

1. OFF SEASON, LLC ZONING MAP AMENDMENT & HINDA HEIGHTS SUBDIVISION, BLK B ZONING DEVELOPMENT PLAN

- a. PLN-MAR-18-00001: OFF SEASON, LLC (4/14/18)*- petition for a zone map amendment from a Single-family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone, for 2.09 net (2.60 gross) acres, for property located at 3009, 3013 & 3021 Tates Creek Road.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The petitioner proposes to develop 14 townhouses on the subject properties, and associated off-street parking. The proposed residential density is 6.7 dwelling units per net acre.

The Zoning Committee Recommended: **Approval.**

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

1. The Planned Neighborhood Residential (R-3) zone is in substantial agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan recommend to expand housing choices within the community (Theme A, Goal #1); to support infill and redevelopment (Theme A, Goal #2); and to uphold the Urban Services Area concept by encouraging development of vacant and underutilized properties (Theme E, Goal #1).
 - b. The proposed townhouses (and their associated density) are compatible with the surrounding area, which is encouraged by Theme A, Goal #2. The development is residential in nature, as is the surrounding zoning, and the development will respect the area’s context and design features.
 - c. The proposed density is in keeping with the recommendations of the Comprehensive Plan to encourage infill sites of between two and five acres to develop at or above the average density of the area in which they are built (pg 102).
 - d. The subject site is situated along a minor arterial roadway, with adequate public infrastructure to serve the proposed use, and the higher density development will buffer the established neighborhood from the higher intensity use of the churches along the opposite side of Tates Creek Road.
 - e. The proposed single-family attached dwelling units (townhouses) are compatible with the surrounding residential zoning and land use pattern. The units are of a size that is similar to other residential uses in the immediate area (between 3,000 and 4,000 square feet each), which should not detract from the existing urban form along Tates Creek Road in the immediate vicinity.
2. The proposed infill and redevelop of the subject site along the Tates Creek Road corridor is supported by the adopted 2018 Comprehensive Plan’s Goals and Objectives, including “accommodate the demand for housing in Lexington responsibly, prioritizing higher density and mixture of housing types (Theme A, Goal #1, Obj. b.); 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, Obj. d.).
3. This recommendation is made subject to the approval and certification of PLN-MJDP-18-00002: Hinda Heights Subdivision, Blk B (Old Stone Townhouses), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

- b. PLN-MJDP-18-00002: HINDA HEIGHTS SUBDIVISION, BLK B (4/14/18)* - located at 3009, 3013 and 3021 Tates Creek Road. (**EA Partners**)

The Subdivision Committee Recommended: **Approval,** subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer’s acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer’s approval of parking, circulation, access, and street cross-sections.
4. Urban Forester’s approval of tree inventory map.
5. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Denote height of townhouses in feet on plan.
7. Denote typical lot size.
8. Denote the internal pedestrian system shall be resolved at time of Final Development Plan/Preliminary Subdivision Plan.
9. Denote: stormwater management shall be resolved at time of Final Development Plan.
10. Denote: The 125’ setback shall be resolved at time of Final Development Plan/Preliminary Subdivision Plan.

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Staff Presentation - Ms. Wade presented the staff report and recommendations for the zone change. She displayed photographs of the subject property and aerial photographs of the general area. She said the subject property consists of 3 parcels and the applicant wishes to construct 14 townhomes with off-street parking. Two of the parcels are vacant lots and the other lot has a single-family residential structure, which was previously used as a small church. She said that the staff has received a number of correspondence, all of them in opposition of this zone change.

