

# Planning Commission

## Staff Report

August 12, 2019



<b>Case No:</b>	19SUBDIV1001
<b>Project Name:</b>	The Breakers at Prospect
<b>Location:</b>	7800 Sutherland Farm Road
<b>Owner(s):</b>	Marjorie M. McCall
<b>Applicant:</b>	The Breakers at Prospect, LLC
<b>Representative(s):</b>	Sabak, Wilson & Lingo, Inc.
<b>Jurisdiction:</b>	City of Prospect
<b>Council District:</b>	16 – Scott Reed
<b>Case Manager:</b>	Joel P. Dock, AICP, Planner II

### REQUEST(S)

- **Major Preliminary Subdivision Plan**

### CASE SUMMARY

A major preliminary subdivision for 72 single-family residential lots on 46 acres is proposed. The proposal is located roughly 0.5 miles west of US HWY 42 and 1 mile south of the County's Northeast boundary. The site abuts R-4 zoning districts on all sides. Three sides are developed for single family use. The western boundary abuts the Garvin Brown Reserve owned by River Fields, Inc. which continues to the Ohio River. Two stub roadways enter the site and will be extended and connected through the subdivision. Sidewalks will be provided throughout with sidewalk or walking trail connections to adjacent subdivisions. Detention areas, TCCA, and roughly 11 acres of open space are provided.

### STAFF FINDING

The proposed subdivision complies with the requirements of Chapter 6 Part 2 and conforms to all zoning and form district regulations as contained in the Land Development Code.

### TECHNICAL REVIEW

- Preliminary approval has been received by MSD and Transportation Planning/DPW.
- An evaluation by Redwing Ecological Services, Inc., along with a jurisdictional determination by the U.S Army Corps of Engineers for wetlands/"waters of the US" has been provided and included in the record of the Planning Commission.
- A Geotechnical Slope Evaluation Report in accordance with LDC 4.7.5 was provided as the project initially included disturbance of a minimal amount of steep slopes in the area of lots 1-7. The disturbance has since been removed and building envelopes/limits of disturbance have been established on the aforementioned lots containing steep slopes. These envelopes will be recorded with the record subdivision plat.

- The Harrods Creek Fire Department has reviewed the proposal and has no objections to the project as submitted. The letter issued by the fire department has been included in the record of the Planning Commission.
- Underground stormwater infiltration was proposed on plans received June 11, 2019 and presented to LD&T on June 27, 2019. On June 24, 2019 PDS staff received communications from Riverfields, Inc. and the Louisville Water Company (LWC) indicating that the subject property was within the Wellhead Protection Area. LWC staff stated their concern with the proposed infiltration method at the LD&T meetings on June 27<sup>th</sup> & July 11<sup>th</sup>, see minutes and recording for detailed record. On July 24, 2019 PDS staff received a formal letter from the LWC stating their opposition to “any type subsurface infiltration that release fluids into the groundwater supply in the wellhead protection area.” It also provided that “further analysis would be needed to characterize the impact of greater infiltration rate.” However, the LWC acknowledged that the Environmental Protection Agency (EPA) is the regulatory agency for “any system that facilitates the conveyance, intrusion or infiltration of surface water directly into groundwater supplies within a registered WHPA” and the infiltration technique “should be subject to review by the EPA to determine compliance with UIC [Underground Injection Control] program requirements.” A copy of the letter has been included in the record of the Public Hearing. Staff presented the letter to LD&T on July 25<sup>th</sup> and requested a brief postponement to gather further information on EPA requirements and compliance with those requirements, see minutes and recording for detailed record.
- Prior to the recording of the record subdivision plat construction plan approval must be received from the following agencies:
  1. Director of Works
  2. Metropolitan Sewer District
  3. The fire chief of the district having jurisdiction over property
  4. Health Department
  5. Utilities providing water, gas, electricity, and telephone service
  6. If the proposed subdivision abuts on a street maintained by the Commonwealth of Kentucky, then to the district engineer for the Kentucky Department of Transportation.

Approval by these agencies may require the approval by other agencies which may include but not be limited to the Army Corps. of Engineers, Kentucky Division of Water, or Environmental Protection Agency.
- The applicant submitted plans on August 6, 2019 and these plans no longer include a stormwater infiltration technique.

### **INTERESTED PARTY COMMENTS**

A comprehensive record of interested party communication received through August 1, 2019 is contained in the case file on record in the offices of the Louisville Metro Planning Commission. This record was made available to the Planning Commission prior to the Public Hearing.

