

**CASE 2-2024 PUD**

**WATERFRONT ESTATES AT COLDSTREAM SUBDIVISION**

FOR CONSIDERATION BY THE ANDERSON TOWNSHIP ZONING COMMISSION ON SEPTEMBER 23, 2024

**APPLICANT:** Christopher (Kit) Houston of Taft Law, on behalf of Laura Kitzmiller, Debra Weigel, TR, Brian and Melissa Anderson, Jeffrey Ruby, Brandon Ruby, Thomas Eger TR, Justin Evans TR, Coldstream Estates Development LLC, property owners.

**LOCATION & ZONING:** Waterfront Way  
Book 500, Page 183, Parcels 15, 16, 17, 18, 19, 20, 21 and 22  
"A-A" Residence

**REQUEST:** Approval of a Planned Unit Development (PUD) for an existing subdivision for the purpose of having a gate placed across a private drive, in lieu of a public street.

**SITE** *Tract Size:* 35.545 acres total, 1.328 acres in lot 8 (private drive), 13.069 acres to be in the conservation area

**DESCRIPTION:** *Frontage:* Approx. 150' on Ayers Road and approximately 598' on Kellogg Ave  
*Topography:* Steep decrease in grade moving southwest  
*Existing Use:* Subdivision under construction, 2 homes complete

<b>SURROUNDING CONDITIONS:</b>	<u>ZONE</u>	<u>LAND USE</u>
<i>North:</i>	"A-A PUD"	Carriages at Coldstream PUD
<i>South:</i>	"A-A"	Single Family Residences
<i>East:</i>	"A-A"	Single Family Residences
<i>West:</i>	"A-A"	Single Family Residences

**PROPOSED DEVELOPMENT:** The applicant is proposing a PUD for an existing subdivision for the purpose of having a gate placed across a private drive, in lieu of a public street due to "heightened security concerns." The applicant is also proposing to place 13.069 acres into a conservation area, which would be maintained by the individual property owners.

There is an approved record plat through Hamilton County and the subdivision infrastructure is complete. There are 7 existing lots, which meet the standard for the "A-A" Single Family Residence zoning designation. Two of the homes have already received certificates of occupancy, while the rest are near completion.

**ZONING HISTORY:** In early 2021, the concept plan for the same 7 lot subdivision was approved through Hamilton County Regional Planning Commission, subject to the County's Subdivision Regulations. However, due to the request for a gated private drive, Hamilton County could not approve the development and required it to be a PUD.

A PUD application was submitted to the Zoning Commission, however, at the January 2022 Zoning Commission public hearing, the applicant requested a continuation before the case was heard.

On February 28, 2022 the Zoning Commission approved a Planned Unit Development, in Case 1-2022 PUD, for the property known as the Views at Coldstream (now known as Waterfront Estates) for 7 single family lots with 7.18 acres of dedicated open space (a separate parcel) and a no clearing limit line (within each individual parcel).

The applicant submitted an application to be heard at the June 27, 2022 Zoning Commission hearing for a Major Adjustment to the approved PUD, in Case 1-2022 PUD. The applicant was proposing to modify the “no cut line” and increase the proposed open space parcel from 7 to 8 acres while moving the “no cut line” south. The applicant withdrew the case before it was heard.

On July 25, 2022, the Zoning Commission approved the removal of the PUD overlay, Case 1-2022 PUD, from the property known as the Views at Coldstream (now known as Waterfront Estates), which reverted it back to the original “A-A” Single Family Zoning District. The applicant’s reasoning for requesting removal of the PUD was that they had “encountered significant difficulties with the gate, a private street, utilities and water service.”

On August 4, 2022, Hamilton County Regional Planning Commission reviewed and approved Waterfront Estates at Coldstream for a subdivision of 7 lots with a public street and sidewalk on one side of the street.

