

Planning Commission

Staff Report

February 7, 2019



Case No:	18SUBDIV1023
Project Name:	Echo Trail
Location:	1651 & 2605 Echo Trail – Generally located between 1801 & 2704 Echo Trail and extending to Eastwood Fisherville Road
Owner(s):	Long Run Creek Properties, LLC
Applicant:	Long Run Creek Properties, LLC
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC
Jurisdiction:	Louisville Metro
Council District:	19 – Anthony Piagentini 20 – Stuart Benson
Case Manager:	Joel P. Dock, AICP, Planner II

REQUEST(S)

- **Floyds Fork Development Review Overlay (FFRO)**
- **Major Preliminary Subdivision Plan (Development Potential Transfer)** with review of land disturbing activity on slopes greater than 20% and stream and buffer area crossings

CASE SUMMARY

A major preliminary subdivision plan utilizing development potential transfer for steep slopes is proposed on 210 acres of land roughly one-half miles south of Interstate-64 along Echo Trail. The proposal includes 556 buildable lots and 9 open space lots. Single-family lots will be separated into two areas bisected by a protected waterway – perennial, blue-line stream. The majority of development will occur to the west of this stream and be served by public roads from Echo Trail. 44 lots will be served by Eastwood Fisherville Road on the east side of the stream.

Over 100 acres of residual land not included in the 210 acres proposed for single-family home construction is shown. The resultant total development area is 330 acres. The proposed residual land is not included in the calculation of density, tree canopy, or development transfer potential. However, this land does provide for two means of access via proposed public right-of-way, force main and pump station, and 2 floodplain compensation basins. The residual land is mostly contained in the FFRO, while the residential development of single-family lots is outside the FFRO.

STAFF FINDING

The major preliminary subdivision plan and Floyds Fork Development Review Overlay appear to be in compliance with the Land Development Code. Associated land disturbing activity on slopes greater than 20% appears to be adequately justified based on staff's analysis contained in the standard of review. The stream crossings for utilities and roadways also appear to meet the standards contained in the Land Development Code. Additional geotechnical analysis and stream bank restoration will be required of the proposal as outlined in the conditions of approval.

TECHNICAL REVIEW

The application of development potential transfer on this project allows for the following:

- Lot sizes to be reduced in accordance with the alternative development incentives of the Neighborhood form district.
- Setbacks to be applied as required for standard subdivision development in the R-4 zoning district.
- The transferrable potential is based on the theoretical maximum allowable density of the zoning district containing the preserved slopes; therefore, the development potential of preserved areas is incorporated through reductions in lot sizes across the total area of the subdivision.
- Areas of steep slopes may be present within single-family lots subject to the requirements of Chapter 4, Part 7.5 – Land Disturbing Activity on Slopes Greater than 20%. Areas within lots may not be used for development potential transfer.
- All areas being considered for development transfer potential must be preserved as open space or by other acceptable means.

The proposed subdivision includes disturbance of slopes in excess of 20%. Land Development Code, section 4.7.5 provides that Land disturbing activities on slopes greater than 20% is permitted on lots created by major subdivision after the effective date of this regulation only if the activity is in keeping with the Comprehensive Plan and the proposed activity complies with the provided standards of this part. A staff analysis has been included in this report for the Planning Commission's consideration.

A sanitary sewer line makes 3 crossings over the protected waterway and a proposed public roadway makes another. Crossings for roads, bridges, trails and utilities are permitted in a buffer area and may cross the protected waterway subject to the Planning Commission's approval authorized under Land Development Code, section 4.8.6.J. Land Development Code, section 4.8.6.K will require restoration for disturbance as a result of crossings or any other disturbance not otherwise authorized. The sewer crossings appear to be as close to perpendicular as possible given the topography, the necessary flow of water through the sanitary sewer system, and the meandering of the stream. Preliminary approvals of the drainage facilities and road crossing have been received from public works and MSD. Construction plans will be required prior to record plat to formalize these crossings.

The majority of the residual land is within the FFRO. No residential development is proposed at this time. Roadways have not been located within the floodplain. There does not appear to be any modification of the stream or impervious surfaces located within stream buffers. Floodplain compensation is included within the area and an erosion/sediment control plan will be submitted to MSD as a component of the construction review process. Future development of these residual lands will require additional review under the FFRO design guidelines.

