

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1C) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE, FOR 2.09 NET (2.60 GROSS) ACRES, FOR PROPERTY LOCATED AT 3009, 3013 & 3021 TATES CREEK ROAD, AS AMENDED. (OFF SEASON, LLC; COUNCIL DISTRICT 4).

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WHEREAS, at a Public Hearing held on March 22, 2018, a petition for a zoning ordinance map amendment for property located at 3009, 3013 & 3021 Tates Creek Road from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone for 2.09 net (2.60 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending 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 3009, 3013 & 3021 Tates Creek Road from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone for 2.09 net (2.60 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 use and buffer restrictions are recommended for the subject property:

1. Prohibited Uses
  - a. Dormitories
  - b. Boarding or lodging houses, assisted living facilities, and hospitality houses for up to eight (8) persons
  - c. Community Residences
  - d. Group Residential Projects, as provided in Article 9
  - e. All conditional uses in Planned Neighborhood Residential (R-3) zone, except for the permitted Conditional uses in the R-1A zone
2. Limited to maximum of fourteen (14) dwelling units as agreed to by the applicant

These restrictions are appropriate and necessary to maintain the character

of the Bates Creek Road Corridor.

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 12, 2018

ATTEST:

  
CLERK OF URBAN COUNTY COUNCIL

0424-18.TWJ:X:\CASES\PLANNING\18-LE0001\LEG\00619178.DOCX  
PUBLISHED: June 28, 2018-1t

  
MAYOR

3009, 3013 & 3021 Tates Creek Road  
Off Season, LLC Property  
Zone Change from R-1C to R-3  
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED WEST OF AND ADJACENT TO TATES CREEK ROAD APPROXIMATELY 0.15 MILES SOUTH OF THE INTERSECTION OF TATES CREEK ROAD AND OLD MT. TABOR ROAD IN SOUTHEAST LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

**BEGINNING AT A POINT** in the property's northwest corner, said point also being the southwest corner of 3001 Tates Creek Road, also known as Lot 1 as recorded in Plat Cabinet "N", Slide 901 in the Offices of the Fayette County Clerk; Thence with the northern property line South 89 Degrees 14 Minutes 27 Seconds East, a distance of 310.00 feet to a point in the centerline of Tates Creek Road; thence the said centerline South 00 degrees 45 minutes 33 seconds West, a distance of 365.00 feet to a point lying in the extended southern property line; thence leaving the said centerline and with the extended southern property line North 89 Degrees 14 Minutes 27 Seconds West, a distance of 310.00 feet to a point in the property's southwest property corner; thence with the western property line North 00 Degrees 45 Minutes 33 Seconds East, a distance of 365.00 feet to the **POINT OF BEGINNING** and containing 2.60 acres gross and 2.09 acres net.

Rec'd by KG  
Date: 4/13/18

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

IN RE: **PLN-MAR-18-00001: OFF SEASON, LLC** - petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone, for 2.09 net (2.60 gross) acres, for property located at 3009, 3013 & 3021 Tates Creek Road. (Council District 4)

Having considered the above matter on **March 22, 2018**, 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. The Planned Neighborhood Residential (R-3) zone is in substantial agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the Plan recommend to expand housing choices within the community (Theme A, Goal #1); to support infill and redevelopment (Theme A, Goal #2); and to uphold the Urban Services Area concept by encouraging development of vacant and underutilized properties (Theme E, Goal #1).
  - b. The proposed townhouses (and their associated density) are compatible with the surrounding area, which is encouraged by Theme A, Goal #2. The development is residential in nature, as is the surrounding zoning, and the development will respect the area's context and design features.
  - c. The proposed density is in keeping with the recommendations of the Comprehensive Plan to encourage infill sites of between two and five acres to develop at or above the average density of the area in which they are built (pg 102).
  - d. The subject site is situated along a minor arterial roadway, with adequate public infrastructure to serve the proposed use, and the higher density development will buffer the established neighborhood from the higher intensity use of the churches along the opposite side of Tates Creek Road.
  - e. The proposed single-family attached dwelling units (townhouses) are compatible with the surrounding residential zoning and land use pattern. The units are of a size that is similar to other residential uses in the immediate area (between 3,000 and 4,000 square feet each), which should not detract from the existing urban form along Tates Creek Road in the immediate vicinity.
2. The proposed infill and redevelop of the subject site along the Tates Creek Road corridor is supported by the adopted 2018 Comprehensive Plan's Goals and Objectives, including "accommodate the demand for housing in Lexington responsibly, prioritizing higher density and mixture of housing types (Theme A, Goal #1, Obj. b.); and "maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features" (Theme E, Goal #1, Obj. d.).
3. This recommendation is made subject to the approval and certification of **PLN-MJDP-18-00002: Hinda Heights Subdivision, Blk B (Old Stone Townhouses)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 13<sup>th</sup> day of April, 2018.

  
Secretary, Jim Duncan

WILLIAM WILSON  
CHAIR

Note: The corollary development plan, **PLN-MJDP-18-00002: HINDA HEIGHTS SUBDIVISION, BLK B** was approved by the Planning Commission on March 22, 2018 and certified on April 4, 2018.