**FINDINGS:**

*The purpose of the Planned Unit Development (“PUD”) Overlay District is to encourage the efficient use of land and resources, promoting greater efficiency in public and utility services, orderly improvement of property in accordance with community plans, and to encourage innovation in the planning and building of all types of development without detriment to neighboring properties. The PUD regulations are intended to permit property to be used in a manner or intensity not permitted as of-right by the underlying district regulations.*

The application is being reviewed by the Zoning Commission due to the request for a private drive in the development in order to make it a gated community. The lots and homes within the subdivision are already recorded and are under construction, therefore compliant with the lot size and setbacks for the standard “A-A” zoning district. The PUD will be reviewed under the standards found in Article 4.1 of the Zoning Resolution. In addition to compliance with the Township’s Zoning Resolution, the development is being reviewed under the Anderson Township Comprehensive Plan. The application is also being contrasted with the previously approved and removed PUD in Case 1-2022 PUD.

**Zoning Resolution Compliance**

The homes on the 7 lots within the subdivision are either occupied or are currently under construction and are compliant with the “A-A” Single Family zoning district. The subdivision is also compliant with the Hamilton County Subdivision Regulations.

## **Applicable Plans**

### ***Anderson Plan***

The application is being considered for consistency with the following Goals and Initiatives of the Anderson Plan:

#### Mobility:

- *Anderson Township will be a community with a model sidewalk and bike trail system connecting residents to businesses, schools, recreation, entertainment and other public uses.*

During the subdivision review process, an agreement was made with the developer to construct a sidewalk on one side of the street, and provide funds in lieu of sidewalks to construct a walk on Ayers to connect to existing sidewalks to Coldstream Club Drive.

If a PUD is approved, staff recommends that the gate be located out of the Right of Way of Ayers Road so that a car entering the private drive will be completely off Ayers Road and onto Waterfront Way.

#### Land Use and Development

*When faced with land-use related decisions, decision-makers should consider the following guidelines (p.49):*

- *If the overall proposed development is compatible with adjacent developments, flexibility should be given in the actual lot size and site layout when environmental resources (e.g. river conservation area, floodplains, and steep hillsides) are preserved. Flexibility should be given even if the preserved areas would otherwise be considered as “unusable” or “undevelopable” under standard development procedures.*

The previously approved PUD contained over 7 acres of open space within this 35-acre development. The area designated as open space was recommended to be a separate parcel, to be maintained by the HOA in perpetuity. There was also a no clearing zone identified on the plan, which based on staff calculation was approximately 11 acres, for a total of approximately 18 acres that was to remain undisturbed.

In this application, the applicant is proposing 13.069 acres to be under a conservation area, which includes a no clearing zone. This zone is vastly different from the no clearing zone in lots 2, 3, and 4 compared to the previous application and from staff inspection, the area has already been cleared. The no clearing zone will not be in a separate parcel, but rather on private property. Staff is concerned that a no clearing zone on private property would be incredibly difficult to enforce. In addition, the no clearing zone on lot 6 has moved closer to the property of 128 Asbury Road. During previous hearings for the former PUD, hillside stability and stormwater runoff was raised by adjacent owners, specifically downhill from this site.

There has also been a garden planted that appears to be in the 30' landscape buffer which was a requirement of the Carriages of Coldstream PUD. This garden includes fencing that was not approved in their PUD, nor was a zoning certificate issued for the fence.

Natural and Environmental Resources:

- *The vast natural and environmental resources of Anderson Township will be protected for future generations.*

Again, the applicant is declaring 13.069 acres in a no clearing zone. The applicant stated that this will be in a revised declaration of covenants, easements and restrictions, which has not been finalized. Staff is of the opinion that this would be very difficult to enforce. For example, there has been a garden planted in the 30' landscape buffer which was a requirement of the Carriages of Coldstream PUD. This garden includes fencing was not approved in their PUD.

