

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00025: NEWTON'S ATTIC

DESCRIPTION

Zone Change:	<u>REQUEST</u>		<u>ACREAGE</u>	
	<u>FROM</u>	<u>TO</u>	<u>NET</u>	<u>GROSS</u>
	B-1	A-R	1.16	2.71
	A-R	B-1	1.16	1.16
		TOTAL	2.32	3.87

Location: 4974 Old Versailles Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	B-1 & A-R	School for Academic Instruction
To North	A-R & R-1D	Single-Family Residence and Agricultural
To East	A-R	Airport Rural Activity Center (RAC)
To South	A-R & B-1	Agricultural & Retail Sales Establishment
To West	A-R & R-1D	Single-Family Residential

URBAN SERVICES REPORT

Roads – Versailles Road (US 60) is a four-lane roadway with dedicated turn lanes, and the major corridor that connects Lexington-Fayette County to Versailles and other communities to the west. It also intersects Old Versailles Road immediately north of the subject property. It is the primary roadway that serves the Ft. Springs rural settlement near the Fayette/Woodford County boundary. No roadway improvements to Old Versailles Road are planned in association with the requested development at this location. There are no internal local streets or access easements planned within the subject property and access to the site will not be modified.

Curb/Gutter/Sidewalks – Old Versailles Road has been constructed without gutter, curbing or sidewalks because these facilities are often associated with urban rather than rural roadways.

Storm Sewers – The Ft. Springs rural settlement is located within the South Elkhorn watershed. The South Elkhorn Creek runs through the subject property along the north and east property lines. A FEMA Special Flood Hazard Area has been designated associated with the creek, which covers approximately 60% of the subject property, leaving about 2.3 acres of developable land.

Sanitary Sewers – The Ft. Springs rural settlement is not connected to any sanitary sewer system, thus the subject property utilizes a septic system. No known problems exist with this current situation and there are no plans to extend sanitary sewers to the area, which is primarily rural, and miles from the Urban Service Area.

Refuse – The Urban County Government does not provide refuse collection service to the Rural Service Area; therefore, the school relies upon private refuse collection.

Police – The nearest police station is the West Sector Roll Call Center, located about 5½ miles to the east of the subject property, near New Circle Road on Old Frankfort Pike.

Fire/Ambulance – Fire station #14 serves the Ft. Springs area. This station is located about 4½ miles to the east of the subject property, near the intersection of Alexandria Drive and Roanoke Road.

Utilities – Electric, gas, cable television, water, and phone service all exist in the area, or can be extended if necessary.

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 2013 Comprehensive Plan also recommends developing incentives to retain, restore, preserve and continue the use of historic sites and structures, rural settlements and commercial structures (Theme D, Goal #3c.); and supporting the agricultural economy, horse farms, general agricultural, and the character of the Rural Service Area (Theme E, Goal #2).

The Rural Land Management Plan, adopted by the Planning Commission in 1999, identified the rural settlements for planning purposes and recommended a comprehensive study of the 15 settlements, including Ft. Springs, located outside of the Urban Service Area. The *2007 Study of Rural Settlements* made specific recommendations for the settlements throughout Fayette County.

The petitioner proposes to expand an existing school for academic instruction, known as Newton's Attic, on a split-zoned parcel in the Rural Service Area of Fayette County. This expansion requires a zone change due to the limitations on non-agricultural conditional uses in the A-R zone. A conditional use and dimensional variances are also requested in association with this zone change application.

CASE REVIEW

The petitioner has requested a zone change swap from a Neighborhood Business (B-1) zone to an Agricultural-Rural (A-R) zone for 1.16 net (2.71 gross) acres of land, and from an Agricultural Rural (A-R) zone to a Neighborhood Business (B-1) zone for 1.16 net and gross acres of land, located at the intersection of Old Versailles Road and Versailles Road (US 60).

The subject property, which is located on the south side of Old Versailles Road, is a 5.42-acre tract that is split-zoned between the B-1 and A-R zones. The B-1 zoning is located along the property's frontage, with the A-R zoning to the rear of the lot, between the roadway and the South Elkhorn Creek. The creek forms the northern and eastern boundaries of the subject property; its associated FEMA floodplain and 25' setback severely limit the development potential of the site.

