

ORDINANCE NO. 94 -2017

AN ORDINANCE CHANGING THE ZONE FROM A TOWNHOUSE RESIDENTIAL (R-1T) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE, FOR 3.77 NET (4.80 GROSS) ACRES, FOR PROPERTY LOCATED AT 1580 HIGBEE MILL ROAD (A PORTION OF). (TAYLORMADE REAL ESTATE, LLC; COUNCIL DISTRICT 9).

WHEREAS, at a Public Hearing held on April 13, 2017 a petition for a zoning ordinance map amendment for property located at 1580 Higbee Mill Road (a portion of) from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone for 3.77 net (4.80 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 1580 Higbee Mill Road (a portion of) from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone for 3.77 net (4.80 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited for the subject property via conditional zoning:


- a. Multi-family residential dwelling units.

This restriction is appropriate because it has been offered by the applicant in order to protect the adjacent residential properties to the north of the subject property.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 15, 2017



MAYOR

ATTEST 

CLERK OF URBAN COUNTY COUNCIL

Published: June 22, 2017-1t
0555-17:TWJ:X:\Cases\PLANNING\17-LE0001\LEG\00574964.DOCX

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1T to R-3
For
1580 Higbee Mill Road, LOT 2B
Wynndale subdivision
Lexington, Ky. 40503**

Beginning at the southwest corner on 1400 Higbee Mill Road, on the northern Right-of-Way line of Man O War Boulevard on the A-U Zone delineation; thence with said A-U delineation for one (1) call:

1. South 30° 55' 08" West 60.00 feet to a point on the centerline of said Man O War Boulevard; thence with said centerline for one (1) call:
2. North 59° 04' 52" West 486.28 feet; thence severing the existing R-1T Zone for two (2) calls:
3. North 30° 55' 08" West 60.00 feet leaving said centerline to a point on the northern Right-of-Way line of Man O War Boulevard;
4. North 16° 42' 29" East 315.87 feet to a point on the centerline of Higbee Mill Road on the R-1C delineation; thence with said centerline and R-1C Zone delineation for four (4) calls:
5. South 72° 29' 19" East 267.19 feet;
6. South 68° 09' 57" East 96.49 Feet;
7. South 57° 58' 09" East 84.19 feet;
8. South 52° 17' 23" East 72.77 feet to a point on said A-U Zone delineation; thence with said A-U Zone delineation for four (4) calls:
9. South 37° 42' 37" West 30.00 feet;
10. South 21° 13' 46" West 268.56 feet;
11. South 22° 40' 50" West 57.99 feet;
12. South 24° 55' 07" West 21.36 feet to the Point of Beginning containing 4.797 Acres Gross and 3.772 Acres Net.

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC** – a petition for a zone map amendment from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 3.77 net (4.80 gross) acres, for property located at 1580 Higbee Mill Road (a portion of). A conditional use permit is also requested. (Council District 9)

Having considered the above matter on **April 13, 2017**, at a Public Hearing, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. A restricted Planned Neighborhood Residential (R-3) zone at this location would be in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3). In addition, the staff would note that the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.).
 - b. Although not explicitly considered a "community facility" by the 2013 Comprehensive Plan, childcare centers and after-school care for children are a necessary service in support of the community's public school system, which is a designated community facility. Locating such uses near residential neighborhoods is appropriate to provide services to the immediate area in a convenient manner.
 - c. The proposed development will utilize vacant property along Man o' War Boulevard, and such higher intensity of use is appropriate along minor arterial corridors, where the direct impact on established neighborhoods can be minimized.
 - d. By improving and utilizing the existing crossing for the South Elkhorn Creek and its floodplain, rather than modifying the FEMA floodplain, the natural features of the property can be protected in a more thorough and comprehensive manner. The proposed child care center is located outside of the FEMA 100-year floodplain, and its associated setback and riparian buffer.
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00011: Wynndale Subdivision, Lot 2B**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is recommended via conditional zoning for the subject property:**
 - a. Multi-family residential dwelling units shall be prohibited.

This restriction is appropriate because it has been offered by the applicant in order to protect the adjacent residential properties to the north of the subject property.

Note: The conditional use permit for a child care center was approved by the Planning Commission on April 13, 2017.

ATTEST: This 4th day of May, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, PLN-MJDP-17-00011: WYNNDALE SUBDIVISION, LOT 2B was approved by the Planning Commission on April 13, 2017 and certified on April 27, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by July 12, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Nick Nickolson, Attorney.**

OBJECTORS

- Janet Cabiness, residing at 704 Cumberland Road
- Damon Snyder, residing at 704 Cumberland Road
- Frank Pruitt, residing at 3533 Cornwall Drive
- Douglas Starnes, residing 720 Longwood Road
- Mark Fox, residing at 668 Longwood Road

- Kevin Kidd, residing at 3569 Cornwall Drive
- Caryl Pfeiffer, residing at 903 Witthuhn Way

- Tracy Starnes, residing at 720 Longwood Road
- David Marler, residing at 724 Longwood Road

OBJECTIONS

- Traffic impacts and pedestrian safety
- Traffic and public and pedestrian safety
- Traffic and public and pedestrian safety
- Traffic and public and pedestrian safety
- Flooding of Clays Mill Road and Higbee Mill Road
- Traffic and public and pedestrian safety
- Traffic and public and pedestrian safety; Flooding of Clays Mill Road and Higbee Mill Road
- Higbee Mill Road needs improvements
- Increase of commercial use at the intersection of Clays Mill Road and Higbee Mill Road

VOTES WERE AS FOLLOWS:

AYES: (9) Cravens, Drake, Mundy, Owens, Penn, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (2) Brewer, and Drake

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **PLN-MAR-17-00006** carried.

Enclosures: Application
Plat
Staff Report
Conditional Use Staff Report
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant: TAYLORMADE REAL ESTATE, LLC, 881 CORPORATE DR, LEXINGTON, KY 40503
Owner(s): TAYLORMADE REAL ESTATE, LLC ,881 CORPORATE DR, LEXINGTON, KY 40503
Attorney: NICK NICHOLSON, STOLL KENNON OGDEN, PLLC, 300 WEST VINE STREET, SUITE 2100, LEXINGTON, KY 40507

2. ADDRESS OF APPLICANT'S PROPERTY

1580 HIGBEE MILL RD, LEXINGTON ,KY (A PORTION OF)

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing	Zoning	Requested	Acreage	
	Use		Use	Net	Gross
R-1T	VACANT	R-3	PRE-SCHOOL/CHILDCARE	3.772	4.797

4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

5. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided)

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable





NICK NICHOLSON
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300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093

February 3, 2017

Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street, Suite 700
Lexington, KY 40507

Re: Zone Change Request for 1580 Higbee Mill Road

Dear Members of the Planning Commission:

We represent Taylormade Real Estate in connection with its application to rezone the property located at 1580 Higbee Mill Road from Townhouse Residential (R-1T) zone to Planned Neighborhood Residential (R-3) zone and for a conditional use permit to operate a child care center known as ChildCare Network ("CCN"). This property has never been developed and is identified on LFUCG's vacant land inventory. In recognition of the previous land owner's zone change attempt on this property in February 2016, the Applicant is willing in advance to restrict the zoning to not allow multi-family residential dwellings.