**RECOMMENDATION:**

Staff findings based on the Planned Unit Development evaluation criteria (*Article 4.1, G*):

1. The proposed density for the development is consistent with the "A-A" district. Lots 1-7 zoning certificates have been issued for single family houses, which meet the zoning requirements.
2. Staff is of the opinion that the application is not consistent with the Vision and Goals of the Board of Trustees as outlined in the adopted Anderson Plan.
3. The use (single-family) is compatible with surrounding residential land uses. There is a similar private drive with gate on Ayers Road. However, this development was a minor subdivision which did not require approval through Hamilton County Subdivision review. As this is an already approved subdivision, it is compatible with the surrounding land use with or without the PUD approval.
4. There is a 30' landscaping buffer from the Carriages of Coldstream PUD, as well as previously proposed landscaping near the entrance of the Waterfront Estates Subdivision. There was not a landscaping plan submitted with this application nor details of the proposed gate.
5. The proposed phasing and timeframe for completion of the development is unknown at this time. However, some of the residences are completed, others are under construction.
6. Since the applicant is requesting a private drive, more information is needed to determine if all utilities would become private, including water, sewer and stormwater. Anderson Township Fire and Rescue will require a 20' wide gate in order for equipment to properly enter. There is also concern from the Fire & Rescue Department and Hamilton County Sheriff's department over the Knox box. Fire & Rescue and the Sheriff's Department believe there will be a significant delay in response time, as well as concerns over the quick release or a physical way to defeat the mechanism.
7. There are no historical features on the site.
8. As the subdivision is already built and the conservation area will be located on private property, staff see no reason why modifications of the zoning or other regulations are warranted.

9. Sidewalks are existing within the development and are proposed to connect with Coldstream Club Drive along Ayers Road.
10. The development is single-family, consistent with surrounding properties; a landscaping plan/gate details for along Ayers Road were not submitted.
11. The 13.069 acres of conservation area will be on private property and therefore will not have public access.
12. The development is existing.
13. The subdivision has already been approved and recorded without a PUD. Township staff does not believe that the addition of a gate warrants a PUD overlay. It seems there are other methods of achieving the applicant's goal of security and a private drive without the PUD process, such as, replatting the subdivision to provide panhandle lots, fencing, and landscaping.
14. As the development is already existing without a PUD, it meets the vision and goals of the Comprehensive Plan as is.
15. This standard looks at whether the development provides adequate protection of natural features on the property, including land over 20% slope, flood-plain and wetland areas, areas permanently inundated by water, and areas protected by the Ohio Department of Natural Resources. The 13.069 acres proposed to go into a conservation area include very steep slopes. However, it will be under private ownership and will be a challenge for staff to enforce. The previous PUD had an open space parcel to be under the ownership of the HOA, which provided assurance that it will not be developed in the future, this application does not.

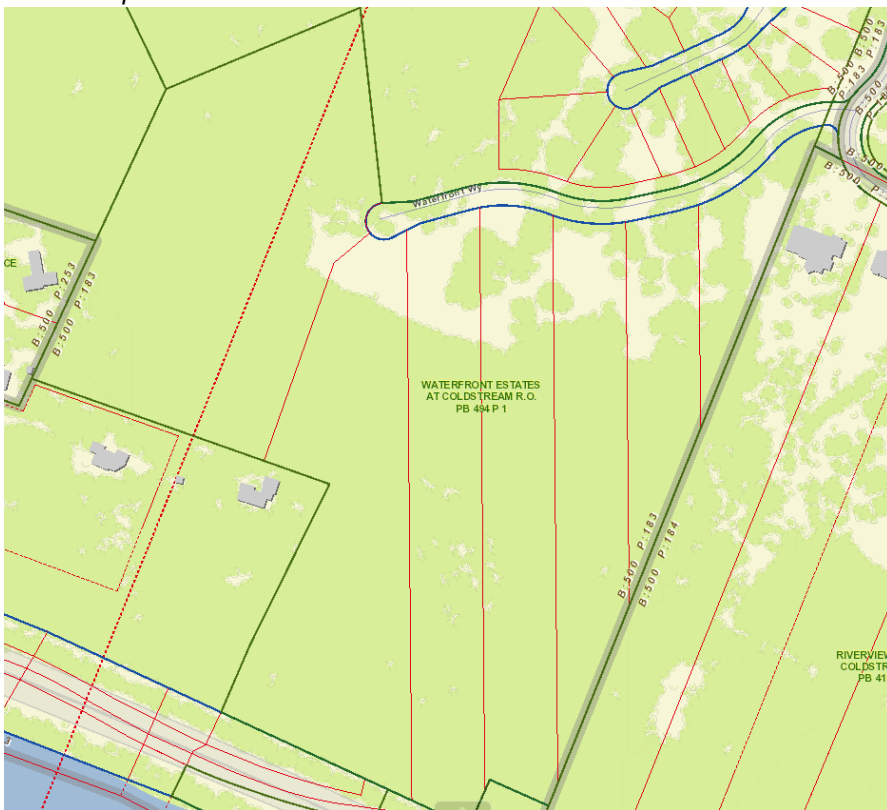
**GENERAL STANDARDS FOR  
PUD PLAN APPROVAL:**

