

1. BOSTON ROAD, LLC, ZONING MAP AMENDMENT & TED R. OSBORN & THOMAS WOOD PROPERTY/MILLPOND, UNIT 1-B, SECTION 1A (FKA: WILLOW OAK) ZONING DEVELOPMENT PLAN

- a. MAR 2015-5: BOSTON ROAD, LLC (5/31/15)\* – petition for a zone map amendment from a Professional Office (P-1) zone to a Planned Neighborhood Residential (R-3) zone, for 1.3385 net (1.3829 gross) acres, for property located at 3900 Boston Road.

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 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A) by expanding housing choices (Goal #1), supporting infill and redevelopment (Goal #2) and providing well-designed neighborhoods (Goal #3).

The petitioner proposes to develop 25 attached single-family residences (townhouses) and two detached single-family residences on the site, which would yield a residential density of 9.38 dwelling units per acre.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reasons:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, as follows:
    - a. The Goals and Objectives recommend growing successful neighborhoods through expanded housing choices that address the market needs for all residents (Theme A, Goal #1, Obj. b.). The petitioner proposes a townhouse style development of 25 dwelling units, which creates a variety of housing types in the immediate area that complement the existing neighborhood.
    - b. The Goals and Objectives encourage infill development throughout the Urban Service Area as a strategic component of growth for our community (Theme A, Goal #2). The petitioner proposes to increase the density of this parcel, as compared to the surrounding area, to 9.38 dwelling units per net acre.
    - c. The Goals and Objectives recommend identifying areas of opportunity for infill development that respects the area's context and design features (Theme A, Goal #2, Obj. a). By completing the Mill Ridge Road subdivision with two single-family residences, the applicant is respecting the existing character and ensuring that there will be minimal disruption to the established adjoining neighborhood.
  2. The proposed Planned Neighborhood Residential (R-3) zone is also more appropriate than the existing Professional Office (P-1) zone at this location, because the existing P-1 zoning is disconnected from other professional office development in the vicinity, while the R-3 zoning is compatible with the remainder of the property, and the adjacent land to the west and southeast of the subject property. Allowing the parcel to be in one zoning category will also permit a more consistent development for this location. The slightly higher density development along Boston Road, which is a collector street, will be an appropriate transition between the existing lower density single family residences and the business zoning to the north.
  3. This recommendation is made subject to approval and certification of ZDP 2015-25: Ted R. Osborn & Thomas Wood Property/Millpond, Unit 1-B, Section 2A (FKA Willow Oak) 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. ZDP 2015-25: TED R. OSBORN & THOMAS WOOD PROPERTY/MILLPOND, UNIT 1-B, SECTION 2A (AKA: WILLOW OAK) (5/31/15)\*- located at 3900 Boston Road. **(Pearson & Peters)**

Note: This item was postponed by the applicant prior to the April 2<sup>nd</sup> Subdivision Committee meeting.

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. Correct plan title.
7. Denote developer's information on plan.
8. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
9. Discuss purpose of proposed areas at rear of townhouses, and possible building line setback conflicts.
10. Discuss pedestrian access to adjoining streets (Old Mill Lane and Mill Ridge Road).
11. Discuss the landscape screening proposed adjacent to the single family homes, since it is not ordinarily required by Article 18 of the Zoning Ordinance.

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

12. Revise note #12 to state that conflicts shall be resolved at the time of the Final Development Plan.
13. Denote: Spacing of the proposed southern access point to Boston Road shall be resolved at the time of the Final Development Plan.

Zoning Presentation: Ms. Wade presented the staff report on this request to rezone approximately 1.3 acres of property on Boston Road from a Professional Office (P-1) zone to a Planned Neighborhood Residential (R-3) zone. She stated that the subject property, which is triangle-shaped, has approximately 50' of frontage on Boston Road, and it is surrounded on two sides by R-3 zoning, with B-6P zoning to the northeast. The Boston Road area is characterized primarily by residential development, with the Millpond Shopping Center commercial area at the intersection of Boston Road and Man O' War Boulevard. The parcels on each side of the subject property are currently vacant. There is a residential structure on the subject property, located within the portion that is currently zoned P-1. The Willow Oak subdivision is located to the south, and the High Plains subdivision is located across Boston Road to the west.