K.R.S. 100.211(7) requires that the Council take action on this request by June 20, 2018.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Darby Tunner, attorney.**

**OBJECTORS**

- Peter Sawaya, 3001 Tates Creek Road
- Steven White, Councilmember At Large with Glendover Neighborhood Association
- Barr Saturday, 3416 Laredo Drive
- Tom Cooper, 826 Glendover Cove
- James Schrader, 805 Old Dobbin Road
- Joe Martinolich, 3013 Shirlee Court
- Julie Tatar, 814 Glendover Cove Road
- Barry Walling, 3005 Shirlee Court
- Jason Redsick, 1909 Bellefonte Drive
- John Douglas, 783 Rebecca Drive
- Tom Reed, 3033 Shirlee Drive

**OBJECTIONS**

- Voiced concerns about this development being poorly designed and out of context with the existing area.
- Polled approximately 400 residents of the neighborhood. Voiced concerns about the setback change and the precedence the developer is setting.
- Voiced concerns about the increase of paved surfaces and stormwater runoff. He also said that this development is out character for the area.
- Voiced concerns about the concentration/density of the community.
- Voiced concerns about the negative impacts that this project will have on the neighborhood, noting the development is too dense and it doesn't preserve, protect or enhance their neighborhood.
- Voiced concerns about the setback and traffic safety issues.
- Voiced concerns that this development doesn't fit the character of this area.
- Voiced concerns about the increased traffic at the intersection of Rebecca Drive.
- Voiced concerns about the density of the neighborhood.
- Voiced concerns about the increased traffic on the Tates Creek Rd. corridor.
- Voiced concerns about the flexibility of the R-3 zone and the precedence that this may set for future development in the area.

**VOTES WERE AS FOLLOWS:**

- AYES: (9) Bell, Berkley, Cravens, Forester, Mundy, Owens, Penn, Richardson and Wilson
- NAYS: (0)
- ABSENT: (2) Brewer and Plumlee
- ABSTAINED: (0)
- DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-18-00001** carried.

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

## MAP AMENDMENT REQUEST (MAR) APPLICATION

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

<b>Applicant:</b> OFF SEASON, LLC, 857 SPARTA CT, LEXINGTON, KY 40504
<b>Owner(s):</b> OFF SEASON, LLC, 857 SPARTA CT LEXINGTON KY 40504
<b>Attorney:</b> J Darby Turner, 300 West Vine Street, Suite 1100, Lexington, KY 40507

### 2. ADDRESS OF APPLICANT'S PROPERTY

3009, 3013 & 3021 TATES CREEK RD, LEXINGTON, KY
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### 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1C	Vacant and Church	R-3	Townhomes	2.09	2.60

### 4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input checked="" type="checkbox"/> YES <input 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 checked="" type="checkbox"/> NO

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

Roads:	LFUCG
Storm Sewers:	To Be Constructed
Sanity Sewers:	To Be Constructed
Refuse Collection:	Private
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



January 2, 2018

Urban County Planning Commission  
Division of Planning – Planning Services Section  
c/o Mr. William Wilson, Chairperson  
200 East Main Street  
Lexington, Kentucky 40507

Re: Off Season LLC / Old Stone Townhomes  
Rezone of 3009, 3013 and 3021 Tates Creek Road from R-1C to R-3

Dear Members of the Planning Commission:

We represent Off Season LLC for its application for a zone map amendment request for the property located at 3009, 3013 and 3021 Tates Creek Road (“Property”). The Property is 2.60 acres gross (2.09 acres net), and it is currently zoned Single Family Residential (R-1C) Zone. The applicant is seeking to rezone the Property from the R-1C Zone to the Planned Neighborhood Residential (R-3) Zone.

The Property was originally proposed to have three residences as a development in the 1950s, but only one lot was developed during that 60-70 years period. The Property currently consists of two vacant lots and one lot on which a residence was most recently used as a church from 2012 to 2017. Within the last year or so, the Property was proposed as a surface parking lot to serve a church on the east side of Tates Creek Road. The Property is an opportunity for infill within the Urban Service Area.

The applicant desires for residents in the surrounding neighborhoods and area to have a high quality townhome community to right-size from their current single family residences. This townhome community will have 14 townhomes with individual lot lines and a common area lot. The community will have two types of townhomes, each being 1-½ story and containing a two car garage and outdoor / greenspace area. Ten of the townhomes will have 3,000 sq. ft. and four will have 3,800 sq. ft. Each townhome will have a master bedroom on the first floor and guest rooms on the second floor. A homeowner’s association will govern and maintain the common area lot. There are currently no similar townhome communities in this area of the Tates Creek Road corridor.

The residents in this community will have readily available access to abundant community facilities. Sidewalks were recently added to each side of Tates Creek Road to encourage walking and bicycling in the area. There are churches either adjacent to, or on the east side of Tates Creek Road, the Property. A neighborhood shopping center is located ¾ of a mile from the Property. And, there are multiple parks and outdoor entertainment amenities

LFUCG Planning Commission  
January 2, 2018  
Page 2

within 1-½ miles walk or bike ride from the Property, including the Arboretum and Kroger Field at the University of Kentucky.

Currently, the Property is surrounded by complementary uses. On two sides are residences, with a church located on a third side. The proposed entrance to the community will face Bates Creek Road, with architectural designs to the townhomes along Bates Creek Road to mimic facing thereto. The proposed building line for the community would be modified to 20' from Bates Creek Road with high quality landscaping and entry at a new access easement point. The developer plans to build an eight foot full brick fence (on both sides) along portions of the Property for both privacy for the residents and adjacent properties. The community is a high quality proposal that will complement the surrounding area.

The zone change request for 2.06 acres (net) from R-1C Zone to R-3 Zone is appropriate for the Property, as outlined above, and is in compliance with the stated Themes and Goals of the 2013 Comprehensive Plan. The zone change satisfies Theme A, Goals 1 and 2, and Theme E, Goal 1, of the Comprehensive Plan. The zone change will allow a higher density and compact infill development within the Urban Service Area. The community would have 14 townhomes rather than only three single family residences as is currently proposed for the Property. Two of the lots have been underutilized for almost 70 years. Finally, the plan for the proposed community is to focus on the needs of older residents in the area.

