

**Planning Commission Minutes  
January 29, 2015**

**Public Hearing**

**Case No. 14SUBDIV1009**

**CONTINUED from the December 4, 2014 Planning Commission public hearing**

**Request:** Preliminary Major Conservation Subdivision Plan and Floyds Fork Overlay District Review

**Project Name:** Stapleton Ridge

**Location:** 15528, 15314, & 15310 Aiken Road

**Owner:** Estates of Floyds Fork Creek, Inc.  
4337 Pinnacle View Place, Unit 7C  
Louisville, KY 40272

**Applicant:** Redwood Management Co., Inc.  
James E. Frey, representative  
23775 Commerce Park Suite 7  
Beachwood, OH 44122

**Representative:** William Bardenwerper  
Bardenwerper, Talbott & Roberts PLLC  
1000North Hurstbourne Parkway 2<sup>nd</sup> Fl.  
Louisville, KY 40223

**Engineer/Designer:** David Mindel / Kathy Linares  
Mindel Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro

**Council District:** **19 – Jerry Miller**

**Case Manager:** **David B. Wagner – Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is

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part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**Agency Testimony:**

02:02:41 David Wagner presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.) He summarized the four major concerns from the last hearing: internal street connectivity, trails in the conservation areas, the amount of undisturbed land, and the viewshed from Aiken Road into the site. He described in detail the changes that the applicant has made to the plan.

**The following spoke in favor of the proposal:**

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000North Hurstbourne Parkway 2<sup>nd</sup> Fl., Louisville, KY 40223

David Mindel / Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

Diane Zimmerman, Jacobs Engineering, 11940 Highway 42 Suite 1, Goshen, KY 40026

**Summary of testimony of those in favor of the proposal:**

02:11:00 William Bardenwerper, the applicant's representative, presented the applicant's case and showed a Power Point presentation.

02:14:30 Kathy Linares, Mindel Scott & Associates, pointed out and discussed each undisturbed open space and buffer area. Mr. Bardenwerper discussed density and gave more details about the design of the overall project.

**The following spoke in opposition to the proposal:**

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Gregg Dedrick, 2000 Forest Pointe Lane, Louisville, KY 40245

Wayne H. Hameloth, 2012 Forest Pointe Lane, Louisville, KY 40245

**Summary of testimony of those in opposition to the proposal:**

02:21:37 Stephen Porter, the representative for the opposition, presented the opposition's case and showed a Power Point presentation. He read LDC

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Conservation Subdivision regulations which he said related to this case. Floodplains were a particular concern.

02:35:47 Gregg Dedrick, a Forest Point subdivision resident who also owns property abutting the subject site, spoke in opposition. He said his Aiken Road property will be about 15 from the back of the subdivision with no buffer; also, he expressed concerns about water runoff, flooding, noise, and traffic.

02:43:48 Wayne Hameloth discussed Cornerstone 2020 as it relates to the case; also, clearing of forested areas.

02:58:21 Mr. Porter concluded the opposition's presentation.

**The following spoke neither for nor against the proposal:**

No one spoke.

**Rebuttal:**

02:59:35 Mr. Bardenwerper resumed the podium for rebuttal.

03:07:10 Ron Thomas, with Redwing Ecological Services, discussed water, wetlands, and endangered species.

03:12:28 Diane Zimmerman, with Jacobs Engineering, discussed the traffic study and trip generation.

03:14:36 In response to a question from Commissioner Jarboe, Mr. Bardenwerper discussed filling in a floodplain, water, drainage, and impact.

03:18:13 Mr. Porter objected that the Planning Commission does have some discretion with subdivisions.

**Deliberation:**

03:18:56 Commissioners' deliberation.

**An audio/visual recording of the Planning Commission hearing related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

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**Preliminary Major Conservation Subdivision Plan**

03:27:54 On a motion by Commissioner Proffitt, seconded by Commissioner Jarboe, the following resolution was adopted:

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's technical review and conclusions that all of the required policies are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Preliminary Major Subdivision Plan with Conditions of Approval as read into the record by Commissioner Brown and as included in the staff report; and **SUBJECT to the following 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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.

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- e. 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. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
5. 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 binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements 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.
9. 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.
10. 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

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subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.

11. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

12. A long-term encroachment permit and license agreement with Louisville Metro is required for the signature entrance to be located in the right-of-way.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioner Butler.**

**ABSTAINING: Commissioners White and Tomes.**

**Floyds Fork Overlay District Review**

03:29:12 On a motion by Commissioner Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

**WHEREAS**, the Commission further finds that, based on the evidence and testimony presented today, the staff report, the applicant's presentation and staff's technical review and conclusions that all of the required policies are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the Floyds Fork Overlay District Review.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Jarboe, Kirchdorfer, Turner, and Peterson.**

**NO: No one.**

**NOT PRESENT: Commissioner Butler.**

**ABSTAINING: Commissioners White and Tomes.**

# Planning Commission

## Staff Report

January 29, 2015



Case No:	14SUBDIV1009
Request:	Preliminary Major Conservation Subdivision Plan and Floyds Fork Overlay District Review
Project Name:	Stapleton Ridge
Location:	15528, 15314, & 15310 Aiken Rd.
Owner:	Estates of Floyds Fork, Inc.
Applicant:	Redwood Management Co., Inc.
Representative:	Bardenwerper, Talbott & Roberts, PLLC Mindel, Scott & Associates, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Julie Denton
Case Manager:	David B. Wagner – Planner II

### REQUEST

- Preliminary Major Conservation Subdivision Plan
- Floyds Fork Overlay District Review

### CASE SUMMARY/BACKGROUND/SITE CONTEXT

Original Plan: The proposed conservation subdivision request includes 202 buildable lots (80 attached units and 122 detached units) and four non-buildable lots for a density of 3.32 dwelling units per acre. Three of the non-buildable lots contain the entirety of the conservation areas. Each Conservation Subdivision in the R-4 zoning district requires the conservation of at least 30% of the total acreage of the site and this proposal has provided 54% to allow a 10% bonus in lots allowed and a 40% maximum of attached units. The conservation efforts on the subject site are focused in three main areas. Lot 205 includes the area along Floyds Fork, existing Pond A, Proposed Ponds #1 and #2 in the area of the townhomes, and areas of steep slopes and tree canopy preservation. Within the boundary of Lot 206, there are wetlands, steep slopes, an intermittent stream, and tree canopy preservation at the far western end of the site. Lastly, Lot 208 at the north central end of the site contains existing Pond B, another Proposed Pond, steep slopes, tree canopy preservation, and the Scenic Corridor Buffer along Aiken Road. The plan includes a 50' landscape buffer along the southern boundary of the site, the required 15' buffer along adjoining lots that are five acres or larger per LOJIC mapping, a 200' stream setback along Floyds Fork, and a 25' wetlands buffer. The site will be accessed by Aiken Road and have a stub street at the southern boundary to connect to any future development on the tract to the south. The site also lies entirely within the Floyds Fork Overlay District.

Revised Plan: At the direction of the Planning Commission at the December 4, 2014 public hearing, the applicant has revised the plan to address the Planning Commission's concerns regarding the following items: internal street connectivity, trails in conservation areas, the amount of undisturbed land, and the viewshed from Aiken Road into the site. The following is a list of notable changes to the plan:

- Street 'B' has been extended to the west to connect Street 'E' and Street 'A' which gives the entire subdivision two access points to Aiken Road instead of one.
- Street 'B' and Street 'C' have been connected parallel to Floyds Fork. This results in one less cul-de-sac/dead-end, decreasing the number from seven to six.

- A pedestrian walkway has been added to Lot 210 which mostly follows the existing driveway for the existing house on the site. The path parallels Floyds Fork and turns to the west to follow the southern boundary of the site.
- The area and percentage of the site that will remain undisturbed have been listed in the Site Data and an exhibit showing these areas has been provided by the applicant.
- The applicant has increased the number of dwelling units from 202 to 209 (82 attached units and 127 detached units), resulting in an increase of net density from 3.32 to 3.49.
- The guest parking spaces have been made parallel parking instead of maneuvering directly onto the streets.

**LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE**

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

**PREVIOUS CASES ON SITE**

- Plat Book 32, Page 72: Aiken Investments Farm
- Plat Book 41, Page 23: Forest Pointe Woods
- Plat Book 50, Page 17: Estates of Floyds Fork

**INTERESTED PARTY COMMENTS**

- Staff has received numerous comments from persons interested in this proposal. All of the correspondence sent is available for the public’s review. In summary, those in opposition to the proposal were concerned about drainage, apartments being developed, traffic on Aiken Road, tree removal, wildlife endangerment, loss of green space, compliance with regulations, flooding in the area, density, aesthetic concerns, loss of natural areas, loss of natural views, stream degradation, pollution, harm to the Parklands of Floyds Fork, the safety of cyclists on Aiken Road, the violation of deed restrictions, and loss of archeologically sensitive areas.

