

# Land Development & Transportation Committee Staff Report

June 23, 2016



<b>Case No:</b>	16MOD1003
<b>Project Name:</b>	Sutherland Pointe Condition of Approval Amendment
<b>Location:</b>	15905 Aiken Road
<b>Owners:</b>	Sonyjean, Inc. & Indianfields Farm, Inc.
<b>Applicant:</b>	Redwood Acquisitions, LLC
<b>Representative:</b>	Bardenwerper, Talbott & Roberts Mindel Scott & Associates
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	19 – Julie Denton
<b>Case Manager:</b>	Brian Davis, AICP, Planning Manager

## REQUEST

- Amendment to Condition of Approval #17 from the original approval of Case Number 15SUBD1015

## CASE SUMMARY/BACKGROUND/SITE CONTEXT

A preliminary subdivision plan was approved by the Planning Commission on May 19, 2016 to construct 241 buildable lots on 101.4 acres. Condition of Approval #17 read as follows:

Developer shall contribute \$240,000 to Public Works for a traffic signal and left turn lane at the intersection of Aiken Road and Bush Farm Road prior to issuance of the 60th building permit for the development. Construction plans for the design of intersection improvements and signal shall be required to be provided by the developer prior to the issuance of the Work Order for the first phase of the development. Metro Public Works has agreed as part of this condition of approval to request the SDC Oversight Committee to designate this intersection as a Road Project within Zone B so that any costs associated with signal improvements will be eligible for a SDC credit. Developer shall be limited to 120 building permits until the signalized intersection is operational.

The applicant has been in discussions with Public Works and now wishes to eliminate the last sentence.

## PREVIOUS CASES ON SITE

15SUBDIV1015: The Planning Commission approved a preliminary subdivision to create 241 lots on 101.4 acres and a Floyds Fork Development Review Overlay plan for the subdivision.

## INTERESTED PARTY COMMENTS

Staff has not received any comments from interested parties regarding the proposed condition of approval change.

## APPLICABLE PLANS AND POLICIES

Cornerstone 2020  
Land Development Code

## STANDARD OF REVIEW AND STAFF ANALYSIS FOR AN AMENDMENT TO BINDING ELEMENTS

- a. The conservation of natural resources on the property proposed for development, including: trees and other living vegetation, steep slopes, water courses, flood plains, soils, air quality, scenic views, and historic sites;

STAFF: Changing this particular condition of approval will have no effect on natural resources on or adjacent to the site.

- b. The provisions for safe and efficient vehicular and pedestrian transportation both within the development and the community;

STAFF: Changing the timing of the improvements will have no bearing on the provisions for safe and efficient vehicular transportation within the development and the community.

- c. The provision of sufficient open space (scenic and recreational) to meet the needs of the proposed development;

STAFF: The proposed amendment does not affect open space.

- d. The provision of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community;

STAFF: The proposed amendment does not affect drainage on the site.

- e. The compatibility of the overall site design (location of buildings, parking lots, screening, landscaping) and land use or uses with the existing and projected future development of the area;

STAFF: The proposed amendment does not affect the character of the area or the site.

- f. Conformance of the development plan with the Comprehensive Plan and Land Development Code. Revised plan certain development plans shall be evaluated for conformance with the non-residential and mixed-use intent of the form districts and comprehensive plan.

STAFF: The proposed condition of approval amendment will not have any affect as to the development plan's conformance to applicable guidelines and policies of the Comprehensive Plan and to requirements of the Land Development Code.

### TECHNICAL REVIEW

Public Works supports the proposed amendment to eliminate the 120 building limit before the signalized intersection is operational.

### STAFF CONCLUSIONS

- The proposed amendments appear to be adequately justified based on staff analysis in the staff report.

Based upon the information in the staff report, the testimony and evidence provided at the public meeting, the Development Review Committee must determine if the proposal meets the standards established in the LDC for approving the Amendment to Conditions of Approval.

**REQUIRED ACTION**

- **APPROVE** or **DENY** the Amendment to Conditions of Approval.

**NOTIFICATION**

<b>Date</b>	<b>Purpose of Notice</b>	<b>Recipients</b>
6/9/2016	Hearing before LD&T	1 <sup>st</sup> tier adjoining property owners Registered neighborhood groups for District 19

**ATTACHMENTS**

1. Existing Conditions of Approval
2. Proposed Changes to Conditions of Approval

1. **Existing 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 larvicide 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.
16. The landscape plan shall be approved by a Committee of the Planning Commission prior to issuance of a site disturbance permit.
17. Developer shall contribute \$240,000 to Public Works for a traffic signal and left turn lane at the intersection of Aiken Road and Bush Farm Road prior to issuance of the 60th building permit for the development. Construction plans for the design of intersection improvements and signal shall be required to be provided by the developer prior to the issuance of the Work Order for the first phase of the development. Metro Public Works has agreed as part of this condition of approval to request the SDC Oversight Committee to designate this intersection as a Road Project within Zone B so that any costs associated with signal improvements will be eligible for a SDC credit. Developer shall be limited to 120 building permits until the signalized intersection is operational.

**2. Proposed Change to Conditions of Approval**

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