In addition, the Urban County Council has adopted the goals and objectives for the 2018 Comprehensive Plan, which, in part, emphasizes higher density and infill development within the Urban Service Area. This community complies with those goals and objectives as well.

As discussed more fully above, this request complies with the 2013 Comprehensive Plan.

Very truly yours,



Job D. Turner, III

cc: Off Season LLC  
P. Branden Gross, Esq.

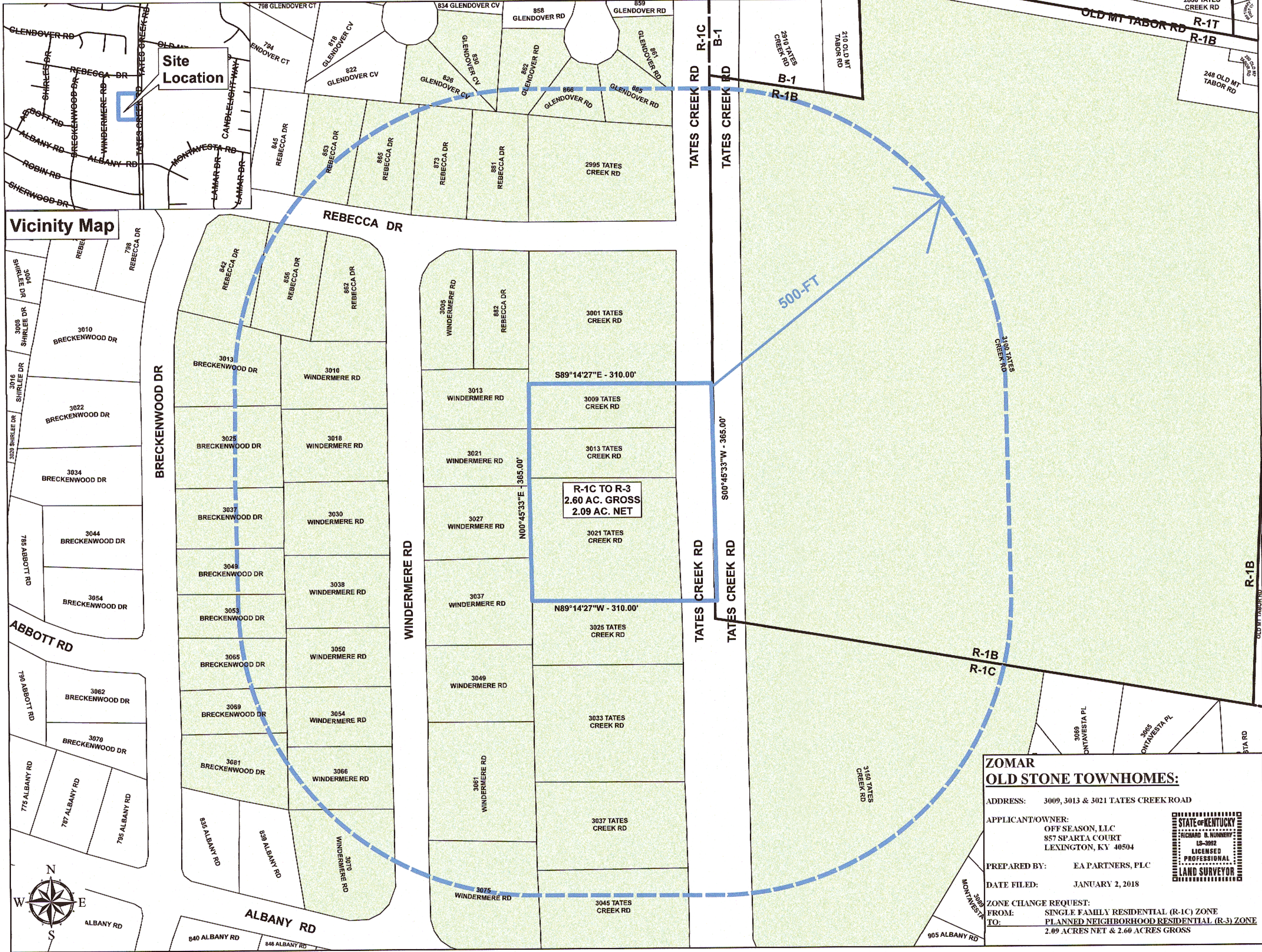
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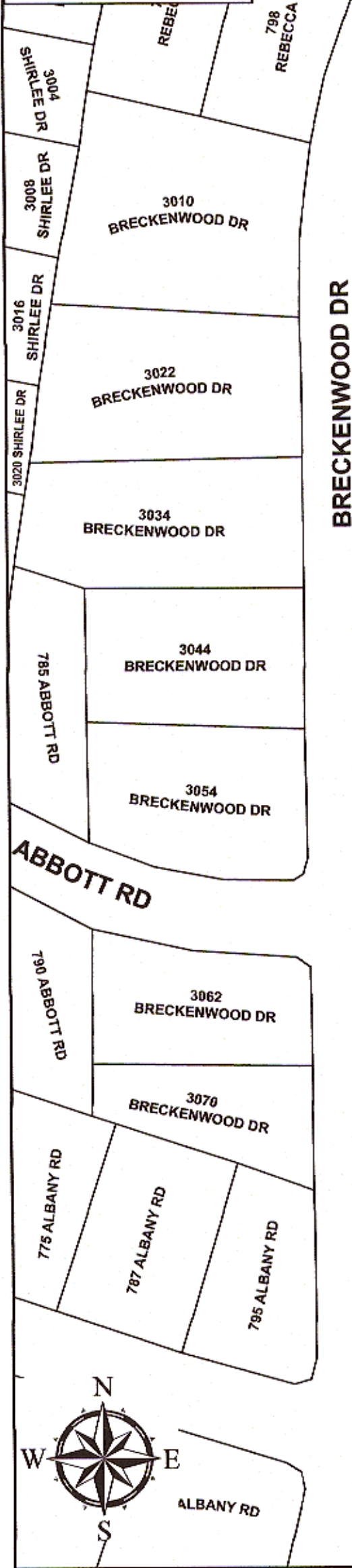
3009, 3013 & 3021 Tates Creek Road  
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A TRACT OR PARCEL OF LAND SITUATED WEST OF AND ADJACENT TO TATES CREEK ROAD APPROXIMATELY 0.15 MILES SOUTH OF THE INTERSECTION OF TATES CREEK ROAD AND OLD MT. TABOR ROAD IN SOUTHEAST LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

