

AN ORDINANCE CHANGING THE ZONE FROM AN AGRICULTURAL RURAL (A-R) ZONE TO AN EXPANSION AREA RESIDENTIAL (EAR-1) ZONE FOR 26.34 NET (27.19 GROSS) ACRES AND AN EXPANSION AREA RESIDENTIAL (EAR-2) ZONE, FOR 11.92 NET (13.30 GROSS) ACRES, FOR PROPERTY LOCATED AT 2575 POLO CLUB BOULEVARD (A PORTION OF). (BALL HOMES, INC. (AMD.); COUNCIL DISTRICT 12).

WHEREAS, at a Public Hearing held on October 24, 2019, a petition for a zoning ordinance map amendment for property located at 2575 Polo Club Boulevard (a portion of) from an Agricultural Rural (A-R) zone to an Expansion Area Residential (EAR-1) zone for 26.34 net (27.19 gross) acres and an Expansion Area Residential (EAR-2) zone, for 11.92 net (13.30 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 7-0; 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 2575 Polo Club Boulevard (a portion of) from an Agricultural Rural (A-R) zone to an Expansion Area Residential (EAR-1) zone for 26.34 net (27.19 gross) acres and an Expansion Area Residential (EAR-2) zone for 11.92 net (13.30 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - 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 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: December 3, 2019



MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL.

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Published December 10, 2019-1t

POLO 1, LLC PROPERTY
Zone Change from A-R to EAR-1
2575 Polo Club Boulevard (a portion of)
Lexington, Fayette County, Kentucky

A TRACT OF LAND SITUATED NORTHWEST OF MAN O' WAR BOULEVARD AND NORTHEAST OF INTERSTATE 75 IN EASTERN FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the centerline intersection of Blackford Parkway and Man O' War Boulevard; Thence leaving said centerline North 43 Degrees 36 Minutes 40 Seconds West, a distance of 159.62 feet to a point; Thence 506.97 feet along a curve to the left having a radius of 500.00 feet and a chord which bears North 72 Degrees 39 Minutes 29 Seconds West, a distance of 485.53 feet to a point; Thence South 78 Degrees 17 Minutes 42 Seconds West, a distance of 168.01 feet to a point; Thence 429.51 feet along a curve to the right having a radius of 500.00 feet and a chord which bears North 77 Degrees 05 Minutes 46 Seconds West, a distance of 416.42 feet to a point; Thence South 40 Degrees 22 Minutes 44 Seconds West, a distance of 118.73 feet to a point; Thence South 30 Degrees 25 Minutes 21 seconds East, a distance of 263.57 feet to a point; Thence South 58 Degrees 35 Minutes 07 Seconds East, a distance of 113.35 feet to a point; Thence South 15 Degrees 00 Minutes 00 Seconds East, a distance of 192.46 feet to a point; Thence South 77 Degrees 31 Minutes 34 Seconds West, a distance of 254.50 feet to a point; Thence North 37 Degrees 22 Minutes 32 Seconds West, a distance of 108.27 feet to a point; Thence North 21 Degrees 47 Minutes 55 Seconds West, a distance of 95.52 feet to a point; Thence North 49 Degrees 40 Minutes 14 Seconds West, a distance of 163.36 feet to a point; Thence North 74 Degrees 26 Minutes 08 Seconds West, a distance of 137.76 feet to a point; Thence North 72 Degrees 05 Minutes 50 Seconds West, a distance of 157.32 feet to a point; Thence North 41 Degrees 32 Minutes 31 Seconds West, a distance of 33.33 feet to a point in the western line of WWM, LLC; Thence with said western line for the following five (5) calls: North 46 Degrees 47 Minutes 49 Seconds East, a distance of 46.81 feet to a point; Thence North 52 Degrees 03 Minutes 02 Seconds East, a distance of 612.26 feet to a point; North 53 Degrees 35 Minutes 48 Seconds East, a distance of 265.90 feet to a point; Thence North 48 Degrees 39 Minutes 51 Seconds East, a distance of 249.15 feet to a point; Thence North 54 Degrees 43 Minutes 15 Seconds East, a distance of 447.44 feet to a point; Thence South 55 Degrees 52 Minutes 24 Seconds East, a distance of 1108.77 feet to a point in the centerline of Man O' War Boulevard; Thence with said centerline South 46 Degrees 20 Minutes 06 Seconds West, a distance of 665.59 feet to the **POINT OF BEGINNING** and containing 27.19 acres gross and 26.34 acres net.

POLO 1, LLC PROPERTY
Zone Change from A-R to EAR-2
2575 Polo Club Boulevard (a portion of)
Lexington, Fayette County, Kentucky

A TRACT OF LAND SITUATED NORTHWEST OF MAN O' WAR BOULEVARD AND NORTHEAST OF INTERSTATE 75 IN EASTERN FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING at a point in the centerline intersection of Blackford Parkway and Man O' War Boulevard; Thence with the centerline of Man O' War Boulevard for the following two (2) calls: South 46 Degrees 20 Minutes 06 Seconds West, a distance of 286.04 feet to a point; Thence South 46 Degrees 54 Minutes 39 Seconds West, a distance of 457.00 feet to a point; Thence leaving said centerline North 42 Degrees 33 Minutes 15 Seconds West, a distance of 34.87 feet to a point; Thence North 75 Degrees 35 Minutes 27 Seconds West, a distance of 65.51 feet to a point; Thence North 88 Degrees 13 Minutes 32 Seconds West, a distance of 184.03 feet to a point; Thence North 73 Degrees 57 Minutes 47 Seconds West, a distance of 43.31 feet to a point; Thence North 30 Degrees 18 Minutes 29 Seconds West, a distance of 47.34 feet to a point; Thence North 27 Degrees 45 Minutes 59 Seconds East, a distance of 67.65 feet to a point; Thence North 41 Degrees 59 Minutes 58 Seconds West, a distance of 142.37 feet to a point; Thence North 15 Degrees 00 Minutes 00 Seconds West, a distance of 192.46 feet to a point; Thence North 58 Degrees 35 Minutes 07 Seconds West, a distance of 113.35 feet to a point; Thence North 30 Degrees 25 Minutes 21 Seconds West, a distance of 263.57 feet to a point; Thence North 40 Degrees 22 Minutes 44 Seconds East, a distance of 118.73 feet to a point; Thence 429.51 feet along a curve to the left having a radius of 500.00 feet and a chord which bears South 77 Degrees 05 Minutes 46 Seconds East, a distance of 416.42 feet to a point; Thence North 78 Degrees 17 Minutes 42 Seconds East, a distance of 168.01 feet to a point; Thence 506.97 feet along a curve to the right having a radius of 500.00 feet and a chord which bears South 72 Degrees 39 Minutes 29 Seconds East, a distance of 485.53 feet to a point; Thence South 43 Degrees 36 Minutes 40 Seconds East, a distance of 159.62 feet to the **POINT OF BEGINNING** and containing 13.30 acres gross and 11.92 acres net.

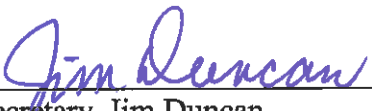
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-MAR-19-00010: BALL HOMES, INC (AMD)** – an amended petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Expansion Area Residential (EAR-1) zone, for 26.34 net (27.19 gross) acres and an Expansion Area Residential (EAR-2), for 11.92 net (13.30 gross) acres, for property located at 2575 Polo Club Boulevard (a portion of). (Council District 12)

Having considered the above matter on **October 24, 2019**, at a Public Hearing, and having voted **7-0** 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 applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, the applicant has deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change is not in agreement with the 2018 Comprehensive Plan.
2. The existing Agricultural Rural (A-R) zoning is inappropriate for the subject property, for the following reasons:
 - a. The grade of the subject property has resulted in the difficulty of utilizing agricultural uses and those conditional uses in the A-R zone.
 - b. The ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property was added to the Urban Service Area (USA) boundary, via the adoption of the Expansion Area in 1996 and has a significant area of land that is unsuitable for agricultural land uses due to the floodplain, which covers approximately 7.5 acres of land.
3. The proposed Expansion Area Residential-1 (EAR-1) Expansion Area Residential-2 (EAR-2) zones are appropriate for the subject property, for the following reasons:
 - a. The proposed zoning is compatible with the surrounding land uses and zoning at this location.
 - b. The proposed zoning presents an appropriate step-down in the residential uses from the highest intensity residential zoning to the lowest intensity, as the zoning in the area transitions away from the interstate corridor and Polo Club Boulevard toward the Urban Service Area boundary.
 - c. Positioning higher density residential land uses adjacent to the greenway at this location allows for greater access for those residents to the open space, while also providing connectivity and infrastructure that is needed for denser development.
 - d. The subject property is located within the Urban Service Area and is currently supported by urban services, including the transportation network and sewer services.
4. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area.
5. This recommendation is made subject to approval and certification of **PLN-MJDP-19-00036: Hamburg East (Belhurst)**, 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 8th day of November, 2019.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, PLN-MJDP-19-00036: HAMBURG EAST (BELHURST) was approved by the Planning Commission on October 24, 2019 and certified on November 7, 2019.

K.R.S. 100.211(7) requires that the Council take action on this request by January 22, 2020.

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

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (7) deMovellan, Forester, Mundy, Nicol, Owens, Penn, and Plumlee

NAYS: (0)

ABSENT: (4) Bell, Brewer, Pohl, and Wilson

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-19-00010** 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.)

Applicant: BALL HOMES, INC., 3609 WALDEN AVENUE, LEXINGTON, KY 40517
Owner(s): POLO 1 LLC, P.O. BOX 12128, LEXINGTON, KY 40580
Attorney: Nick Nicholson, 300 W. VINE STREET #2100, LEXINGTON, KY 40507 PH: 859-231-3000

2. ADDRESS OF APPLICANT'S PROPERTY

2575 POLO CLUB BLVD, LEXINGTON, KY 40509
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3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing Use	Zoning	Requested Use	Acreage	
				Net	Gross
A-R	AGRICULTURAL	EAR-1	SINGLE FAMILY DETACHED	26.34	27.19
A-R		EAR-2	SINGLE FAMILY DETACHED & TOWNHOUSE RESIDENTIAL	11.92	13.30

4. COMPREHENSIVE PLAN

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	N/A
b. Utilizing Placebuilder, what Development Type is proposed for the subject site? If residential, provide the proposed density	N/A 3.9 DU per Gross Acre

5. 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

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

Roads:	To Be Constructed
Storm Sewers:	To Be Constructed
Sanity Sewers:	To Be Constructed
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
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FAX: (859) 253-1093

September 20, 2019

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

Zone Change Request for 2575 Polo Club Boulevard

Dear Members of the Planning Commission:

We represent Ball Homes, LLC (“Ball Homes” or “Applicant”) and on its behalf have filed a zone change request for a portion of the property located at 2575 Polo Club Boulevard (the “Property”). The Property consists of 38.26 net (40.49 gross) acres currently zoned Agricultural-Rural (A-R) and is vacant. The Applicant’s request is to rezone 26.34 net (27.19 gross) acres of the Property to Expansion Area Residential 1 (EAR-1) zone for and 11.92 net (13.30 gross) acres of the Property to Expansion Area Residential 2 (EAR-2) to allow for a single-family and townhome development as recommended by the Expansion Area Master Plan.