In determining whether a PUD Plan filed pursuant to this Article shall be approved or recommended for approval, the Director of Planning and Zoning, the Anderson Township Zoning Commission, and the Anderson Township Board of Trustees shall apply the following general standards.

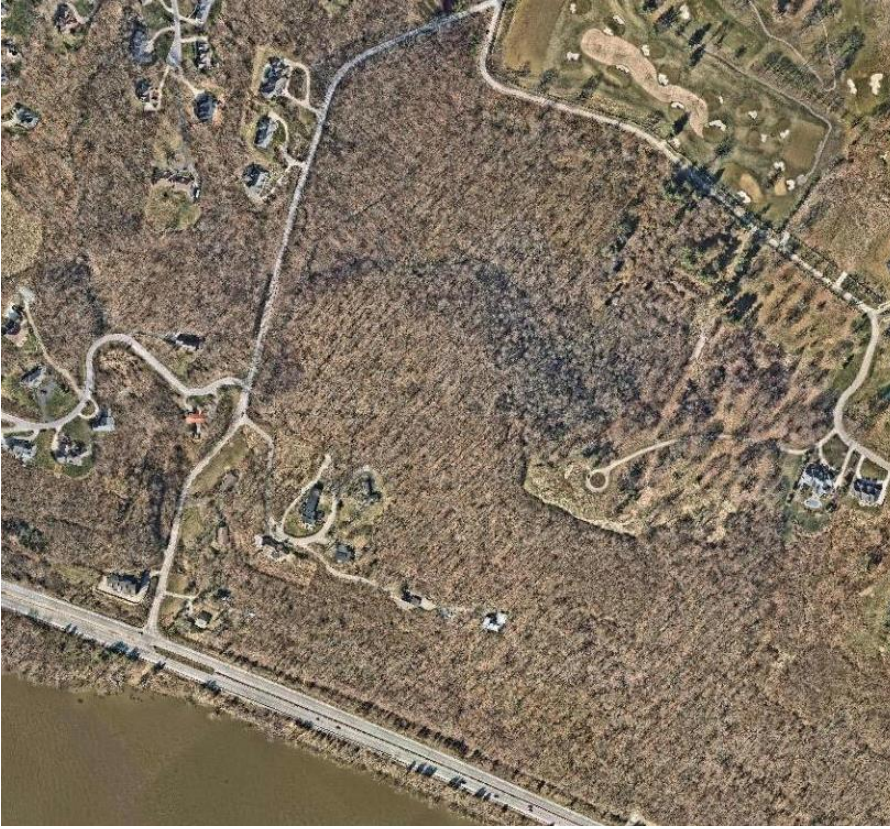
1. Compliance with this Zoning Resolution and with the purposes of the Zone District in which the proposed use and development is to be located;
2. Applicability of and consistency with adopted objectives and policies of the Township and County related to land use, as well as Township plans duly adopted by the Board of Anderson Township Board of Trustees and Hamilton County Regional Planning Commission, including, but not limited to the Anderson Township Comprehensive Plan;
3. Compatibility with surrounding land uses;
4. Whether the size and physical features of the project area enable adequate protection of surrounding property and orderly and coordinated improvement of property in the vicinity of the site;
5. Whether the proposed phasing of the development is appropriate and the development can be substantially completed within the period of time specified in the schedule of development submitted by the applicant;
6. Whether the proposed development is served adequately and efficiently by essential public facilities and services which are in existence or are planned;
7. Whether significant scenic or historic features, as identified or contained in plans duly adopted by the Board of Anderson Township Board of Trustees and Hamilton County Regional Planning Commission, are adequately conserved;