Referring to an aerial photograph, Ms. Wade noted that the subject property is heavily treed. She added that the B-6P-zoned area directly to the northeast is the location of the detention basin that serves the Willow Oak subdivision. The residents of that subdivision consider the detention basin to be part of their common open space, where it serves a function similar to a community park. Millpond Road, to the north, serves as the dividing line between the commercial and residential uses in the area.

Ms. Wade stated that the petitioner is proposing to rezone the subject property in order to develop 25 townhomes on the site. The petitioner is also proposing to complete development along the cul-de-sac on Mill Ridge Road with two single-family residences. Although the portion of the property proposed for rezoning is 1.3 acres, the entire site is 2.8 acres in size; therefore, the density proposed would be slightly less than 10 units per acre.

Ms. Wade displayed the following photographs of the subject property and surrounding area: 1) a view of the property from Boston Road, near the Willow Oak detention basin; 2) a view of the property from Grassy Creek Drive, toward Man O' War Boulevard; 3) a view from Grassy Creek Drive along Boston Road toward the south; 4) a view of the property from the existing driveway; 5) a view from the end of Mill Ridge Road, where the petitioner proposes to complete the residential development, noting the current access to the subject property from the cul-de-sac; and 6) the Willow Oak detention basin, from Old Mill Lane.

With regard to the recommendations of the 2013 Comprehensive Plan, Ms. Wade stated that the petitioner identified four Goals & Objectives that they contend are directly related to the proposed development, including Theme A, which deals with Growing Successful Neighborhoods. Some of the Objectives of Theme A speak to expanding housing choices within the Urban Service Area boundary to meet market needs; encouraging infill development throughout the Urban Service Area as a strategic component of growth; identifying areas for infill development opportunities that respect the area's context and character; and providing well-designed neighborhoods. The petitioner contends that the proposed zone change is in agreement with the recommendations of the Comprehensive Plan, and the staff concurs. Ms. Wade said that, in addition, the staff believes that the P-1 zone is no longer appropriate at this location, and that the proposed R-3 zone is more appropriate, for the reasons as listed in the staff report and on the agenda.

Commission Question: Ms. Mundy asked Ms. Wade to explain how the ZOMAR plat matched up with the rendered development plan, since she could not determine which portion of the property was being proposed for rezoning. Ms. Wade responded that the portion of the property along Boston Road is already zoned R-3; much of the remainder of the property is proposed to be rezoned to R-3. Ms. Mundy said that the staff indicated that, should the property remain zoned P-1, access to it could be difficult, but it did not appear that the access would be different in that circumstance. Ms. Wade answered that the staff typically does not recommend commercial access through a residentially-zoned property. She explained that, if the frontage along Boston Road remains zoned R-3, any Professional Office building located on the P-1 portion of the property would be very difficult to access along the P-1 zone adjacent to the FEMA floodplain.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, noting that the staff had distributed a revised recommendation to the Commission members prior to the start of the hearing. Referring to a rendered zoning development plan, he briefly oriented the Commission to the location of the subject property and surrounding area, noting the location of the shopping center, the retention basin, Old Mill Lane, and the Mill Ridge Road cul-de-sac.

Mr. Martin stated that the petitioner is proposing to construct 25 townhouses on the subject property. The townhouses are proposed to be two stories in height and 1,760 square feet in size. Two single-family dwellings are proposed on Mill Ridge Road, each just over 2,000 square feet in size. The petitioner is proposing 75 parking spaces for the townhouse portion of the development, which will exactly meet the Zoning Ordinance requirement, based on the number of bedrooms per unit.

Mr. Martin said that this is a revised plan, which satisfied many of the original conditions listed for approval. The petitioner's engineers did a considerable amount of work with the staff, including revising the access proposed along Boston Road. The Division of Traffic Engineering staff was concerned about poor sight distance at one of the proposed access locations, which lined up with an existing access across Boston Road for Grassy Creek Drive. The staff believes that the current proposal for an offset access, with one-way traffic only, would provide a much safer situation. That access configuration will also assist with emergency vehicle access through the property.