Ms. Wade said that the applicant believes this request is in agreement with 2013 and 2018 Comprehensive Plan's Goals & Objectives. The staff agrees with the applicant that the zone change will expand housing choices, near employment and commercial areas; support infill and redevelopment throughout the Urban Service Area; and maintain a balance between planning for urban uses and safeguarding our rural lands while upholding our Urban Service Area concept. She said Chapter 7 of the 2013 Comprehensive Plan regarding infill sites between 2 and 5 acres to develop at or above the average density of the area which they are built. She said the applicant is proposing a density of 6.7 dwelling units per acre. She said the Goals and Objectives of the 2018 Comprehensive Plan are also relevant, specifically regarding prioritizing higher-density and mixture of housing types and to maximize development on vacant land within the Urban Service Area.

Ms. Wade said that the proposed zone change is in agreement with 2013 and 2018 Comprehensive Plan's and the staff recommended approval. She said that the Zoning Committee also recommended approval.

Development Plan Presentation – Mr. Martin presented a rendering of the preliminary development plan associated with the zone change. He said that the development plan depicts access from Tates Creek Road, with an access easement to serve the development. He said the applicant is proposing two banks of townhouses, which will be 2 1/2 stories tall. He said the R-3 zone has a maximum building height of 35 feet, regardless of the type of unit, which is the same for some of the neighboring single-family homes. He said that after concern with the monolithic appearance of a wall in this area, the applicant submitted a revised plan with the buildings approximately 60 feet from the roadway, instead of the platted setback of 125 feet. He said that the access has been fully reviewed and the concern is the right in/right out with respect to the location of the break in the median on Tates Creek Road. He said the residents will be required to make a U-turn to travel into downtown Lexington, and make a U-turn to enter the proposed development when traveling from New Circle Road, just as is required for the lots now.

Mr. Martin said there are the standard sign-off conditions for a preliminary development plan. He said condition #6 concerns denoting height of the townhouses in feet and lot size being proposed. He said in condition #8, the internal pedestrian system should be resolved at the time of the final development plan. Referring to condition #9, Mr. Martin stated that stormwater management will also be resolved at the time of the final development plan. He said that there is currently a basin in front of the Greek Orthodox Church, which will need to be addressed and be resolved at the time of the final development plan. He said that condition #10, the 125-foot setback, shall also be resolved at the time of the final development plan. He added that the developers cannot build off a preliminary development plan; conflicts, such as the setbacks will be highlighted on the final development plan, that they can obtain permits based upon. He said that the Subdivision Committee recommended approval of this plan.

Commission Questions – Mr. Owens asked about the height of the proposed wall/fence. Mr. Martin said that the applicant will need to meet the Zoning Ordinance requirements. Mr. Owens asked what the Ordinance states. Mr. Martin said that it currently states a wall or fence is limited to 4 feet tall in the front yard and 8 feet in the side and rear yards.

Applicant Presentation – Darby Turner, attorney, was present representing the petitioner. He said to Mr. Owens' question that a double-faced brick wall will be built around the entire development. He said that it will 4 feet in the front and 4-6 feet on the sides and rear. He said the applicant is in agreement with the staff's recommendations and the conditions. He said this proposal is in compliance with the new 2018 Comprehensive Plan's Goals & Objectives. He said that there is discussion in the correspondence that there will be a precedent set. He believes that this direction has already been set by the Long Range Planning staff in the process of the 2018 Comprehensive Plan's Goals & Objectives that this is what the community wanted.

Mr. Turner stated that the applicant is proposing 14 upscale townhouses, which will be approximately 3,000 square feet each with 2 car attached garages, first floor master bedrooms, and a possible basement. He said the intent is not for students, but for a home for empty-nesters.

Mr. Turner said that he has met with residents that are in favor and opposed to this development and has tried to meet with the Neighborhood Association, which had declined to meet with the applicant.

The following citizens were present in opposition to this application:

Peter Sawaya, 3001 Tates Creek Road, represented the Greek Orthodox Church. He doesn't believe Tates Creek Road is a minor arterial roadway and that it is already congested during peak times. He is concerned with the increase of traffic and the possibility of accidents at the intersection of Rebecca Drive. He is concerned about the brick wall. He said that the area currently has large trees with an open landscape and believes that the wall will make it look like an institution. He is also concerned that

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if the subject property is approved for R-3 zoning then what assurance do they have that the developer will follow the plan in the future.