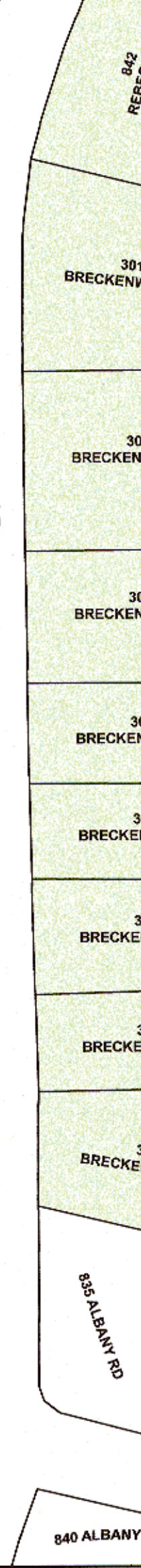
**BEGINNING AT A POINT** in the property's northwest corner, said point also being the southwest corner of 3001 Tates Creek Road, also known as Lot 1 as recorded in Plat Cabinet "N", Slide 901 in the Offices of the Fayette County Clerk; Thence with the northern property line South 89 Degrees 14 Minutes 27 Seconds East, a distance of 310.00 feet to a point in the centerline of Tates Creek Road; thence the said centerline South 00 degrees 45 minutes 33 seconds West, a distance of 365.00 feet to a point lying in the extended southern property line; thence leaving the said centerline and with the extended southern property line North 89 Degrees 14 Minutes 27 Seconds West, a distance of 310.00 feet to a point in the property's southwest property corner; thence with the western property line North 00 Degrees 45 Minutes 33 Seconds East, a distance of 365.00 feet to the **POINT OF BEGINNING** and containing 2.60 acres gross and 2.09 acres net.



**Vicinity Map**



**Site Location**



**R-1C TO R-3  
2.60 AC. GROSS  
2.09 AC. NET**

**ZOMAR  
OLD STONE TOWNHOMES:**

ADDRESS: 3009, 3013 & 3021 TATES CREEK ROAD

APPLICANT/OWNER:  
OFF SEASON, LLC  
857 SPARTA COURT  
LEXINGTON, KY 40504

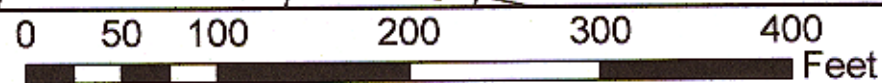
PREPARED BY: EA PARTNERS, PLC

DATE FILED: JANUARY 2, 2018

ZONE CHANGE REQUEST:  
FROM: SINGLE FAMILY RESIDENTIAL (R-1C) ZONE  
TO: PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE  
2.09 ACRES NET & 2.60 ACRES GROSS

STATE OF KENTUCKY  
RICHARD B. NUNNERY  
19-3992  
LICENSED PROFESSIONAL  
LAND SURVEYOR

**Notification Map**



**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**PLN-MAR-18-00001: OFF SEASON, LLC**

**DESCRIPTION**

**Zone Change:** From a Single Family Residential (R-1C) zone  
To a Planned Neighborhood Residential (R-3) zone

**Acreeage:** 2.09 net (2.60 gross) acres

**Location:** 3009, 3013 and 3021 Tates Creek Road

**EXISTING ZONING & LAND USE**

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1C	Vacant and Church
To North	R-1C	Church
To East	R-1B	Church
To South	R-1C	Single-Family Residential
To West	R-1C	Single-Family Residential

**URBAN SERVICES REPORT**

Roads – Tates Creek Road (KY 1974) is a minor arterial roadway that connects Jessamine County to downtown Lexington. At its intersection with Rebecca Drive, the cross-section is five-lanes wide, with four through lanes and one center turn lane. The current traffic volume is approximately 30,000 daily vehicle trips in this portion of the Urban Service Area. The site is located on the west side of Tates Creek Road, approximately 250 feet south of the Tates Creek Road and Rebecca Drive intersection. The subject site contains three parcels that front onto Tates Creek Road. Access for the proposed development is proposed from a single curb-cut along Tates Creek Road.

Curb/Gutter/Sidewalks – Along Tates Creek Road, the curb, gutters and sidewalks have been constructed within the right-of-way. The Tates Creek Road sidewalk project was completed within the past five years.

Storm Sewers – The subject property is located within the West Hickman watershed. The subject properties are located about 1,000 feet west of the floodplain associated with Tates Creek. No floodplain or stormwater issues have been identified that will impact the site.