STANDARD OF REVIEW AND STAFF ANALYSIS FOR LAND DISTURBING ACTIVITIES ON SLOPES GREATER THAN 20%

- (a) The Commission finds that the design and configuration of the development results in the minimum disturbance of slopes greater than 20% necessary to accommodate the proposed use of the site; and,

STAFF: Multiple lots scattered throughout the subdivision could potentially be eliminated without a significant loss of density to remove disturbances of slopes greater than 20% as a result of home foundations and impervious surfaces. A geotechnical report was provided and no

significant concerns with respect to slope instability or substantial erosion were observed on these scattered lots. A road crossing is necessary to connect lots 54-168 to the western majority of the subdivision and all points of crossing into the area of these lots would appear to disturb steep slopes. While lots 54-82 are being created and include steep slopes, the disturbance is mainly the result of a sanitary sewer and drainage easement. The geotechnical report noted concerns on lots 54 and 68, but otherwise found that there were no significant concerns with respect to slope instability or substantial erosion. Erosion on Lot 54 is the result of a prior access road and past slope instability was observed on lot 68. Overall, the design and layout appears to be the minimum necessary to accommodate the proposed use of the site.

- (b) Compatible on-site utilities (electric, phone, cable) are placed in a common trench; and,

STAFF: The final location of all utilities will be determined prior to the recording of the record subdivision plat. The preliminary location drainage features has received approval from the Metropolitan sewer District.

- (c) The Planning Commission may approve the activity if the geotechnical report opines and demonstrates that:
- a. The slope's ground surface and subsurface are not unstable;
 - b. Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on- site and on adjacent lands; and,
 - c. If a geotechnical report is required, the applicant provides a plan, acceptable to the Commission, that specifies how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

STAFF: In general, the provided geotechnical report opines that the on-site slopes (excluding small, localized erosion features along swales and streams) in the observed areas were stable at the time of observation. It notes specific concerns with past instability on lot 68 and that the presence of dense vegetation in areas from lot 68 to 82 prevented a more detailed investigation. In these areas, the report suggests that further evaluation should be conducted upon the clearance of dense vegetation. It further suggests that excavation or significant re-grading should be avoided on the steep slopes along the western portions of lots 68-82. It provides that disturbance of slopes should not exceed the limits of evaluation in the report. Construction measures to maintain stability have been provided and should be incorporated into the construction of all new homes and the life of those homes.

- (d) The activity is in keeping with the Comprehensive Plan.

STAFF: Guideline 4, Policy 5 of Cornerstone 2020 calls for the integration of natural features into the pattern of development. Guideline 5, Policy 1 provides that proposals should respect the natural features of the site through sensitive site design, avoids substantial changes to the topography and minimizes property damage and environmental degradation resulting from disturbance of natural systems. In general, the geotechnical report demonstrates that the proposal is in conformance with the aforementioned policies of the Comprehensive Plan as construction methods have been provided to minimize property damage and environmental degradation related to disturbance of steep slopes. The report further suggests follow-up investigations to ensure that the evidence provided in the report can be more thoroughly observed after dense vegetation has been removed and prior to home construction. While buildable lots are being placed in areas of concern, the majority of home construction will occur outside the areas of steeper slopes.

REQUIRED ACTIONS

- **APPROVE** or **DENY** the **Floyds Fork Development Review Overlay (FFRO)**
- **APPROVE** or **DENY** the **Major Preliminary Subdivision Plan** with land disturbing activity on slopes greater than 20% and stream and buffer area crossings subject to proposed conditions of approval