The Property is the northern portion of 2575 Polo Club Boulevard and located across Man o’War Boulevard from the existing Blackford Parkway. The development consists of 80 single family lots and 78 townhomes, with the continuation of the collector street Blackford Parkway. It is adjoined by complementary single family residential neighborhoods across Man o’War to the east, agricultural uses to the north, and multi-family residential and commercial uses to the west and south.

This request is in agreement with the Comprehensive Plan for the multitude of reasons outline below. Primarily, the acreage in question is recommended for EAR-1 and EAR-2 for the future land use of the Property in the Expansion Area Master Plan. While the proposed location of the two zones has partially changed sides of the EAMP’s Park Road – the uses and the zones are still in substantial compliance with what was recommended by the Future Land Use Map. One of the main reasons that the proposed zoning switched is due to the actual location of Blackford Parkway. The EAMP originally proposed for Park Road on the south side of Man o’War to be built in between the Blackford and Justice properties. Due to various design issues, Blackford Parkway was built to the south of the original recommended location. This proposal takes advantage of this change to Blackford Road by curving it towards the greenway in order to create a community amenity as called for in the Comprehensive Plan. These changes result in a contained pocket of land where a detached single family development simply isn’t an efficient use of the acreage as contemplated by the Future Land Use Map. As such, the development proposes to swap some of the acreage of the EAR-2 and EAR-1 zoned property across Blackford Parkway while retaining the uses recommended by the EAMP and creating a community

feature. The Zone Map Amendment Request is also in compliance with the Comprehensive Plan as it offers a chance to begin developing longtime underutilized agricultural land inside the Urban Service Area for the recommended residential use. Indeed, this project allows for additional housing types and units to develop on vacant land along an important corridor inside the Urban Service Area while acknowledging the desperate need for additional single family houses and townhomes as detailed in the 2017 Fayette County Housing Demand Study. The development will not put any strain on the surrounding infrastructure and in fact expands the existing collector street system that will eventually tie into Winchester Road to aid in dispersing traffic throughout the area's transportation system. The project is also respectful of and accommodating to the adjacent greenways to the south of the Property as called for by the 2018 Comprehensive Plan.

This project aligns with the aspects of a desirable community and the place making concepts the Comprehensive Plan stresses such as openness, social offerings, and aesthetics with its placement of the greenway lot along single loaded streets with ample pedestrian access and the internal townhouse open space areas. The proposed development plan follows many of the specific recommendations of the Comprehensive Plan in its discussion on how to grow successful neighborhoods while protecting the environment as we are expanding the housing types in the area by providing additional single-family attached & detached residential development; supporting infill and redevelopment throughout the urban service area; providing a well-designed neighborhood that furthers the commitment to mixed-type housing with locations for safe and positive social interactions including easy access to the protected greenway system. Also, by increasing the residential land within the Winchester Road, Polo Club, and Man o'War triangle, it potentially can lead to an expansion of mass transit to better serve the Expansion Area.

Ball Homes is quite confident in calling this project a well-designed project as it furthers many of the design policies laid out in the Comprehensive Plan. By continuing the collector and local roads with future stubs to the adjacent undeveloped properties and ample pedestrian sidewalk and greenway connections, we are utilizing a people-first/pedestrian friendly street pattern design with efficient roadways and separate pedestrian infrastructure that is making the proper road connections to enhance emergency services accessibility while creating inviting streetscapes. (Design Policy #1, #2, #5, #6, and #13). This mostly single-family development is certainly sensitive to the surrounding context of both the existing neighborhoods and the surrounding greenway system. (DP #4). The mix of single family and townhouses provide varied housing choices, while also providing compact single family housing types with the substantial townhouses parcel. (DP #8). The townhouse parking areas are interior to the site to ensure it isn't a primary visual component to the neighborhood. (DP #7). The adjacent greenway system is accessible through a dedicated HOA lot and single loaded streets with pedestrian access to this neighborhood focal point that is within easy walking distance for all residents. (DP #9 and #10). By shifting the townhouse section to be adjacent to the greenway system, the proposed development is able to incorporate a unique open space amenity into the townhouse project as called for by the Comprehensive Plan's neighborhood design policies encouraging greenspace to be in close proximity to residents, on singly loaded streets, and to create open space that is truly usable and a focal point of the development instead of merely an afterthought. (DP #9, #10 and #11). The ability to capture this townhouse feature certainly justifies the swap of the two zoning categories recommended by the Expansion Area Master Plan land use map. Further, the urban woodlands will be preserved by creating separate parcels for the greenway, providing added

protection while also enhancing existing wetland areas. The project utilizes several impervious area disconnects, which direct impervious area runoff to greenspace between the existing streambank and the 100-year floodplain boundary. Also, by virtue of our street tree and canopy provisions, we will be adding additional green infrastructure.

In summary, this well-designed project upholds the Urban Service Area preservation strategy, is appropriate development of a vacant parcel in Expansion Area 2A, provides additional housing units with a mix of housing types, encourages community interaction through pedestrian connectivity, encourages a more comprehensive transportation system, all while respecting its neighbors and protecting the environment with landscaping buffers and protected greenspace. As such, it is quite clear that the proposed zone change is in compliance with the 2018 Comprehensive Plan. As outlined above, the proposed project meets the following Goals and Objectives of the Comprehensive Plan:

Theme A - Growing Successful Neighborhoods

Goal 1: Expand housing choices.

Objectives:

- b. Accommodate the demand for housing in Lexington responsibly...
- c. Plan for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents.

Goal 2: Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.

Objectives:

- b. Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form.
- c. Incorporate adequate greenspace and open space into all development projects, which serve the needs of the intended population.

Goal 3: Provide well-designed neighborhoods and communities.

Objectives:

- a. Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County
- b. Strive for positive and safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians and various modes of transportation.
- c. Minimize disruption of natural features when building new communities.
- d. Promote, maintain, and expand the urban forest throughout Lexington.

Goal 4: Address community facilities at a neighborhood scale.

Objectives:

- c. Establish and promote road network connections in order to reduce police, EMS, and fire response times.

Theme B - Protecting the Environment

Goal 2: Reduce Lexington-Fayette County's carbon footprint.

Objectives:

- d. Prioritize multi-modal options that de-emphasize single-occupancy vehicle dependence.

Goal 3: Apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources.

Objectives:

- b. Identify and protect natural resources and landscapes before development occurs.

Theme D - Improving a Desirable Community

Goal 1: Work to achieve an effective and comprehensive transportation system.

Objectives:

- a. Support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles.
- b. Develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ridesharing, greenways and other strategies.

Goal 2: Support a model of development that focuses on people-first to provide accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors.

Objectives:

- a. Encourage public safety and social sustainability by supporting Secured-by-Design concepts and other policies and programs for the built and natural environments of neighborhoods to help reduce opportunities for crimes.

Theme E - Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land

Goal 1: Uphold the Urban Service Area concept.

Objectives:

- b. Ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.
- c. Emphasize redevelopment of underutilized corridors.
- d. 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.
- e. Pursue strategies to activate large undeveloped landholdings within the Urban Service Area.

Goal 3: Maintain the current boundaries of the Urban Service Area and Rural Activity Centers; and create no new Rural Activity Centers. To ensure Lexington is responsive to its future land use needs, this Goal shall be superseded and no longer in effect upon completion of Theme E, Goal 4, Objective D.

This letter specifically does not address The Placebuilder and Appendix A. The 2018 Comprehensive Plan's inclusion of The Placebuilder and Multi-Family Design Guidelines is legally invalid and unconstitutional. As such, there is no public interest and certainly no Planning Commission right to require applicants to comply with an unlawful and unconstitutional governmental regulation. Under KRS 100.213, zone change applicants need only demonstrate their proposed developments are "in agreement with" the comprehensive plan without exhaustively addressing up to 70 additional hyper-technical development criteria. Kentucky case law provides that zone change applications may be granted where they agree "as a whole" with a comprehensive plan by promoting its various goals and objectives. Under KRS 100.203, urban county governments can only impose architectural or other visual requirements or restrictions upon development in areas zoned historic, which the Property is not. By requiring zone change applicants to address The Placebuilder's numerous development criteria and any design requirements for multi-family structures, the 2018 Comprehensive Plan requires far more of applicants than KRS 100.203 and 100.213 authorizes it to. As such, this Applicant refuses to partake in this clear violation of Kentucky law.

In addition to compliance with the Comprehensive Plan, the request is justified because the existing zoning is inappropriate and improper and the proposed zoning is appropriate. The current zoning is A-R and any type of agricultural use on the Property has become increasingly difficult as most of the surrounding area has developed as residential subdivisions, multi-family developments, commercial uses, and the interstate system. Make no mistake about it; if Lexington is going to maintain its Urban Service Boundary, it is wholly inappropriate for this particular parcel to remain A-R. The Property already has sewer available and is able to be seamlessly tied into the surrounding transportation system. It is within half of a mile from major commercial centers, multi-family developments, and the I-75 onramp. Simply put, it is prime land to be developed; as such the Agricultural-Rural zoning is clearly inappropriate. In the initial Staff Report for this zone change request, it is argued that the inappropriateness of the A-R zone is not predicated on the availability of services. While that might be true with regards to the A-R zoned property adjacent to the Urban Service Boundary – for this particular Property, this is not the case. This parcel has been inside the Urban Service Area for 25 years. Urban services have been available to serve it for almost as long. As Staff correctly points out, the Property is not located in the Rural Service Area, as such the appropriateness of any designation of a rural zoning for the Property should be questioned. When LFUCG brought this Property into the Urban Service Area decades ago, it showed the clear intent that, although zoned A-R instead of A-U, this Property should be rezoned at the time when city services were available to serve it. The review of periodic expansion of the Urban Service Boundary achieves the goal of managing the growth of the community in order to avoid premature or improper development regardless of whether that land is zoned A-U or A-R. In fact just this past year, the Planning Staff used this Property and the surrounding A-R zoned property between Winchester and Man o'War as one of the prime reasons that an expansion of the Urban Service Boundary was not necessary as the community has such a large area of available vacant land that was

ready and appropriate for the recommended residential development. To turn around in such a short time period and claim that the A-R zone in fact remains appropriate for the Property directly conflicts with the clear message that the Planning Commission and Urban County Council sent by opting to not expand the Urban Service Boundary.

On the other hand, the proposed EAR-1/EAR-2 zoning is clearly appropriate as the Property has been inside the Urban Service Area for over 20 years and slated for this exact type of residential development since the adoption of the Expansion Area Master Plan. It is proper to use the Expansion Area Master Plan in evaluating whether the requested zoning is appropriate even though the EAMP is included by reference in the Comprehensive Plan as the EAMP exists outside of the Comprehensive Plan. A significant amount of research went in to selecting what uses should be recommended on any particular parcel. To ignore the existence of the EAMP and its research simply due to it being incorporated into a later plan is unnecessarily short sighted. When determining whether a particular zone is appropriate for a property, the Planning Commission should utilize any and all available research and guides our community has to offer. While the EAMP is an adopted part of the Comprehensive Plan, the research that went into it is still a valuable guide when determining the appropriateness of proposed zoning outside of the question of whether a proposal is in compliance with the Comprehensive Plan. Thus, it must be pointed out that this parcel is recommended by the Future Land Use map for the exact zoning proposed, albeit on different sides of Park Road. The EAR-1/EAR-2 zoning also allows the Property to be developed as a mixed-type residential neighborhood as urged by the Expansion Area Master Plan while remaining consistent with the types and densities of residential uses in the area. Outside of supporting the EAMP, the proposed zones match the adjacent zones in the Blackford neighborhood to allow for continuity in neighborhood character preservation to help ensure the development will respect the existing atmosphere of the area. This further justifies the use of the proposed zones to ensure appropriate consistency between existing neighborhoods and proposed new development. With the shift of Blackford Parkway and the desire to reestablish its relationship with the greenway, the proposed location of the EAR-1 and EAR-2 zones is ideal to create an efficient single-family neighborhood and townhouse complex, while retaining the openness of the greenway for all of the residents. Further, by excluding the greenway system from any residential lots, but allowing easy access, this Project will set the tone for the future adjacent developments and the preservation of the greenway system. As such, it is without question that the proposed zones are appropriate for the Property.