Sanitary Sewers – The subject property is located in the West Hickman sewershed, which is served by the West Hickman Wastewater Treatment Plant, located in northern Jessamine County. According to the Capacity Assurance Program, capacity is currently available to serve the proposed 14 residences, with additional capacity available for future developments in the area.

Refuse – The Urban County Government serves this portion of the Urban Service Area with collection on Mondays.

Police – The nearest police station is located approximately 1 3/4 miles southeast of the property, at the East Sector Roll Call Center (Police Sector 3) on Centre Parkway.

Fire/Ambulance – The nearest fire station to the subject properties is Station #7, which is about 2/3 mile away. It is located directly south of the subject properties, next to the Lansdowne Shopping Center.

Utilities – Natural gas, telephone service, electric, water, cable television, and street lights are all available to serve the subject 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 petitioner proposes to develop 14 townhouses on the subject properties, and associated off-street parking. The proposed residential density is 6.7 dwelling units per net acre.

### **CASE REVIEW**

The petitioner has requested a zone change from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone for slightly more than two acres of land, located at 3009, 3013 and 3021 Bates Creek Road.

The subject properties are located on the west side of Bates Creek Road, just south of its intersection with Rebecca Drive. The site is comprised of three parcels; one of which is occupied by a residence that was most recently utilized by the New Hope Church from 2012 to 2017, but is now vacant. The two remaining parcels are vacant and have remained so since the area was developed in the 1950s.

The Bates Creek Road corridor, between Alumni Drive and New Circle Road, is characterized primarily by large lot single family residences, and numerous places of religious assembly, including the Greek Orthodox Church, located immediately adjacent to the north of the subject site. A small commercial node exists at the intersection of Old Mt. Tabor Road and Bates Creek Road (to the north), and the Lansdowne Shopping Center is located near the New Circle Road (KY 4) interchange (to the south). In addition to the neighborhood shopping center, there also exists numerous professional offices, multi-family residential units, Fire Station #7, banks and an assisted living facility along Bates Creek Road. The surrounding area is primarily located within a Single Family Residential (R-1C) zoning category.

The petitioner proposes the rezoning in order to consolidate the three parcels and develop 14 townhouses, for a residential density of 6.7 dwelling units per net acre. A shared access point is proposed along Bates Creek Road, as well as a masonry wall along three sides of the development for privacy.

The petitioner contends that the requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, as well as the recently adopted Goals and Objectives of the forthcoming 2018 Comprehensive Plan. Several of the 2013 Comprehensive Plan's Goals and Objectives are met by the petitioner's proposed rezoning and infill/redevelopment of the subject properties, including: to expand housing choices within the immediate neighborhood (Theme A, Goal #1); to support infill and redevelopment (Theme A, Goal #2); and to uphold the Urban Services Area concept by encouraging development of vacant and underutilized properties (Theme E, Goal #1). Additionally, the petitioner opines that community services, such as places of religious assembly and neighborhood businesses, are readily available and accessible to residents of the immediate area, including those that would occupy the proposed development. The petitioner also contends that the proposed townhouses (and their associated density) are compatible with the surrounding area. The development is residential in nature as is the surrounding zoning, and the proposed density is in keeping with the recommendations of the Comprehensive Plan to encourage infill sites of between two and five acres to develop at or above the average density of the area in which they are built (pg 102).

Lastly, the petitioner states that the proposed rezoning and townhouse development is consistent with the recently adopted 2018 Comprehensive Plan's Goals and Objectives, which recommend that the community "accommodate the demand for housing in Lexington responsibly, prioritizing higher density and mixture of housing types (Theme A, Goal #1, Obj. b.); and "maximize development on vacant land

within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features” (Theme E, Goal #1, Obj. d.). These two objectives emphasize locating higher density residential development on our vacant land. In this case, the land is situated along a minor arterial roadway, with adequate public infrastructure to serve the proposed use, and the higher density development will buffer the established neighborhood from the higher intensity use of the churches along the opposite side of Tates Creek Road. Further, the proposed townhouses are of a size that is similar to other residential uses in the immediate area (between 3,000 and 4,000 square feet each), which should not detract from the existing urban form along Tates Creek Road in the immediate vicinity. For these reasons, the staff can support the proposed rezoning request.

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

1. The Planned Neighborhood Residential (R-3) zone is in substantial agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the Plan recommend to expand housing choices within the community (Theme A, Goal #1); to support infill and redevelopment (Theme A, Goal #2); and to uphold the Urban Services Area concept by encouraging development of vacant and underutilized properties (Theme E, Goal #1).
  - b. The proposed townhouses (and their associated density) are compatible with the surrounding area, which is encouraged by Theme A, Goal #2. The development is residential in nature, as is the surrounding zoning, and the development will respect the area’s context and design features.
  - c. The proposed density is in keeping with the recommendations of the Comprehensive Plan to encourage infill sites of between two and five acres to develop at or above the average density of the area in which they are built (pg 102).
  - d. The subject site is situated along a minor arterial roadway, with adequate public infrastructure to serve the proposed use, and the higher density development will buffer the established neighborhood from the higher intensity use of the churches along the opposite side of Tates Creek Road.
  - e. The proposed single-family attached dwelling units (townhouses) are compatible with the surrounding residential zoning and land use pattern. The units are of a size that is similar to other residential uses in the immediate area (between 3,000 and 4,000 square feet each), which should not detract from the existing urban form along Tates Creek Road in the immediate vicinity.
2. The proposed infill and redevelop of the subject site along the Tates Creek Road corridor is supported by the adopted 2018 Comprehensive Plan’s Goals and Objectives, including “accommodate the demand for housing in Lexington responsibly, prioritizing higher density and mixture of housing types (Theme A, Goal #1, Obj. b.); and “maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features” (Theme E, Goal #1, Obj. d.).
3. This recommendation is made subject to the approval and certification of PLN-MJDP-18-00002: Hinda Heights Subdivision, Blk B (Old Stone Townhouses), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