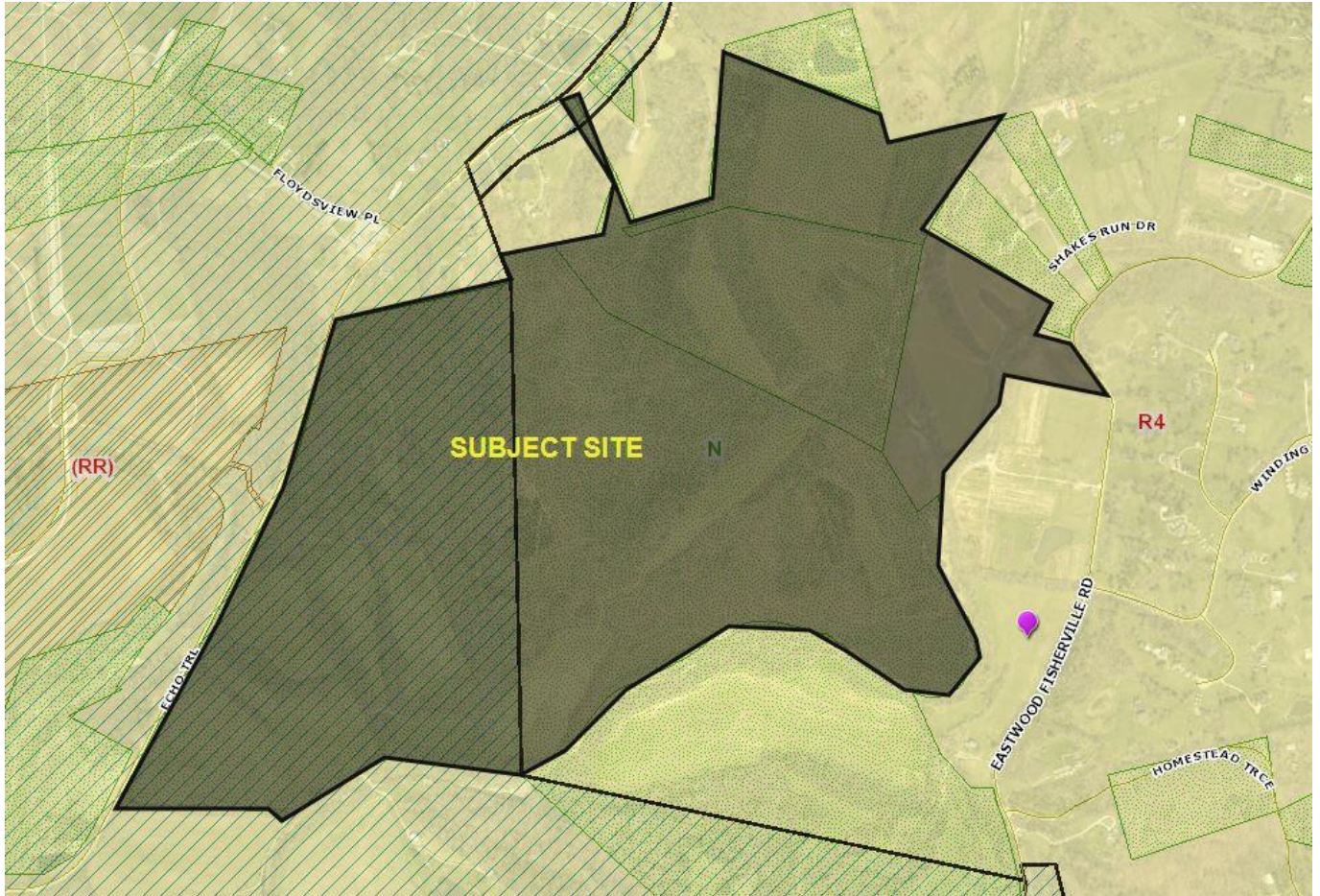
NOTIFICATION

Date	Purpose of Notice	Recipients
1/23/19	Hearing before Planning Commission	1 st tier adjoining property owners Registered Neighborhood Groups in Council District 19