We will be at the October 24th public hearing in order to make a complete presentation of this application and request your favorable consideration.

Sincerely,

Stoll Keenon Ogden PLLC



Nick Nicholson

NN:NN

POLO 1, LLC PROPERTY
Zone Change from A-R to EAR-1
2575 Polo Club Boulevard (a portion of)
Lexington, Fayette County, Kentucky

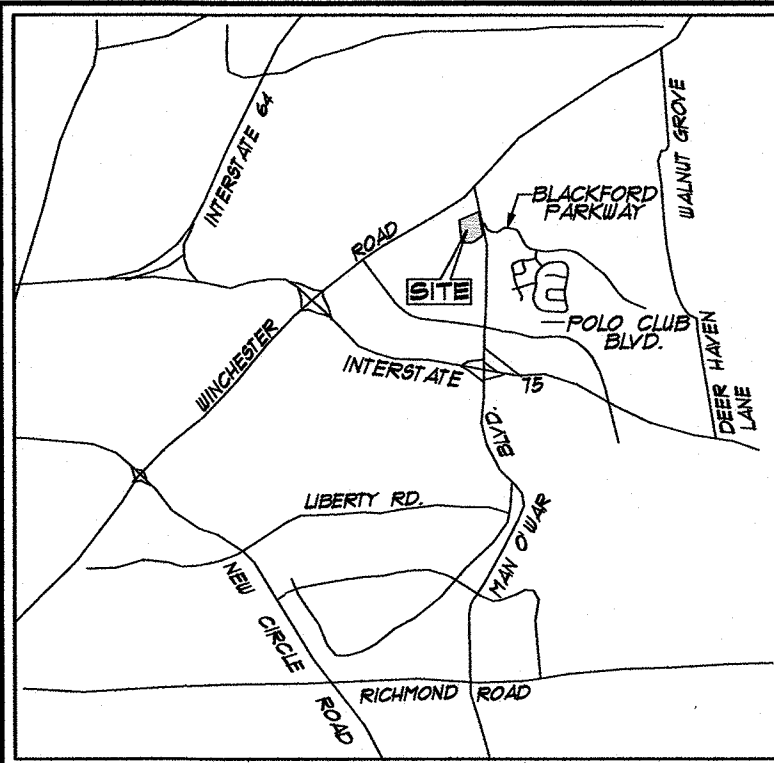
A TRACT OF LAND SITUATED NORTHWEST OF MAN O' WAR BOULEVARD AND NORTHEAST OF INTERSTATE 75 IN EASTERN FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the centerline intersection of Blackford Parkway and Man O' War Boulevard; Thence leaving said centerline North 43 Degrees 36 Minutes 40 Seconds West, a distance of 159.62 feet to a point; Thence 506.97 feet along a curve to the left having a radius of 500.00 feet and a chord which bears North 72 Degrees 39 Minutes 29 Seconds West, a distance of 485.53 feet to a point; Thence South 78 Degrees 17 Minutes 42 Seconds West, a distance of 168.01 feet to a point; Thence 429.51 feet along a curve to the right having a radius of 500.00 feet and a chord which bears North 77 Degrees 05 Minutes 46 Seconds West, a distance of 416.42 feet to a point; Thence South 40 Degrees 22 Minutes 44 Seconds West, a distance of 118.73 feet to a point; Thence South 30 Degrees 25 Minutes 21 seconds East, a distance of 263.57 feet to a point; Thence South 58 Degrees 35 Minutes 07 Seconds East, a distance of 113.35 feet to a point; Thence South 15 Degrees 00 Minutes 00 Seconds East, a distance of 192.46 feet to a point; Thence South 77 Degrees 31 Minutes 34 Seconds West, a distance of 254.50 feet to a point; Thence North 37 Degrees 22 Minutes 32 Seconds West, a distance of 108.27 feet to a point; Thence North 21 Degrees 47 Minutes 55 Seconds West, a distance of 95.52 feet to a point; Thence North 49 Degrees 40 Minutes 14 Seconds West, a distance of 163.36 feet to a point; Thence North 74 Degrees 26 Minutes 08 Seconds West, a distance of 137.76 feet to a point; Thence North 72 Degrees 05 Minutes 50 Seconds West, a distance of 157.32 feet to a point; Thence North 41 Degrees 32 Minutes 31 Seconds West, a distance of 33.33 feet to a point in the western line of WWM, LLC; Thence with said western line for the following five (5) calls: North 46 Degrees 47 Minutes 49 Seconds East, a distance of 46.81 feet to a point; Thence North 52 Degrees 03 Minutes 02 Seconds East, a distance of 612.26 feet to a point; North 53 Degrees 35 Minutes 48 Seconds East, a distance of 265.90 feet to a point; Thence North 48 Degrees 39 Minutes 51 Seconds East, a distance of 249.15 feet to a point; Thence North 54 Degrees 43 Minutes 15 Seconds East, a distance of 447.44 feet to a point; Thence South 55 Degrees 52 Minutes 24 Seconds East, a distance of 1108.77 feet to a point in the centerline of Man O' War Boulevard; Thence with said centerline South 46 Degrees 20 Minutes 06 Seconds West, a distance of 665.59 feet to the **POINT OF BEGINNING** and containing 27.19 acres gross and 26.34 acres net.

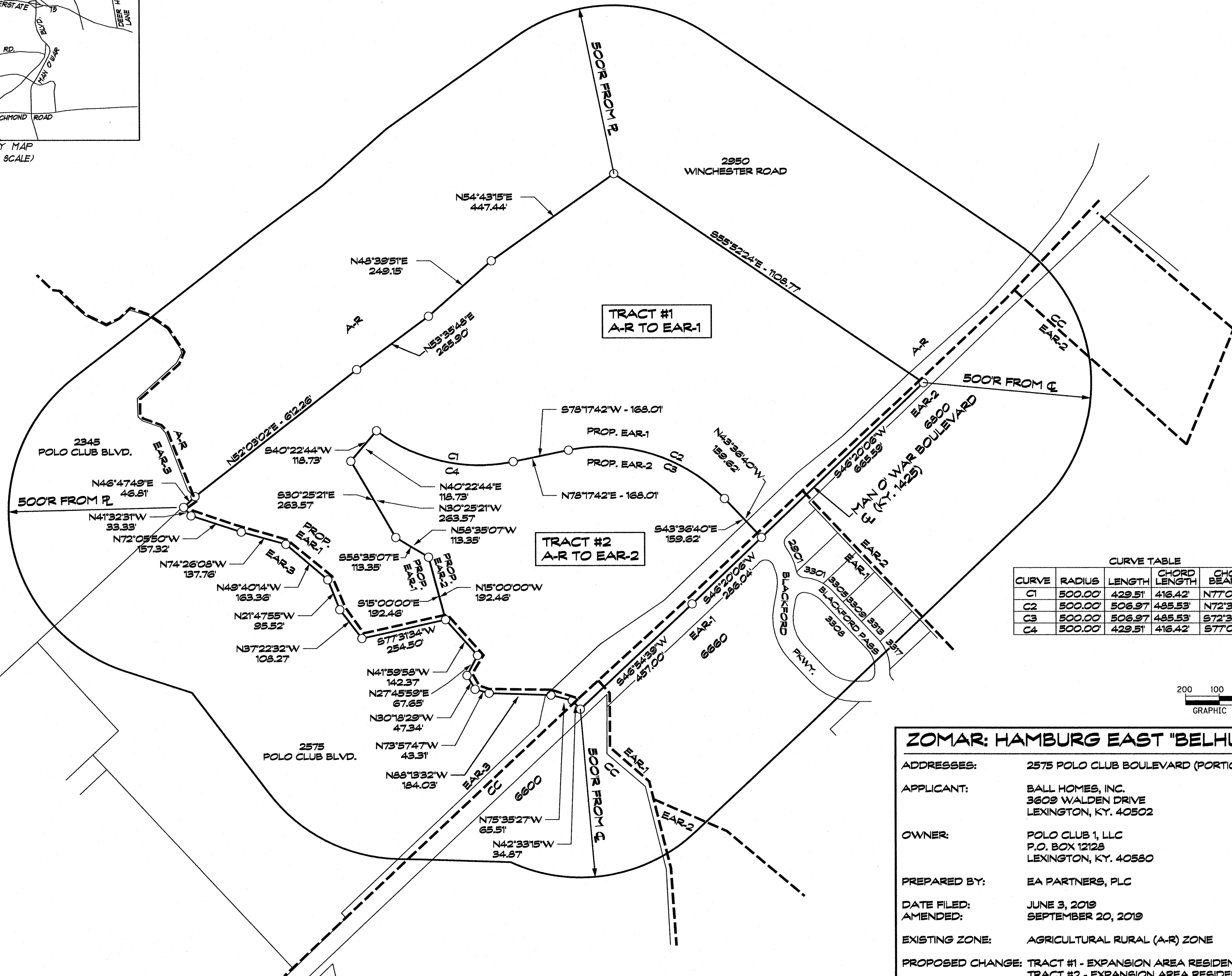
POLO 1, LLC PROPERTY
Zone Change from A-R to EAR-2
2575 Polo Club Boulevard (a portion of)
Lexington, Fayette County, Kentucky

A TRACT OF LAND SITUATED NORTHWEST OF MAN O' WAR BOULEVARD AND NORTHEAST OF INTERSTATE 75 IN EASTERN FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING at a point in the centerline intersection of Blackford Parkway and Man O' War Boulevard; Thence with the centerline of Man O' War Boulevard for the following two (2) calls: South 46 Degrees 20 Minutes 06 Seconds West, a distance of 286.04 feet to a point; Thence South 46 Degrees 54 Minutes 39 Seconds West, a distance of 457.00 feet to a point; Thence leaving said centerline North 42 Degrees 33 Minutes 15 Seconds West, a distance of 34.87 feet to a point; Thence North 75 Degrees 35 Minutes 27 Seconds West, a distance of 65.51 feet to a point; Thence North 88 Degrees 13 Minutes 32 Seconds West, a distance of 184.03 feet to a point; Thence North 73 Degrees 57 Minutes 47 Seconds West, a distance of 43.31 feet to a point; Thence North 30 Degrees 18 Minutes 29 Seconds West, a distance of 47.34 feet to a point; Thence North 27 Degrees 45 Minutes 59 Seconds East, a distance of 67.65 feet to a point; Thence North 41 Degrees 59 Minutes 58 Seconds West, a distance of 142.37 feet to a point; Thence North 15 Degrees 00 Minutes 00 Seconds West, a distance of 192.46 feet to a point; Thence North 58 Degrees 35 Minutes 07 Seconds West, a distance of 113.35 feet to a point; Thence North 30 Degrees 25 Minutes 21 Seconds West, a distance of 263.57 feet to a point; Thence North 40 Degrees 22 Minutes 44 Seconds East, a distance of 118.73 feet to a point; Thence 429.51 feet along a curve to the left having a radius of 500.00 feet and a chord which bears South 77 Degrees 05 Minutes 46 Seconds East, a distance of 416.42 feet to a point; Thence North 78 Degrees 17 Minutes 42 Seconds East, a distance of 168.01 feet to a point; Thence 506.97 feet along a curve to the right having a radius of 500.00 feet and a chord which bears South 72 Degrees 39 Minutes 29 Seconds East, a distance of 485.53 feet to a point; Thence South 43 Degrees 36 Minutes 40 Seconds East, a distance of 159.62 feet to the **POINT OF BEGINNING** and containing 13.30 acres gross and 11.92 acres net.