CCN provides child care and Pre-Kindergarten programs for Infants, Toddlers, Twos-Three year olds, and of course Pre-Kindergarten ages. Its mission is to provide the educational foundation for each child to be successful throughout life, with quality curriculum and activities for every age group. CCN offers a minimum of six specialized learning centers in each classroom for children to explore; boosting their social, emotional, cognitive, and physical development. CCN utilizes what is known as HighReach Learning, with the ultimate goal for children to become competent, eager learners. The high-quality curriculum for children ages birth to five years of age provides many opportunities for active exploration, which create powerful and positive interactions for learning. The HighReach Learning Curriculum Approach is based upon the following principles:

- A child's development is continuous, individual, and begins at birth.
- The stages of development are unique to each child.
- Creating multiple connections supports current brain research for how infants and young children learn.
- Interactions and relationships are at the heart of learning.
- Families are truly a child's first teachers and are an integral part of the learning community.
- Learning experiences are purposeful, interactive, meaningful, relevant, active, and playful.
- Curriculum is project-focused and is based in play investigation. Play is the avenue for child investigations.
- The ultimate goal is for children to become ready, able, competent, and eager learners.

Currently, CCN is located next to Kroger in the Boston Road shopping center. This facility is limited due to the shopping center construct in many ways. For example, the facility has a 5,000 square foot play yard that is not connected to the CCN space. The children have to walk outside the building through the parking lot to have access to the adjacent play area. The new free-standing facility will offer over 10,000 square feet of fenced in play area just outside each classroom. The existing CCN provides transportation from Stonewall, Picadome, Wellington, and Clays Mill Elementary Schools.

The proposed site is well suited for a child care center due to its location near established neighborhoods and along two major traffic corridors which the residents living in the south end of Lexington use to travel to and from work. The property is located just off the corner of Higbee Mill and Clays Mill Road and backs up to Man o'War Boulevard. Attached to this letter is a map detailing the location of the existing CCN clientele. While there are parents scattered throughout the Harrodsburg, Nicholasville, and Tates Creek Road corridors – a significant majority of users are south of Man o'War. As such, it is anticipated that most of the traffic will utilize Man o'War as opposed to the local neighborhood streets.

This request is in agreement with the Comprehensive Plan as the proposed project meets several of the Goals and Objectives of the Comprehensive Plan. Specifically, the project is in compliance as it supports infill and redevelopment (Theme A, Goal #2) provides for accessible community facilities (Theme D, Goal #2); and is developing underutilized properties within the Urban Service Area by absorbing vacant land (Theme E, Goal #1).

The proposal is also consistent with the Comprehensive Plan's Land Use Change Consideration:

2. The proposed land use enhances, and is compatible with, adjacent land uses.
7. The land use will not impair existing environmental conditions of the site (floodplain).
8. The existing utility and transportation networks will accommodate the new land use.
9. Underutilized land should be promoted for greater utility, function, and/or residential densities and/or land uses.
13. The land use should maximize opportunities to accommodate future growth within the Urban Services Area, include land that is underutilized, vacant or planned for a reuse.

Further, the proposal meets several of the key additional considerations for land located outside of the downtown area in the Urban Service Area:

1. A greater intensity of land use should be concentrated along minor and major arterial roadways, and to appropriate quadrants of collect street intersections

2. Where residential density, and existing infrastructure are adequate to support the use, and the adjacent uses are compatible, the development should create more walkable neighborhoods, neighborhood-oriented businesses and neighborhood amenities.
5. The use shall provide a service deemed beneficial for the immediate area.
6. Developments that improve the livability of existing neighborhoods by adding compatible uses and compatible urban design should be encouraged.

The proposed child care facility is consistent with the above-stated Themes, Goals and Objectives of the 2013 Comprehensive Plan. This is a suburban infill property which is well suited for the proposed child care facility use. Its proximity to the nearby Stonewall, Wellington, Higbee Mill, Wynham, Robinwood, Monticello, Clemens, and Copperfield neighborhoods will be of significant convenience to parents in need of child care services. The design of the proposed childcare center will also be compatible with the existing neighborhood.

As part of this application, CCN is also requesting a conditional use to operate the child care facility. Granting the requested conditional use permit will not adversely affect the subject property or any surrounding properties due to the proximity to Clays Mill and Man o'War traffic corridors. This is an existing user that is moving only a mile down the road. As referenced above, child care facilities are typically located in close proximity to existing neighborhoods, along the roads utilized for travelling to work, or the work places themselves. This site meets two of these possibilities making it an ideal location. As this is an existing use in the area, this is not new traffic being introduced – this is only redirected traffic already using the arterial and collector street system in the area. Onsite parking will be provided and the property and parking lot will be landscaped and screened as required by the Zoning Ordinance. Finally, the property is located in a developed area and all necessary public facilities and services, including roads, sanitary sewers, utilities, refuse collection, police and fire protection, are available and adequate to serve a child care center.

I look forward to presenting this application for your consideration during the March meeting of the Planning Commission.

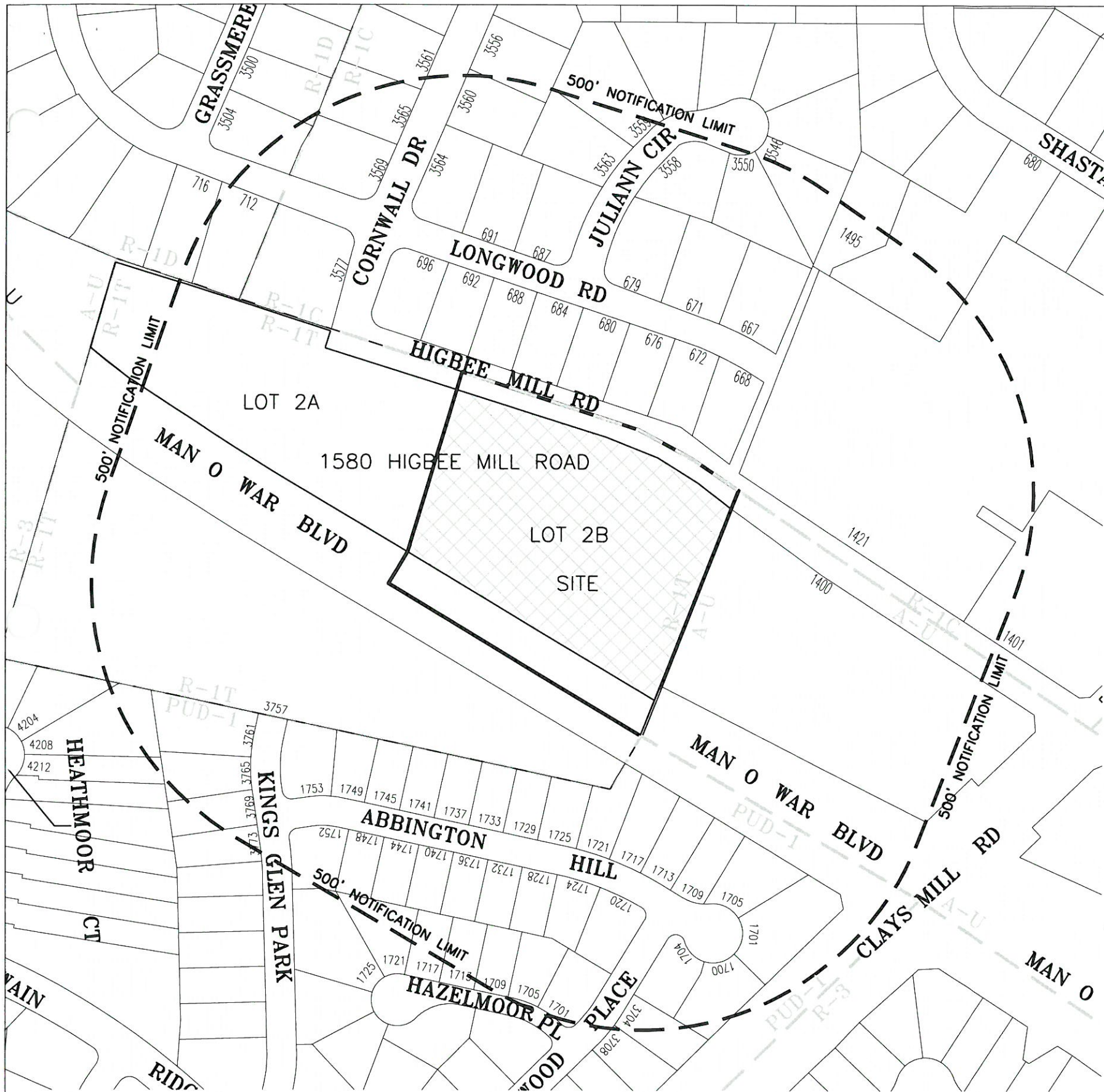
Best Regards;

