

# Land Development & Transportation Committee

## Staff Report

September 14, 2017



|                           |                                       |
|---------------------------|---------------------------------------|
| <b>Case No:</b>           | 17SUBDIV1013                          |
| <b>Project Name:</b>      | Twin Lakes at Floyd's Fork            |
| <b>Location:</b>          | 15528 Aiken Road                      |
| <b>Owner(s):</b>          | Estates of Floyds Fork Creek, Inc.    |
| <b>Applicant:</b>         | Elite Built Homes, LLC.               |
| <b>Representative(s):</b> | Bardenwerper, Talbott & Roberts, PLLC |
| <b>Project Area/Size:</b> | 68.2 acres                            |
| <b>Jurisdiction:</b>      | Louisville Metro                      |
| <b>Council District:</b>  | 19 – Julie Denton                     |
| <b>Case Manager:</b>      | Joel P. Dock, Planner II              |

### REQUEST(S)

- **Revised Conservation Subdivision Plan within Floyds Fork Development Review Overlay District (FFRO)** for 137 single-family residential lots with 28 acres of conservation area
- **Sidewalk Waiver** to omit the sidewalk along the South side of Old Aiken Road

### CASE SUMMARY

At a meeting of the Planning Commission on June 29, 2017 a motion was made and approved to consider the revised settlement plan under the old regulations (conservation subdivision regulations in effect prior to December, 2016) to settle pending litigation in 14SUBDIV1009. The most apparent change from this previously approved plan is the elimination of the attached sidewall units in the Northeast area of the site along Floyds Fork. The conservation areas and layout of the lots in the remaining sections remain similar to the approved plan. A sidewalk waiver has also been requested along the frontage of Old Aiken Road. Sidewalks have been proposed on the North side of Old Aiken Road for the Manors at Floyds Fork Subdivision, case 16SUBDIV1011. The applicant has agreed to add a condition of approval requiring coordination with the developer of the adjacent subdivision to fully connect and integrate sidewalks between the two developments to ensure safe pedestrian access to the trailhead at the Western edge of Old Aiken Road and Aiken Road.

### Previous Cases

- 14SUBDIV1009: Conservation Subdivision Plan (approved 1/29/17)

### STAFF FINDING

The conservation subdivision plan meets or exceeds the requirements of Land Development Code (LDC), Chapter 7, Part 11 (Conservation Subdivisions), as well as the Chapter 3, Part 1 (FFRO). Further, the sidewalk waiver appears to be adequately justified based on staff's analysis beginning on Page 2 of the staff report. The omission of the sidewalk on the South side of Old Aiken road will not diminish the ability to provide for the safe movement of pedestrians to/from the trailhead at the Western edge of the roadway or to Aiken Road.

## **TECHNICAL REVIEW**

All applicable regulations pertaining to the review of development within the Floyds Fork Development Review Overlay District have been satisfied through the conservation subdivision review procedures.

## **INTERESTED PARTY COMMENTS**

Staff has not received any interested party comments.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR SIDEWALK WAIVER**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the adjacent owner on the North side of Old Aiken Road has proposed sidewalks and the applicant has agreed to coordinate with the developer of the adjacent subdivision to fully connect and integrate sidewalks between the two developments to provide for the safe movement of pedestrians to/from the trailhead at the Western edge of Old Aiken Road or to Aiken Road.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of cornerstone 2020 as the safe movement of pedestrians will be provided through the connection and integration of the sidewalk along the North side of Old Aiken Road, and Old Aiken Road is not an integral part of the roadway network in the area as it does not provide connection to adjacent developments.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver is the minimum necessary to afford relief to the applicant as a sidewalk along the Southside of Old Aiken Road would not provide primary access to residences in the proposed subdivision from Aiken Road and additional provisions for the safe movement of pedestrians will be made.

## **REQUIRED ACTIONS**

- **APPROVE** or **DENY** the **Revised Conservation Subdivision Plan within Floyds Fork Development Review Overlay District** for 137 single-family residential lots with 28 acres of conservation area
- **APPROVE** or **DENY** the **Sidewalk Waiver** of LDC, section 5.8.1.B to omit the sidewalk along the South side of Old Aiken Road