**APPLICABLE PLANS AND POLICIES**

- Land Development Code
- Old Henry Road Area Plan – Encourages clustering of residential dwellings to conserve open space within the area.

**TECHNICAL REVIEW**

- The plan meets the requirements of the LDC.



- The plan has received preliminary approval from MSD and Transportation Review.
- Staff made two specific recommendations per the Conservation Subdivision and Floyds Fork Review Overlay reviews that were not implemented into the plan as requested. The recommendations were to minimize cul-de-sacs and dead-ends (LDC 7.11.9.E.1) and that structures, impervious surfaces, filling, and excavating should not be located in the existing flood plain (LDC 3.1.1.e and LDC 3.1.1.f).

**STAFF CONCLUSIONS**

Floyds Fork Overlay Review and Preliminary Major Conservation Subdivision Plan

Staff analysis in the standard of review section of the staff report indicates the proposed Preliminary Major Conservation Subdivision Plan and Floyds Fork Overlay Review are justified.

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 standards for granting a Floyds Fork Overlay Review and Preliminary Major Conservation Subdivision Plan established in the Land Development Code.

Required Actions

- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission **APPROVES** or **DENIES** the Floyds Fork Overlay listed in the staff report
- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission **APPROVES** or **DENIES** the Preliminary Major Conservation Subdivision Plan listed in the staff report

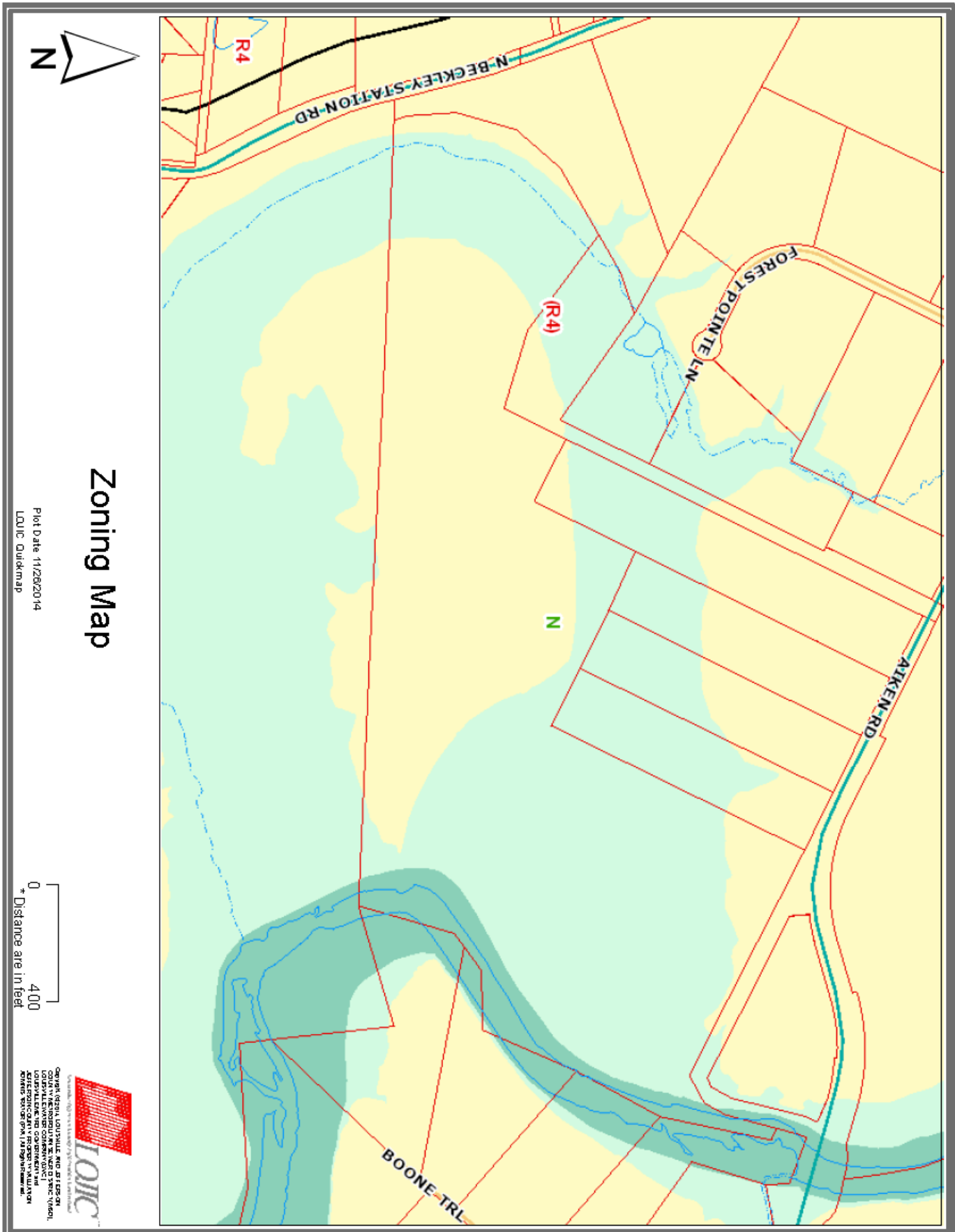
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/21/14	Meeting before PC	1 <sup>st</sup> & 2 <sup>nd</sup> tier adjoining property owners Subscribers to 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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
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5. 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 binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements 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.
9. 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.
- 10. 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.
- 11. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