Stoll Keenon Ogden PLLC

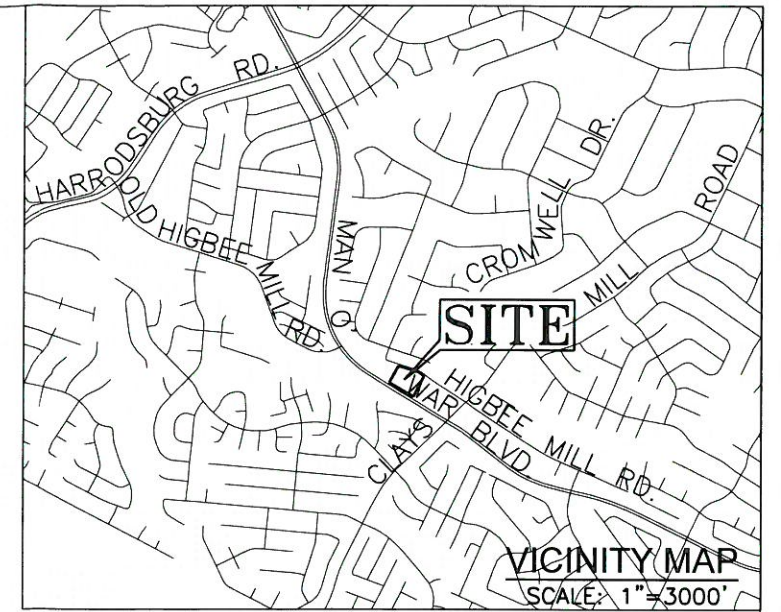


Nick Nicholson

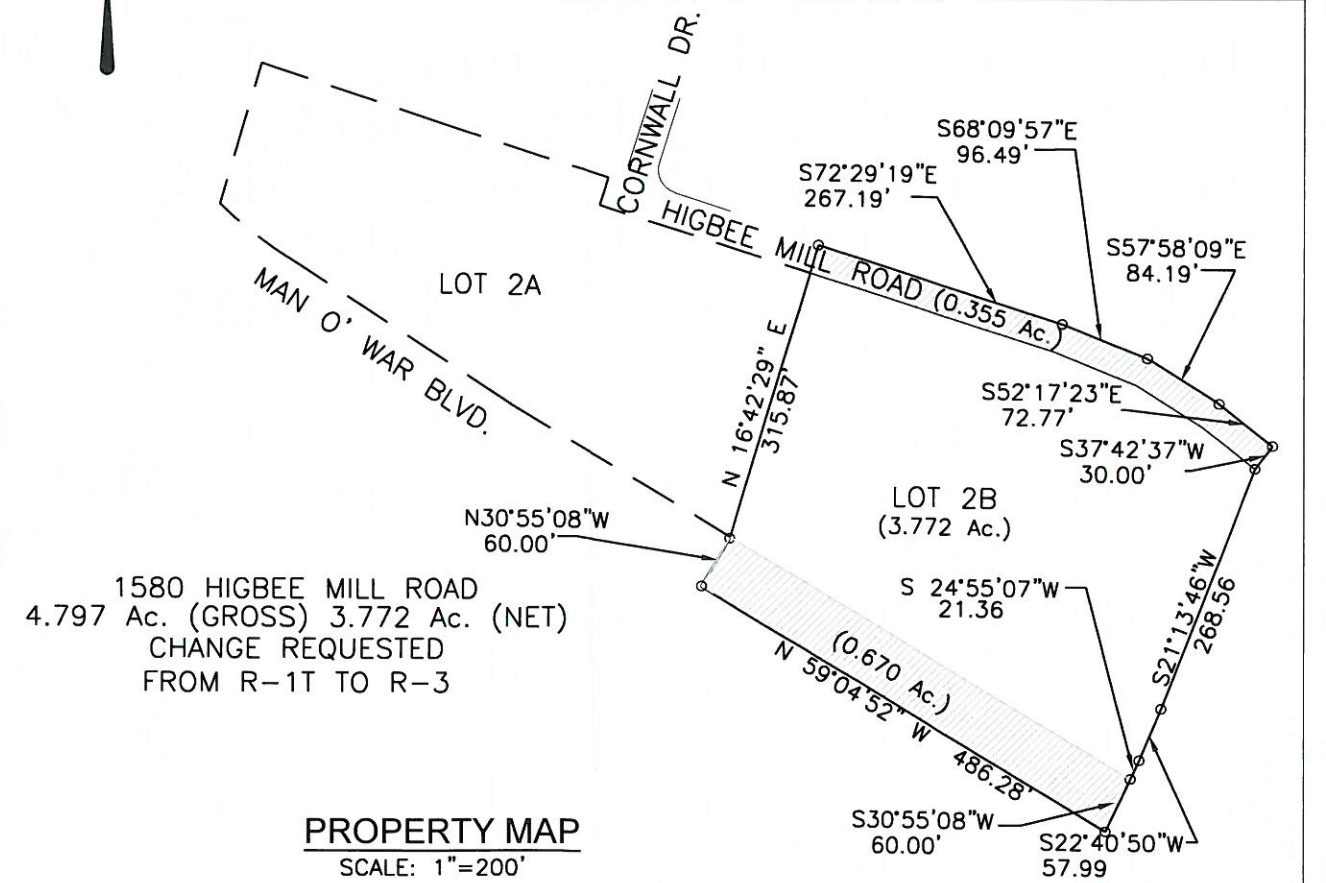
NN:NN



NOTIFICATION MAP
SCALE: 1"=200'



VICINITY MAP
SCALE: 1"=3000'



PROPERTY MAP
SCALE: 1"=200'

ZOMAR:	TITLE: WYNNDALE SUBDIVISION, LOT 2B			
PROPERTY ADDRESS:	FROM	TO	GROSS	NET
1580 HIGBEE MILL ROAD	R-1T	R-3	4.797	3.772
APPLICANT NAME / ADDRESS:				
TAYLORMADE REAL ESTATE LLC				
881 CORPORATE DR				
LEXINGTON, KY 40503				
OWNER: TAYLORMADE REAL ESTATE LLC				
PREPARED BY: VISION ENGINEERING, LLC				
DATE FILED OR AMENDED: FEBRUARY 15, 2017	TOTAL		4.797	3.772

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC

DESCRIPTION

Zone Change: From a Townhouse Residential (R-1T) zone
To a Planned Neighborhood Residential (R-3) zone

Acreage: 3.77 net (4.80 gross) acres

Location: 1580 Higbee Mill Road (a portion of)

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1T	Vacant
To North	R-1C/R-1D	Single Family Residential
To East	A-U	Vacant
To South	R-1T	Townhouses Under Construction
To West	R-1T & A-U	Vacant

URBAN SERVICES REPORT

Roads – Higbee Mill Road is a narrow local street which does not meet current Land Subdivision Regulations street standards (only ± 22 feet wide). It was a rural roadway that was severed when Man o’ War Boulevard was constructed. This section of the road is accessible from Clays Mill Road or Cornwall Drive, and borders the subject property to the north. The southern boundary of the subject property is adjacent to the right-of-way of Man o’ War Boulevard, although there is no access to that roadway. Access to the subject property is proposed from Higbee Mill Road, along the former Clays Mill Road alignment, at the eastern edge of the subject property. Road widening of the 520 linear feet of road frontage is not proposed by the applicant, according to the submitted zoning development plan, although it could potentially be required by the Planning Commission, given the proposed commercial use of the property.

