

Planning Commission Staff Report

May 19, 2016



Case No:	15SUBDIV1015 / 16DEVPLAN1060
Request:	Preliminary Subdivision Plan creating 241 buildable lots on 101.4 acres and a Floyds Fork DRO Plan
Project Name:	Sutherland Pointe
Location:	15905 Aiken Road
Owner:	Sonyjean, Inc. & Indianfields Farm, Inc.
Applicant:	Redwood Acquisitions, LLC
Representative:	Bardenwerper, Talbott & Roberts Mindel Scott & Associates
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	Brian Davis, AICP, Planning Manger

REQUEST

- Preliminary Subdivision Plan to create 241 buildable lots on 101.4 acres
- Floyds Fork Development Review Overlay Plan

CASE SUMMARY/BACKGROUND/SITE CONTEXT

Existing Zoning District: R-4
Existing Form District: Neighborhood
Existing Use: Agriculture
Proposed Use: Single Family Subdivision

The applicant is proposing to subdivide the 101.4 acre tract into 241 buildable lots and 6 non-buildable lots. The proposed buildable tracts range from 4,377 square feet to 23,900 square feet (staff did not include the tract with the historic Yeager House on it, which is 33,726 square feet). The non-buildable tracts total approximately 36.6 acres, or 36 percent of the total tract area (though this is not a conservation subdivision).

The applicant is utilizing Section 4.7.7 of the Land Development Code, Development Potential Transfer Allowed. This section states:

- A. Major subdivision development proposals submitted after the effective date of this regulation and which permanently preserve areas of the site with slopes greater than 20% may transfer the development potential (building sites or floor area) of the permanently preserved area to the remainder of the site subject to the following limitations:
 1. The subdivision is not being developed under the Alternative Development Incentives of the Land Development Code; and,
 2. Areas to be permanently preserved are preserved in a manner acceptable to the Commission (e.g., conservation easement, common open space, etc.); and,
 3. The area of the site to which development potential is being transferred is at least as large as the area from which development potential is being transferred (for example; if an applicant wishes to transfer development potential from 3 acres, the portion of the site to which development is shifted must be at least 3 acres); and,

4. All lots in the proposed development meet the minimum alternative development incentive lot size of the applicable Form District; and,
 5. All lots in the proposed development meet the height, yard and setback requirements of the applicable Form District.
- B. The maximum development potential allowable for transfer shall be determined by one of the following methods:
1. One half of the theoretical development potential based on the number of acres preserved and the existing zoning of the area to be preserved (for example; if 3 acres of an R-4 site is proposed for protection, then 7 building sites could be transferred to other portions of the same property - $3ac \times 4.84 \text{ units/acre} / 2 = 7.26 \text{ units}$); or,
 2. The realistic development potential determined by an engineered development plan including a preliminary geotechnical feasibility study and meeting all other requirements of the Land Development Code.

The property is located in the Floyds Fork Development Review Overlay District (Floyds Fork forms the northern boundary of the property). The intent of the Floyds Fork Design Guidelines is to insure that new development within the Floyds Fork Corridor is designed to aid in restoring and maintaining excellent quality for land and water resources of the Floyds Fork Corridor. The design guidelines are also intended to complement the natural landscape in order to obtain an aesthetically pleasing, rural atmosphere. The applicant is proposing an open space along the northern property line which includes the 100-foot buffer strip and a majority of the 200 foot setback for structures and impervious surfaces. The existing tree canopy is approximately 22 percent of the site. The applicant is proposing to preserve 14 percent as Tree Canopy Protection Area. The applicant is proposing a 60-foot scenic corridor buffer along Aiken Road and will submit a landscape plan to satisfy Section 3.1.7.a Vistas and Appearances

LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

	Land Use	Zoning	Form District
<i>Subject Property</i>			
Existing	Agriculture	R-4	N
Proposed	Single Family Residential	R-4	N
<i>Surrounding Properties</i>			
North	Vacant	R-4	N
South	Single Family Residential	R-4	N
East	Vacant	R-4	N
West	Single Family Residential	R-4	N

PREVIOUS CASES ON SITE

There have been no previous cases on the site.