8. Whether modification of the zoning or other regulations are warranted by the innovative design of the development plan;
9. The adequacy of proposed pedestrian circulation system to insulate pedestrian circulation from vehicular movement;
10. The adequacy of the provisions for visual and acoustical privacy;
11. Whether the development includes an appropriate amount of, and appropriate access to, dedicated open space;
12. Whether the development will be detrimental to present and potential surrounding uses;
13. The consistency of the development with recommendations from Township, County, State and/or Federal agencies;
14. Whether the development is consistent with the Vision and Goals as adopted by the Anderson Township Board of Trustees.
15. Whether the development provides adequate protection of natural features on the property, including land over 20% slope, flood-plain and wetland areas, areas permanently inundated by water, and areas protected by the Ohio Department of Natural Resources.

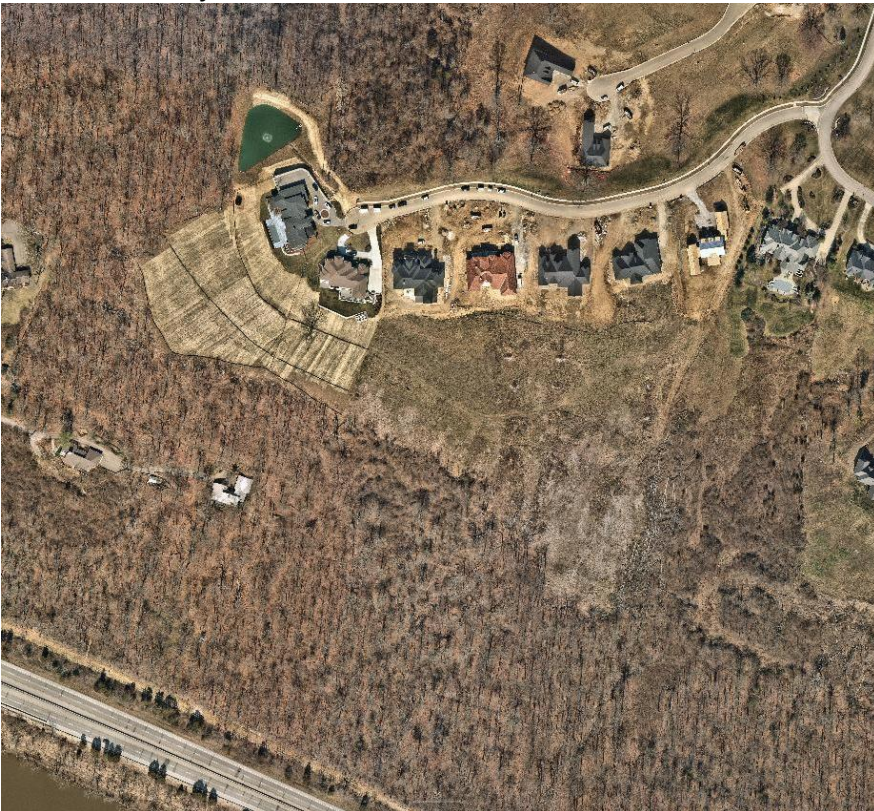
CAGIS Map



2022 aerial view of the property from CAGIS



2024 aerial view from CAGIS



Township Drone Photos 9/4/2024







Site Photos





