

STAFF REPORT ON AMENDED PETITION FOR ZONE MAP AMENDMENT

MARV 2013-7: BAYER PROPERTIES, LLC (AMD.#2)

DESCRIPTION

Zone Change:	<u>REQUEST</u>		<u>ACREAGE</u>	
	<u>FROM</u>	<u>TO</u>	<u>NET</u>	<u>GROSS</u>
	A-U	MU-3	49.17	54.73
	R-1D	MU-3	<u>0.65</u>	<u>0.82</u>
	TOTAL		49.82	55.55

Location: 4100 Nicholasville Road and 104, 108 & 112 E. Tiverton Way

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	A-U & R-1D	Agricultural, Garden Center & Vacant
To North	B-1 & R-1D	Commercial, Residential, Church & Vacant
To East	R-1D & R-1E	Single Family Residential
To South	A-U	Agricultural & Church
To West	A-U & B-3	UK Agricultural Research Farm & Commercial

URBAN SERVICES REPORT

Roads – Nicholasville Road (US 27) is an 8-lane major arterial roadway along the frontage of the subject property. It has dedicated turn lanes, including a right-in/right-out turn into the Wal-Mart & Lowe’s commercial development across Nicholasville Road from the subject site. Nicholasville Road, at its signalized intersection with Man o’ War Boulevard, has both dedicated left-turn and a right-turn lanes onto Man o’ War to facilitate traffic movements. Along the majority of the property’s frontage, Man o’ War is a 4-lane divided minor arterial road with a grass median. It becomes a 7-lane roadway (five lanes providing westward movement and two providing eastward movement) as it approaches its intersection with Nicholasville Road. Three of the westward traveling lanes are dedicated turn lanes to Nicholasville Road – two for left turns and one for right-turn movement. East Tiverton Way is generally a 2-lane collector street that expands to three lanes at its approach to Nicholasville Road. This is a signalized intersection that provides a left-turn opportunity onto Nicholasville Road. One point of access to and from the subject property is proposed for East Tiverton Way via the three residential lots that are currently vacant. Habersham Drive is a similar collector Street, mostly two-lane, but a three lane roadway at the approach to Man o’ War, which also provides lot frontage for the subject property. Two local streets, Tangleway Way and Tavistock Drive, stub into the subject property from the east and the north, respectively.

Curb/Gutter/Sidewalks – This section of Nicholasville Road has curbs, gutters and sidewalks, as does Man o’ War Boulevard. East Tiverton Way and Habersham Drive also have curbs, gutters and sidewalks.

Storm Sewers – The subject property is located within the West Hickman watershed. According to information contained in the South Nicholasville Road Small Area Plan, the property slopes downward from front to rear; and a storm pipe is located near the rear of the property that collects and transmits storm water runoff from across Nicholasville Road. It has been reported by area residents that water has backed up to homes and caused severe flooding for the properties on Walhampton Drive, which adjoin the subject property to the east. The Urban County Government has studied this condition over the past few years. According to information provided by the applicant, storm sewers are existing; however, it is known that improvements to the storm water system will be required as the subject property develops. New storm water facilities will be needed to adequately contain any storm water impacts created by the proposed mixed-use development.

Sanitary Sewers – The subject property is located in the West Hickman sewershed and is served by the West Hickman Sewage Treatment Facility, located to the southeast in Jessamine County. Adequate sanitary sewer capacity to serve this development will need to be documented prior to any new construction on the properties.

Refuse – The Urban County Government serves this area with refuse collection on Mondays. However, supplemental service may be required to serve the needs of the proposed development. This can be accomplished by contracting with private refuse haulers, if desired by the developer.

Police – The nearest police station, the East Sector Roll Call Center, is located on Centre Parkway, a little over two miles to the northeast of the subject properties.

Fire/Ambulance – The closest fire stations are located just less than two miles from the subject property. To the southeast, Station #22 is located on Clearwater Way, between Veterans' Park and Tates Creek Road. Station #15 is due north of the subject site on Shillito Park Road, at the main entrance to that park, just off of West Reynolds Road.

Utilities – All utilities, including gas, electric, water, phone, and cable TV are available in the area and could be easily extended, as necessary, to serve the proposed redevelopment of the subject property.