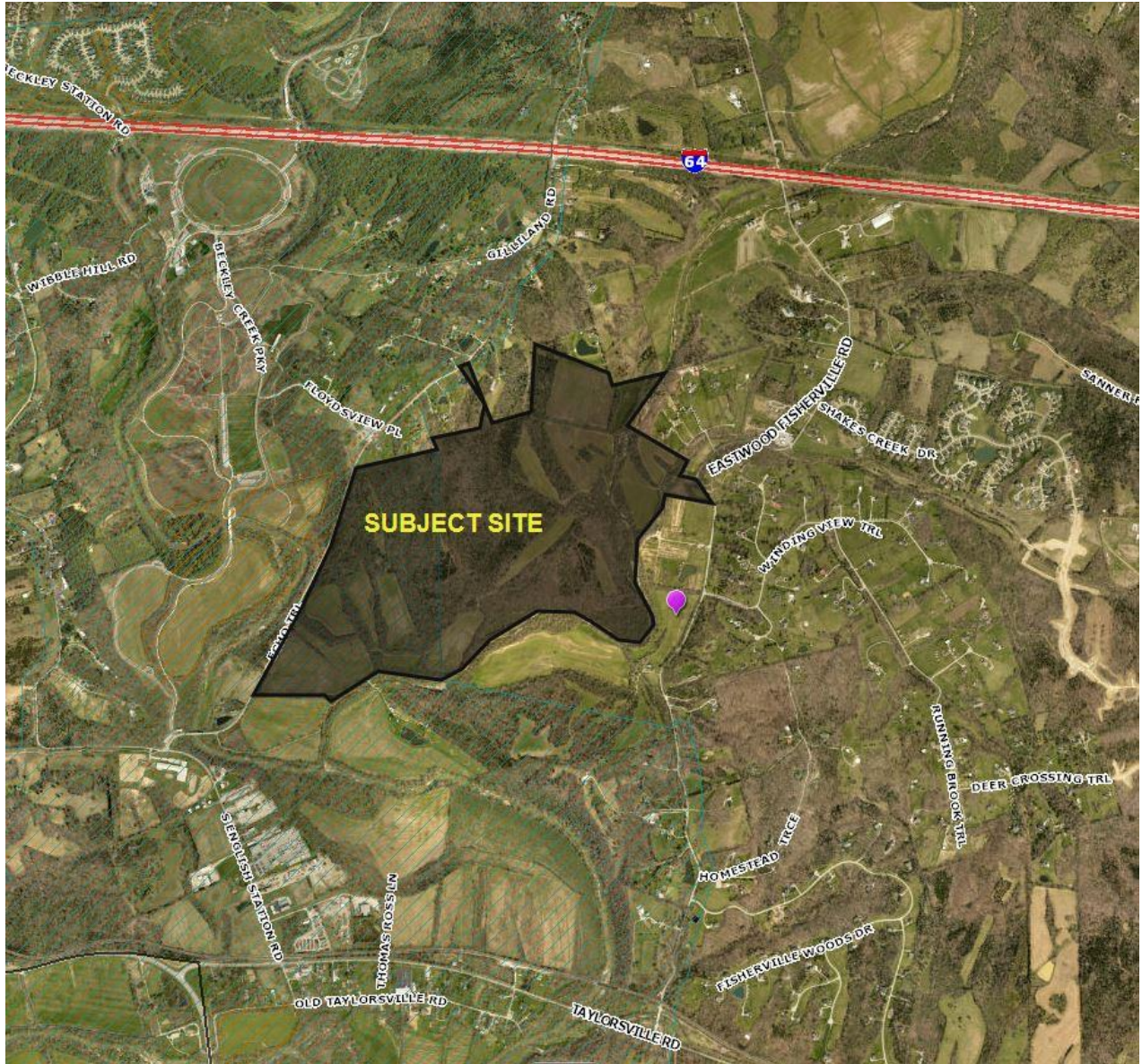
ATTACHMENTS

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/conservation 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.
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. Prior to the recordation of lots 68-82, a geotechnical evaluation shall be conducted and the findings of this evaluation shall be provided to Planning and Design Services staff for review and incorporation into the record. The geotechnical evaluation must demonstrate that:
 - a. The slope's ground surface and subsurface are not unstable;
 - b. Development of the slope and associated mitigation measures will not increase the degree of risk of slope instability both on- site and on adjacent lands; and,
 - c. The plan must specify how the mitigation measures and construction practices, including construction supervision, necessary to assure the stability of buildings and foundations to be constructed on the site as recommended in the geotechnical report will be implemented.

Staff may request that the findings of this report be evaluated by the Planning Commission or designee.
16. Building envelopes/limits on lots 28, 29, 54-82, 221-223, 239, 240, 306-311, 341, 452, & 453 shall be substantially similar to those shown on the preliminary plan and must be shown and recorded on the record subdivision plat.

17. Limits of disturbance as shown on the preliminary plan shall be shown and recorded with the record subdivision plat.
18. The Applicant shall restore any disturbance of the Buffer Area and protected waterway by re-grading and revegetation. Provisions for restoration of the disturbed area shall be included in construction plans and within final record subdivision plat agreements. At the time of development, the following restoration standards shall be met.
 1. Restoration Required to Stabilize Banks. Riparian vegetation shall be planted, as necessary, to stabilize the banks of a protected waterway within a Buffer Area. Where a bank is denuded of its vegetation due to erosion, slope failure or similar occurrence, appropriate vegetation shall be planted to quickly establish a vegetative cover, and then replanted with riparian vegetation to ensure the long-term stabilization of the bank. Restoration plantings shall be selected from the MSD native species restoration specifications.
 2. Restoration of Eroded Banks Required. Where stream bank erosion has occurred as a result of on-site development activities, riparian vegetation shall be planted to stabilize the stream bank unless the County (Planning and Design Services, MSD, or Public Works) determines such vegetation would be inadequate to re-stabilize the bank. In instances where the County determines that planting of riparian vegetation is inadequate to stabilize the stream bank alternate methods of stabilization, approved by the County shall be utilized.
 3. Other Restoration Allowed. Stream, stream bank, and vegetation restoration projects are allowed where the goal is to restore the protected waterway, wetlands, or Buffer Area to an ecologically healthy state, as approved by MSD.