**1. OFF SEASON, LLC ZONING MAP AMENDMENT & HINDA HEIGHTS SUBDIVISION, BLK B ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-18-00001: OFF SEASON, LLC (4/14/18)\*- petition for a zone map amendment from a Single-family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone, for 2.09 net (2.60 gross) acres, for property located at 3009, 3013 & 3021 Tates Creek Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan’s mission statement 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 petitioner proposes to develop 14 townhouses on the subject properties, and associated off-street parking. The proposed residential density is 6.7 dwelling units per net acre.

The Zoning Committee Recommended: **Approval.**

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

1. The Planned Neighborhood Residential (R-3) zone is in substantial agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the Plan recommend to expand housing choices within the community (Theme A, Goal #1); to support infill and redevelopment (Theme A, Goal #2); and to uphold the Urban Services Area concept by encouraging development of vacant and underutilized properties (Theme E, Goal #1).
  - b. The proposed townhouses (and their associated density) are compatible with the surrounding area, which is encouraged by Theme A, Goal #2. The development is residential in nature, as is the surrounding zoning, and the development will respect the area’s context and design features.
  - c. The proposed density is in keeping with the recommendations of the Comprehensive Plan to encourage infill sites of between two and five acres to develop at or above the average density of the area in which they are built (pg 102).
  - d. The subject site is situated along a minor arterial roadway, with adequate public infrastructure to serve the proposed use, and the higher density development will buffer the established neighborhood from the higher intensity use of the churches along the opposite side of Tates Creek Road.
  - e. The proposed single-family attached dwelling units (townhouses) are compatible with the surrounding residential zoning and land use pattern. The units are of a size that is similar to other residential uses in the immediate area (between 3,000 and 4,000 square feet each), which should not detract from the existing urban form along Tates Creek Road in the immediate vicinity.
2. The proposed infill and redevelop of the subject site along the Tates Creek Road corridor is supported by the adopted 2018 Comprehensive Plan’s Goals and Objectives, including “accommodate the demand for housing in Lexington responsibly, prioritizing higher density and mixture of housing types (Theme A, Goal #1, Obj. b.); and “maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features” (Theme E, Goal #1, Obj. d.).
3. This recommendation is made subject to the approval and certification of PLN-MJDP-18-00002: Hinda Heights Subdivision, Blk B (Old Stone Townhouses), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

- b. PLN-MJDP-18-00002: HINDA HEIGHTS SUBDIVISION, BLK B (4/14/18)\* - located at 3009, 3013 and 3021 Tates Creek Road. (**EA Partners**)

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. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Denote height of townhouses in feet on plan.
7. Denote typical lot size.
8. Denote the internal pedestrian system shall be resolved at time of Final Development Plan/Preliminary Subdivision Plan.
9. Denote: stormwater management shall be resolved at time of Final Development Plan.
10. Denote: The 125’ setback shall be resolved at time of Final Development Plan/Preliminary Subdivision Plan.

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Staff Presentation - Ms. Wade presented the staff report and recommendations for the zone change. She displayed photographs of the subject property and aerial photographs of the general area. She said the subject property consists of 3 parcels and the applicant wishes to construct 14 townhomes with off-street parking. Two of the parcels are vacant lots and the other lot has a single-family residential structure, which was previously used as a small church. She said that the staff has received a number of correspondence, all of them in opposition of this zone change.

Ms. Wade said that the applicant believes this request is in agreement with 2013 and 2018 Comprehensive Plan's Goals & Objectives. The staff agrees with the applicant that the zone change will expand housing choices, near employment and commercial areas; support infill and redevelopment throughout the Urban Service Area; and maintain a balance between planning for urban uses and safeguarding our rural lands while upholding our Urban Service Area concept. She said Chapter 7 of the 2013 Comprehensive Plan regarding infill sites between 2 and 5 acres to develop at or above the average density of the area which they are built. She said the applicant is proposing a density of 6.7 dwelling units per acre. She said the Goals and Objectives of the 2018 Comprehensive Plan are also relevant, specifically regarding prioritizing higher-density and mixture of housing types and to maximize development on vacant land within the Urban Service Area.

Ms. Wade said that the proposed zone change is in agreement with 2013 and 2018 Comprehensive Plan's and the staff recommended approval. She said that the Zoning Committee also recommended approval.

Development Plan Presentation – Mr. Martin presented a rendering of the preliminary development plan associated with the zone change. He said that the development plan depicts access from Tates Creek Road, with an access easement to serve the development. He said the applicant is proposing two banks of townhouses, which will be 2 1/2 stories tall. He said the R-3 zone has a maximum building height of 35 feet, regardless of the type of unit, which is the same for some of the neighboring single-family homes. He said that after concern with the monolithic appearance of a wall in this area, the applicant submitted a revised plan with the buildings approximately 60 feet from the roadway, instead of the platted setback of 125 feet. He said that the access has been fully reviewed and the concern is the right in/right out with respect to the location of the break in the median on Tates Creek Road. He said the residents will be required to make a U-turn to travel into downtown Lexington, and make a U-turn to enter the proposed development when traveling from New Circle Road, just as is required for the lots now.