LAND USE PLAN AND PROPOSED USE

The *South Nicholasville Road Small Area Plan*, adopted in 2009 as an amendment to the 2007 Comprehensive Plan, recommends a mixed-use development (MU) of the subject property for both commercial and residential purposes. This Small Area Plan recommends that a storm water study also be conducted prior to any new development; that only residential structures be constructed to buffer existing residential uses within Subarea IV; and that non-residential structures be placed at the intersection of Nicholasville Road and Man o' War Boulevard and along Nicholasville Road to buffer noise. The applicant proposes an entertainment mixed-use development of slightly less than 800,000 square feet, with retail and residential uses within mixed-use buildings and a hotel on the site.

CASE REVIEW

The petitioner has requested an amended zone change from an Agricultural Urban (A-U) and a Single Family Residential (R-1D) zone to a Mixed-Use Community (MU-3) zone for a total of 49.82 net (55.55 gross) acres for property located at 4100 Nicholasville Road and 104, 108, and 112 East Tiverton Way. Dimensional variances continue to be requested with this zone change, albeit fewer, and will be addressed by a separate staff report.

The subject property is on the northeast corner of Nicholasville Road and Man o' War Boulevard. It is a 50-acre tract that also has frontage on Habersham Drive, located 2,200 feet east of Nicholasville Road. Three vacant R-1D lots on Tiverton Way, located between a convenience store at the southeast corner of East Tiverton Way and Nicholasville Road and the Devondale Baptist Church, are also proposed for rezoning to a MU-3 zone.

Known for decades as the Fritz Farm, this agricultural property has been zoned A-U for about 45 years, although it has been requested for rezoning several times over the past 20 years. A conditional use permit for a garden center and plant nursery (located at the corner of Man o' War and Nicholasville Road) was approved by the Board of Adjustment in June, 2001. Past attempts to rezone the site have proven unsuccessful, even after past applicants have litigated those denials.

The petitioner initially requested a B-6P zone for this property, then later amended their map amendment request (in late March) to request a mixture of B-6P, R-5, B-3 and MU-3 zoning. The amended application also needed approximately 20 variances from dimensional requirements in the Zoning Ordinance. The staff made a written recommendation of postponement in early April because of concerns about the proposed residential density of the development, particularly in the requested R-5 zone; because the large number of dimensional variances raised some question as to whether the property would be able to be developed in accordance with the combination of zones as requested; and because of the proposed use of open space to buffer homes in the southern portion of the Devondale subdivision instead of new residential land uses.

The petitioner has since amended their application, now requesting only an MU-3 zone. The development plan proposes a hotel use above retail uses, and a mixed-use development of commercial and residential uses throughout this site. Access to "The Summit" development is to be provided from Nicholasville Road, Man o' War Boulevard, West Tiverton Way (at two locations) and Habersham Drive (opposite Fox Harbor Drive).

The large amount of vacant land in this 1.5-mile long corridor, south to the Jessamine County line, prompted the Planning Commission to undertake the *South Nicholasville Road Small Area Plan* a few years ago. The Land Use Element of the 2007 Comprehensive Plan had held a split recommendation for the Nicholasville Road property. More than half of the property was recommended for Medium Density Residential (MD) land use, defined as 5-10 dwelling units per net acre. The remainder of the property, along with the East Tiverton Way properties, had been recommended for High Density (HD) Residential land use, defined as 10-25 units per net acre. As part of Subarea IV of that 2009 planning effort, the Small Area Plan's land use recommendation for this location is that the agricultural use of the subject property remains in place until agriculture is "no longer paramount to the property owners." Presumably, with this application, that time has arrived.

The *South Nicholasville Road Small Area Plan*, formally adopted in 2009 as an amendment to the 2007 Comprehensive Plan, provided a new and more specific recommendation for a mixed-use development of both commercial and residential uses (MU) for the subject property. The Fritz Village concept was provided (page 120) for

the subject property, and generally recommended a mixture of residential uses (about 16.5% of the total) to provide a buffer to existing residential uses within Subarea IV. Non-residential structures (at about 45.7%) were recommended to be placed at the intersection of Nicholasville Road and Man o' War Boulevard and along Nicholasville Road to serve as a noise buffer to the remainder of the development. Also, mixed-use development was recommended in the center of the subject property (37.8% of the total shown for "Fritz Village") between the residential and non-residential land uses.

