

CASE 2-2024 PUD

WATERFRONT ESTATES AT COLDSTREAM SUBDIVISION

FOR CONSIDERATION BY THE ANDERSON TOWNSHIP ZONING COMMISSION ON OCTOBER 28, 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

SURROUNDING CONDITIONS:	<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.

At the September 23, 2024 Zoning Commission hearing, the Zoning Commission moved to continue Case 2-2024 PUD for the request of additional information. The motion included the following:

- A copy of the proposed declaration of covenants, easements and restrictions that includes the conservation area.
- Details of the design of the gate and how it will function with the Knox box.
- An ingress and egress maneuverability study for emergency services to bypass the gate
- Landscaping plans for the entrance.
- Clarification of the red line (the conservation area) and the blue line (the existing clearing) on the PUD site plan —in terms of will more trees be removed or not.
- Clarification on public / private responsibility of infrastructure and utilities if the drive becomes private.

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. Since this is a continuation, staff has outlined below the findings as related to the request for additional information by the Zoning Commission.

- A copy of the proposed declaration of covenants, easements and restrictions that includes the conservation area. **The recorded declaration of covenants was**

submitted, which adds the definitions of Common Property, No Clearing Zone and Rules. Under the section for common property, it includes maintenance expectations which states that “the Home Owners Association will be responsible for maintenance which shall include, without limitation, maintenance, repair and replacement of all paved areas, landscaping and other flora, structure (entry and signage) and improvements situated upon the Common Property and all personal property used in connection with the operation of the Common Property.”

The declaration for the Common Property also includes easements for “utilities including constructing, installing, maintaining and operating poles, pipes, conduit, wires, swales, land contours, ducts, cables and other equipment or conditions necessary to furnish electrical, gas, sanitary or storm sewer, storm water retention or detention, potable water, telephone, cable television, and other similar utility or security service.”

The submitted declaration of covenants also includes a section regarding the No Clearing Zone, stating that it shall not be changed or modified, and that the owners cannot change the declaration without approval from the Township. This section also includes a statement that each individual property owner is responsible for maintaining their part of the No Clearing Zone and also granting the Township access to inspect. Staff recommends that if approved, any proposed change to the declaration shall be considered a Major Adjustment to the PUD and would need to be heard by the Zoning Commission.

- Details of the design of the gate and how it will function with the Knox box. **Multiple designs for the gate were submitted, along with details of the Knox box.**
- An ingress and egress maneuverability study for emergency services to bypass the gate. **Detailed plans have been submitted, however, the Fire Department believes that material noted on the plan is not sufficient enough for the weight of the equipment. The Fire Department recommends Truckpave by Terram (the same company of the proposed Bodpave) be used instead in order to hold the equipment. The Fire Department also requires that the gate have a manual release in case of emergency.**
- Landscaping plans for the entrance. **A landscaping plan was submitted.**
- Clarification of the red line (the conservation area) and the blue line (the existing clearing) on the PUD site plan—in terms of will more trees be removed or not. **As stated in the submitted letter, the applicants are requesting the ability to still be able to further clear between the red and blue lines. Therefore, there is the possibility of more trees to be removed or pruned up to the red line.**

- Clarification on public / private responsibility of infrastructure and utilities if the drive becomes private. **The private responsibility was outlined in the declaration of covenants and easements that were submitted.**

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 a landscaping plan for the entrance area submitted.
5. The proposed phasing and timeframe for completion of the development is unknown at this time. However, the statuses were testified by residents during the first public hearing and that some of the residences are completed, others are under construction.
6. The submitted declaration of covenants stated that all utilities will be private and under common ownership, including regulations for the maintenance and upkeep. Details for the knox box were also submitted.
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 sees 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.
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