Agricultural land borders the subject property to the north and east, and the Ft. Springs rural settlement borders the site to the south and west. Ft. Springs is a small settlement that began in the 1820s by three emancipated slaves. It is characterized by a mixture of single-family residences (R-1D zone), a church and cemetery, and several neighborhood businesses (B-1 zone), including Bailey's Carpet Barn and Newton's Attic, both of which are visible from Versailles Road. Historically, Ft. Springs had a population of 150 people, had a post-office, a tavern (built on top of a spring and used as a fort during the Civil War), and a school in addition to the residences and church that still exist. This rural settlement is one of many studied about a decade ago to inform the 2007 Comprehensive Plan.

The property currently contains a principal structure used for a school for academic instruction (located in the B-1 zone), and several accessory structures (located in the A-R zone). The school, Newton's Attic, is not a traditional school, but rather one that focuses on providing additional educational opportunities outside of the typical classroom setting, often in an after-school and/or camp setting. Their curriculum focuses on science, technology, engineering and mathematics (STEM) activities that are fun for children.

The petitioner proposes a zone swap in order to expand the existing school for academic instruction with a 26,000 square foot building (replacing an existing structure on the lot). The petitioner first requested a conditional use in the A-R zone earlier this year from the Board of Adjustment, but once informed by the staff that the Zoning Ordinance limited a school building to only 10,000 square feet in the A-R zone, the petitioner began reviewing other options, ultimately settling on the zone swap concept. The site currently

has 1.7 acres of B-1 zoning and 3.8 acres of A-R zoning, which might be more than enough land for the operation of the school, except the land within the B-1 zone is significantly encumbered by the 100-year floodplain and its 25' setback associated with South Elkhorn Creek. This portion of the property is designated as an environmentally sensitive area, but other parts of the site are beyond the floodplain and setback, but are restricted due to the A-R zoning category.

The location of the site is important to the evaluation of this zone change request. At first blush, the subject property appears to part of the Ft. Springs rural settlement on the south side of Versailles Road in just west of the Airport Rural Activity Center, and between 2001 and 2007 it was included in the boundaries of the settlement. The 1999 Rural Land Management Plan first identified the historic rural settlements as a specific land use category (RS), and recommended more detailed study of the 15 settlements since one had not been accomplished since 1971. The 2001 Comprehensive Plan included an implementation task for completing the study before the next Comprehensive Plan.

By 2007, the three phase study was complete, and its recommendations were incorporated into the 2007 Comprehensive Plan. At that time, the boundaries of nine rural settlements were adjusted, including that of Ft. Springs. The Plan removed the subject property in its entirety as well as several parcels on the north side of Versailles Road. Therefore, although located next to the rural settlement of Ft. Springs, it is no longer a part of the settlement for planning purposes, and should be considered as any other split-zoned parcel located in the Rural Service Area.

The 2013 Comprehensive Plan no longer contains a detailed land use element and map, but the Goals and Objectives of the Plan are utilized to help assess whether a proposed zone change can be found to be in agreement with the Plan, and other studies and plans should also be considered by the Planning Commission. Theme E, Goal #3 encourages the support of our agricultural economy and the character of the Rural Service Area, and Theme D, Goal #3c. recommends developing incentives to retain, restore, preserve and continue the use of rural settlements and commercial structures. Generally, the Comprehensive Plan is written to guide and encourage development inside the Urban Service Area, and less attention is placed on the Rural Service Area. The planning policy of directing urban uses to the Urban Service Area, and maintaining or reducing urban-type uses in the rural area remains and is interwoven throughout the 2013 Comprehensive Plan and the 1999 Rural Land Management Plan.

The 1999 Rural Land Management Plan (RLMP) also identified 23 non-agricultural or non-residential pockets of urban zoning that "have the potential for being developed in a manner incompatible with a program of rural preservation." The RLMP recommended that most of the sites, including the 6 acres of business zoning in Ft. Springs that included the 1.3 acres on the subject site, be downzoned (in this case to an R-1D zone) (page IV-45). Since a business use has remained at this locations for many decades, and wishes to continue/expand, it is unlikely that the site will be redeveloped for single-family residences as suggested by the RLMP.