Mr. Martin stated that the staff also originally had concerns about the proposed landscaping on the subject property, to provide screening for the existing adjacent single-family homes. The petitioner has addressed those concerns with a development plan note proposing an 8' fence along the perimeter of the property, as well as shrubs and trees in a landscape buffer. In addition, there were concerns about pedestrian access connecting the subject property to the existing Willow Oak neighborhood. Although the staff is typically in favor of pedestrian connectivity, they did not believe it would be practical to require access through the adjoining private lots. There is an existing trail in the Willow Oak subdivision area, but the Willow Oak Neighborhood Association indicated some concerns about allowing residents of the proposed development to share in the use of those facilities, since they would not be contributing dues toward their upkeep. Mr. Martin noted that the trail area is located in a 100-year floodplain. The staff was concerned that any facilities constructed for trail access would be located in the floodway, which has heavy regulatory requirements, so they agreed that it would not be appropriate to provide pedestrian access in this instance. Mr. Martin noted that this is a preliminary development plan, so the Commission will have another opportunity to review it, prior to any construction.

Mr. Martin said that the staff is recommending approval of this plan, subject to the following revised 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. Correct plan title.~~
- ~~7. Denote developer's information on plan.~~
- ~~6. 8. Department of Environmental Quality's approval of notes regarding environmentally sensitive areas (steep slopes).~~
- ~~9. Discuss purpose of proposed areas at rear of townhouses, and possible building line setback conflicts.~~
- ~~10. Discuss pedestrian access to adjoining streets (Old Mill Lane and Mill Ridge Road).~~
- ~~11. Discuss the landscape screening proposed adjacent to the single family homes, since it is not ordinarily required by Article 18 of the Zoning Ordinance.~~
- ~~12. Revise note #12 to state that conflicts shall be resolved at the time of the Final Development Plan.~~
- ~~13. Denote: Spacing of the proposed southern access point to Boston Road shall be resolved at the time of the Final Development Plan.~~
7. Denote: 761 Mill Ridge Road will require easement releases to become buildable.

He said that condition #7 refers to utility, drainage, and access easements on the subject property that would impact one of the proposed single-family residences, as well as several of the townhouses. The petitioner will be required to have those easements released prior to any construction on the subject property.

Commission Question: Ms. Mundy asked if the lots at 761 and 781 Mill Ridge Road will be reconfigured so as to line up with the cul-de-sac. Mr. Martin answered that those lot lines would be realigned. Ms. Mundy said that it appeared on the ZOMAR plat that the existing trail in the Willow Oak subdivision crosses a portion of the subject property, so it would seem that it would be appropriate to provide access to that trail. Mr. Martin responded that, once the fence and landscape buffer are installed, the staff does not believe that an access would be appropriate. In addition, the HOA is reluctant to share their facilities with residents who would not be sharing in the maintenance costs. Ms. Mundy opined that that concern could be addressed by including the townhouse residents in that HOA.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. He said that this application has been vetted and recommended unanimously for approval by the Technical, Zoning, and Subdivision Committees. Prior to those meetings, the petitioner met with the neighborhood in March and April to discuss their proposal.

Displaying a map of the subject property and surrounding area, Mr. Simpson stated that the existing R-3 zoning on the subject property would permit up to 16 dwelling units, without a zone change. On the P-1 portion, the petitioner could file a development plan for a two-story Professional Office building up to 17,000 square feet in size, with all of the required parking. Some of the allowable uses in the P-1 zone include: funeral parlors; urgent treatment centers; hospitals, and other businesses that would likely be incompatible with the existing residential development.

Prior to meeting with the neighboring residents, Mr. Simpson said, the petitioner felt that neighbors would not have access from Mill Ridge Road to the proposed development. The original plan proposed to close Mill Ridge Road and construct 28 townhouses. Following the first neighborhood meeting, the petitioner learned that the residents would pre-

fer to limit access to Mill Ridge Road, and to eliminate any pedestrian access to their HOA open space area. The Willow Oak subdivision is deed-restricted, and residents are required to pay a membership fee, in order to maintain the open space. The subject property is not included in that HOA, so the petitioner agreed to limit access to the neighborhood amenities, as well as to provide buffering via landscaping and an 8' tall fence. Mr. Simpson said that the neighbors also expressed their desire that the Mill Ridge Road cul-de-sac be completed, with the addition of two single-family residences. The current plan proposes those two single-family lots, as well as the completion of the cul-de-sac and 25 townhouse units. The townhouses are also proposed to be larger than originally planned, also at the request of the neighbors, with units along the detention basin having an additional 800 square feet via walkout basements. Mr. Simpson noted that the two proposed single-family residences will be added to the Willow Oak HOA via amended deed restrictions, and those residents will be required to contribute to the maintenance fees for the common open space.