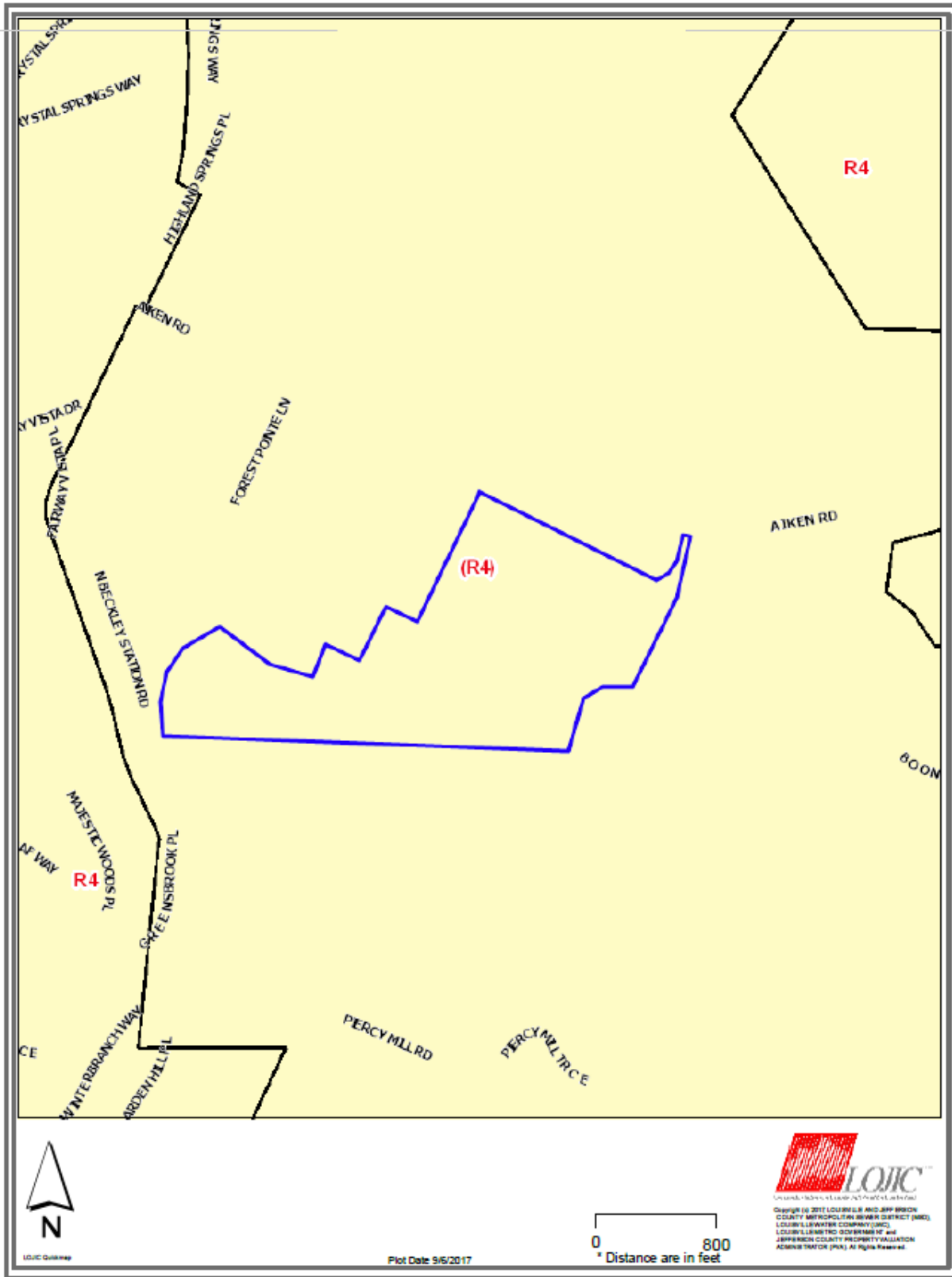
## **NOTIFICATION**

| <b>Date</b>   | <b>Purpose of Notice</b> | <b>Recipients</b>   |
|---------------|--------------------------|---|
| <b>9/1/17</b> | Hearing before LD&T      | 1 <sup>st</sup> tier adjoining property owners<br>Speakers at Planning Commission public hearing<br>Registered Neighborhood Groups in Council District 19 |

## **ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Existing Conditions of Approval
4. Proposed Conditions of Approval

1. Zoning Map



2. Aerial Photograph



**3. 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 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.

**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.
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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.
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  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.
  13. **The applicant and/or developer shall coordinate with the owner and/or developer of the subdivision to be located on a parcel of land on the North side of Old Aiken Road, having a parcel identification number of 0016-0101-000, to fully connect and integrate the sidewalk on the North side of the roadway from the proposed conceptual trailhead to the proposed sidewalks of this subdivision.**