Curb/Gutter/Sidewalks – Higbee Mill Road was originally constructed without curb, gutter or sidewalks. The applicant proposes to construct a sidewalk along the entirety of the road frontage, but not curb and gutter. Man o’ War Boulevard does have a full complement of urban street improvements.

Storm Sewers – The subject property is located within the South Elkhorn Creek watershed. A portion of South Elkhorn Creek is located on the subject property, which generally flows from east to west toward the Harrodsburg Road/Bowman’s Mill Road area. No storm sewers or stormwater improvements exist on the subject property, nor are any planned. Rather, stormwater runoff from the property is planned to flow directly into the creek. Any stormwater design will be required to meet the Engineering Manuals specifications and be designed to accommodate both water quality and quantity on the subject property. A significant floodplain area (about 1.73 acres of the 3.77 net acres; 46% of the land area) is associated with the South Elkhorn Creek. The applicant’s development will primarily remain outside of the designated Special Flood Hazard Area, although access to the daycare during a unusually severe storm event may be an issue if the existing crossing is not improved.

Sanitary Sewers – The subject property is in the South Elkhorn sewershed, which is served by the West Hickman Wastewater Treatment Plant. A major trunk line runs through the property, parallel to South Elkhorn Creek. The property is planned to be connected to the sanitary sewer when development ultimately occurs.

Refuse – The Urban County Government serves this portion of the Urban Service Area with residential collection on Mondays; however, a child care center may necessitate more frequent solid waste collection.

Police – The nearest police station is located approximately five miles north of the subject property, at the West Sector Roll Call Center (Police Sector 1) on Old Frankfort Pike near New Circle Road.

Fire/Ambulance – The nearest fire station to the subject property is Station #20, located approximately two miles to the northwest, at the intersection of Harrodsburg Road and Arrowhead Drive.

Utilities – Natural gas, telephone service, electric, water, and cable television are all available to the areas to the north of the subject property, and all can be extended to serve the property.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The Comprehensive Plan encourages identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2); providing for accessible community facilities (Theme D, Goal #2); and encourages the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to construct a childcare center. A conditional use permit for this use has also been submitted in association with the requested rezoning.

CASE REVIEW

The petitioner has requested a zone change from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone for less than four acres of property, located along the south side of Higbee Mill Road.

Higbee Mill Road is a sub-standard (formerly rural) roadway located on the west side of Clays Mill Road that parallels Man o' War Boulevard in this vicinity of the Urban Service Area. The subject property is located between Higbee Mill Road and Man o' War Boulevard, and access to the developable portion of the subject property is proposed along the eastern edge of the site. No vehicular access to Man o' War Boulevard will be permitted. Cornwall Drive, a collector street from the north in the Waverly Estates subdivision, intersects Higbee Mill Road to the west of the subject property's frontage.

The immediate area is characterized by single-family residential neighborhoods on both sides of Man o' War Boulevard (with R-1C, R-1D and PUD-1 zoning), with recent development plans approved for townhouses to the immediate west and south of the subject property (R-1T zoning). When Man o' War Boulevard was constructed, the roadway bisected the Wynndale Subdivision property, creating a 7-acre site on the north side of Man o' War Boulevard and a 5.5-acre site on the south side of Man o' War Boulevard. These sites have remained vacant until recently when the properties became available for development. The 5.5-acre site to the south is currently being developed at the end of Kings Glen Park with 22 townhouse dwelling units and associated parking, and a 3.2-acre site immediately to the west of the subject property is proposed to be developed with another 20 townhouse dwelling units and associated parking. Higbee Mill Park is located kitty-corner from the subject property, on the north side of Higbee Mill Road. In addition, the property to the immediate east of the site remains mostly vacant and in an Agricultural Urban (A-U) zone.

The petitioner is requesting an R-3 zone and an associated conditional use permit in order to construct a child care center of about 9,200 square feet in size for 100 children, and associated off-street parking and outdoor play area. The proposed structure would be located along the Man o' War Boulevard frontage of the subject property, outside of the FEMA 100-year floodplain. The proposed occupant (ChildCare Network) has an existing center established in the Boston Road Shopping Center within close proximity to the subject property. They wish to find a permanent location that offers an outdoor play area adjacent to the building and that is near their existing clientele in south/southwest Lexington.

Last year, the subject property, as well as the adjacent 3.2 acres that is currently planned for a townhouse development to the immediate west, was proposed for the same rezoning, from the R-1T zone to an R-3 zone (MAR 2016-1: Turwell, LLC). That particular proposal for 48 multi-family residential dwelling units was met with strong neighborhood opposition. The Planning Commission recommended disapproval of that request last February, and the petitioner withdrew the application in early March.

The petitioner contends that the proposed rezoning is in agreement with the 2013 Comprehensive Plan because the Goals and Objectives encourage identifying opportunities for infill, redevelopment and adaptive reuse that respect an area's context and design features (Theme A, Goal #2a.); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3). In addition, the staff would note that the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.).

Although not explicitly considered a "community facility" by the 2013 Comprehensive Plan, childcare centers and after-school care for children are a necessary service in support of the community's employers and public school system. Locating such uses near residential neighborhoods is appropriate to provide services to the immediate area. The proposed development will utilize vacant property along Man o' War Boulevard, and such higher intensity of use is appropriate along minor arterial corridors, where the direct impact on established neighborhoods can be minimized. This is consistent with the staff's recommendation last year for possible higher density residential development on the subject property in this same developable area of the subject site. Although access to the site is from Higbee Mill Road, the traffic impact is not considered "significant" according to the Zoning Ordinance criteria established in Article 6. Lastly, the proposed use will be located beyond the limits of the 100-year floodplain, its 25-foot setback and the required riparian buffer; thereby, protecting the natural features of the site.

The petitioner has offered a conditional zoning restriction in response to neighborhood concerns last year regarding high density residential development at this location. For this reason, the staff recommends that a conditional zoning restriction be placed on the property.

The Staff Recommends: **Approval**, for the following reason:

1. A restricted Planned Neighborhood Residential (R-3) zone at this location would be in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3). In addition, the staff would note that the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new

communities (Theme A, Goal #3d.); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.).

- b. Although not explicitly considered a “community facility” by the 2013 Comprehensive Plan, childcare centers and after-school care for children are a necessary service in support of the community’s public school system, which is a designated community facility. Locating such uses near residential neighborhoods is appropriate to provide services to the immediate area in a convenient manner.
 - c. The proposed development will utilize vacant property along Man o’ War Boulevard, and such higher intensity of use is appropriate along minor arterial corridors, where the direct impact on established neighborhoods can be minimized.
 - d. By improving and utilizing the existing crossing for the South Elkhorn Creek and its floodplain, rather than modifying the FEMA floodplain, the natural features of the property can be protected in a more thorough and comprehensive manner. The proposed child care center is located outside of the FEMA 100-year floodplain, and its associated setback and riparian buffer.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00011: Wynndale Subdivision, Lot 2B, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
 3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is recommended via conditional zoning for the subject property:
 - a. Multi-family residential dwelling units shall be prohibited.
This restriction is appropriate because it has been offered by the applicant in order to protect the adjacent residential properties to the north of the subject property.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, March 2, 2017, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Patrick Brewer, Mike Cravens, David Drake, Carolyn Richardson, and Bill Wilson. The Committee members reviewed applications and made recommendations as noted.

A. ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
 - The petitioner concurs with the staff recommendations
 - Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. TAYLORMADE REAL ESTATE, LLC ZONING MAP AMENDMENT & WYNNDALE SUBDIVISION ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC (5/7/17)*- petition for a zone map amendment from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 3.77 net (4.80 gross) acres, for property located at 1580 Higbee Mill Road (a portion of). A conditional use permit is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The Comprehensive Plan encourages identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2); providing for accessible community facilities (Theme D, Goal #2); and encourages the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to construct a childcare center. A conditional use permit for this use has also been submitted in association with the requested rezoning.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval,** for the following reason:

1. A restricted Planned Neighborhood Residential (R-3) zone at this location would be in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3). In addition, the staff would note that the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.).

* - Denotes date by which Commission must either approve or disapprove request.

- b. Although not explicitly considered a "community facility" by the 2013 Comprehensive Plan, childcare centers and after-school care for children are a necessary service in support of the community's public school system, which is a designated community facility. Locating such uses near residential neighborhoods is appropriate to provide services to the immediate area in a convenient manner.
 - c. The proposed development will utilize vacant property along Man o' War Boulevard, and such higher intensity of use is appropriate along minor arterial corridors, where the direct impact on established neighborhoods can be minimized.
 - d. By improving and utilizing the existing crossing for the South Elkhorn Creek and its floodplain, rather than modifying the FEMA floodplain, the natural features of the property can be protected in a more thorough and comprehensive manner. The proposed child care center is located outside of the FEMA 100-year floodplain, and its associated setback and riparian buffer.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00011: Wynndale Subdivision, Lot 2B, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
 3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is recommended via conditional zoning for the subject property:
 - a. Multi-family residential dwelling units shall be prohibited.

This restriction is appropriate because it has been offered by the applicant in order to protect the adjacent residential properties to the north of the subject property.

- b. REQUESTED CONDITIONAL USE – Child care center.

The Zoning Committee Recommended: **Approval**.

The Staff Recommends: **Approval**, for the following reasons:

- a. Granting the requested conditional use will not harm the public health, safety or welfare, and will not adversely affect the character of the subject or surrounding properties. The proposed use will be situated along Man o' War Boulevard, and screened from the nearest residential uses north of that arterial by a number of trees and some vegetation currently located in and adjacent to the existing floodplain and creek which traverses the property.
- b. This use is intended to allow an existing facility in the general area to relocate and expand on the subject site. Most traffic to and from this center will utilize Man o' War Boulevard, given existing travel patterns to the CCN facility located in the Millpond Shopping Center on Boston Road by its clientele.
- c. On-site parking will be provided on the subject site, as will a very large outdoor play area for children being cared for at this child care center.
- d. All necessary public services and facilities are available and adequate to the subject site, provided sidewalks are installed as currently proposed. Sanitary sewers, fire & police protection and all public utilities are provided in this portion of the Urban Services Area, and available to this location.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
 2. The subject property shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
 3. The proposed use shall be operated in accordance with the submitted application provided by the applicant.
 4. All necessary permits, including a Zoning Compliance Permit, Fence Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy of this child care center.
- c. PLN-MJDP-17-00011: WYNNDALE SUBDIVISION, LOT 2B (5/7/17)* - located at 1580 Higbee Mill Road.
(Vision Engineering)

Note: The Planning Commission postponed this item at their March 23, 2017, meetings.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Clarify TPP to match 55% canopy to be provided (denote tree removal area).
8. Complete tree inventory information (tree diameters required by Article 26 of the Zoning Ordinance).
9. Addition of pedestrian access to the cross-section CC.
10. Resolve emergency access during 100-year flood event.
11. Resolve future maintenance of 20' access easement.

* - Denotes date by which Commission must either approve or disapprove request.

Zoning Presentation – Mr. Sallee presented and summarized the staff report and staff recommendations for this zone map amendment. He indicated that the applicant has requested a change from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 3.77 net (4.80 gross) acres, for a portion of the property located at 1580 Higbee Mill Road. He presented a PowerPoint presentation, and briefly explained the existing zoning and land use of the subject and surrounding area. He also provided a series of photographs of the area and gave a brief description of each.

Mr. Sallee indicated that a little more than a year ago, the properties to the north and west, as well as the subject property, had been proposed for an apartment development. He said that, at that time, even though the subject property was part of an R-3 zone change request, which they opposed, the staff felt the subject property was better suited for a higher intensity of use. He then said that the petitioner believes that the proposed rezoning is in agreement with the 2013 Comprehensive Plan because the Goals and Objectives encourage identifying opportunities for infill, redevelopment and adaptive reuse that respect an area's context and design features (Theme A, Goal #2a); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a, #1b and #3). In addition, the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a). The staff was in agreement with the petitioner's justification.

Mr. Sallee then said that child care centers and after-school care for children are a necessary service in support of the community's employers and public school system. He explained that locating the higher density and intensity uses, such as a daycare center, along minor arterial corridors (Man o' War Boulevard) is more appropriate since the direct impact on an established neighborhood can be minimized. The petitioner has offered a conditional zoning restriction in response to neighborhood concerns from last year's zoning hearing, regarding high density residential development at this location. For this reason, the staff recommends that a conditional zoning restriction be placed on the property.

Mr. Sallee said that the staff did recommend approval of the proposed zone change, as did the Zoning Committee, for the reasons listed on today's agenda.

Zoning Development Plan Presentation – Mr. Martin presented the staff report and a rendering of the corollary zoning development plan. He indicated that the Subdivision Committee recommended approval, subject to the conditions listed on today's agenda.

Mr. Martin explained that there were two issues with the access easement (condition numbers #10 and #11) and those included how to access the property during the 100-year flood event and the future maintenance of the 20' access easement. He said that since this a preliminary plan, the applicant had stated that on the final development plan they intend to replace the crossing and elevate it above the 100-year flood event to allow emergency vehicle to cross over to the subject property. He then said that, since there will be two properties sharing the access easement, the applicant will need to state on the final development plan who will be responsible for the maintenance of the access easement. Mr. Martin recommended the following changes:

10. Resolve emergency access during 100-year flood event at the time of the Final Development Plan.
11. Resolve future maintenance of 20' access easement at the time of the Final Development Plan.

Conditional Use Presentation – Mr. Sallee indicated that the staff has received a number of communications in support, as well as two email correspondences in opposition of this application and he presented those to the Commission at this time. He summarized the staff report, and briefly explained that a child care, independent of a church, is considered a conditional use; and since the child care center is associated with a zone change, the Planning Commission has the power and responsibilities to act as the Board of Adjustment and issue a conditional use permit, should the subject property ultimately be approved for the zone change.

Mr. Sallee said that the child care center is setback about 35' from the Man o' War Boulevard right-of-way and the parking lot separates the center from the Clays Mill Road access easement. Both the building and parking area, as well as the play area are outside the floodplain area. He said that the treed area will remain "as is" in the northern floodplain area, which is very significant to the conditionals use permit. He then said that transportation will be provided by the center to and from Stonewall, Picadome, Wellington, and Clays Mill Elementary Schools, and they are proposing child care for about 100 children at this location. He said that with the child care relocating to this area, the staff is estimating that the facility will generate about 50 peak hour trips with most of the traffic coming from Man o' War Boulevard.