Mr. Simpson said that the current plan depicts two accesses to Boston Road, with one two-way access and one entrance-only. The staff of the Division of Traffic Engineering indicated that that configuration would be more appropriate to provide better sight distance, and the Division of Fire and Emergency Services indicated their approval of the interior circulation pattern.

Mr. Simpson stated that the feedback at the end of the second neighborhood meeting was much more positive, with most residents indicating that they would be in support of the proposed development, based on the development plan notes to require additional landscape and fence buffers. All of the proposed additional landscaping has been included in a landscape plan, which will be enforceable by the Division of Building Inspection.

Mr. Simpson noted that, in their report, the staff "went one step beyond" the petitioner's justification. The petitioner contended that the proposed rezoning was in agreement with the Comprehensive Plan; the staff agreed, and also found that the existing P-1 zoning is inappropriate, and the proposed R-3 zoning is more appropriate.

Citizen Support: No citizens were present in support of this request.

Citizen Opposition: Michael Taulbee, 741 Mill Ridge Road, stated that he does not believe that the petitioner has adequately addressed the justification for the proposed zone change. He said he does not believe that there is sufficient demand in the area for 25 townhouses, which will not fit with the existing development pattern of single-family homes. Mr. Taulbee also opined that the professional office development that could be constructed under the current P-1 zoning would be more compatible with the Millpond shopping center across the road.

Mr. Taulbee stated that he was concerned that the additional residents in the proposed development could contribute to overcrowding in the schools; increased traffic in the area; and trash and result in other "abuse" of the Willow Oak open space area. He said that he is also concerned that property values in the area could decrease following the construction of townhouses nearby.

Mr. Taulbee said that area residents would prefer to have an office development on the property, since it would typically be vacant at night. He said that the neighborhood has deed restrictions in order to provide continuity and prevent a mixture of housing types. Mr. Taulbee asked the Planning Commission to consider disapproving this request, for those reasons.

Holly Taulbee, 741 Mill Ridge Road, stated that she does not agree with the contention that a medical office building is not needed in the area. She said that the Lexington Clinic office in Veterans Park is surrounded by homes, and that many of the residents appreciate having such a medical office nearby.

Ms. Taulbee also noted that she is concerned that the proposed development could contribute to the overcrowding of area schools.

Petitioner Rebuttal: Mr. Simpson reiterated that the petitioner could construct townhouses along Mill Ridge Road, by right, without a zone change. He said that the petitioner believes, however, that the proposed development will be more compatible with the existing neighborhood.

Mr. Simpson stated that infill development on remnant parcels often meets with neighborhood opposition, since people often want to "leave it as it is." He opined that leaving the subject property as it is, however, could provide an "attractive nuisance," or an area for illicit activity to take place.

Mr. Simpson noted that the proposed development would not equate to a big increase in density in the area, but it is important in continuing the policy, established in the 2013 Comprehensive Plan and previous plans, to increase density in infill areas in order to preserve the rural areas.

Citizen Rebuttal: Mr. Taulbee stated, with regard to Mr. Simpson's comments about the recent clean-up project, that trash, drug paraphernalia, and other items were found in an area of removed trees along Boston Road, rather than in

their existing open space. He did not believe, therefore, that the proposed townhouses would contribute to improving that situation.

Mr. Taulbee added that the subject property is on an incline, and said that he hopes that development of the property will not have a negative impact on the adjacent retention basin.

Staff Rebuttal: The staff had no rebuttal comments.

Zoning Motion: A motion was made by Mr. Cravens and seconded by Ms. Richardson to approve MAR 2015-5, for the reasons provided by staff.

Discussion of Motion: Mr. Penn stated that this is the third iteration of this development plan, and he believed that the addition of two single-family homes was a major concession to the neighbors. He said that the Subdivision Committee has seen a great deal of progress since this plan was originally filed, and they believe that the traffic situation has been adequately addressed.

Mr. Owens stated that he appreciated the residents' comments and concerns, and he believed that the petitioner has made a considerable effort toward addressing those concerns. He said that the property has not developed with the existing P-1 zoning, and he believes that the proposed development would be a better use for the property.

Zoning Action: Mr. Cravens' motion passed, 10-0 (Plumlee absent).

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 10-0 (Plumlee absent) to approve ZDP 2015-25, subject to the seven conditions as listed in the revised staff recommendation.