Steven White, Councilmember At Large with the Glendover Neighborhood Association. He said that they polled approximately 400 residents of the neighborhood, which resulted in 255 residents that opposed, 5 supported and 2 undecided (petition submitted for the record). He was concerned that the residents' personal comments that were sent to the staff were shared with the applicant. He gave a brief history of the subject property and said Tates Creek Road is not the same level as Nicholasville Road or Richmond Road. He is concerned about the precedence the developer is setting and the land will become more valuable as an R-3 zone and what could happen if other residents in the neighborhood sell their homes for development. He is also concerned about the amount of the setback change and was confused about why the applicant did not request an R-1T zone for their development.

Barry Saturday, 3416 Laredo Dr., Candidate for Council in the 4th district and president of Ashwood Townhouses of Laredo Homeowners Association. He believes that this development will erode the character of the area. He said that Lexington does need infill, but he opined that Tates Creek Road meets the character for that. He is concerned with increased stormwater runoff. He said that increasing parking lots will increase stormwater runoff. He said that he believes that this will create a negative buffer along the corridor. He said that higher density on Nicholasville Road fits with that character; it doesn't fit with Tates Creek Road community.

Tom Cooper, 826 Glendover Cove, said that he is concerned with the concentration/density of the proposed development. He said that the R-3 zone is excessive.

James Schrader, 805 Old Dobbin Road, said that he is a proponent of infill, when it is appropriate. He believes that a single-family home with 125-foot setback should be constructed there. He cited the 2018 Comprehensive Plan and said that the Plan is designed to create a vision and strategy that will allow Lexington to grow and prosper while preserving, protecting and enhancing the existing neighborhoods. He said that he doesn't believe this development will preserve, protect or enhance their neighborhood. He quoted Planning Commission member Mr. Cravens who said that he had been driving the corridor for many years and stated that this development doesn't feel right. Mr. Schrader agreed that it doesn't feel like it belongs there either. He said that along the corridor there are only 3 structures that are not single-family homes and they are churches.

Joe Martinolich, 3013 Shirlee Ct., said that he is concerned with the setback of the development and that single-family homes established this neighborhood, so this proposal is out of character. He is also concerned with the safety issue with traffic.

Julie Tatar, 814 Glendover Cove Road, also said that this development doesn't fit the character of this area.

Barry Walling, 3005 Shirlee Ct., said that he is concerned with increased traffic at the intersection of Rebecca Drive. He said that employees from the hospitals use it as a cut through in the neighborhood.

Applicant Rebuttal – Mr. Turner said that he also grew up in the area and things change. He said that the decision was made with the 2018 Comprehensive Plan that things are going to change even more with density and efficiency. He said that these are single-family homes but are built as townhouses, and are in character with the neighborhood. He displayed the Hinda Heights deed restriction document from Mr. Johnson from 1952, which created a covenant that ran with this land, creating the 125-foot setback. He read that these restrictions should "run for a period of 50 years." This document also restricted that only single-family residents could be constructed, but there are three churches in this area now. He said that the 125-foot setback has expired and the importance of the efficient development of land calls for a reduction of this setback. He said that the proposed townhouses are approximately 75 feet away from the roadway. He displayed aerial photographs depicting the different setbacks of buildings along the Tates Creek Road corridor.

Citizen Rebuttal – Mr. Saturday said that Lexington is unique in character and change is inevitable. He said that change needs to make sense and needs to fit into the long term vision of the city. He doesn't believe that this development meets the long term vision for this area.

Mr. Sawaya said that access into the proposed development should either be off Rebecca Drive or in the rear of the site. He believes having the access off of Tates Creek Road is a bad idea.