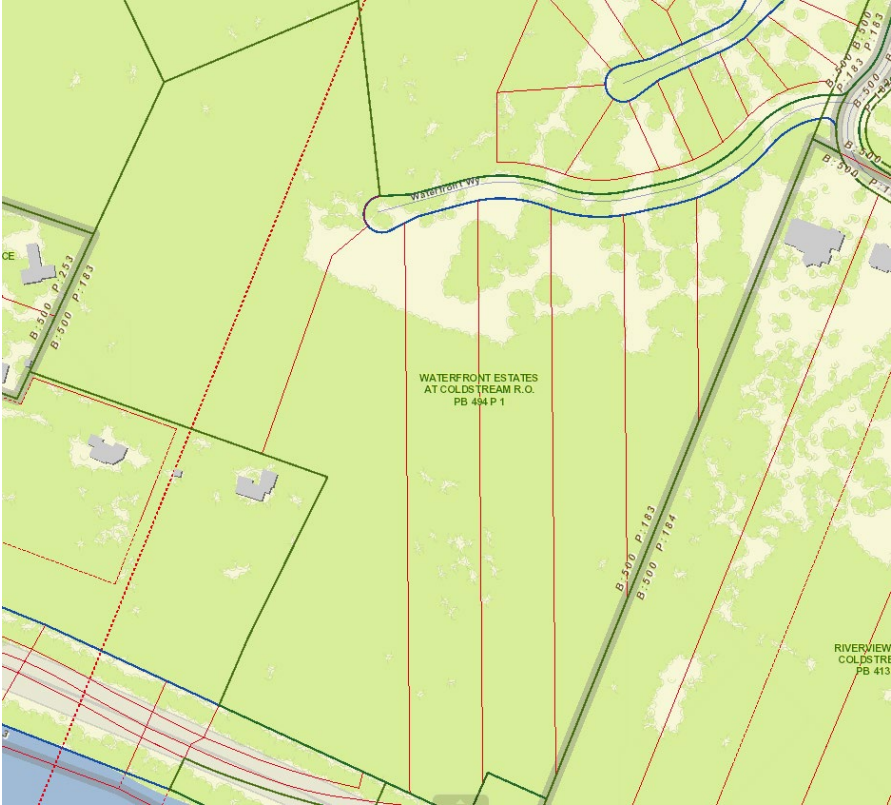
ownership and will be a challenge for staff to enforce. The previous PUD had an open space parcel to be under the ownership of the HOA, which provided assurance that it will not be developed in the future, the submitted declaration of covenants covers the security of the conservation area not being developed.

**GENERAL STANDARDS FOR
PUD PLAN APPROVAL:**

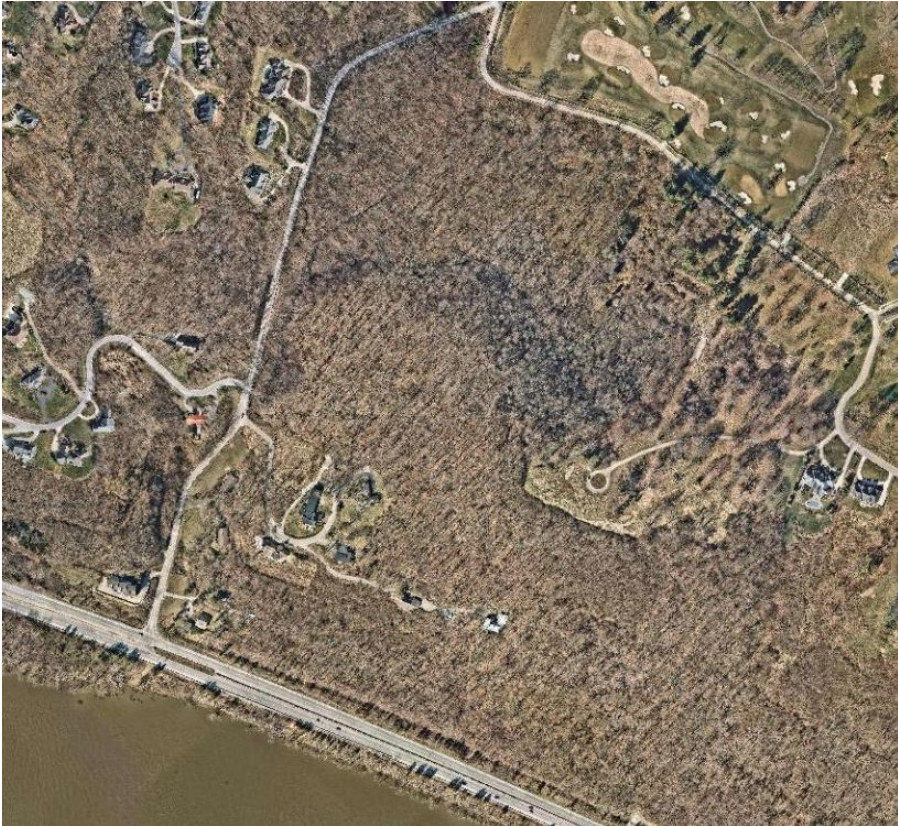
In determining whether a PUD Plan filed pursuant to this Article shall be approved or recommended for approval, the Director of Planning and Zoning, the Anderson Township Zoning Commission, and the Anderson Township Board of Trustees shall apply the following general standards.