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**Public Hearing**

**Case No. 14SUBDIV1009**

**Request:** Preliminary Major Conservation Subdivision  
Plan and Floyds Fork Overlay District Review

**Project Name:** Stapleton Ridge

**Location:** 15528, 15314, and 15310 Aiken Road

**Owner:** Estates of Floyds Fork Creek, Inc.  
4337 Pinnacle View Place, Unit 7C  
Louisville, KY 40272

**Applicant:** Redwood Development  
James E. Frey, Representative  
23775 Commerce Park, Suite 7  
Beachwood, OH 44122

**Representative:** William Bardenwerper  
Bardenwerper, Talbott & Roberts PLLC  
1000 North Hurstbourne Parkway  
Suite 200  
Louisville, KY 40223

**Engineer/Designer:** David Mindel / Kathy Linares  
Mindel Scott & Associates  
5151 Jefferson Boulevard  
Louisville, KY 40219

**Jurisdiction:** Louisville Metro

**Council District:** 19 – Jerry Miller

**Case Manager:** **David B. Wagner, Planner II**

Notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

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**Agency Testimony:**

00:57:17 Before staff presented the case, Commissioner Blake announced that additional presentation time has been granted to both sides.

00:58:21 David Wagner presented the case and showed a Power Point presentation (see recording and staff report for detailed presentation.)

01:08:22 Mr. Wagner discussed a couple of additional e-mails that were handed out to the Commissioners today.

01:10:01 Commissioner Butler asked if there have been any other site plans or proposals for this site. Mr. Wagner said there had been no other development proposals.

01:10:49 In response to a question from Commissioner Jarboe, Mr. Wagner discussed recommendations for more connectivity, and how that would affect the conservation area. Commissioner Brown also discussed his e-mail (on file).

**The following spoke in favor of the proposal:**

William Bardenwerper, Bardenwerper, Talbott & Roberts PLLC, 1000 North Hurstbourne Parkway Suite 200, Louisville, KY 40223

David Mindel / Kathy Linares, Mindel Scott & Associates, 5151 Jefferson Boulevard, Louisville, KY 40219

James E. Frey (representing Redwood Development), 23775 Commerce Park, Suite 7, Beachwood, OH 44122

Diane Zimmerman, 11940 Highway 42, Goshen, KY 40026

Seth Bishop, 113 W. Todd Street, Frankfort, KY 40601

Ron Thomas, 4011 Alton Road, Louisville, KY 40207

Wes Hemp, 400 Production Court, Louisville, KY 40299

**Summary of testimony of those in favor of the proposal:**

01:12:50 William Bardenwerper introduced the other applicant's representatives and presented the applicant's case.

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01:25:44 David Mindel, an applicant's representative, discussed floodplain issues, stormwater, and runoff.

01:27:30 Mr. Bardenwerper further discussed the plan and showed building elevations/designs.

01:35:35 Connectivity was discussed.

01:44:49 In response to questions from Commissioner Proffitt, Mr. Mindel discussed meeting requirements when building in a floodplain, procedures, and submitting proposals to FEMA.

01:45:49 Mr. Mindel discussed the man-made lakes.