This case was heard by the Land Development & Transportation Committee on April 28, 2016. LD&T voted to send the plan to the Planning Commission because of concerns about traffic congestion and proposed mitigation.

INTERESTED PARTY COMMENTS

The primary concerns that have been brought up with this development involve the preservation of the Yeager House and surrounding features. The applicant is proposing to leave the Yeager House, which is listed on the

National Register of Historic Places, on a tract (Tract 18 on the plan received March 14, 2016) along with the root cellar, and the fireplace from the old log cabin. Mr. Wayne Hameloth will be presenting information to the LD&T Committee regarding the structure and the property.

APPLICABLE PLANS AND POLICIES

Cornerstone 2020
Land Development Code

PLAN EVOLUTION

Plan Date	September 14, 2015	November 30, 2015	February 15, 2016	March 30, 2016
Proposed Attached Units	48	0	0	0
Proposed Detached Units	214	252	241	241
Proposed Total Units	262	252	241	241
Gross Density	2.5 du/acre	2.4 du/acre	2.37 du/acre	2.37 du/acre
Net Density	2.9 du/acre	2.8 du/acre	2.72 du/acre	2.72 du/acre
Proposed Open Space	39.3 acres	36.7 acres	36.9 acres	36.5 acres
Proposed Tree Canopy Preserved	15.9 acres	14.9 acres	14.6 acres	14.6 acres

Bold indicates the plan up for consideration.

TECHNICAL REVIEW

- Transportation Review and Public Works are still working with the applicant regarding the traffic concerns.

STAFF CONCLUSIONS

The proposed subdivision appears to satisfy the requirements of Section 4.7.7 of the Land Development Code because it is preserving approximately 9.2 acres of steep slopes greater than 20 percent and transferring one half of that development potential (22 lots) to the developable portions of the site.

The proposed development meets the requirements of the Floyds Fork Development Review Overlay by providing adequate buffers from the stream, minimizing disturbance of steep slopes and woodland areas, and providing a 60-foot scenic corridor buffer along Aiken Road.

Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission must determine if the proposal meets the requirements for approval of a subdivision and Floyds Fork DRO review.