**REQUIRED ACTIONS**

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

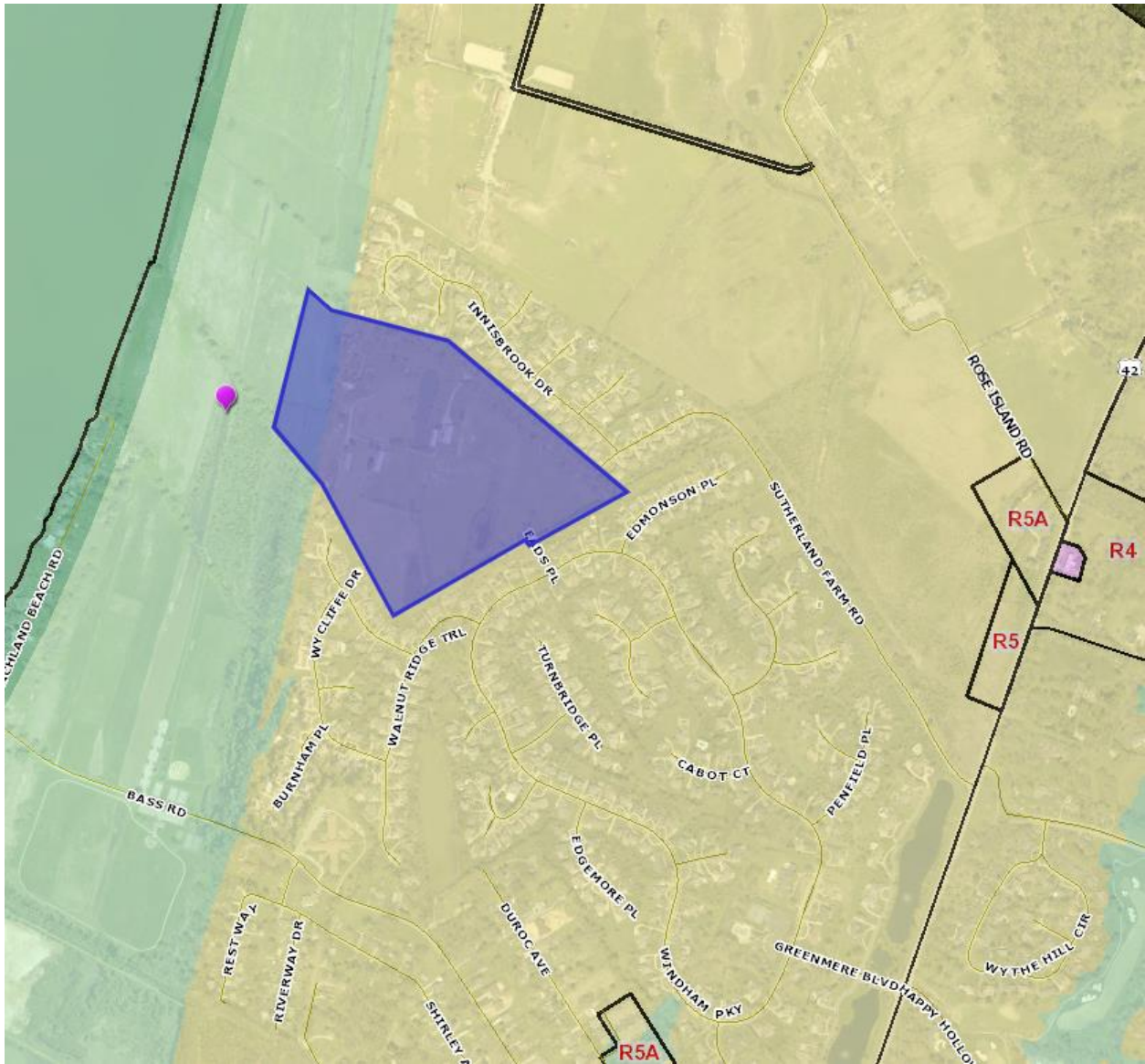
**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
6/13/19	Hearing before LD&T (6/27) and Planning Commission (7/18)*  The Public hearing on 7/18 was cancelled due the receipt and scheduling of an evening Public hearing on August 12, 2019.	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16
7/26/19	Evening Public Hearing before Planning Commission	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 16

**ATTACHMENTS**

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

1. **Zoning Map**



2. Aerial Photograph



**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. 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.
3. 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."
4. 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.
5. 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.
6. Open space 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.
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 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.
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. Any 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 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."
15. Limits of disturbance/building envelopes as shown on the preliminary plan shall be shown and recorded with the record subdivision plat.