01:49:05 Technical standards for subdivisions' connectivity was discussed.

01:54:08 Mr. Wagner discussed walking trails/paths standards in conservation subdivisions.

01:58:00 Ron Thomas discussed archeological surveys, and when these are and are not done.

**The following spoke in opposition to the proposal:**

Steve Porter, 2406 Tucker Station Road, Louisville, KY 40299

Wayne Hemloth, 2012 Forest Pointe Lane, Louisville, KY 40245

Michael Diebold, 16901 Aiken Road, Louisville, KY 40245-4839

David Adams, 2701 Flat Road Road, Louisville, KY 40245

Mosen R. Khani, 16306 Aiken Road, Louisville, KY 40245

Jerry Horine, 2114 Johnson Road, Louisville, KY 40245

Jay Mudd, 1822 Boone Trail, Louisville, KY

**Summary of testimony of those in favor of the proposal:**



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01:59:48 Stephen Porter, the opposition's representative, cross-examined applicants' representatives.

02:02:47 Mr. Porter then presented the opposition's case (representing neighbors in the Aiken Road/Floyd's Fork area).

02:15:10 Wayne Hemloth, a resident of the Forest Point neighborhood, spoke in opposition.

02:31:00 Michael Diebold, an Aiken Road resident, said Aiken Road cannot handle the traffic on it now and is not designed to handle the additional traffic from this development.

02:37:01 David Adams, representing the Hermitage Ridge Homeowners Association, said all of the residents in his neighborhood are opposed to the size and location of the proposed development, and said that the developer does not have a good reputation. He also expressed concerns about flooding, and bike safety.

02:42:59 Dr. Mosen R. Khani, an adjacent resident, said the geological data presented to the Commission is biased and inaccurate and explained why he thought so. He also expressed concerns about traffic/safety issues, drainage, and flooding.

02:50:37 Jerry Horine discussed the Floyds Fork study and the importance of the Floyds Fork Creek. He expressed concerns about building in floodplains, because those floodplains and wetlands filter water and control flooding.

03:00:46 Jay Mudd spoke in opposition.

03:01:35 Stephen Porter resumed the podium to conclude.

03:04:08 Mr. Diebold responded to questions from Commissioner Brown re. road accidents.

**The following spoke neither for nor against the proposal:**

No one spoke.

**Rebuttal:**

03:05:47 Rebuttal - William Bardenwerper.

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03:16:17 Commissioner Jarboe asked about "disturbing" land as per the conservation subdivision regulations.

03:20:50 Pat Barry, representing MSD, answered questions about water quality.

03:21:28 Commissioner Brown discussed traffic analyses & road capacity.

03:32:46 Mr. Porter clarified some points that arose from the questions.

**03:48:17 Meeting went into Recess**

**Deliberation**

03:49:36 Commissioners' deliberation

03:58:03 David Wagner discussed disturbing conservation areas, as defined by the Land Development Code.

04:01:21 Commissioner Brown discussed cul-de-sacs and connectivity.

On a motion by Commissioner Proffitt, seconded by Commissioner Peterson, the following resolution was adopted:

**RESOLVED**, the Louisville Metro Planning Commission does hereby **CONTINUE** this case to the **January 29, 2015** Planning Commission public hearing.

**The vote was as follows:**

**YES: Commissioners Blake, Proffitt, Brown, Peterson, Butler, Jarboe, Kirchdorfer, and Turner.**

**NO: No one.**

**NOT PRESENT: Commissioners White and Tomes.**

**ABSTAINING: No one.**

# Planning Commission Staff Report

December 4, 2014



Case No:	14SUBDIV1009
Request:	Preliminary Major Conservation Subdivision Plan and Floyds Fork Overlay District Review
Project Name:	Stapleton Ridge
Location:	15528, 15314, & 15310 Aiken Rd.
Owner:	Estates of Floyds Fork, Inc.
Applicant:	Redwood Management Co., Inc.
Representative:	Bardenwerper, Talbott & Roberts, PLLC Mindel, Scott & Associates, Inc.
Jurisdiction:	Louisville Metro
Council District:	19 – Jerry Miller
Case Manager:	David B. Wagner – Planner II

## REQUEST

- Preliminary Major Conservation Subdivision Plan for Stapleton Ridge
- Floyds Fork Overlay District Review

