

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

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

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

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

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

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

The procedure for these hearings is as follows:

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

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

1. **ELKHORN SPRINGS DEVELOPMENT, LLC ZONING MAP AMENDMENT & WINBURN ESTATES SUBDIVISION, UNIT 3 ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-17-00008: ELKHORN SPRINGS DEVELOPMENT, LLC (6/8/17)* - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Planned Neighborhood Residential (R-3) zone, for 13.84 net (17.76 gross) acres, for property located at 1975 Russell Cave Road.

COMPREHENSIVE PLAN AND PROPOSED USE

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

In addition to the Comprehensive Plan mission statement, the Goals and Objectives of the Plan also encourage growing successful neighborhoods (Theme A), which includes the following elements or characteristics: inviting landscape; variety of housing choices; abundant private and public open space; neighborhood focal points; and quality connections with parks, schools and stores. The Comprehensive plan also encourages upholding the Urban Service Area concept through compact and contiguous development, and absorption of vacant and/or underutilized land (Theme E).

The subject property is located within the boundary of the recently adopted *Winburn-Russell Cave Neighborhoods Small Area Plan* (WRCN SAP), which is generally south of Interstate 64 & 75, west of Newtown Pike, north of New Circle Road and east of Russell Cave Road. The Plan identifies seven guiding principles and adopted multi-family residential design guidelines for the area that should be further considered by the Planning Commission.

The petitioner proposes the rezoning in order to construct a multi-family residential development with a total of 160 dwelling units, with 360 bedrooms, a clubhouse and associated off-street parking. This development proposes a residential density of 11.6 dwelling units per net acre.

The Zoning Committee Recommended: **Approval.**

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

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, and the adopted 2016 *Winburn-Russell Cave Neighborhoods Small Area Plan* (WRCN SAP), for the following reasons:

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

- a. The 2013 Comprehensive Plan's Goals and Objectives encourage expanded housing choices (Theme A, Goal #1); support opportunities for infill, redevelopment and adaptive reuse that respect an area's context and design features (Theme A, Goal #2a.); encourage the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1b. and #3); encourage providing for well-designed neighborhoods (Theme A, Goal #3); and support creating safe, affordable and accessible housing for all citizens (Theme A, Goal #1c.).
 - b. The 2016 *Winburn-Russell Cave Neighborhoods Small Area Plan* (SAP) identifies seven guiding planning principles to increase transportation connectivity; increase equity for residents; promote strategies to increase home ownership and improve housing conditions; optimize the use of land to promote mixed housing types; ensure infill is well designed and sensitive to existing neighborhoods; improve existing parks and improve public safety.
 - c. The requested zone change and proposed development will utilize vacant land inside the Urban Service Area, expand housing choices within the immediate area and provide a development pattern that respects the character of the immediate area.
 - d. The petitioner's proposal addresses the necessary transportation connection of Ward Drive from Russell Cave Road into the Winburn neighborhood, and several many of the design guidelines that ensure such infill is sensitive to the surrounding neighborhood.
 - e. As part of the SAP planning process, a set of design standards was developed for multi-family developments that provide a framework for evaluating the proposed development. The site planning guidelines have been partially met, based on preliminary design work, and any of the open space, landscaping, and architectural design guidelines will also be met.
 - f. Adherence to the design standards should ensure a context sensitive development and therefore, agreement with many of the goals established in the 2013 Comprehensive Plan and principles of the *Winburn-Russell Cave Neighborhood Small Area Plan*.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00017: Winburn Estates Subdivision, Unit 3 prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
 3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following land use restrictions shall apply via conditional zoning:
 - a. A 15' landscape buffer shall be provided and maintained adjacent to I-64/I-75 that is to consist of at a solid fence eight feet (8') in height, trees located thirty feet (30') on center and a solid hedge.
 - b. All pole lighting on this site (exclusive of street lights provided on Ward Drive) shall be limited to a maximum of twelve feet (12') in height.