The staff is pleased that the petitioner has amended this application to request a mixed-use zone that can more fully implement the Small Area Plan's recommendations. The petitioner is proposing slightly less than 800,000 square feet of retail, residential and hotel uses on the subject property, far less than suggested by the "Fritz Village" concept, but in similar proportions to what was previously depicted. Non-residential uses are proposed along the two arterial frontages (37.8% of the site's total floor area), and residential-only uses are proposed adjacent to the homes in the existing Devondale subdivision on the northeast part of the property (24.9% of the site's total floor area). The mixed-use development proposed, comprising three buildings with either a hotel or dwelling units above retail stores, is proposed in the very center of the site, and would occupy about 37.4% of the development's total floor area. As proposed, this mixed-use area will flank a central public open space that will allow for entertainment opportunities such as live music, concerts, public gatherings and special events. Of the total square footage proposed on the site, slightly over half would be devoted to commercial purposes.

Article 28 of the Zoning Ordinance outlines locational criteria for the MU-3 zone. Besides having at least 160 feet of frontage on Nicholasville Road and Man o' War Boulevard (#1), and being larger than three acres in size (#2), the subject property is planned by the Small Area Plan for a commercial-residential mixed use (#3). Together, these combine to make it eligible for MU-3 zoning.

The development mirrors the direction set by the small area plan for "Fritz Village," and existing tree stands are proposed to remain along the shared property boundary with the Devondale Subdivision. However, no residential uses are proposed south and east of the Tangleway street stub into the subject site. Instead, open spaces are proposed as a land use buffer in this portion of the property. While the petitioner does not desire additional residential uses in this portion of the property, as suggested by the Small Area Plan, the staff believes that a landscaped open space is an equally appropriate buffer and transition between commercial use and single family residences. However, a conditional zoning restriction is recommended in order to ensure that no commercial development occurs within 75 feet of any single family residential zone in the Devondale subdivision.

The Small Area Plan also recommended that a storm water study for 4100 Nicholasville Road be conducted prior to any new development of residential use within mixed-use buildings. The staff is aware that some study has been conducted by the petitioner and by the Division of Water Quality on this issue. The petitioner is willing to work collaboratively with that Division in order to make appropriate storm water improvements for the site and the adjoining neighborhood. Of course, these are issues more routinely associated with the corollary zoning development plan.

A revised traffic impact study has also been submitted for the proposed development, and is under review by the Transportation Planning Section. A separate report to the Commission on the anticipated impacts of this proposal will be presented at the public hearing.

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

1. The requested Mixed-Use Community (MU-3) zone is in agreement with the 2007 Comprehensive Plan, and as amended by the *South Nicholasville Road Small Area Plan*, which was adopted by the Planning Commission in 2009, for the following reasons:
 - a. The *South Nicholasville Road Small Area Plan* encourages mixed-use in a village-style development, with an emphasis on pedestrian, bike, and transit-oriented design. The proposed development does so.
 - b. Subarea IV of the *South Nicholasville Road Small Area Plan* recommends:
 - i. Mixed Use (MU) future land use for a majority of the subject property, and High Density Residential (HD) for the three parcels along Tiverton Way.
 - ii. A storm water study for 4100 Nicholasville Road and surrounding properties should be conducted.
 - iii. Constructing residential only structures as a buffer to existing residential uses adjacent to the subject property.
 - iv. Placing non-residential structures at the intersection of Nicholasville Road and Man o' War Boulevard and along Nicholasville Road to buffer noise.
 - c. The requested MU-3 zone meets the locational criteria as established by Article 28 of the Zoning Ordinance for street frontage of at least 160 feet along Nicholasville Road and Man o' War Boulevard, being at least

three acres in size and being located within an area recommended for Mixed-Use by the Comprehensive Plan, or its adopted amendment.

- d. This proposed development will implement the vision and direction of the Small Area Plan to create a mixed-use development that places commercial-only structures along the arterial roadways, a village-style mixed-use area in the center of the property, and residential-only structures nearest the established neighborhood.
2. This recommendation is made subject to approval and certification of ZDP 2013-22: Fritz Farm, LLC (Summit Lexington, Bayer Property) 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 subject property shall be restricted as follows:
 - a. Within 75 feet of any single family residential zone, no commercial or business use shall be permitted.

This restriction is appropriate and necessary for the subject property in order to ensure that the proposed development is compatible with the neighboring land uses, as recommended by the South *Nicholasville Road Small Area Plan*, an adopted amendment of the 2007 Comprehensive Plan.

WLS/TLW/BJR/sc

4/4/2013, 6/6/13 amd.

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