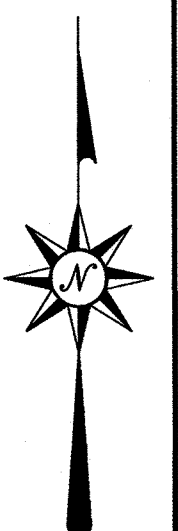
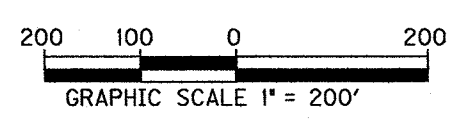


VICINITY MAP
(NOT TO SCALE)



CURVE TABLE

CURVE	RADIUS	LENGTH	CHORD LENGTH	CHORD BEARING
C1	500.00'	429.51'	416.42'	N77°05'46"W
C2	500.00'	506.97'	485.53'	N72°39'29"W
C3	500.00'	506.97'	485.53'	S72°39'29"E
C4	500.00'	429.51'	416.42'	S77°05'46"E



ZOMAR: HAMBURG EAST "BELHURST"

ADDRESSES: 2575 POLO CLUB BOULEVARD (PORTION OF)

APPLICANT: BALL HOMES, INC.
3609 WALDEN DRIVE
LEXINGTON, KY. 40502

OWNER: POLO CLUB 1, LLC
P.O. BOX 12128
LEXINGTON, KY. 40580

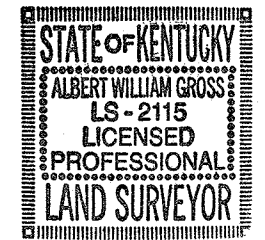
PREPARED BY: EA PARTNERS, PLC

DATE FILED: JUNE 3, 2019
AMENDED: SEPTEMBER 20, 2019

EXISTING ZONE: AGRICULTURAL RURAL (A-R) ZONE

PROPOSED CHANGE: TRACT #1 - EXPANSION AREA RESIDENTIAL (EAR-1) ZONE
TRACT #2 - EXPANSION AREA RESIDENTIAL (EAR-2) ZONE

ACREAGE: TRACT #1 = 26.34 ACRES NET & 27.19 AC. GROSS
TRACT #2 = 11.92 ACRES NET & 13.30 AC. GROSS



NOTIFICATION MAP

STAFF REPORT ON AMENDED PETITION FOR ZONE MAP AMENDMENT PLN-MAR-19-00010: BALL HOMES, INC. (AMD)

DESCRIPTION OF ZONE CHANGE

Zone Change: From an Agricultural Rural (A-R) zone
To an Expansion Area Residential-1 (EAR-1) &
Expansion Area Residential-2 (EAR-2) zone

Acreeage: A-R to EAR-1: 26.34 net (27.19 gross) acres
A-R to EAR-2: 11.92 net (13.30 gross) acres
Total: 38.26 net (40.49 gross) acres

Location: 2575 Polo Club Boulevard (a portion of)



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	A-R	Agricultural
To North	A-R	Agricultural
To East	EAR-1 / EAR-2	Single Family / Vacant
To South	EAR-3 / CC	Multi-Family / Vacant
To West	A-R	Agricultural

URBAN SERVICE REPORT

Roads - The subject property is bounded to the southeast by Man o' War Boulevard (KY 1480), which transitions to a two-lane highway along the property frontage between Interstate 75 and Winchester Road (US 60). Intersections along Man o' War Boulevard are to be provided at a minimum spacing interval of approximately 500'. The applicant is proposing to construct a collector street and local roads extending into the proposed development directly across from the existing intersection of Blackford Parkway. The Expansion Area Master Plan (EAMP) calls for a "park road" at this location, extending Blackford Parkway northward to Winchester Road.

Curb/Gutter/Sidewalks - This section of Man o' War Boulevard has a rural cross-section; it was constructed without curb, gutter and sidewalk facilities. Such improvements should be considered in association with the proposed development of the subject property. All collector and local streets proposed by the developer will be required to include curb, gutter and sidewalks.

Utilities - All utilities, including electric, gas, water, telephone, and cable are available in the immediate area. All utilities should be easily extended into the subject property.

Storm Sewers - The subject property is located in the North Elkhorn watershed. There are no storm sewers available along the Man o' War Blvd frontage of the subject property; however, due to the location of the proposed development relative to the topography of the site, the developer will be required to provide these facilities at the time this property is developed. Such improvements should comply with the adopted infrastructure plans for Expansion Area 2a for stormwater management and adhere to Engineering and Stormwater Manuals. There is a FEMA designated Special Flood Hazard Area (floodplain) along the greenways bordering the southeast edge of the subject property.

Sanitary Sewers - The subject property is located in the North Elkhorn sewershed and is served by the West Hickman Wastewater Treatment facility in northern Jessamine County. A sanitary sewer force main serves the Hamburg area. The sanitary sewer system will be extended by the developer as part of the development of this property.

Refuse - The Urban County Government serves this portion of the Urban Service Area with refuse collection to residences on Tuesdays.

Police - The nearest police station is located near Eastland Shopping Center at the Central Sector Roll Call Center, approximately 4.4 miles northwest of the subject property, just off Winchester Road.

Fire/Ambulance - The nearest fire station (No. 21) is located about 2.5 miles southwest of the subject property on Mapleleaf Drive, just south of Man o' War Boulevard. Additionally, Fire Station No. 17 is located approximately 2.7 miles northeast of the subject property at the intersection of Winchester Road and Royster Road in the Rural Service Area.

SUMMARY OF REQUEST

The petitioner has requested a zone change from an Agricultural Rural (A-R) zone to an Expansion Area Residential-1 (EAR-1) zone for 26.34 net (27.19 gross) acres and an Expansion Area Residential-2 (EAR-2) zone for 11.92 net (13.30 gross) acres for the rear portion of the property located at 2575 Polo Club Blvd. The corollary development plan no depicts of 80 detached single family dwelling units and 78 attached single family dwelling units, for an average density of 3.9 dwelling units per gross acre.

PLACE-TYPE

Not provided by the applicant.

DEVELOPMENT TYPE

Not provided by the applicant.

PROPOSED ZONING

EAR-1

The intent of the Expansion Area Residential 1 zone is to provide a mixture of low density residential uses which will serve as a transition between the more intensely developed suburban neighborhoods and the Rural Service Area.

EAR-2

The intent of the Expansion Area Residential 2 zone is to provide a mixture of residential uses and housing types, to allow density transfer from areas which should not be developed, and to provide for well designed neighborhoods.

PROPOSED USE



This petitioner is proposing the Expansion Area Residential-1 (EAR-1) zone and Expansion Area Residential-2 (EAR-2) zone to construct a low density residential development containing 80 detached single family dwelling units and 78 attached single family dwelling units. The applicant is proposing to construct a collector roadway and local streets supporting the proposed residential uses. These roadways will stub into the adjacent properties to the north and east to provide access and connections to future development.

APPLICANT & COMMUNITY ENGAGEMENT



The petitioner has indicated that they met with Blackford Home Owners Association (HOA) on June 20th, 2019. During the Subdivision and Zoning Committee meetings, the applicant indicated that the Blackford HOA was not interested in scheduling further meetings.

PROPERTY & ZONING HISTORY



The subject property is located within Expansion Area 2a, situated between Polo Club Blvd and Man o' War Blvd, and located approximately ½ mile northeast of the Man o' War Blvd interchange with Interstate 75. The subject property is part of a larger agricultural area located along the eastern portion of the Urban Service Boundary that has been platted as Hamburg East. The property is currently situated in an area of mixed land uses and zoning.

The subject property was added to the Urban Service Area in 1996 with the approval of the Expansion Area and adoption of the Expansion Area Master Plan (EAMP). During the 1996 expansion, the Planning Commission initiated and recommended approval of a zone change for the entire 5,400 acres of the Expansion Area to update the zoning across the county. However, at that time, the Urban County Council denied the zone change because of community concerns and a want to have a broader discussion regarding the potential zoning in the expansion areas. It is important to note that the Urban County Council made clear that the decision not to rezone the expansion areas was based on the need to provide greater public discussion and reliance on the public process beyond mere compliance with the EAMP. The weight of the Urban County Council's decision and the tie to community input was further reiterated in 2001, when the EAMP became an adopted element of the Comprehensive Plan. As updates to the Comprehensive Plan have occurred, the future land use recommendations have been carried forward. However, with the changes that have occurred within the Urban County since 1996 there has been a greater need to both meet the EAMP and provide places that comply with the adopted Comprehensive Plans. These plans represent the changing needs and desires of the Lexington community.

The subject property has been recommended for EAR-1 and EAR-2 landuses and the extension of the "park road" from Man o' War Boulevard to Winchester Road. The EAMP envisions the EAR-1 land use and zoning to be located along the greenway, with the park road acting as a separation between the greater available density in the EAR-2 land use and zone. The greenway located along the southwest portion of the recommended EAR-1 land use is meant to act as a unifying element to connect residents to goods and services, and provide integration between the various land uses on both sides of Man o' War Boulevard. For the land included in this application, 20.41 acres are recommended for EAR-1 land use, defined as 0-3 dwelling units per gross acre, totaling 0 to 61 dwelling units. Likewise, 20.08 acres are recommended for EAR-2 land use, defined as 3-6 dwelling units per gross acre, totaling 60 to 120 dwelling units. This amended application does not conform to the EAMP's future Land Use Element for this portion of Expansion Area 2a, flipping the areas proposed for EAR-1 and EAR-2 zoning.

The portion of the subject property that is located west of the North Elkhorn Creek was rezoned to the Expansion Area Residential-3 (EAR-3) zone in 2010. This rezoning (Ord. 52-2010, MAR 2009-17) resulted in the flipping of Community Center (CC) zoned land, which was recommended by the EAMP to be located on the east side of Polo Club Blvd, and the EAR-3 zoned land, recommended to be located on the west side of Polo Club Blvd. The applicant argued that the area east of Polo Club Boulevard was more appropriate for residential development than the area adjacent to I-75, and that the proximity to the proposed greenway system, and future park planned to the north along Polo Club Boulevard was more advantageous to residential development. The Planning Commission agreed, which resulted in the construction of Costco west of Polo Club Blvd and a multi-family residential development and an assisted living facility south and east of Polo Club Blvd.

The portion of the Expansion Area south and east of Man o' War Blvd is primarily characterized by residential land use of varying types, including the Blackford Oaks and Glen Eagles subdivisions (EAR-1 and EAR-2 zoning), and agricultural land use, which is intended for residential development, to the northeast of the subject property. The area between Man o' War Blvd and Polo Club Blvd has been recommended by the EAMP for a mixture of residential zoning, including EAR-1, EAR-2, and EAR-3, as well as a Transitional Area and Conservation Area.