Mr. Sallee said that the staff determined the relocation of the child care facility to this location will not will not harm the health, safety or welfare of the existing neighborhood, and all public faculties are adequately available for the proposed use, which is important when approving a conditional use permit. The Zoning Committee, as well as the staff is recommending approval, subject to the conditions listed on today's agenda.

Petitioner Presentation – Nick Nicholson, attorney, Jake Riordan, Taylormade Real Estate and Matt Carter, Vision Engineering and Mellissa Canberra, Childcare Network was present. He indicated that his client was in agreement with the staff's recommendations, and requested approval.

Childcare Network understood the neighborhoods concerns of having a higher density residential development at this location, and this is why they offered the conditional zoning restriction on this parcel to prohibit multi-family development from being built unless the Planning Commission approved a new zone change application.

Mr. Nicholson distributed the Traffic Impact Study to the Commission and gave a brief explanation of each tab in his packet of exhibits. He said that the reason they postponed this application at last month's hearing was to make sure they had completed a traffic study and to analyze the turning movements, specifically the left turn movement off Higbee Mill Road to Clays Mill Road and the left turn movement from Clays Mill Road to Higbee Mill Road. He then said that Clays Mill Road is a state road and not controlled by the city, so any new improvements would need the approval of the state. He explained that Clays Mill Road now has five lanes with two lanes dedicated for turning left or right onto Man o' War Boulevard. He said that the state determined that stacking of the cars would be more beneficial coming off of Clays Mill Road than any type of dedicated turn onto Higbee Mill Road. By having the traffic move this way, it helps disperse the traffic and maintain the Level of Service for this area. He then said that this application will not have any impact on the level of service for Clays Mill Road, and as for Higbee Mill Road there will be a one second change in the AM peak hours and a five second change in the PM peak hours. He said that there will be no stop and go traffic on Clays Mill Road, but rather the traffic will freely flow through the area.

Melissa Canberra, Childcare Network, gave a brief history of her background and that of the Childcare Network. She said how important it is for the parents to have a safe, reliable and educational environment for their children of all ages. She explained the current conditions of the Childcare Network in the Millpond Shopping Center and why they are requesting this zone change to relocate their facility.

Mr. Nicholson noted that the Traffic Impact Study does include the approved townhomes development just off site.

Commission Questions – Mr. Drake asked if the Traffic Impact Study indicates future Level of Service after the development is completed. Mr. Nicholson replied affirmatively.

Mr. Wilson asked if the Traffic Impact Study was shared with the staff. Mr. Nicholson replied affirmatively. Mr. Emmons said that the staff did receive the Traffic Impact Study on April 3, 2017, but the Zoning Ordinance does not require the applicant to complete a Traffic Impact Study with this application. He then said that in general, the staff is in agreement with the applicant's conclusions and their finding that this type of use will not have a significant impact on the intersections.

Citizen Support – Alex Donoghue, residing at 1340 Mumford Lane, said that his three children attend the Childcare Network. He explained that with his first child he looked into their options to provide their child an early learning experience, and by far Childcare Network is the best. They have the opportunity to use other childcare facilities where they live, but Childcare Network provides their family excellent service, and their hours of operations are flexible for families who need to drop off their kids.

Mr. Donoghue said that the neighborhood believes a daycare facility is bad for traffic and the neighborhood, but in this area there are very few options for parents when it comes to child care. He then said that they were told that if this application was not approved, Childcare Network may have to close their doors. It would be a shame to lose the people at this facility, because even at its current location, he would prefer to have his children attend Childcare Network because of the quality of teachers and staff and what they offer is much better than the other options in the area. He said that this child care has over 20 years' experience, and the neighborhood will be surprised with how well Childcare Network works with the community and what they provide to the families.

Susan Ray, residing at 720 Sunny Slope, gave a brief description of her background, and said that one thing that her job is in charge of is auditing childcare facilities in Kentucky. She then said that Childcare Network in the Millpond Shopping Center is the only facility that she is aware of that has a detached playground. In the past, when she picked up her child from the daycare, she has had to flag cars down through the parking lot in an effort to slow them down. As an educator, she was taught it is about the students and their safety, not the adults. This facility prepares the children in a safe environment. She said that in the general area there are only 10 licensed daycare facilities, and this particular facility transports the children to and from school and continues the child education at the daycare facility. She asked that the Planning Commission approve this application to allow the educational aspect to continue.

Citizen Opposition – Janet Cabiness, residing at 704 Cumberland Road, indicated that the neighbors believe that the current traffic problem is not good and additional business will cause more problems in the area.

Damon Snyder, residing at 704 Cumberland Road, presented a short video and gave a brief summary of the current situation on Higbee Mill Road. He explained that his concern is for a vehicle trying to exit Higbee Mill Road onto Clays Mill Road is limited due to the speed of the traffic coming from and going toward Man o' War Boulevard.

Frank Pruitt, residing at 3533 Cornwall Drive, said that Clays Mill Road is not a state route and the recent improvements were decided and made by the Lexington-Fayette Urban County Government. He then said that the study for this area began in 2000, the final design was completed in 2004 with construction beginning in 2008. He added that the state did review the plans and fund the construction but the state was not part of the design review. Any decisions made on Clays Mill Road will be done by the LFUCG, Division of Engineering & Traffic.

Mr. Pruitt read the following letter into the record:

Dear LFUCG Planning and Zoning Board members,

My name is Frank Pruitt and I have resided at 3533 Cornwall Drive in the Stonewall neighborhood for approximately 13 years. I am writing to you to voice my opinions, personal and professional regarding the proposed rezoning of the property located at 1580 Higbee Mill Road.

My understanding is that the owner of the property is requesting a zoning change to a more dense residential development than from the current zoning. As I'm sure you all know, the property is adjacent to the Stonewall neighborhood that was developed in the mid 1960's to mid 1970's as single family dwelling on lots varying from approximately 0.5 to 0.3 acres. It is also my understanding that the current zoning allows for townhomes, which in and of itself is a departure from the Stonewall neighborhood development and character. It is my opinion that changing the zoning to a development that squeezes a 48 apartment (96 vehicles) complex into an approximate 2 acre area would be totally out of character with the surrounding neighborhood and I can see no logical basis for allowing this to happen. Additionally, it would seem that the affected properties adjacent to a 48 apartment complex would see their property values decrease significantly. On these points alone I would implore the Planning & Zoning Board to deny the zoning request.

In addition to living in Stonewall, I am also a civil engineer that served as the project manager, lead design engineer, and engineer of record for the recent Clays Mill Road improvements construction. My involvement on the Clays Mill Road improvements project has spanned approximately 16 years from the initial scoping study, final design phases and recent construction. Based on this work experience I feel I am very familiar with the Clays Mill Road corridor and roadway characteristics, to include the Clays Mill Rd. (CMR) and Higbee Mill Rd. (HMR) intersection.

The Clays Mill Road improvements, Section 2B construction completed in the fall of 2014 eliminated the existing dedicated left turn lane for northbound CMR traffic onto west bound HMR (toward 1580 Higbee Mill Rd). There was/is not enough space between the CMR intersections with HMR and Man O War Blvd. for left turn lanes from northbound and southbound CMR traffic onto HMR and Man O War Blvd. The Section 2B construction and subsequent reconfiguration of CMR left turn lanes in this area was a decision that was thoroughly and carefully vetted during the Clays Mill Road scoping study and into final design phases by the LFUCG, the consultant design team and the Clays Mill Road Advisory Committee – a large committee consisting of public officials, private citizens, local business owner's and other various interested parties. It is important to note that the decision to eliminate the CMR northbound turning lane onto HMR was largely based on the low traffic volume of southbound CMR left turns onto Man O War Blvd. To facilitate the few northbound CMR left turns onto HMR, Section 2B construction made the leftmost CMR northbound thru lane act as a shared thru/left turn lane.