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.

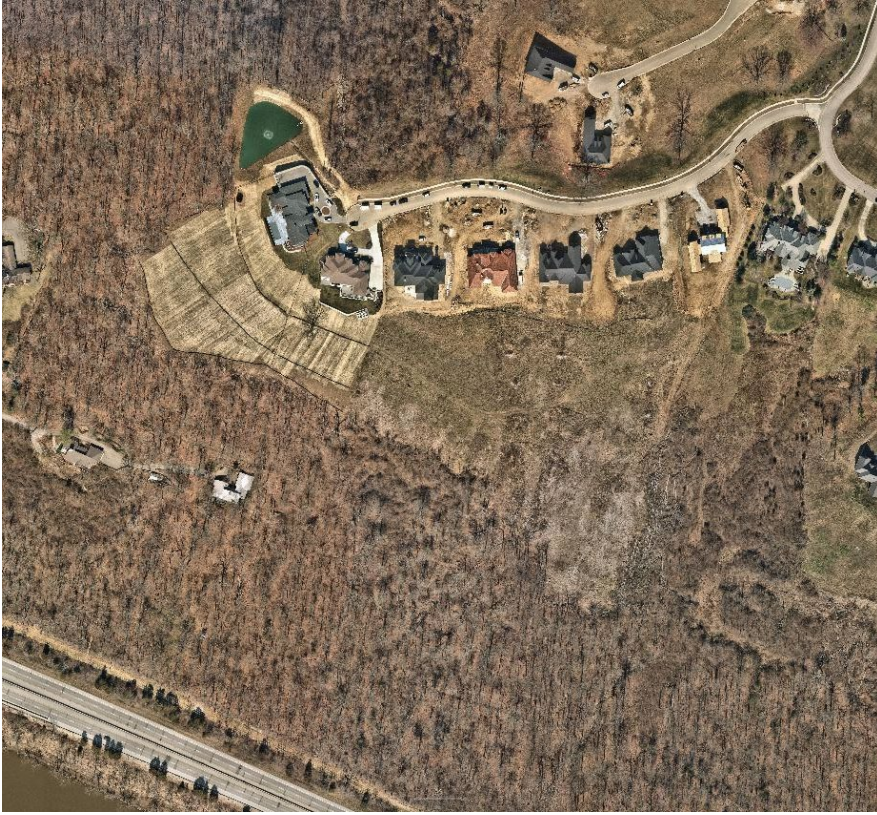
CAGIS Map



2022 aerial view of the property from CAGIS



2024 aerial view from CAGIS



Township Drone Photos 9/4/2024





Site Photos