COMPREHENSIVE PLAN COMPLIANCE



GOALS & OBJECTIVES, AND POLICIES

The 2018 Comprehensive Plan, *Imagine Lexington*, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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.

With the adoption of the 2018 Comprehensive Plan, the Lexington Community voiced their overwhelming want for a more transparent and collaborative approach to the development of the Urban County. Through the incorporation of *The PlaceBuilder*, applicants are asked to address the succinct and clear Development Criteria, meant to ease the process by distilling the Goals and Objectives, and Policies into a set of Development Criteria. In this case, the applicant has chosen to disregard the policies laid out in the Comprehensive Plan, choosing to focus purely on the Goals and Objectives. By doing so, the staff cannot conclude that the application is in agreement with the Comprehensive Plan and its adopted policies for implementation.

Since the July 3rd Subdivision and Zoning Committee meetings, the applicant has met with staff to discuss concerns regarding the development plan. Staff provided comments regarding some of the issues of the site based on Article 23 of the LFUCG Zoning Ordinance and the recommendations of the Community Design Element of the Expansion Area Master Plan. Staff also stressed the fact that without fully addressing the adopted 2018 Comprehensive Plan, the applicant would either need to prove that the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate, or that there have been major changes of an economic, physical, or social nature within the area, which were not anticipated in the adopted 2018 Comprehensive Plan and have substantially altered the basic character of the area.

The applicant opines that the proposed development is in agreement with the 2018 Comprehensive Plan. They begin their review with the statement that the proposed development will "accommodate the demand for housing in Lexington responsibly." This statement represents only a portion of Theme A, Goal #1.b. The entirety of the statement reads "Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types" (*Imagine Lexington*, 2018: Pg. 11). The applicant's perspective on the accommodation of the demand for housing is focused on single family dwelling units. They state that there is a "desperate need for additional single family houses and townhomes as detailed in the 2017 Fayette County Housing Demand Study". This perspective does not truly grasp the variety of housing options that the study calls for, nor does the interpretation understand the historical development of the Lexington community between 2010 and the present. The 2017 Housing Study states that a total of 12,170 Townhomes, Duplexes, or Single Family Homes should be developed between 2010 and 2025 to cope with the demand of the population in the region. Since the 2013 Comprehensive Plan, there has been an increase in the variety of the types of housing that have been built or planned to be built. However, the primary form of development in Lexington still remains the detached single family household at a low density.

The Housing Demand Study delves deeper into the need for a variety of single family occupancy, including townhomes, duplexes, single family homes, condominiums, and mobile homes, that are meant to meet the needs of the Urban County's growing population. The 2017 Fayette County Housing Study goes further to describe many of the elements that should be understood when reviewing who will be living in the housing that should be developed. The study states that there will be an increase of 11,555 householders over the age of 65. Based on research on aging communities, the majority of householders over the age of 65 will be seeking to downsize from their current housing situation, into smaller and more affordable housing options. The study also states that there will only be a slight increase in the homeownership rate for householders aged 35 to 64, typically the age range that necessitates larger square footage and a greater number of bedrooms. These trends suggest that smaller and more affordable housing should be promoted, including a mixture of townhomes, duplexes, single family homes, and condominiums.



The growth of an aging population in Lexington is reflected in the 2018 Comprehensive Plan. Theme A, Goal #1.c states that Lexington should, “plan for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents.” While the applicant is proposing to provide housing, they have not indicated how that housing will be safe, affordable, or accessible to meet the needs of Lexington’s aging residents. There are numerous ways to fulfill this goal, including but not limited to utilizing Universal Design (Theme A, Equity Policy #8), providing flexibility for senior housing through accessory dwelling units (Equity Policy #6), or seeking to provide compact single family housing types (Theme A, Density Policy #6).

Additionally, the applicant indicates that the proposed development will support infill and redevelopment throughout the Urban Service Area as a strategic component of growth (Theme A, Goal #2) by respecting the context and design features of an area’s surrounding development projects, and develop design standards and guidelines to ensure compatibility with existing urban form (Theme A, Goal #2.b). Within the body of their justification, the applicant states that they are “quite confident in calling this project a well-designed project as it furthers the design policies laid out in the Comprehensive Plan.” However, the applicant does not reference all of the specific policies from the Comprehensive Plan, nor do they indicate any best practices regarding urban design or urban form. The applicant states that by continuing the collector and local roads with future stubs to the adjacent undeveloped properties and pedestrian features, which is a requirement of new development in the Expansion Area, while also utilizing a people-first/pedestrian friendly street pattern design, they have met the essence of both this goal, and the associated policies. Their statement only covers Design Policies #1, 2, 4, 5, 7, 9, 10, 11, and 13. Furthermore, while the applicant indicates that they are seeking to utilize a people-first/pedestrian friendly street pattern design with efficient roadways and separate pedestrian infrastructure, there are portions of the townhouse development that put pedestrians into direct conflict with vehicles, should an individual choose to walk.

The applicant also indicates that they are seeking to incorporate adequate open space into the development project, which is meant to serve the needs of the neighborhood residents (Theme A, Goal #2.c). The applicant states that the adjacent greenway system is proposed to be accessible through a dedicated HOA lot with pedestrian access, which would allow all residents to access this neighborhood focal point. By adjusting their development plan and single loading the street system along the greenway, the applicant has allowed for greater use of this space. Furthermore, they have opened this public space, rather than hiding the greenway behind single family detached housing.

Issues regarding the access to space are also important throughout the site and influence the forms of interaction within the proposed site. The applicant stresses that they are seeking to provide a well-designed neighborhood and community (Theme A, Goal #3), by enabling existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal #3.a). While the applicant has described the mixture of housing, they have not described any forms of regulation or expanded opportunities that allow for neighborhood character preservation. Furthermore, the applicant’s description of the mixed-use and mixture of housing is limited, as they are not incorporating the housing strategies but are seeking to separate them. Additionally, the applicant states that they will strive for positive and safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians and various modes of transportation (Theme A, Goal #3.b), but do not describe the ways in which they are seeking to protect pedestrians, nor do they discuss the various modes of transportation they seek to incorporate.

The applicant’s perspective on the varied approach to transportation and the associated infrastructure also necessitate further review. They state that the proposed development works to achieve an effective and comprehensive transportation system (Theme D, Goal #1) by supporting the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles (Theme D, Goal #1.a) and develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ridesharing, greenways and



other strategies (Theme D, Goal #1.b). Beyond their description of the extension of the existing roadways and the connection to the greenway, the applicant has done little to elucidate how they will be achieving these goals. By describing the solutions by which they are varying the modes of transportation the applicant will also be able to better address community facilities at a neighborhood scale (Theme B, Goal #2) by prioritizing multi-modal options that deemphasizes single-occupancy vehicle dependence (Theme B, Goal #2.d).

The applicant has also indicated that they are proposing to support a model of development that focuses on people-first to provide accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors (Theme D, Goal #2). They will seek to do so by encouraging public safety and social sustainability by incorporating Secure-by-Design concepts and other policies and programs that enhance the built and natural environments of neighborhoods and help reduce opportunities for crimes (Theme D, Goal #2.a). However, the applicant does not delve into the strategies that they seek to employ from the Secure-by-Design or Crime Prevention through Environmental Design (CPTED). These principles include an integrated approach to site development, environmental quality and sense of ownership, natural surveillance, access management, open space management, and targeted lighting.

The development of the site will also have impacts on the surrounding environment. While the applicant states that they propose to minimize the disruption of natural features when building new communities (Theme A, Goal #3.c) and apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources (Theme B, Goal #3) before development occurs (Theme B, Goal #3.b), they have not discussed the strategies they will utilize to minimize development impacts. Additionally, despite the applicants inference that they will promote, maintain, and expand the urban forest throughout Lexington (Theme A, Goal #3.d), they provide no details as to how this will be accomplished nor do they provide the required tree inventory map associated with the preliminary development plan. These objectives can be done by planning with the environment, utilizing native plant species, protecting all significant trees, or planting more than the required tree canopy.

The applicant also stresses that the proposed development upholds the Urban Service Area concept (Theme E, Goal #1). The applicant indicates that they will ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land (Theme E, Goal #1.b), while also emphasizing the redevelopment of underutilized corridors (Theme E, Goal #1.c), 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.d). To accomplish this goal and the associated objectives there are various strategies that the applicant can utilize, but the staff would clarify that several of the goals, objectives and policies within Theme E are not intended to be met by applicants in the zone change process.

In the original staff report, the applicable policies were provided to the applicant to address. With the amended application, the petitioner has chosen not to address the majority of those policies. They have chosen not to address the Place Type, Development Type, or the Development Criteria in their justification statement or through their development plan. The Place Type and Development Type allow for staff and the public to gain a greater understand as to the function of a development within Lexington. The Development Criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment, and allows for a more transparent review process and focused public comment. Until the applicant addresses the adopted Comprehensive Plan in a complete manner the staff cannot offer a substantive and fully analyzed recommendation in conjunction with the Comprehensive Plan.



CRITERIA

The criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed place-type and development type. The applicant has chosen not to address the Place Type, Development Type, or the Development Criteria in their justification statement, through their development plan, or with supplemental graphics or other information.



APPROPRIATE VS INAPPROPRIATE

The petitioner also contends that the Expansion Area Residential-1 (EAR-1) and Expansion Area Residential-2 (EAR-2) zones are appropriate at this location and that the existing Agricultural Rural (A-R) zone is inappropriate. The petitioner argues that the current zoning and any type of agricultural use is inappropriate as it has become increasingly difficult due to the development of the surrounding area as residential subdivisions, multi-family developments, commercial uses, and the interstate system. However, this argument is innately flawed as it contends the agricultural uses cannot occur in proximity to areas of residential or commercial development. This would indicate that all farms or farmland along the Urban Service Area boundary are inappropriately zoned and should be slated for rezoning. Furthermore, there is substantial evidence that shows that the proximity of farmland to urbanized localities can reduce some of the impacts of the urbanized environment and reduce costs for fresh and healthy foods for those living in urban areas.

Furthermore, Article 23 of the LFUCG Zoning Ordinance clearly states that “agricultural uses of land or agricultural uses of buildings or structures which were lawful prior to the adoption of the Expansion Areas Zoning Categories and Restrictions and which would be otherwise prohibited, regulated, or restricted by the provisions of this Article, shall for the purposes of this Article be deemed permitted uses in the zone or district in which they are located and shall not be deemed non-conforming.” Article 23-2(c) goes on to state that “notwithstanding any provision of this Article, any lot which was in existence at the time of the adoption of these Expansion Areas Zoning Categories and Restrictions may be used for one (1) single family house and permitted accessory uses with lot, yard and height as in the Agricultural Rural (A-R) Zone as a principal or accessory use, as appropriate.” This property can therefore be both operated as either of the principal permitted uses of the A-R zone which include land used solely for agricultural purposes, including small farm wineries and equine-related activities, as outlined in KRS 100, and single family detached dwellings. It is problematic for the applicant to suggest that a principal use of the land, single family detached dwellings, is inappropriate, while in the same statement suggesting that the proposed development of single family detached dwellings is appropriate. The subject property, has operated and continues to operate appropriately.