Although, the goals and objectives listed previously focus on planning policy in the rural area, they are not enough for the staff to find that the requested rezoning is furthering the vision, goals, objectives or policy statements of the 2013 Comprehensive Plan. Also, the petition is not following the recommendation of the RLMP for residential use at this location.

Given that the request cannot be found to be in agreement with the Plans, the staff has considered whether there has been a major unanticipated change of an economic, physical, or social nature since the adoption of the 2013 Plan, or whether the existing zoning is inappropriate and the proposed zoning is appropriate. In this instance, there have been no major unanticipated changes in this immediate area since the adoption of the current Comprehensive Plan. Therefore, the appropriateness of the existing and proposed zones must be reviewed.

The petitioner opines that the existing zoning configuration is inappropriate and the proposed zoning configuration is appropriate for this site located just outside the rural settlement. The subject property is generally constrained in its development due to several factors, which make the property and this request a unique situation. First, the South Elkhorn Creek flows through the property and creates the northern and eastern edges of the site. The floodplain associated with the creek, as well as the 25-foot setback required by Article 19 of the Zoning Ordinance occupy more than 70% of the property, which significantly restricts the development potential of the site. Second, the existing B-1 zoning boundary followed the former right-of-way of Old Versailles Road, and therefore crosses the site at a 45-degree angle. When the roadway was realigned to create a more standard intersection with Versailles Road, the zoning boundaries were not modified, which left the majority of the B-1 zoning within the FEMA floodplain and with little development potential. Third, the 3.8-acre A-R zoned land is too small for a typical farm, and is more appropriately located along the environmentally sensitive area of the site. The petitioner contends that this zone swap will create a buffer of less intense zoning to protect a sensitive watershed. Fourth, the subject property is between the Ft. Springs rural settlement boundary and the Bluegrass Airport/Rural Activity Center boundary, leaving little opportunity for development or further expansion beyond that requested now. Lastly, the proposed rezoning will result in a reduction of B-1 zoning, albeit in the right-of-way of Versailles and Old Versailles Road, that generally complies with the intent of the Rural Land Management Plan. Based upon these facts, the staff agrees and supports the proposed rezoning.

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

1. The existing Agricultural Rural (A-R) zone and Neighborhood Business (B-1) zone configuration is inappropriate, and the proposed reconfiguration on the subject property is appropriate, for the following reasons:
 - a. The South Elkhorn Creek flows through the property and creates the northern and eastern edges of the site. The floodplain associated with the creek, as well as the 25-foot setback required by Article 19 of the Zoning Ordinance occupy more than 70% of the property, which significantly restricts the development potential of the site.
 - b. The existing B-1 zoning boundary followed the former right-of-way of Old Versailles Road, and therefore crosses the site at a 45-degree angle. When the roadway was realigned to create a more standard intersection with Versailles Road, the zoning boundaries were not modified, which left the majority of the B-1 zoning within the FEMA floodplain and with little development potential.
 - c. The existing 3.8-acre A-R zoned land is too small for a typical agricultural use, and the A-R zoning is more appropriately located along the environmentally sensitive area of the site. The requested zone swap will create a buffer of less intense zoning to protect a sensitive watershed.
 - d. The subject property is located between the Ft. Springs rural settlement boundary and the Bluegrass Airport/Rural Activity Center boundary, leaving little opportunity for development or further expansion beyond that requested now.
 - e. The proposed B-1 and A-R zoning more closely matches the developable area of the site and will allow the expansion of an existing school for academic instruction.
 - f. The proposed zone swap will result in a reduction of B-1 zoning, albeit in the right-of-way of Versailles and Old Versailles Road, that generally complies with the intent of the Rural Land Management Plan to protect the Rural Service Area from incompatible development patterns.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00082: Newton's Attic Property – Ft. Springs, 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 restrictions for the property B-1 zone shall be imposed on the subject property:

Prohibited Uses

 - a. Automobile service stations, and automobile and vehicle refueling stations.
 - b. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
 - c. Banquet facilities.
 - d. Self-service car washes.

- e. Extended-stay hotels.
- f. Drive-through facilities.

These restrictions are appropriate and necessary to protect the environmentally sensitive area along South Elkhorn Creek, and to protect the adjacent Ft. Springs rural settlement from incompatible development.

TLW/dw
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