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

The proposed conservation subdivision request includes 202 buildable lots (80 attached units and 122 detached units) and four non-buildable lots for a density of 3.32 dwelling units per acre. Three of the non-buildable lots contain the entirety of the conservation areas. Each Conservation Subdivision in the R-4 zoning district requires the conservation of at least 30% of the total acreage of the site and this proposal has provided 54% to allow a 10% bonus in lots allowed and a 40% maximum of attached units. The conservation efforts on the subject site are focused in three main areas. Lot 205 includes the area along Floyds Fork, existing Pond A, Proposed Ponds #1 and #2 in the area of the townhomes, and areas of steep slopes and tree canopy preservation. Within the boundary of Lot 206, there are wetlands, steep slopes, an intermittent stream, and tree canopy preservation at the far western end of the site. Lastly, Lot 208 at the north central end of the site contains existing Pond B, another Proposed Pond, steep slopes, tree canopy preservation, and the Scenic Corridor Buffer along Aiken Road. The plan includes a 50' landscape buffer along the southern boundary of the site, the required 15' buffer along adjoining lots that are five acres or larger per LOJIC mapping, a 200' stream setback along Floyds Fork, and a 25' wetlands buffer. The site will be accessed by Aiken Road and have a stub street at the southern boundary to connect to any future development on the tract to the south. The site also lies entirely within the Floyds Fork Overlay District.

## LAND USE/ZONING DISTRICT/FORM DISTRICT TABLE

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

### **PREVIOUS CASES ON SITE**

- Plat Book 32, Page 72: Aiken Investments Farm
- Plat Book 41, Page 23: Forest Pointe Woods
- Plat Book 50, Page 17: Estates of Floyds Fork

### **INTERESTED PARTY COMMENTS**

- Staff has received numerous comments from persons interested in this proposal. All of the correspondence sent is available for the public's review. In summary, those in opposition to the proposal were concerned about drainage, apartments being developed, traffic on Aiken Road, tree removal, wildlife endangerment, loss of green space, compliance with regulations, flooding in the area, density, aesthetic concerns, loss of natural areas, loss of natural views, stream degradation, pollution, harm to the Parklands of Floyds Fork, the safety of cyclists on Aiken Road, the violation of deed restrictions, and loss of archeologically sensitive areas.

### **APPLICABLE PLANS AND POLICIES**

- Land Development Code
- Old Henry Road Area Plan – Encourages clustering of residential dwellings to conserve open space within the area.

### **TECHNICAL REVIEW**

- The plan meets the requirements of the LDC.
- The plan has received preliminary approval from MSD and Transportation Review.
- Staff made two specific recommendations per the Conservation Subdivision and Floyds Fork Review Overlay reviews that were not implemented into the plan as requested. The recommendations were to minimize cul-de-sacs and dead-ends (LDC 7.11.9.E.1) and that structures, impervious surfaces, filling, and excavating should not be located in the existing flood plain (LDC 3.1.1.e and LDC 3.1.1.f).

### **STAFF CONCLUSIONS**

#### Floyds Fork Overlay Review and Preliminary Major Conservation Subdivision Plan

Staff analysis in the standard of review section of the staff report indicates the proposed Preliminary Major Conservation Subdivision Plan and Floyds Fork Overlay Review are justified.

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 standards for granting a Floyds Fork Overlay Review and Preliminary Major Conservation Subdivision Plan established in the Land Development Code.

Required Actions

- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission **APPROVES** or **DENIES** the Floyds Fork Overlay listed in the staff report
- Based upon the information in the staff report, the testimony and evidence provided at the public hearing, the Planning Commission **APPROVES** or **DENIES** the Preliminary Major Conservation Subdivision Plan listed in the staff report