Additionally, the applicant’s reasoning that the availability of sewer and the proximity of the transportation system create “prime land to be developed” is correct for those areas zoned Agricultural Urban (A-U), but is incorrect for those areas zoned A-R. The intent of the A-U zone is to control the development of rural land within the Urban Service Area over a period of time, so as to manage the growth of the community and in order to avoid premature or improper development. Comparatively, the A-R zone is intended to preserve the rural character of the agricultural service area by promoting agriculture and related uses, and by discouraging all forms of urban development except for a limited amount of conditional uses. Therefore the inappropriateness of the A-R zone is not predicated on the availability of services.

The petitioner goes on to state that the current zoning is clearly appropriate as the property has been inside the Urban Service Area for over 25 years and was slated for this exact type of residential development since the adoption of the Expansion Area Master Plan (EAMP). This is partially accurate; however, the Urban County Government made the decision in 1996 that it would be in the interest of the community that zone changes in the Expansion Area be taken parcel by parcel, and be deliberated based on the compliance with the adopted Comprehensive Plan and circumstances at the time development was proposed. Staff does not disagree with the applicant that this property has the potential to be rezoned. However, as the current



zoning is appropriate, the petitioner should address the Goals, Objectives, Policies and Criteria to show how their proposed rezoning is in agreement with the 2018 Comprehensive Plan. Especially since the proposed land uses were recommended for this site, but in a different configuration, for a different acreage, and a lesser density.

SIGNIFICANT CHANGE

The Planning Commission can also consider a justification that there has been a physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area. However, the applicant has not provided evidence in their justification, and the staff cannot find such a change has occurred since late February of this year, when the Comprehensive Plan was adopted.

STAFF RECOMMENDS: POSTPONEMENT, FOR THE FOLLOWING REASONS:



1. The zone change application for the subject property, as proposed, does not address how the petitioner will implement the Goals and Objectives, nor the Policies of the 2018 Comprehensive Plan. Until the applicant addresses the adopted Comprehensive Plan in a complete manner the staff cannot offer a substantive and fully analyzed recommendation.
2. The current Agricultural Rural (A-R) zoning is appropriate for the subject property, as supported by the LFUCG Zoning Ordinance.
3. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area.

SUPPLEMENTAL STAFF REPORT ON AMENDED PETITION FOR ZONE MAP AMENDMENT PLN-MAR-19-00010: BALL HOMES, INC. (AMD)

COMPREHENSIVE PLAN COMPLIANCE



GOALS & OBJECTIVES, AND POLICIES

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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.

With the adoption of the 2018 Comprehensive Plan, the Lexington Community voiced their overwhelming desire for a more transparent and collaborative approach to the development of the Urban County. Through the incorporation of The PlaceBuilder, applicants are asked to address the succinct and clear Development Criteria, meant to facilitate the process by distilling the Goals and Objectives, and Policies into a set of Development Criteria. In this case, the applicant has stated their objection to addressing the Development Criteria, which necessitates a full review of how they are complying with the Goals, Objectives, and Policies laid out in the Comprehensive Plan. Since the recommendation of postponement to allow for greater time to review the Goals, Objectives, and Policies, the applicant has not provided additional information as to how they are addressing the following Goals, Objectives, and Policies:

Theme B, Goal #3.d: Incorporate green infrastructure principles in new plans and policies, including, but not limited to, land use and transportation.

Theme C, Goal #1.d: Provide entertainment and other quality of life opportunities that attract young, and culturally diverse professionals, and a work force of all ages and talents to Lexington.

Theme A:

Design Policy 3: Multi-Family residential developments should comply with the Multi-Family Design Standards in Appendix A.

Design Policy #6: Adhere to the recommendations of the Lexington Area MPO Bike / Pedestrian Plan, Adopted in 2018.

Design Policy #12: Support neighborhood-level commercial areas.

Density Policy#3: Create opportunities for additional neighborhood supportive uses, especially in areas where services are lacking.

Density Policy #4: Generally, locate high-density areas of development along higher capacity roadways (minor arterial, collector) to facilitate future transit enhancements.

Density Policy #5: Provide Affordable and/or compact residential options through accessory dwelling units.

Equity Policy #1: Meet the demand for housing across all income levels.

Equity Policy #6: Provide flexibility for senior housing through accessory dwelling units.

Equity Policy #7: Community facilities should be well integrated into their respective neighborhoods.

Equity Policy #8: Housing developments should implement universal design principles on a portion of their units.

Theme B:

Protection Policy #10: Install iconic rural fencelines around major greenways to enhance their natural beauty.

Sustainability Policy #2: Promote Roadway, pedestrian and bicycle connectivity.

Restoration Policy #1: Protect and recover Lexington's Urban Forest by strategically planting new trees and creating walkable streetscapes.

Restoration Policy #2: Use green infrastructure to bridge gaps in the greenspace network.



Restoration Policy #4: Improve air quality by reducing the vehicle miles traveled (VMT).

Theme C

Livability Policy #6: Attract and retain young professionals by improving affordable housing opportunities, amenities, and entertainment options that are attractive to them.

Livability Policy #7: Continue to create a true multi-modal and mixed-use community with safe and quality access to community facilities, greenspace, employment, neighborhood businesses, shopping, and entertainment.

Livability Policy #8: Promote quality of life aspects, including greenspace, as an attraction to new businesses and residents.

Theme D

Connectivity Policy #2: Create multi-modal streets that satisfy all user needs.

Connectivity Policy #3: Provide equitable multi-modal access for those who do not drive due to age, disability, expense or choice.

Connectivity Policy #4: Design street networks that provide alternative route options, which reduces traffic congestion.

Connectivity Policy #6: Take a holistic approach to designing context-sensitive streets, addressing them within the framework of the county-wide network land use context and the needs of all users.

Placemaking Policy #4: Create quality and usable open space for all developments over one acre.

Placemaking Policy #7: Cultivate a more collaborative per-development process, incorporating community feedback before development is formally submitted for review.

Placemaking Policy #10: Coordinate with the Public Art Commission to designate public art easements on new development that would be curated by the Commission.

Support Policy #6: Ensure all social service and community facilities are safely accessible via mass transit, bicycle, and pedestrian transportation modes.

Support Policy #9: Implement creative housing opportunities that are both accessible and affordable for seniors and people with disabilities.

Theme E

Accountability Policy #5: Increase dedicated bike lanes, pedestrian and transit facilities in the existing right-of-way, focusing on moving people rather than exclusively single-occupancy vehicles.

Growth Policy #3: Provide varied, abundant, and connected greenspaces throughout Lexington's Urban and Rural Areas.

Growth Policy #9: Support the "Missing Middle Housing" types throughout Lexington.

In total, 42 Goals, Objectives and Policies are relevant to the requested zone change, yet the applicant has only addressed ten. Of those that have been addressed, the applicant has been exclusively focused on the Design Policies outlined in Theme A: Building Successful Neighborhoods in the 2018 Comprehensive Plan.

In addition to the various Goals, Objectives, and Policies that have not been addressed by the applicant, the recent modification in the location of the proposed zoning deviates from the Land Use Element of the Expansion Area Master Plan (EAMP). The EAMP, an adopted element of the 2018 Comprehensive Plan, detailed future land use, locations and densities throughout the Expansion Areas. The subject property, which is located within Expansion Area 2a, is recommended to have 20.41 acres of Expansion Area Residential-1 land use adjacent to the greenway. This was meant to allow for the development of a multi-modal transportation system that took full advantage of the greenway as a unifying feature and to locate low density residential, 0-3 dwelling units per acre, nearby the greenway. The amount of dwelling units within this land use for the subject property is recommended to be between 0 to 61 dwelling units. The remaining 20.08 acres of the subject property is recommended for the Expansion Area Residential-2 land use. This is intended to allow for an increase in density, 3-6 dwelling units per acre, or a total of 60 to 120 dwelling units. While there has been a modification in the location of the Blackford Parkway, which has necessitated a modification in the location of the park road, the applicant has proposed to flip the location of the EAR-1 and EAR-2 land uses. The EAR-2 land use is proposed to be located along the greenway, southwest of the



proposed roadway, and the EAR-1 land use is proposed to be located northeast of the proposed roadway, extending to the edge of the subject property. This change is not in agreement with the EAMP Land Use Element, an adopted element of the 2018 Comprehensive Plan.

In conclusion, the staff has determined that the applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, the applicant has deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change is not in agreement with the 2018 Comprehensive Plan.



Since the October Zoning Committee meeting, the applicant has provided staff with additional information regarding the alternative justifications for the proposed zone change. KRS 100.213 states that before any map amendment is granted, the Planning Commission must find that the map amendment is in agreement with the adopted Comprehensive Plan. In the absence of such a finding, KRS provides two potential options:

- (a) That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and/or
- (b) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

Since the staff cannot find that the zone change request is in agreement with the 2018 Comprehensive Plan, the Planning Commission should consider the applicant's justification that the current zoning for the subject property is inappropriate and that the proposed zoning is appropriate.

APPROPRIATE VS INAPPROPRIATE

The petitioner contends that the existing Agricultural Rural (A-R) zone is inappropriate and that the Expansion Area Residential-1 (EAR-1) and Expansion Area Residential-2 (EAR-2) zones are appropriate at this location. Utilizing this justification for a zone change necessitates the applicant to both address the inappropriateness of the current zoning and the appropriateness of the proposed zoning. Often the inappropriateness of a zone is focused on the physical limitations of the site, the inability to utilize the site due to the zoning restrictions, and/or the context of the surrounding area. The justification for the appropriateness of the proposed zoning is often based on the policies established by the legislative body, continuity of land uses, continuity of zoning, the feasibility of the use in association with the existing landscape, and the context of the surrounding properties or immediate area.

Inappropriate: A-R Zone

The petitioner argues that the current zoning and any type of agricultural use is inappropriate, as it has become increasingly difficult due to the development of the surrounding area as residential subdivisions, multi-family developments, commercial uses, and the interstate system. In terms of inappropriateness, this argument is flawed as it contends the agricultural uses cannot occur in proximity to areas of residential or commercial development. This would indicate that all farms or farmland along the Urban Service Area boundary are inappropriately zoned and should be slated for rezoning. Furthermore, there is substantial evidence that shows that the proximity of farmland to urbanized localities can reduce some of the impacts of the urbanized environment, while also reducing costs for fresh and healthy foods for those living in urban areas.

However, within the additional material provided, the applicant goes further to discuss the limitations to the current land and available land uses. They state that the grade of the land, which slopes toward the floodplain, has made the use of the land for cattle production difficult. This resulted in the discontinuation of cattle production approximately 50 years ago. They also state that there has been little interest in utilizing the land for production of crops outside of the production of hay.

Furthermore, the ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property is approximately 40 acres of a much larger farm that



was added to the Urban Service Area (USA) boundary, via the adoption of the Expansion Area in 1996. Although the parcel is approximately 40 acres, it is limited because the subject property has a significant floodplain, which covers approximately 7.5 acres of land. The floodplain limits the ability to consistently utilize the property for crop production.

In the previous staff report, the staff discusses the fact that agricultural uses of land or agricultural uses of buildings or structures, which were lawful prior to the adoption of Article 23 of the Zoning Ordinance (Expansion Areas Zoning Categories and Restrictions) and would be otherwise prohibited, regulated, or restricted by the provisions of Article 23, shall be deemed permitted uses in the zone or district in which they are located and shall not be deemed non-conforming. This would continue to be the case should the property be rezoned, and until the property is developed.