These restrictions are necessary and appropriate for the subject property to ensure greater compliance with the specific Winburn-Russell Cave Neighborhoods Small Area Plan recommendations, and to mitigate the noise impact that the I-64/I-75 expressway would have on a new residential development at this location.
- b. PLN-MJDP-17-00017: WINBURN ESTATES SUBDIVISION, UNIT 3 (6/8/17)* - located at 1975 Russell Cave Road.
(Banks Engineering)

Note: The Planning Commission postponed this item at their May 25, 2017, meeting.

The Subdivision Committee Recommended: Postponement. This plan is much improved, but several unresolved issued remain with this development,

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Correct plan title.
8. Remove "copyright" note from plan.
9. Addition of final record plat information in title block.
10. Denote construction access point location on plan.
11. Addition of purpose of amendment note and label as an "Amended" plan.
12. Correct note #9.
13. Discuss Small Area Plan's recommendations for Ward Drive and Russell Cave Road intersection, per the small area plan recommendation.
14. Denote: the Small Area Plan's design guidelines for multi-family dwellings, lighting, landscaping and open space will need to be reviewed at the time of a Final Development Plan proposed.
15. Discuss need for second access point for over 100 dwelling units for public safety.
16. Discuss capacity of existing pump station and timing for removal.
17. Discuss improvements along the Russell Cave Road frontage.
18. Discuss access to open space area on south side of Ward Drive.

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

19. Discuss maintenance of open space area on south side of Ward Drive.
20. Discuss pedestrian system per the Small Area Plan recommendations.

Staff Presentation - Ms. Wade presented the staff report on this zone change using a rendered zoning map to display the areas proposed for rezoning from a Single Family Residential (R-1E) zone to a Planned Neighborhood Residential (R-3) zone, for 13.84 net (17.76 gross) acres, as well as displayed a PowerPoint presentation of the subject property. She summarized the staff recommendations for the proposed zone change, noting that the petitioner was proposing to construct a multi-family residential development with a total of 160 dwelling units, with 360 bedrooms, a clubhouse and associated off-street parking.

Ms. Wade said that even though the 2013 Comprehensive Plan no longer makes a specific land use recommendation for the subject property, the Goals and Objectives, as well as the adopted Small Area Plan for this area of the Urban Service Area was referenced.

Ms. Wade then said that the subject property was located within the boundaries of the *Winburn-Russell Cave Neighborhoods Small Area Plan* (WRCN SAP), which was recently adopted and made part of the 2013 Comprehensive Plan on June 30, 2016. Additionally, since this project is a multi-family development, the *Multi-Family Design Standards* (appendix to the SAP) are relevant to this proposal and should be adhered to.

Ms. Wade said that the Small Area Plan has very specific recommendations for the treatment of the intersection of Ward Drive and Russell Cave Road that should be addressed through the development plan review. She explained that if the land use is proposed for higher intensity residential uses, that development should be located away from the existing single family properties located with Winburn neighborhood fabric and it should provide extensive landscaping for effective buffering along the adjacent interstate corridor. She said that the staff believes this proposed zone change could meet these two recommendations because there is no single family residential area that is adjacent to the proposed apartment complex, with Ward Drive right-of-way along the southern property boundary, it creates two large open space areas along the boundary of the Winburn Subdivision. She then said that the staff is recommending conditional zoning restriction to provide a larger buffer area along the interstate above and beyond what is required in Article 18 of the Zoning Ordinance in order to meet the recommendation of the Small Area Plan.

Ms. Wade said that the design standards are being met by the petitioner's submitted preliminary development plan, and generally, the staff believes that the goals and objectives of the 2013 Comprehensive Plan, as well as the goals and principals of the *Winburn-Russell Cave Neighborhoods Small Area Plan* are being met by the proposed R-3 zone and the proposed development plan. She indicated that the Zoning Committee did recommend approval, as did the staff, subject to the reasons listed on today's agenda.

