council District:	22- Robin Engel
Case Manager:	Molly Clark, Planner I

REQUEST(S)

- **Waiver** from section 7.3.30.F of the Land Development Code to allow a 15 ft buffer required along a property line adjacent to a large residentially zoned lot to have more than 50% overlap of the buffer yard with utility easements (22-WAIVER-0099)..
- **Revised Major Preliminary Subdivision (Conservation Subdivision)** with existing conditions of approval.

CASE SUMMARY/BACKGROUND

The applicant is proposing to remove a .39 acre parcel from the previously approved major preliminary subdivision plan under 17SUBDIV1026. This parcel will be added to the proposed Major Preliminary Subdivision plan in case number 22-RSUB-0002, Oakland Hills Subdivision. The applicant is proposing to remove the pool club house and add 9 buildable lots bringing the total lots to 116 buildable lots and 3 non-buildable lots. The applicant is also acquiring .92 acres from an adjoining property owner to the north bringing the total acreage of the subdivision to 35.36 acres.

On the previously approved revised Major Preliminary Subdivision plan for The Courtyards, under case number 17SUBDIV1026 showed 107 buildable lots and 3 non-buildable lots on 34.36 acres.

STAFF FINDING

The conservation subdivision plan meets or exceeds the requirements of the Land Development Code, specifically those guidelines contained in Chapter 7, Part 11: Conservation Subdivisions. The variance requests appear justified and meet the standard of review.

TECHNICAL REVIEW

MSD and Transportation Planning have preliminarily approved the plan.

INTERESTED PARTY COMMENTS

Staff has not received any interested party comments.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER

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

STAFF: The waiver will not adversely affect adjacent property owners, as all required yards and screening will be provided on site. There is a 100 ft gas easement going through the proposed subdivision site which creates limited options on lot configurations.

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

STAFF: According to Guideline 1, policy 4 Plan 2040 calls for new development and redevelopment to be compatible with the scale and site design of nearby existing development and with the desired pattern of development within the Form District. The applicant is providing well over the lot minimums allowed in the existing form district which is the average lot size for the area this is located in. According to Guideline 4, Policy 11, Plan 2040 mentions that setbacks and lot dimensions are to be compatible with nearby developments. The proposed subdivision is keeping the same style lot configuration as the neighboring single family subdivisions and creating a stub where there could be future development. Within Guideline 13, policy 11, new developments should be appropriate in placement design and scale in terms of centers in Neighborhood Form Districts to ensure compatibility with nearby residences. The area for the proposed preliminary major subdivision has a 100 ft gas easement that runs through the site giving limited options on where the lots can be placed.

- (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 is the minimum necessary to afford relief to the applicant, as there is a 100 ft gas easement that goes through the entire subdivision site.

- (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 site has limited developable area due to a very large 100 ft. gas easement.

REQUIRED ACTIONS:

- **APPROVE** or **DENY** the **Waiver** from section 7.3.30.F of the Land Development Code to allow a 15 ft buffer required along a property line adjacent to a large residentially zoned lot to have more than 50% overlap of the buffer yard with utility easements (22-WAIVER-0099)..
- **APPROVE** or **DENY** the **Revised Preliminary Major Subdivision** with existing conditions of approval (22-RSUB-0001).