Appropriate: EAR-1 & EAR-2 Zones

The applicant posits that the proposed zone change is compatible with the surrounding land uses and zoning, which supports their opinion regarding the appropriateness of the EAR-1 and EAR-2 land use and zones for the subject property. The areas located southeast of the subject property, across Man o' War Boulevard, are comprised primarily of residential land uses that are at a similar density as those being proposed for the subject property. Additionally, the residential density proposed for the subject property is within the range recommended for this area, and is similar to the densities found across Man o' War Boulevard within the immediate vicinity.

During and since the committee meetings, the applicant has also provided reasoning as to the appropriateness of the step-down in the residential land use for the portion of land between Polo Club Boulevard and Man o' War Boulevard. The applicant posits that it is appropriate to have the higher densities of residential land use against large collector streets, like EAR-3 land uses located along Polo Club Boulevard. The application states that it is more appropriate to step that from the highest intensity land uses, located along the interstate, to subsequently less intense uses as development extends towards the Urban Service Boundary. The proposed zone change would locate the EAR-2 zone adjacent to an existing the EAR-3 zone, providing for an appropriate step-down or buffer in land use from the least intense residential land use, found in the EAR-1 zone. Positioning higher density residential land uses adjacent to the greenway also allows for greater access for those residents to the open space, while also providing infrastructure that is needed for the proposed development.

Finally, sewer services have been built through a portion of the subject property to provide services to Expansion Area 2a. A trunk sewer line was constructed on this property in 2008, with a portion of the line located on the area that is proposed to be rezoned. This portion of the trunk line serves the residential and commercial uses east of Man o' War Boulevard, as well as the residential land use located to the south of the subject property. Due to the availability of these services and the location of the subject property within the Urban Service Area, the residential land uses available in the EAR-1 and EAR-2 zones are appropriate at this location.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, the applicant has deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change is not in agreement with the 2018 Comprehensive Plan.
2. The existing Agricultural Rural (A-R) zoning is inappropriate for the subject property, for the following reasons:
 - a. The grade of the subject property has resulted in the difficulty of utilizing agricultural uses and those conditional uses in the A-R zone.
 - b. The ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property was added to the Urban Service Area (USA) boundary, via the adoption of the Expansion Area in 1996 and has a significant area of land that is unsuitable for agricultural land uses due to the floodplain, which covers approximately 7.5 acres of land.
3. The proposed Expansion Area Residential-1 (EAR-1) Expansion Area Residential-2 (EAR-2) zones are appropriate for the subject property, for the following reasons:
 - a. The proposed zoning is compatible with the surrounding land uses and zoning at this location.
 - b. The proposed zoning presents an appropriate step-down in the residential uses from the highest intensity residential zoning to the lowest intensity, as the zoning in the area transitions away from the interstate corridor and Polo Club Boulevard toward the Urban Service Area boundary.
 - c. Positioning higher density residential land uses adjacent to the greenway at this location allows for greater access for those residents to the open space, while also providing connectivity and infrastructure that is needed for denser development.
 - d. The subject property is located within the Urban Service Area and is currently supported by urban services, including the transportation network and sewer services.
4. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area.
5. This recommendation is made subject to approval and certification of PLN-MJDP-19-00036: Hamburg East (Belhurst), 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. BALL HOMES, INC (AMD) ZONING MAP AMENDMENT & HAMBURG EAST (BELHURST) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-19-00010: BALL HOMES, INC (AMD) (10/24/19)*- an amended petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Expansion Area Residential (EAR-1) zone, for 26.34 net (27.19 gross) acres and an Expansion Area Residential (EAR-2), for 11.92 net (13.30 gross) acres, for property located at 2575 Polo Club Boulevard (a portion of).

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 has requested a zone change from an Agricultural Rural (A-R) zone to an Expansion Area Residential-1 (EAR-1) zone for 26.34 net (27.19 gross) acres and an Expansion Area Residential-2 (EAR-2) zone for 11.92 net (13.30 gross) acres for the rear portion of the property located at 2575 Polo Club Blvd. The corollary development plan depicts 80 detached single family dwelling units and 78 attached single family dwelling units, for an average density of 3.9 dwelling units per gross acre.

The Zoning Committee Recommended: **Referral** to the full Commission.

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

1. The zone change application for the subject property, as proposed, does not address how the petitioner will implement the Goals and Objectives, nor the policies of the 2018 Comprehensive Plan. Until the applicant addresses the adopted Comprehensive Plan in a complete manner the staff cannot offer a substantive and fully analyzed recommendation.
 2. The current Agricultural Rural (A-R) zoning is appropriate for the subject property, as supported by the LFUCG Zoning Ordinance.
 3. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, which has significantly altered the basic character of the area.
- b. PLN-MJDP-19-00036: HAMBURG EAST (BELHURST) (10/24/19)* - located at a portion of 2575 POLO CLUB BOULEVARD, LEXINGTON, KY.
Project Contact: EA Partners

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the Placebuilder Criteria.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property EAR 1 & 2; 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. Discuss interior pedestrian system for townhouse area.
8. Discuss proposed relationship to the greenway.
9. Discuss proposed Park Road alignment and cross-section per the Expansion Area Master Plan (EAMP).
10. Discuss single family lot access to Park Road for Lots 1, 2 & 19.
11. Discuss Placebuilder criteria.
12. Resolve second entrance for gate at the time of the final development plan.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the amended zone change application. He said the applicant initially submitted this application in June 3, 2019, and then submitted an amended application on September 20, 2019. He said that during the revisions to the application, the staff discussed the need for the application to address KRS findings in particular, agreement with the 2018 Comprehensive Plan and the need to address the various goals, objectives, and policies in a complete manner. The applicant made a statement within their justification questioning the validity of the 2018 Comprehensive Plan, which is irrelevant and outside of the Planning Commission's decision to be made at today's public hearing.

Mr. Baillie displayed photographs of the subject property and aerial photographs of the general area. He said the subject property is located within Expansion Area 2a, part of a larger agricultural area located along the eastern portion of the Urban Service Boundary that has been platted as Hamburg East, and situated in an area of mixed land uses and zoning. The portion of the subject property that is located west of the North Elkhorn Creek was rezoned to the Expansion Area Residential-3 (EAR-3) zone

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in 2010, which resulted in the flipping of Community Center (CC) zoned land. The CC land use was recommended by the EAMP to be located on the east side of Polo Club Blvd, and the EAR-3 zoned land was recommended to be located on the west side of Polo Club Blvd.

Mr. Baillie said that since the Zoning Committee meeting on October 3, 2019, the applicant has provided the staff with additional information regarding the alternative justifications for the proposed zone change. The Zoning Ordinance states that before any map amendment is granted, the Planning Commission must find that the map amendment is in agreement with the adopted Comprehensive Plan. In the absence of such a finding, KRS and Article 6 of the LFUCG Zoning Ordinance provide two potential justifications for the Commission to consider: 1) that the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and/or; 2) that there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area. He said that the applicant suggests that their application meets two of the findings: 1) the Planning Commission must find that the map amendment is in agreement with the adopted Comprehensive Plan; and 2) that the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate. He said that the applicant has stated their objection to addressing the development criteria of the Comprehensive Plan, which necessitates a full review of how they are complying with the goals, objectives, and policies of the Plan. Since the submission of this revised plan, the applicant has not provided additional information as to how they are addressing each of the goals, objectives, and policies. He said that the applicant has only addressed 10 of the 42 total goals, objectives, and policies and that they have exclusively focused on the design policies.

Mr. Baillie stated that this proposal deviates from the recommendations made in the Land Use Element of the Expansion Area Master Plan (EAMP). This property was recommended for EAR-1 and EAR-2 land uses and zones, as well as for the extension of the park road. The EAMP proposed the EAR-1 land use and zoning to be located along the greenway with the park road as a divider of the two zones. He said that the greenway was meant to be a unifying feature to provide integration between various land uses on both sides of Man o' War Boulevard. He said that the applicant is proposing to flip the location of the EAR-1 and EAR-2 land uses. The EAR-2 land use is proposed to be located along the greenway, southwest of the proposed roadway, and the EAR-1 land use is proposed to be located northeast of the proposed roadway, extending to the edge of the subject property and that this change is not in agreement with the EAMP Land Use Element, an adopted element of the 2018 Comprehensive Plan.

Mr. Baillie said that the staff has determined that the applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, they have deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change cannot be found to be in agreement with the 2018 Comprehensive Plan.

Mr. Baillie said that the petitioner argues that the current zoning and any type of agricultural use is inappropriate, as it has become increasingly difficult due to the development of the surrounding area as residential subdivisions, multi-family developments, commercial uses, and the interstate system. In terms of inappropriateness, this argument is flawed as it contends the agricultural uses cannot occur in proximity to areas of residential or commercial development. This would indicate that all farms or farmland along the Urban Service Area boundary are inappropriately zoned and should be slated for rezoning. The petitioner also stated that the grade of the land, which slopes toward the floodplain, has made the use of the land for cattle production difficult, which resulted in the discontinuation of cattle production approximately 50 years ago. They state that there has been little interest in utilizing the land for production of crops outside of the production of hay. Furthermore, the ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property is approximately 40 acres of a much larger farm that was added to the Urban Service Area boundary, via the adoption of the Expansion Area in 1996. Although the parcel is approximately 40 acres, it is limited because the subject property has a significant floodplain, which covers approximately 7.5 acres of land. The floodplain limits the ability to consistently utilize the property for crop production. He added that in the initial staff report, it discussed agricultural uses of land or agricultural uses of buildings or structures, which would continue on until development actually occurs. He said that the staff agrees with these elements of the applicant's justification for the inappropriateness of the current Agricultural Rural (A-R) zoning.

Mr. Baillie said that the applicant states that the proposed zoning is compatible with the surrounding land uses and zoning at this location. The proposed zoning presents an appropriate step-down in the residential uses from the highest intensity residential zoning to the lowest intensity, as the zoning in the area transitions away from the interstate corridor and Polo Club Boulevard toward the Urban Service Area boundary. Positioning higher density residential land uses adjacent to the greenway at this location allows for greater access for those residents to the open space, while also providing connectivity and infrastructure that is needed for denser development. The subject property is currently supported by urban services, including the transportation network and sewer services. He added that the staff is recommending approval of this zone change for the following reasons:

1. The applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, the applicant has deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change is not in agreement with the 2018 Comprehensive Plan.
2. The existing Agricultural Rural (A-R) zoning is inappropriate for the subject property, for the following reasons:

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- a. The grade of the subject property has resulted in the difficulty of utilizing agricultural uses and those conditional uses in the A-R zone.
- b. The ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property was added to the Urban Service Area (USA) boundary, via the adoption of the Expansion Area in 1996 and has a significant area of land that is unsuitable for agricultural land uses due to the floodplain, which covers approximately 7.5 acres of land.
3. The proposed Expansion Area Residential-1 (EAR-1) Expansion Area Residential-2 (EAR-2) zones are appropriate for the subject property, for the following reasons:
 - a. The proposed zoning is compatible with the surrounding land uses and zoning at this location.
 - b. The proposed zoning presents an appropriate step-down in the residential uses from the highest intensity residential zoning to the lowest intensity, as the zoning in the area transitions away from the interstate corridor and Polo Club Boulevard toward the Urban Service Area boundary.
 - c. Positioning higher density residential land uses adjacent to the greenway at this location allows for greater access for those residents to the open space, while also providing connectivity and infrastructure that is needed for denser development.
 - d. The subject property is located within the Urban Service Area and is currently supported by urban services, including the transportation network and sewer services.
4. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area.
5. This recommendation is made subject to approval and certification of PLN-MJDP-19-00036: Hamburg East (Belhurst), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Development Plan Presentation – Mr. Martin presented a revised rendering of the preliminary development plan associated with this zone change. He indicated that revised conditions were distributed to the Planning Commission, as follows:

1. Provided the Urban County Council rezones the property EAR 1 & 2; 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. ~~Discuss~~ Resolve interior pedestrian system for townhouse area at the time of the final development plan.
8. ~~Discuss~~ Resolve proposed relationship to the greenway at the time of the final development plan.
9. ~~Discuss~~ Resolve proposed Park Road alignment and cross-section per the Expansion Area Master Plan (EAMP), to the approval of the Divisions of Traffic Engineering and Planning.
10. ~~Discuss~~ Resolve single family lot access to Park Road for Lots 1, 2 & 19.
11. ~~Discuss~~ Placebuilder criteria Resolve compliance with the Community Design Element of the EAMP at the time of the final development plan.
12. Resolve second ~~emergency gate~~ entrance for gate at the time of the final development plan.
13. Resolve proposed design standards at the time of the final development plan, including front facing garage setbacks along the Park Road.
14. Depict extension of Man o' War Boulevard improvements along entire frontage of subject property.