It is my opinion that a high density development (96 vehicles) at 1850 Higbee Mill Rd. will very likely have a negative impact on traffic patterns/flow and functional operation of the CMR and HMR intersection that could result in unsafe conditions. One of my concerns is based on the likelihood of a large increase of northbound CMR left turning movements onto HMR generated by a high density development, particularly during the evening rush hour. I also feel it would be prudent to review this issue with the LFUCG Division of Traffic before making any decision that would allow a high density development.

For the personal and professional reason stated above, it is my opinion that the proposed high density development of 1850 Higbee Mill Rd should not be allowed. If anyone would like to discuss these issues further with me, I would be happy to do so. I can be reached on my cell phone at 533-3869. Thank you for your attention to this matter.

Sincerely,

Frank Pruitt

Douglas Starnes, residing 720 Longwood Road, said that Stonewall Neighborhood is a large area with limited access. He said that the applicant is proposing to subdivide the property into two tracts, one is proposed for townhomes and the other is proposed for the day care. Higbee Mill Road is a small road compared to the rest of the roads in the area. He said that Clays Mill Road does have signalized intersection, but at the intersection of Higbee Mill Road and Clays Mill Road there is no signalized intersection, making it difficult even dangerous to exit Higbee Mill Road.

Mr. Starnes briefly described the other route that drivers could take through the Stonewall Neighborhood; however, most of these routes end at un-signalized intersections on Clays Mill Road, which could result in injury accident. He then said that drivers could travel further into the neighborhood where there are two signalized lights, but this route takes the drive near the elementary school and eventually exiting on to Wellington Way. Should the driver take this route, it will increase the traffic near the school causing more traffic backups and danger to the pedestrians.

Mark Fox, residing at 668 Longwood Road, said that his family has lived in this area for 28 years. He then said that Clays Mill Road will flood and there needs to some type of access to get out the kids off the daycare property should the 100-year flood

event take place. He then said that a bridge could be constructed, but Higbee Mill Road will also flood and there will be no way to get the kids off the property if that takes place, other than wait until the water goes down. Another option would be to raise Higbee Mill Road.

Kevin Kidd, residing at 3569 Cornwall Drive, said that he disagrees with the staff's recommendation, condition #1, which reads: "granting the requested conditional use will not harm the public health, safety or welfare, and will not adversely affect the character of the subject or surrounding properties". He then said that one thing that was not taken into consideration is that most people will cut through a neighborhood to go toward town (i.e. Cornwall Drive to Wellington Way). He said that his neighborhood does not have sidewalks on both sides of the street, so the children have no area to walk. Increasing the traffic on Cornwall Drive and the other intersections where there are only two signalized lights on Clays Mill Road places pedestrians at risk. He said that this neighborhood is a cornerstone for this city. It has been a model neighborhood for as long as he can remember. He said that this neighborhood deserves the respect of this representation and there are serious and grave concerns. He understands the concerns with the parents, who currently attend the Childcare Network, but childcare is not the issue, but it is about the neighborhood and the children. There is a bigger picture here than the intersection of Higbee Mill Road and Clays Mill Road. Now that the townhomes have been approved this request will double the traffic flow resulting in all of that traffic coming down Cornwall Drive.

Caryl Pfeiffer, residing at 903 Witthuhn Way, said that there was a lot mentioned about the traffic concerns and it is interesting to note that both the developer and the staff have said the daycare customers will be located south of the subdivision and not in the subdivision. She then said that they see a way for additional conditions that would make the proposed zone change better for public and pedestrian safety, to alleviate the traffic congestion in the immediate vicinity of the daycare, to provide for pedestrian safety with sidewalks and provide unencumbered access. She said that Higbee Mill Road is a narrow local street that does not meet current standards. She then said that access to the daycare will be solely from Higbee Mill Road, which has no shoulders and no way to pull off should an emergency vehicle need to come into the site. She added that road widening is not proposed along the subject site, but the Commission can require it given the proposed commercial use. She said that the improvement of Higbee Mill Road along the subject site should be added as a condition of this zone change, if approved by the Commission. This would help alleviate congestion into and out of the daycare and provide pedestrian safety.

Ms. Pfeiffer said that the staff reported states that the applicant proposes to utilize the existing lane and provide improvements and a parking lot for the daycare. She then said that 8' out of 16' of that lane is dedicated for the driveway to the house located 1400 Higbee Mill Road. That means only 8' of the lane will be public right-of-way. She said that there is a significant floodplain in this area and during an extreme storm access to the daycare may be an issue if the lane is not improved. She added that the existing bridge is limited to a load of 10 tons. A firetruck weights between 16 and 35 tons depending on how that truck is outfitted, and it is typically 10' wide. In addition garage trucks will have to enter the property and those trucks weight between 15 and 24 tons empty depending on the size of the truck. Also, delivery trucks will be accessing the site to deliver food and other items to the daycare. She said that should the Commission approve the zone change request, they are asking for a requirement to be added to have the developer upgrade and widen the lane, as well as bridge that is rated for larger vehicles that will be traveling into the site.

Ms. Pfeiffer said that it would be difficult for the larger trucks to enter the site due to two drainage ditches and the existing conditions of Higbee Mill Road. In addition, school buses will also be traveling Higbee Mill Road so they are requesting safe passage to and from the daycare for all users, as well as emergency vehicles be provided with conditions.

Tracy Starnes, residing at 720 Longwood Road, said that the existing road conditions on Higbee Mill Road are not suited for additional traffic and congestion. She then said that the neighborhood would request postponement until all of Higbee Mill Road is improved either by the LFUCG or the developer.

Ms. Cabiness said that the neighborhood is present due to safety first and as they established making a left turn will not be easy from either Higbee Mill Road or Clays Mill Road. She then said that long trips from the daycare through the neighborhood are not ideal. She added that the FEMA map shows that 1580 Higbee Mill Road is located in a floodplain and poses a danger. They believe the traffic will increase through the Stonewall neighborhood. She said that the staff recommendation is helpful and should be included in the Commission's decision and improvements to Higbee Mill Road should be part of that recommendation.

Petitioner Rebuttal – Mr. Nicholson said that he appreciated the neighborhood concerns, as well as their recommendations for improvements to Higbee Mill Road. He then said that they are improving Higbee Mill Road by expanding the road to 22' for the majority of this property, as well providing sidewalks, and upgrading the bridge and widening the access to 24'. The bridge will be entirely outside the FEMA floodplain, which is a requirement of the Stormwater Manual and will be part of the final development plan. He said that, for the record, they are building a new bridge and he believed the bridge will be 24' wide. He hopes that this will alleviate any concerns the Commission may have for the school bus and/or emergency vehicles entering this site.

Mr. Nicholson said that, with regards to the video that was shown to the Commission, he has to point out that there was no stacking on Higbee Mill Road because he was the first car to pull up to Clays Mill Road. He then said that also in the videos there was only one car that entered Higbee Mill Road from Clays Mill Road and it took approximately two seconds to make that turn.

Mr. Nicholson said that the traffic count was conducted for two hours during the AM peaks hours and the PM peak hours and that count showed the wait time was about 20 to 25 seconds.

Mr. Nicholson said that the letter from Mr. Pruitt was from last year because much of that letter spoke to the apartment. He then said that, although Mr. Pruitt said that he was not here to fight development and he is not anti-development, he did say any traffic added to this intersection will cause chaos. This means no development for this site. He said that they are adding 12 cars to take a left turn off of Clays Mill Road and 6 cars will take a left off of Higbee Mill Road because Man o' War Boulevard is 0.1 miles away from this intersection. He then said that 85 percent of all traffic will go to Man o' War Blvd. The reason why Stonewall neighborhood has limited access is because the neighborhood fought access to Man o' War Boulevard.