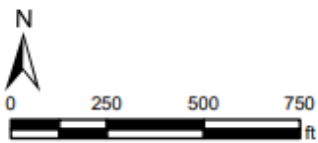
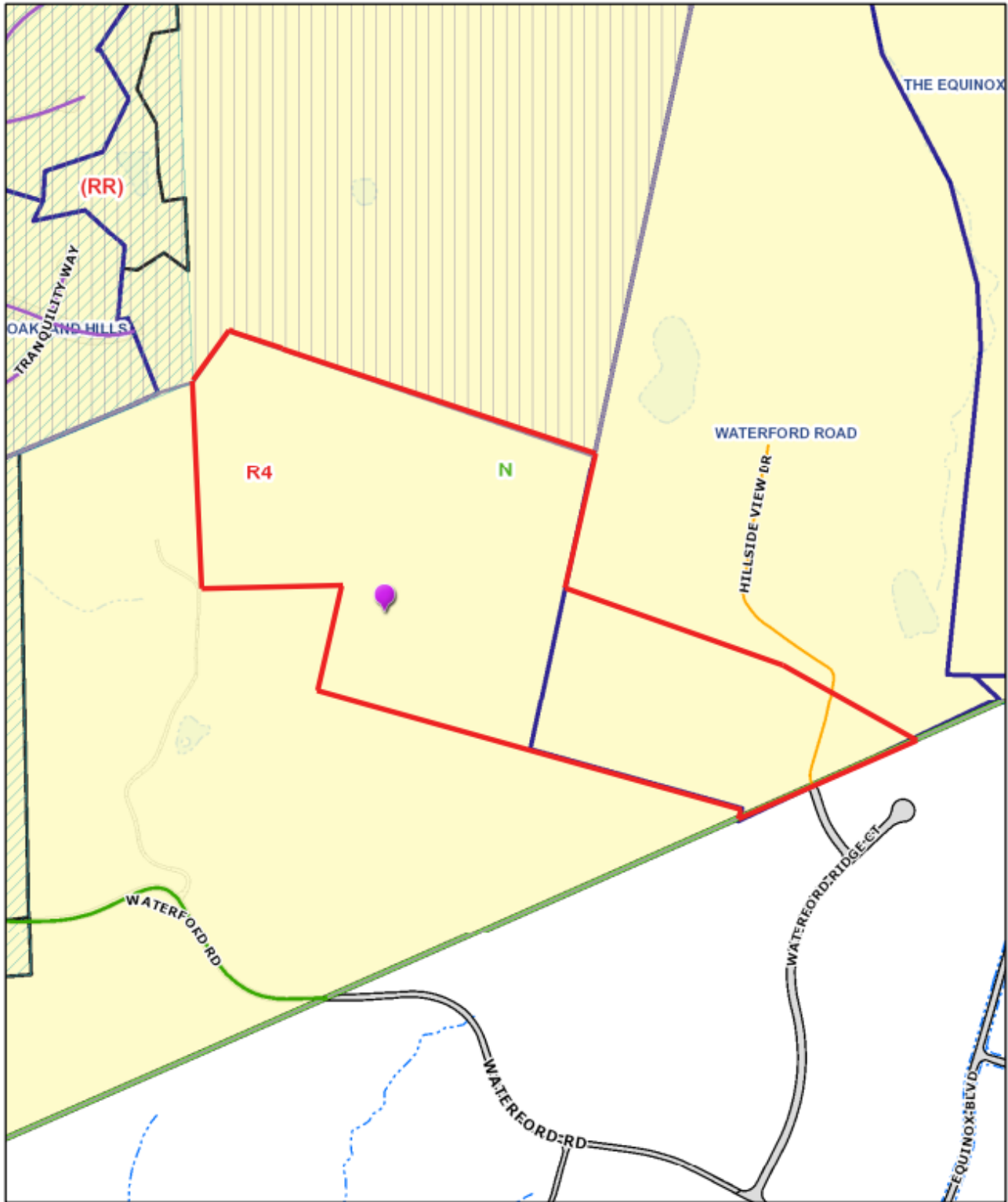
NOTIFICATION

Date	Purpose of Notice	Recipients
6/24/22	Hearing before PC 7/7/22	1 st tier adjoining property owners and current residents Registered Neighborhood Groups in Council District

ATTACHMENTS

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

1. Zoning Map



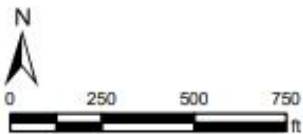
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2. Aerial Photograph



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3. Existing Conditions of Approval 17SUBDIV1026 (No changes)

1. The development shall be in accordance with the approved residential development preliminary plan. No further subdivision of 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. All street signs shall be installed by the Developer, and shall conform with 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 resident 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.
5. The applicant shall install signs, approved by the Metro Public Works Dept., which indicate the future extension of the public right of way for A and B Streets, as shown on the preliminary subdivision plan. Such signs shall be installed prior to release of bonds for the installation of the street infrastructure.
6. Open space lots shall not be further subdivided or developed for any other use and shall remain open space in perpetuity. A note to this effect shall be placed on the record plat.
7. 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.
8. 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 larvacide 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.
9. 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.
10. 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.

11. 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 WPA's, TPA's and other issues required by these binding elements/conditions of approval.
 - c. A deed restriction in a form approved by Counsel to the Planning Commission shall permanently prohibit further subdivision or development of conservation areas.
 - d. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
 - e. The applicant shall submit a Conservation Area Management Plan detailing the entities responsible for maintaining various elements of the property.
12. 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.
13. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
14. When limits of disturbance are shown on the plan, a note shall be placed on the preliminary 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.
15. In the event the party responsible for maintenance of the Conservation Areas fails to maintain all or any portion in reasonable order and condition according to the Management Plan, Louisville Metro Government may assume responsibility for its maintenance and may enter the premises and take corrective action, including provision of extended maintenance. The cost of maintenance may be charged to the Management Entity, or the individual property owners according to the pro-rata share based on the Management Plan. Costs may include administrative costs in taking such actions as well as penalties as provided under these regulations. Such costs shall become a lien on all subdivision properties.
16. The location of sinkholes as shown on the preliminary plan shall be identified on the record plat.
17. If sinkholes are found on the property or if ponds are to be filled on the site, a geotechnical report shall be conducted for the site and the results shall be submitted to Public Works and MSD for review prior to construction plan approval and the recommendations of the report shall be carried out during construction on the site