Commission Question – Mr. Wilson asked, in terms of multi-family, is an apartment complex considered multi-family. Ms. Wade replied affirmatively and said that anything with 3 or more attached units is considered multi-family; whereas, anything that has two attached units are considered a duplex. The word "complex" means there are multiple structures.

Zoning Development Plan Presentation – Mr. Martin presented the staff report and a rendering of the corollary zoning development plan, and briefly explained the location of this subject property and the nearby street system.

Mr. Martin indicated that the Subdivision Committee had recommended postponement of this plan, due to several unresolved issues that remain with this development. Since that time, the applicant provided a revised submission to the staff addressing several conditions identified by the Subdivision Committee at their May 4th meeting. The staff can now offer the Planning Commission a revised recommendation for this zoning development plan.

The Staff Recommends: Approval, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Correct plan title.
8. Remove "copyright" note from plan.
9. Addition of final record plat information in title block.
10. ~~Denote construction access point location on plan~~ Correct FEMA floodplain note.
11. ~~Addition of purpose of amendment note and label as an "Amended" plan.~~
12. ~~Correct notes #9 & #12.~~
13. ~~Discuss Small Area Plan's recommendations for Ward Drive and Russell Cave Road intersection, per the small area plan recommendation~~ Depict area of plan subject to further environmental study.

13. ~~14. Denote: the addition of the words: "This plan's agreement with" before Note #14 Small Area Plan's design guidelines for multi-family dwellings, lighting, landscaping and open space will need to be reviewed at the time of a Final Development Plan proposed.~~
- ~~15. Discuss need for second access point for over 100 dwelling units for public safety.~~
14. 16. Discuss capacity of existing pump station and timing for removal.
15. 17. Discuss Denote improvements along the Russell Cave Road frontage in that road's cross-section(s).
16. 18. Discuss access to open space area on south side of Ward Drive.
- ~~19. Discuss maintenance of open space area on south side of Ward Drive.~~
17. 20. Discuss Denote that the pedestrian system per the Small Area Plan recommendations shall be resolved at Final Development Plan.

Mr. Martin indicated that the condition #14 should be changed to read: "Discuss Denote that capacity of existing pump station and timing for removal shall be resolved at Final Development Plan" and condition #16 should be changed to read; "Discuss Denote that access to open space area on south side of Ward Drive shall be resolved at Final Development Plan."

Petitioner Presentation – Bruce Simpson, attorney, was present representing the petitioner. He said the applicant was in agreement with the staff's recommendations.

Mr. Simpson said that this property has been inside the Urban Service Area for 48 years and it has remained undeveloped. He said that there have been two different zone changes granted on this property. He then said that this project is an infill project that is adjacent to a substantial neighborhood that has only one-way in and one-way out, which poses a safety problem for the residents of this area. This development proposal will provide an additional access in and out of the larger area, as well as offer more housing opportunity.

Mr. Simpson said that they reached out to the neighborhood, as well as Winburn Board of Directors and held two public meetings at the Wesley United Methodist Church. There were no objectors to this proposal because they have been transparent throughout this process in terms of the information, and they have also worked with the staff to resolve many of their questions.

Mr. Simpson said that this zone change was postponed at the May 25th hearing due to a preliminary report from Red Wing Ecological Services concerning the intermittent stream located on the property. He explained that this stream was predominantly supplied by a 48" storm sewer pipe that comes out of the Winburn neighborhood and empties on to the subject property. Water only flows on this property part of the year and the rest of the time, this land was dry. According to the Clean Water Act, the applicant will need to pay a fee to the Army Corp of Engineers in lieu of or find another property to perform on-site mitigation. He said that because of the stormwater fed stream the applicants are looking at paying 275,000 dollars to place the stream in the same type of stormwater pipe that currently exist in the Winburn neighborhood. He said that they looked at alternative design options, but since there would be no significant changes in the amount that would be paid, they would be keeping the design that was vetted with the neighborhood and the Subdivision Committee.