Mr. Martin said there are the standard sign-off conditions for a preliminary development plan. He said condition #6 concerns denoting height of the townhouses in feet and lot size being proposed. He said in condition #8, the internal pedestrian system should be resolved at the time of the final development plan. Referring to condition #9, Mr. Martin stated that stormwater management will also be resolved at the time of the final development plan. He said that there is currently a basin in front of the Greek Orthodox Church, which will need to be addressed and be resolved at the time of the final development plan. He said that condition #10, the 125-foot setback, shall also be resolved at the time of the final development plan. He added that the developers cannot build off a preliminary development plan; conflicts, such as the setbacks will be highlighted on the final development plan, that they can obtain permits based upon. He said that the Subdivision Committee recommended approval of this plan.

Commission Questions – Mr. Owens asked about the height of the proposed wall/fence. Mr. Martin said that the applicant will need to meet the Zoning Ordinance requirements. Mr. Owens asked what the Ordinance states. Mr. Martin said that it currently states a wall or fence is limited to 4 feet tall in the front yard and 8 feet in the side and rear yards.

Applicant Presentation – Darby Turner, attorney, was present representing the petitioner. He said to Mr. Owens' question that a double-faced brick wall will be built around the entire development. He said that it will 4 feet in the front and 4-6 feet on the sides and rear. He said the applicant is in agreement with the staff's recommendations and the conditions. He said this proposal is in compliance with the new 2018 Comprehensive Plan's Goals & Objectives. He said that there is discussion in the correspondence that there will be a precedent set. He believes that this direction has already been set by the Long Range Planning staff in the process of the 2018 Comprehensive Plan's Goals & Objectives that this is what the community wanted.

Mr. Turner stated that the applicant is proposing 14 upscale townhouses, which will be approximately 3,000 square feet each with 2 car attached garages, first floor master bedrooms, and a possible basement. He said the intent is not for students, but for a home for empty-nesters.

Mr. Turner said that he has met with residents that are in favor and opposed to this development and has tried to meet with the Neighborhood Association, which had declined to meet with the applicant.

The following citizens were present in opposition to this application:  
Peter Sawaya, 3001 Tates Creek Road, represented the Greek Orthodox Church. He doesn't believe Tates Creek Road is a minor arterial roadway and that it is already congested during peak times. He is concerned with the increase of traffic and the possibility of accidents at the intersection of Rebecca Drive. He is concerned about the brick wall. He said that the area currently has large trees with an open landscape and believes that the wall will make it look like an institution. He is also concerned that

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if the subject property is approved for R-3 zoning then what assurance do they have that the developer will follow the plan in the future.

Steven White, Councilmember At Large with the Glendover Neighborhood Association. He said that they polled approximately 400 residents of the neighborhood, which resulted in 255 residents that opposed, 5 supported and 2 undecided (petition submitted for the record). He was concerned that the residents' personal comments that were sent to the staff were shared with the applicant. He gave a brief history of the subject property and said Tates Creek Road is not the same level as Nicholasville Road or Richmond Road. He is concerned about the precedence the developer is setting and the land will become more valuable as an R-3 zone and what could happen if other residents in the neighborhood sell their homes for development. He is also concerned about the amount of the setback change and was confused about why the applicant did not request an R-1T zone for their development.

Barry Saturday, 3416 Laredo Dr., Candidate for Council in the 4<sup>th</sup> district and president of Ashwood Townhouses of Laredo Homeowners Association. He believes that this development will erode the character of the area. He said that Lexington does need infill, but he opined that Tates Creek Road meets the character for that. He is concerned with increased stormwater runoff. He said that increasing parking lots will increase stormwater runoff. He said that he believes that this will create a negative buffer along the corridor. He said that higher density on Nicholasville Road fits with that character; it doesn't fit with Tates Creek Road community.

Tom Cooper, 826 Glendover Cove, said that he is concerned with the concentration/density of the proposed development. He said that the R-3 zone is excessive.

James Schrader, 805 Old Dobbin Road, said that he is a proponent of infill, when it is appropriate. He believes that a single-family home with 125-foot setback should be constructed there. He cited the 2018 Comprehensive Plan and said that the Plan is designed to create a vision and strategy that will allow Lexington to grow and prosper while preserving, protecting and enhancing the existing neighborhoods. He said that he doesn't believe this development will preserve, protect or enhance their neighborhood. He quoted Planning Commission member Mr. Cravens who said that he had been driving the corridor for many years and stated that this development doesn't feel right. Mr. Schrader agreed that it doesn't feel like it belongs there either. He said that along the corridor there are only 3 structures that are not single-family homes and they are churches.

Joe Martinolich, 3013 Shirlee Ct., said that he is concerned with the setback of the development and that single-family homes established this neighborhood, so this proposal is out of character. He is also concerned with the safety issue with traffic.

Julie Tatar, 814 Glendover Cove Road, also said that this development doesn't fit the character of this area.

Barry Walling, 3005 Shirlee Ct., said that he is concerned with increased traffic at the intersection of Rebecca Drive. He said that employees from the hospitals use it as a cut through in the neighborhood.

Applicant Rebuttal – Mr. Turner said that he also grew up in the area and things change. He said that the decision was made with the 2018 Comprehensive Plan that things are going to change even more with density and efficiency. He said that these are single-family homes but are built as townhouses, and are in character with the neighborhood. He displayed the Hinda Heights deed restriction document from Mr. Johnson from 1952, which created a covenant that ran with this land, creating the 125-foot setback. He read that these restrictions should "run for a period of 50 years." This document also restricted that only single-family residents could be constructed, but there are three churches in this area now. He said that the 125-foot setback has expired and the importance of the efficient development of land calls for a reduction of this setback. He said that the proposed townhouses are approximately 75 feet away from the roadway. He displayed aerial photographs depicting the different setbacks of buildings along the Tates Creek Road corridor.