Mr. Martin identified Blackford Parkway, Man o' War Boulevard, and the proposed entrance into this development. He said that the applicant is proposing 80 single family lots and 78 townhouses. He said that the applicant is demonstrating that the park road, which is Blackford Parkway, has a relationship with the greenway. He also pointed out the greenway that Mr. Baillie had referred to and said that the EAMP had envisioned it to coordinate, compliment, and connect the area. It is also a drainage feature for stormwater. He said that the applicant will continue to discuss and resolve some of the staff's concerns. One of those is condition #9, the cross-section of park road (Blackford Parkway) and how the roadway will function adjacent to the properties, in particular in providing the appropriate pedestrian and shared-use trail facilities that are envisioned. Another concern is condition #11, which is to be resolved at the next stage. The EAMP requires that the applicant submit statements addressing the community design element and the infrastructure element of the EAMP at the time of the final development plan. He added that the extension of the park road is identified as part of the infrastructure in the EAMP, and it is an exactable feature. He said that condition #7, is focused on the internal pedestrian system for the townhouses and the trail system, which will both be resolved at the time of the final development plan.

Mr. Martin said that the EAMP allows developers to set their own design standards, which include lotting standards and setbacks, and that the minimum setback is only five feet. These also need to be resolved at the time of the final development plan. He said that staff had a concern with the driveways and vehicular conflict along the Blackford Parkway, which will be a collector street. The single-family lots along that roadway have a twenty-five foot setback. He said that the staff is recommending that the applicant show improvements to Man o' War Boulevard, because it needs to be improved to urban standards.

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Applicant Presentation – Mr. Nick Nicholson, attorney, Buddy Goodwin, Ball Homes, LLC and Rory Kahly, EA Partners, were present to represent the petitioner. He said that this zone change has been planned for more than 20 years and it is to transform 38 acres of vacant and under-utilized agricultural land. He said that they are proposing to change 26 acres to the EAR-1 zone and 12 acres to the EAR-2 zone. He added that this not the first development in this area nor on this farm. He said that at the Zoning Committee meeting there was discussion regarding the statute that governs the zone change process and how the Planning Commission can recommend approval. He said that the first question in a zone change hearing is, is the project in compliance with the Comprehensive Plan. He added that if the that answer is no, then there are two more questions and if the answer is yes to either of them, the Commission can recommend approval to their legislative body. He said that they believe that the existing zoning is inappropriate and the proposed zoning is appropriate. He added that that they will not be submitting any separate findings at today's hearing because all three of these provisions of the statute are viewed equally and any of them are appropriate to recommend approval.

Mr. Nicholson said they believe that this proposal is in compliance with the Comprehensive Plan because the proposed mix of EAR-1 and EAR-2 zoning will allow for a development that will activate an under-utilized agricultural parcel that has long been recommended for this exact type of residential use, at this exact density, and even the exact zones. He said that this will 1) expand housing choices by having a 50/50 single-family and townhomes development; 2) support infill and redevelopment throughout the Urban Service Area by completing full urban improvements at Man o' War Boulevard; 3) provide well-designed neighborhoods and communities by matching zones, types, and density levels with the adjacent neighborhood, while maintaining character and context; and 4) address community facilities at a neighborhood scale by protecting the environment.

Mr. Nicholson said that with regards to the effective and comprehensive transportation system, the change of location of Blackford Parkway impacted the future development of this property. He said that they believe that this is compliance with the Comprehensive Plan because this development is sustainable and will match the character and context of the existing area, in an under-utilized corridor. He said that this property has been within the Urban Service Area boundary for more than 20 years and has remained vacant. He believes that this is exactly where development should be going. Theme E, Goal 1 states to activate large, undeveloped landholdings within the Urban Service Area boundary, which is what they are proposing to do.

In regards to the design policies, Mr. Nicholson said that the adopted Comprehensive Plan encourages utilizing a people-first design to ensure proper road connections, to provide pedestrian-friendly street patterns and walkable blocks, to adhere to the recommendations of the MPO Bike/Ped Master Plan, and to connect to adjacent stub streets in order to maintain connectivity. He said that they are providing a stub street to the adjacent vacant land to make a fully connected neighborhood. He said that there will be pedestrian improvements throughout the property. He added that they are proposing a secondary emergency entrance on the northern end of the development, which will need to be approved by the state. He made a correction that Mr. Martin had provided, the applicant is showing a thirty-five foot building line setback for the houses along Man o' War Boulevard, which will allow for larger driveways to discourage parking on Blackford Parkway. He said that they are providing a development that is sensitive to the surrounding concept, designing car parking areas to not be the primary component and providing varied housing choices. He said that all of the townhouses facing Man o' War Boulevard and Blackford Parkway are rear-loaded. He said that they are also providing adequate greenspace for all neighborhoods within walking distance, having the focal points accessible to all residents, and the single-loaded streets.

Mr. Nicholson said that it was a difficult decision to not follow the EAMP's recommendations, but after meeting with the staff and determining that the alignment of Blackford Parkway was a major concern. The road needed to near the greenway and he believes that this integrates this development into the greenway system and provides dedicated access for the single-family and any residents along the pedestrian infrastructure, it's a visual and key component for everyone who enters this development. He said that since they are not in agreement with the future land use map of the EAMP, they believe that they are in compliance with the EAMP, and will submit a compliance statement at the final development plan phase.

Mr. Nicholson said that in regards to the appropriateness and inappropriateness of the current zoning, this property is ill-suited for agricultural land because of the layout and the topography of the parcel. He said that they searched back fifty years and couldn't find any type of livestock that was actively using this land. He also believes that this property is ready to be developed because of the infrastructure that is already available to serve it. He said that the EAMP acted as a guide to provide the community, the developers, and the government as to how this large piece of land will be developed. He added that the EAMP provided a list of the infrastructure that was needed, the street system, the sanitary sewer, and stormwater system. He said that the current property owner installed trunk sewer line beneath the property, to serve this property, the adjacent commercial and residential areas. He said that the inappropriateness of this property to remain agricultural is the unwillingness to expand the Urban Service Area boundary, because there is sufficient amount of vacant land located inside of the boundary. He then displayed a map from Imagine Lexington, which depicts 64% Residential, 25% Employment, and 11% Commercial. There isn't any agricultural use recommended inside of the Urban Service Area boundary. He said that the Fayette Alliance specifically identified this parcel as a potential new residential growth area.

Commission Questions - Ms. Plumlee what would be the developer's and the state's improvement along Man o' War Boulevard. Mr. Nicholson said that the developer is proposing to install curb and gutter and the sidewalks along Man o' War Boulevard.

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Mr. Penn said that he is appreciative of the single-loaded streets within the development.

Mr. Owens asked Mr. Nicholson if they are in agreement with the staff's revised recommendations. Mr. Nicholson agreed.

Citizen Comment - There were no citizens present to speak to this application.

Staff Rebuttal – Mr. Baillie said that there are numerous other policies from the Comprehensive Plan that should also be addressed when reviewing an application in compliance and agreement with the Comprehensive Plan. He said that the applicant complied with ten of the forty-two policies. He said that the other policies that were not addressed include density, equity, protection, sustainability, restoration, livability, connectivity, place making, accountability, and growth policies. He said that reducing the Comprehensive Plan to the design of the site is not the community's desire nor the directive of the Planning Commission.

Commission Comments – Mr. Nicol commended the staff for working with the applicant to get to an approval recommendation. He said that there was a lengthy discussion regarding the Comprehensive Plan and Placebuilder at the October 3, 2019 Zoning Committee meeting. He said that he believes that the Placebuilder was not a checklist, but it is a distillation of the criteria that's within the Comprehensive Plan. He said that with enough time, the applicant could have gotten to a staff approval recommendation based on the Comprehensive Plan. If they had used the Placebuilder, the approval most likely would have been received earlier, which could have allayed any concerns with lack of transparency. He said that Fayette County is expecting a population growth of more 20,000 over the next ten years, which would be 2,000 per year. He said that this proposed development is a small percentage of what is needed to meet these growth objectives. He added that he believes that this is good plan and is supporting it.

Mr. Penn said that the Planning Commission worked for the past two years to approve of the 2018 Comprehensive Plan and it needs to be respected. As Mr. Nicol stated, the design was transparent, but the development plan should be as well. He said that plan will be submitted again as a final development plan, and there are many conditions that need to be completed. He said that the process was meant to be followed and the applicant has made the decision to only follow it on the design standards. This property fits the narrative of K.R.S. 100, which is the only reason why it is moving forward. He stated that he doesn't want the community to feel that every piece of property, going forward, will be able to not address the Comprehensive Plan.

Mr. Owens said that the recommendation is that this gets approved, but the Planning Commission hasn't voted on it at this time.

Ms. Plumlee said that it is unusual to get approval from the staff with the first reason being that the applicant hasn't provided complete and sufficient information to demonstrate agreement with the Comprehensive Plan. She said that she is concerned that this may set a precedence in the future. She said that each zone change is individual and is considered with individual aspects within those realms.

Mr. Owens said that there is a different set of circumstances with any request/application and he doesn't believe that there will be any precedence setting with this decision. He said that there had been many revisions since the original application and more can be still be completed. He agrees with Mr. Nicol that taking a different path would have provided easier and better results. He added that failure to address the majority of elements of the 2018 Comprehensive Plan shows a lack of respect for the City of Lexington, which includes the Planning Commission, the staff, the city government, and the citizens of Lexington who live and work here. We are all after the same desire, to make Lexington a better place. He said that he hopes that this is a single occurrence and that future request will not necessitate these types of statements that have been presented here today.

Zoning Action – A motion was made by Mr. Forester, seconded by Ms. Mundy, and carried 7-0 (Bell, Brewer, Pohl, and Wilson) to approve PLN-MAR-19-00010: BALL HOMES, INC (AMD), for the reasons provided on the supplemental report by the staff.

Development Plan Action – A motion was made by Mr. Forester, seconded by Ms. Mundy, and carried 7-0 (Bell, Brewer, Pohl, and Wilson) to approve PLN-MJDP-19-00036: HAMBURG EAST (BELHURST), for the revised reasons presented by the staff.

Note: Planning Commission took a recess at 3:20 p.m. until 3:30 p.m.

Note: Mr. Nicol left the meeting at 3:20 p.m.

Note: Mr. Bell arrived at the meeting at 3:20 p.m.