Mr. Nicholson said that the building and the bridge will be out of the 100-year floodplain and there are no FEMA issues associated with this proposal. He then said that the staff was initially concerned with density on the neighborhood side of this parcel. The neighbors were concerned about the apartments and the typical impacts that come from apartments, including the traffic. He said that they have done everything that they could by specifically ruling out apartment entirely. They moved this project to the other side of the creek and they provided a very low traffic generator. There is only so much that can be done. This is an infill site, this is a tough site and this is a site that is 50 percent floodplain. That does not mean it is inappropriate for development, but that means it's the right development. They are doing everything that they can to ensure that this is the right development, by doing a residential use. He said that recently there was a zone change on Clays Mill Road to P-1, but they decided to go toward residential to ensure that this area stays residential.

Citizen Rebuttal – Ms. Cabiness said that the traffic study was submitted on April 3rd and asked what day the study was conducted on. Mr. Nicholson replied Thursday.

Mr. Kidd asked if the traffic study was conducted over two days. (reply was inaudible) Mr. Kidd then asked if a new study could be conducted to evaluate the traffic coming from Harrodsburg Road off of Man o' War Boulevard to Clays Mill Road through Cornwall Drive over to Wellington Way. He said that people will cut through the neighborhood toward Harrodsburg Road, which then becomes the major thoroughfare for the people who work south of Man o' War Boulevard. He then said that a traffic study also needs to be conducted for the intersection at Wellington Way because adding the townhomes and the daycare will have a significant impact on traffic.

Mr. Pruitt said that the statement that 85 percent of traffic will go toward Man o' War Boulevard is only an assumption. The additional traffic making all of the turning movements is an assumption. Those assumptions may end of being correct, but that cannot be determined until it actually happens. He then said that, with regards to the letter that was read, that letter is a new letter even though it does have similarities to other letters that he has sent on other zoning issues for this area.

Mr. Pruitt said that the Clays Mill Road improvements were at the expense to some degree for the functionality of Clays Mill Road and Higbee Mill Road intersections. Those decisions were made, it's not the ideal situation with the existing traffic, but the intersection is functional. His concern with the townhomes is that that development will strain this intersection to some degree, and additional traffic from another development poses some real concern. He indicated that he has history with the Clays Mill Road corridor and he also has an understanding of its history.

David Marler, residing at 724 Longwood Road, said that the business on the opposite side of this development has not been discussed. He noted that the GTE building has an access on Higbee Mill Road and an access on Clays Mill Road. There is also a new mulch business coming to the area that will house its equipment on site. This corner will be very busy with traffic.

Staff Rebuttal – There was none.

Commission Questions – Ms. Mundy said that she does not believe the Commission has approved or reviewed anything on the corner of Clays Mill Road where the mulch is located. Mr. Martin replied that the Commission will not see anything on that use, but rather they would file an application with the Board of Adjustment, who will then review the application at a public hearing.

Mr. Cravens asked if the streets in the Stonewall neighborhood are collector streets. Mr. Martin replied that there are collector streets in the neighborhood, but he was unsure which streets were and were not collectors. He said that the local standards require the width of the street to be 23' and Higbee Mill Road does match the standards of a rural local street, which has a width of 20'.

Mr. Nicholas said that Ms. Mundy is correct and the mulching use will be reviewed by the Board of Adjustment.

Mr. Fox said that, when looking at the map, Higbee Mill Road is within the floodplain and there is nothing that the daycare can do to fix that. He then said that a bridge can be constructed that is higher than the floodplain but the bridge is attached to Higbee Mill Road, which is within the floodplain area.

Commission Discussion – Ms. Plumlee thanked the neighbors for coming out to today's hearing. She then said that this is a tuff decision because at the old site there are toddlers crossing through an unsafe area and then the new site has the toddlers with their parents taking another risk.

Mr. Cravens said that there was a lot of discussion about traffic, but in reviewing the map there are many ways off of Higbee Mill Road and out of the Stonewall neighborhood. He then said that he is not convinced that the daycare will be generating enough traffic.

Mr. Penn said that he understood why the neighborhood was upset with the townhouse development, but that decision has already been done. He then asked what can be done on this piece of property that has a lighter impact than a daycare. If more townhouses or even apartments were to be developed it would create more traffic at a higher density than a daycare. He added that in the city there are infill projects are being developed and he cannot think of a use that would have a lesser impact than a daycare.

Mr. Owens said that from what he has heard traffic is the main issue. He then said that, safety wise, Clays Mill Road has been improved, as well as the old access to Old Clays Mill Road. He added that at some point in time someone going to travel through the neighborhood to the daycare center and there will be traffic through the area. The applicant has conducted a traffic study and the staff is in agreement with their findings. He commented that he would be voting in favor of this request.

Mr. Wilson said that he appreciated the community coming out speaking to this request and he shares their understanding because he has been in their position. He then said that he also understands infill development and the various uses that could be placed on this site that are worse than this type of use.

Note: Mr. Drake departed the meeting at this time.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy to approve **PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC**, as recommended by the staff.

Discussion of motion – Mr. Penn said that the widening of Higbee Mill Road over the bridge is on the development plan, so it does not need to be a condition of approval.

The motion was carried 9-0 (Brewer and Drake absent).

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy and carried 9-0 (Brewer and Drake absent) to approve the conditional use for a child care center.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy to approve **PLN-MJDP-17-00011: WYNNDALE SUBDIVISION, LOT 2B**, as recommended by the staff.

Mr. Martin indicated that the following changes should be made:

- 10. Resolve emergency access during 100-year flood event at the time of the Final Development Plan.
- 11. Resolve future maintenance of 20' access easement at the time of the Final Development Plan.

The motion carried 9-0 (Brewer and Drake absent).

VI. COMMISSION ITEMS – The Chair will announce that any item a Commission member would like to present will be heard at this time.

A. AMENDMENT OF 2017 MEETING & FILING SCHEDULE & MEETING CANCELLATIONS - The staff will recommend that the Planning Commission take action to amend their Official Meeting & Filing Schedule for 2017 to formally cancel their previously scheduled Work Sessions on Thursday, April 20, 2017, and on Thursday, May 18, 2017.

- In addition, the staff will recommend that a Work Session be scheduled for...
Wednesday, April 26, 2017; to be held at 1:30 PM in the Phoenix Building, 101 East Vine Street, on the 7th Floor.
- In addition, the staff will recommend that Work Sessions be scheduled for...
Wednesday, May 3, 2017;
Wednesday, May 10, 2017; and on...
Wednesday, May 24, 2017.
These are all to be held at 1:30 PM in the Phoenix Building, 101 East Vine Street, on the 3rd Floor.
- Finally, the staff will recommend that the location of the Planning Commission's Public Hearings previously scheduled for the Council Chambers on Thursday, May 25, 2017 (for Zoning Items) be relocated to be held at 1:30 PM in the Phoenix Building, 101 East Vine Street, on the 3rd Floor on that same day.

Action - A motion was made by Mr. Smith, seconded by Ms. Richardson and carried 9-0 (Brewer and Drake absent) to amend the Official Meeting & Filing Schedule.

Mr. Wilson commented that he would like it noted for the record, he is still concerns with the Commission's parking situation.

VII. STAFF ITEMS – There were none.

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Planning Commission Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers April 20, 2017

* - Denotes date by which Commission must either approve or disapprove request.