Mr. Simpson said that the Subdivision Committee inquired about the proposed access onto Russel Cave Road. They had met with the District 7 Office of the KTC in an effort to move the access further south, but with the need to have a left turn lane on Russel Cave Road that request was denied due to safety reasons. He then said that District 7 determined that the proposed location was the safest location for the access point.

Mr. Simpson said that they were in agreement with the staff's recommendations, and requested approval.

Commission Questions – Mr. Penn asked how many people live in apartments versus being a homeowner in the Winburn neighborhood. Mr. Simpson could not provide a breakdown of this type, but noted that there are 1,400 people who live in the area, and there are 500+ school children that attend the Winburn Middle School.

Mr. Penn then asked if the Small Area Plan specifically speaks to the need for developing more apartments. Mr. Simpson said that the Small Area Plan spoke to mixed housing units, more specifically affordable housing, which is what this project is. He then said that this project has been vetted through the Kentucky Housing Corporation and the LFUCG Affordable Housing Program.

Ms. Plumlee asked if the mitigation fee would remain or go away once the stream is piped. Mr. Simpson said that once the fee is paid then the stream can be piped.

Ms. Wade said that the Small Area Plan does speak to the housing types for the entire SAP area. She briefly explained the types of housing and the percentage of each of those types between the boundaries of Russell Cave Road, New Circle Road, Newtown Pike and the interstate.

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

Zoning Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer to approve **PLN-MAR-17-00008: ELKHORN SPRINGS DEVELOPMENT, LLC**, for the reasons provided by the staff.

Discussion of motion – Mr. Penn said that he was concerned with having more apartments in the Winburn neighborhood. He understands that these are newer apartments, which will be more attractive, and they will provide a place for people to live, but this proposal does not provide affordable housing for purchase. He then said that this area has morphed into something that was not envisioned in the beginning. This is not a reflection of the applicant’s development plan, but he was hoping this area would have more affordable housing so people could own their homes.

The motion carried 8-1 (Penn opposed; Owens absent)

Development Plan Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 8-1 (Penn opposed; Owens absent) to approve **PLN-MJDP-17-00017: WINBURN ESTATES SUBDIVISION, UNIT 3**, as recommended by the staff.

VI. COMMISSION ITEMS

A. WORK SESSION – Mr. Sallee informed the Commission that the next Work Sessions were scheduled for Thursday, June 15th and June 29th, which will be located on the 3rd Floor Phoenix Building.

B. NOMINATING COMMITTEE FOR COMMISSION OFFICERS

Mr. Wilson said that according to the Commission’s By-Laws, at the first regular and official meeting in June, the Commission will elect three members to a nominating committee. This committee will present a slate of officers for consideration by the Planning Commission. The slate is to be presented at their work session in June.

Mr. Wilson indicated that he had asked Carolyn Plumlee, Mike Cravens and Mike Owens if they would like to volunteer to serve on the nominating committee, which they had agreed to do so.

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 9-0 (Owens absent) to appoint the nominating committee, as presented.

Mr. Wilson said that there are two work sessions in the month of June, the Nominating Committee can, at that time, discuss the options of the retaining the current slate of officers or take nominations for a new slate of officers. He indicated that the Commission’s By-laws state that at the first regular meeting in July, the Commission shall elect a Chairperson, Vice-Chairperson, Secretary, and Parliamentarian. At that time, the Nominating Committee would present its slate for consideration by the Planning Commission or nominations may also be made from the floor, ballot, mail or the Chairperson.

VII. STAFF ITEMS – There were none.

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Planning Commission Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building	June 15, 2017
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 22, 2017
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	June 28, 2017
Planning Commission Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building	June 29, 2017
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	July 6, 2017
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	July 6, 2017
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	July 13, 2017

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 3:27 PM.

William Wilson, Chair

Carolyn Plumlee, Secretary

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