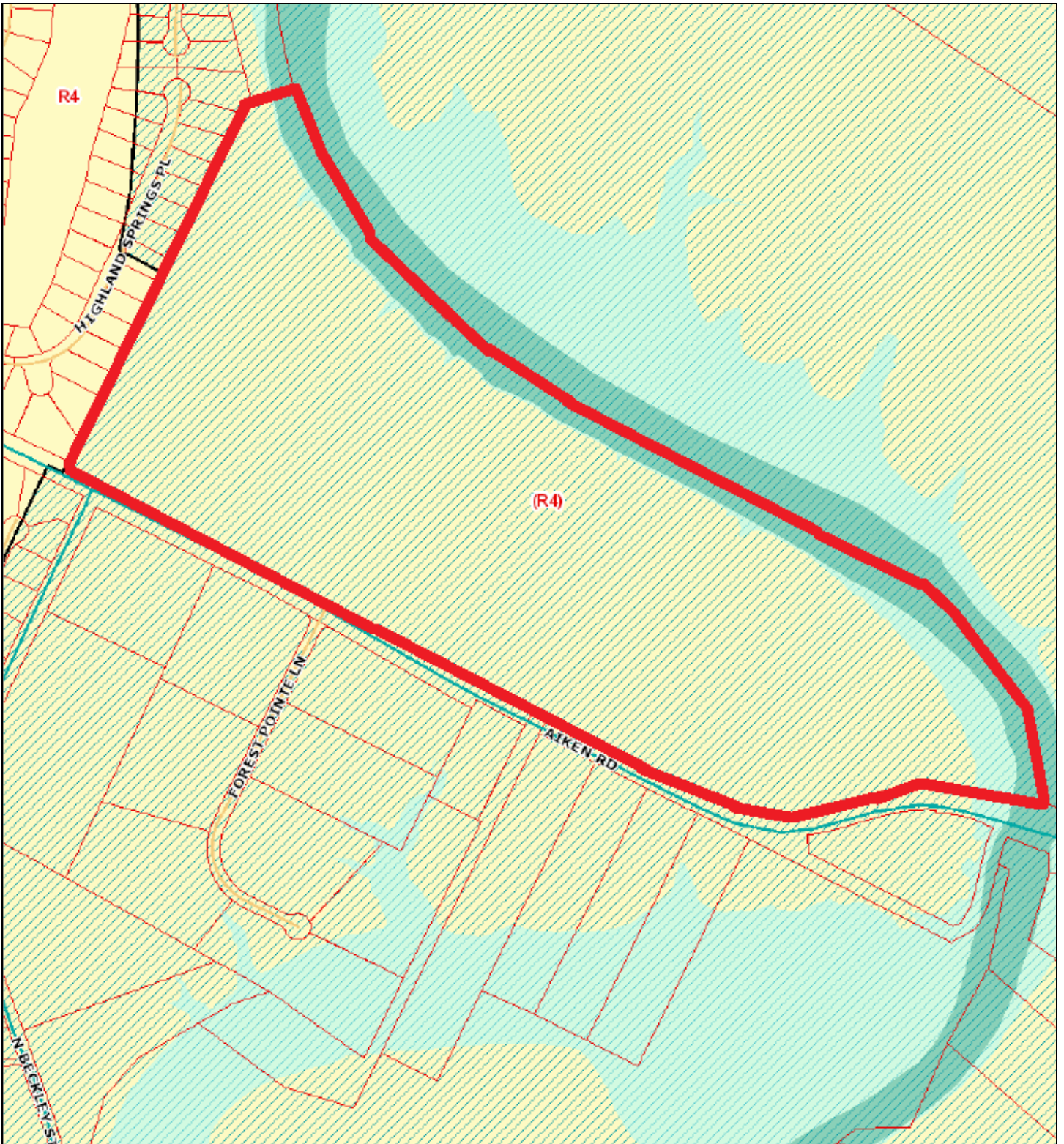
NOTIFICATION

Date	Purpose of Notice	Recipients
4/11/2016	Hearing before LD&T	1 st and 2 nd tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals
5/4/2016	Hearing before PC	1 st and 2 nd tier adjoining property owners Subscribers of Council District 19 Notification of Development Proposals

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 Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
2. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
3. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
 - a. The development plan must receive full construction approval from Louisville Metro Department of Construction Review, Louisville Metro Public Works and the Metropolitan Sewer District.
 - b. Encroachment permits must be obtained from the Kentucky Transportation Cabinet.
 - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
 - d. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
4. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All conditions of approval requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
5. The applicant, developer, or property owner shall provide copies of these conditions of approval to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
6. 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 TCPAs etc.) and other issues required by these conditions of approval.
 - c) Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.
7. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

8. 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.
9. 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."
10. 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 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.
11. 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.
12. 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.
13. 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.
14. Tree Canopy Protection Areas (TCPAs) identified on this plan represent individual trees and/or portions of the site designated to meet the Tree Canopy requirements of Chapter 10 Part 1 of the Land Development Code and are to be permanently protected. All clearing, grading and fill activity in these areas must be in keeping with restrictions established at the time of plan approval. As trees within TCPAs are lost through natural causes, new trees shall be planted in order to maintain minimum tree canopy as specified on the approved development or preliminary subdivision plan.
15. Signature entrance/signage shall be limited to what is permitted within the Floyds Fork Overlay District as stated in Chapter 3 Part 1 of the Land Development Code.