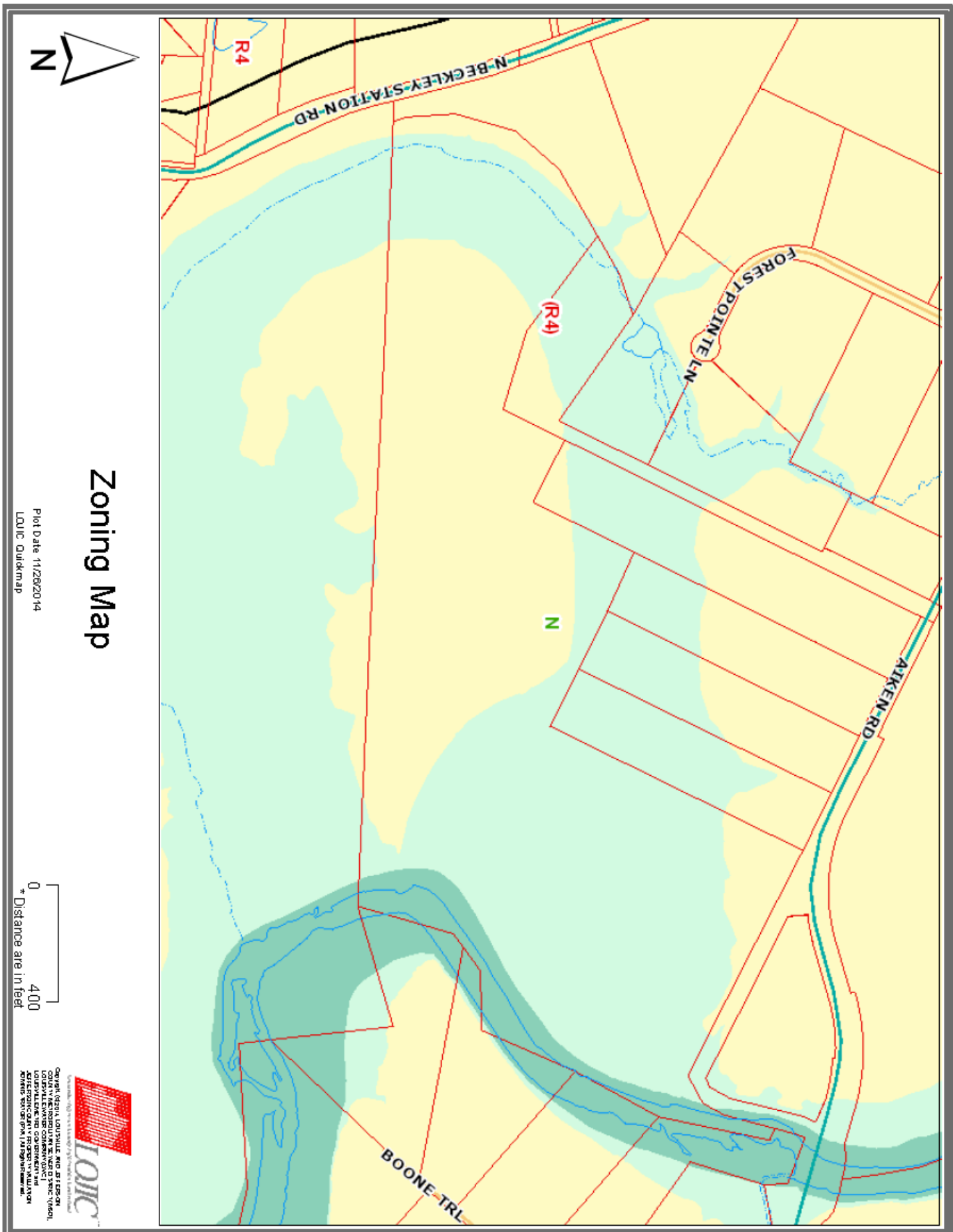
**NOTIFICATION**

Date	Purpose of Notice	Recipients
11/21/14	Meeting before PC	1 <sup>st</sup> & 2 <sup>nd</sup> tier adjoining property owners Subscribers to 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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. 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. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
5. 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 binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
6. The applicant, developer, or property owner shall provide copies of these binding elements 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.
9. 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.
- 10. 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.
- 11. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.



## **Case No. 14SUBDIV1009 Conditions of Approval**

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE** the requested Preliminary Major Subdivision Plan with Conditions of Approval as read into the record by Commissioner Brown and as included in the staff report; and **SUBJECT to the following 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 Codes and Regulations Construction Permits and Transportation Planning Review and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - 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 major subdivision plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. 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. Prior to any site disturbance permit being issued and prior to any clearing, grading or issuance of a site disturbance permit, a site inspection shall be conducted by PDS staff to ensure proper placement of required tree protection fencing in accordance with the approved Tree Preservation Plan.
5. 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 binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

6. The applicant, developer, or property owner shall provide copies of these binding elements 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.

9. 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.

10. 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.

11. All street name signs shall be installed prior to requesting a certificate of occupancy for any structure. The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.

12. A long-term encroachment permit and license agreement with Louisville Metro is required for the signature entrance to be located in the right-of-way.