Citizen Rebuttal – Mr. Saturday said that Lexington is unique in character and change is inevitable. He said that change needs to make sense and needs to fit into the long term vision of the city. He doesn't believe that this development meets the long term vision for this area.

Mr. Sawaya said that access into the proposed development should either be off Rebecca Drive or in the rear of the site. He believes having the access off of Tates Creek Road is a bad idea.

Jason Redsick, 1909 Bellefonte Dr., said that he is concerned with the 14 townhomes. He also commented that all the citizens present are very passionate about their homes and are here on their own time.

John Douglas, 783 Rebecca Dr., said that he is concerned with the traffic and recalled an accident that occurred a few days ago. He believes that single-family homes should be constructed at this location. He said that approval of this will be setting a precedent.

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Tom Reed, 3033 Shirlee Dr., said he is concerned with the flexibility of the R-3 zone. He said that the precedent that the flexibility sets for extending down the corridor of future development is not desirable.

Mr. White said that this property is not 2 acres of land and asked if the calculation of the lot size is valid for the density.

Staff Rebuttal – Ms. Wade said that Mr. Turner is correct, that the Planning Commission did adopt the Goals & Objectives that are different from the past, which is a direction of densification. She said that the community asked for this, the Planning Commission is standing behind it and Urban County Council has also endorsed it. She said that the staff wanted to clarify regarding the density calculation; the staff calculates density based on the total acreage of land that is being proposed for development divided by the number of units being proposed. This is a standard method and is valid.

Mr. Martin clarified that the R-3 zone defaults to the R-1T zone in terms of the lot requirements, and this same development could be proposed as an R-1T zone as long as the lotting requirements were met. He also said that any change in this plan, will go before this Commission again before being constructed.

Commission Question - Ms. Mundy asked Mr. Turner if the neighborhood association refused to meet with him. Mr. Turner said that he asked to meet with the neighborhood association and they responded that they have a meeting set for today. Ms. Mundy said that the townhouses will be between 3,000-3,800 square feet. Mr. Turner said that they will approximately 3,000 square feet, with intent for a basement, but they are unaware if that is feasible at this time. Ms. Mundy asked what the average size of the houses are in this area. Mr. Turner said the houses are 2,000 square feet and greater. Ms. Mundy asked if the lot was surveyed before the data was provided to the staff to prove the correct acreage of the lot. Mr. Turner said the net acreage is 2.09 and the gross is 2.60 acres.

Mr. Cravens asked Mr. Turner if they had tried other scenarios, different zones. Mr. Turner said that the developer considered what all the possibilities could be and saw the product that was most viable for this neighborhood, which was for generous townhouses for people that have nice homes and are considering downsizing.

Mr. Penn asked Mr. Turner, "Why is the R-3 zone being requested and not the R-1T zone?" Mr. Turner said that it has to do with lot coverage regulations. He said that the R-1T zone would have created other issues and they are producing the same product. He stated for the record the applicant's intentions and the reasons why and if a different developer ends up coming back to the Planning Commission with a different development plan, it will be considered as a new application.

Mr. Bell asked what would be the traffic impact near the Greek Orthodox Church. Ms. Kaucher, Division of Traffic Engineering, said they reviewed the preliminary development plan and on final development plan the location of the entrance will most likely be shifted further away from the median cut. She said the traffic generated by this development will be minimal. She said that residential land use doesn't produce the number of trips to meet the threshold to be concerned about traffic. She said the access is a right in/right out and the residents will need to travel to the nearest curb cut to turn around.

Mr. Wilson asked about the cut back and how it will affect the traffic flow. Ms. Kaucher said the access location of the development is currently very close to the median cut, which does encourage the cheat method. She said that shifting the development access adjacent to the Orthodox Church entrance will provide a greater distance for the vehicles and will force them to use Rebecca Drive.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion. Commission members discussed their thoughts at this time.

Commission Discussion – Ms. Mundy thanked all of the citizens for attending the meeting. She said that she had wished they had met with the applicant to clear up some of their concerns and to clarify issues so that they may have had a better understanding of what is going on. She said that based on the fact that the 2018 Goals & Objectives do implement the desire of more density and moving toward infill and redevelopment, she would be voting to approve this development.

Zoning Action – A motion was made by Ms. Mundy, seconded by Mr. Owens, to approve PLN-MAR-18-00001: OFF SEASON, LLC, for the reasons provided by the staff.

Motion Discussion - Mr. Penn said that if this property was six separate single-family houses, the same issues and concerns would arise. He said that the R-1T zone would not diminish the neighborhood concerns either. He said that at the time of the final development plan, the neighbors will be notified.

Mr. Cravens stated that this is a completely different plan than what was presented to the Zoning Committee on March 1, 2018. He said that the applicant has made many changes.

Mr. Owens said that the word “precedence” was mentioned and said that each application has a different set of circumstances. They look at each of them individually, as an individual application, and the Planning Commission doesn’t have precedence setting.

Zoning Action – Motion carried 9-0 (Brewer and Plumlee absent).

Mr. Wilson also thanked members of the community for attending and expressing their concerns.

Development Plan Action – A motion was made by Ms. Mundy, seconded by Mr. Owens, carried 9-0 (Brewer and Plumlee absent) to approve PLN-MJDP-18-00002: HINDA HEIGHTS SUBDIVISION, BLK B, for the reasons provided by the staff.

*Note: Planning Commission took a recess at 3:12 p.m. until 3:20 p.m.*

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