Jason Redsick, 1909 Bellefonte Dr., said that he is concerned with the 14 townhomes. He also commented that all the citizens present are very passionate about their homes and are here on their own time.

John Douglas, 783 Rebecca Dr., said that he is concerned with the traffic and recalled an accident that occurred a few days ago. He believes that single-family homes should be constructed at this location. He said that approval of this will be setting a precedent.

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Tom Reed, 3033 Shirlee Dr., said he is concerned with the flexibility of the R-3 zone. He said that the precedent that the flexibility sets for extending down the corridor of future development is not desirable.

Mr. White said that this property is not 2 acres of land and asked if the calculation of the lot size is valid for the density.

Staff Rebuttal – Ms. Wade said that Mr. Turner is correct, that the Planning Commission did adopt the Goals & Objectives that are different from the past, which is a direction of densification. She said that the community asked for this, the Planning Commission is standing behind it and Urban County Council has also endorsed it. She said that the staff wanted to clarify regarding the density calculation; the staff calculates density based on the total acreage of land that is being proposed for development divided by the number of units being proposed. This is a standard method and is valid.

Mr. Martin clarified that the R-3 zone defaults to the R-1T zone in terms of the lot requirements, and this same development could be proposed as an R-1T zone as long as the lotting requirements were met. He also said that any change in this plan, will go before this Commission again before being constructed.

Commission Question - Ms. Mundy asked Mr. Turner if the neighborhood association refused to meet with him. Mr. Turner said that he asked to meet with the neighborhood association and they responded that they have a meeting set for today. Ms. Mundy said that the townhouses will be between 3,000-3,800 square feet. Mr. Turner said that they will approximately 3,000 square feet, with intent for a basement, but they are unaware if that is feasible at this time. Ms. Mundy asked what the average size of the houses are in this area. Mr. Turner said the houses are 2,000 square feet and greater. Ms. Mundy asked if the lot was surveyed before the data was provided to the staff to prove the correct acreage of the lot. Mr. Turner said the net acreage is 2.09 and the gross is 2.60 acres.

Mr. Cravens asked Mr. Turner if they had tried other scenarios, different zones. Mr. Turner said that the developer considered what all the possibilities could be and saw the product that was most viable for this neighborhood, which was for generous townhouses for people that have nice homes and are considering downsizing.

Mr. Penn asked Mr. Turner, "Why is the R-3 zone being requested and not the R-1T zone?" Mr. Turner said that it has to do with lot coverage regulations. He said that the R-1T zone would have created other issues and they are producing the same product. He stated for the record the applicant's intentions and the reasons why and if a different developer ends up coming back to the Planning Commission with a different development plan, it will be considered as a new application.

Mr. Bell asked what would be the traffic impact near the Greek Orthodox Church. Ms. Kaucher, Division of Traffic Engineering, said they reviewed the preliminary development plan and on final development plan the location of the entrance will most likely be shifted further away from the median cut. She said the traffic generated by this development will be minimal. She said that residential land use doesn't produce the number of trips to meet the threshold to be concerned about traffic. She said the access is a right in/right out and the residents will need to travel to the nearest curb cut to turn around.

Mr. Wilson asked about the cut back and how it will affect the traffic flow. Ms. Kaucher said the access location of the development is currently very close to the median cut, which does encourage the cheat method. She said that shifting the development access adjacent to the Orthodox Church entrance will provide a greater distance for the vehicles and will force them to use Rebecca Drive.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion. Commission members discussed their thoughts at this time.

Commission Discussion – Ms. Mundy thanked all of the citizens for attending the meeting. She said that she had wished they had met with the applicant to clear up some of their concerns and to clarify issues so that they may have had a better understanding of what is going on. She said that based on the fact that the 2018 Goals & Objectives do implement the desire of more density and moving toward infill and redevelopment, she would be voting to approve this development.

Zoning Action – A motion was made by Ms. Mundy, seconded by Mr. Owens, to approve PLN-MAR-18-00001: OFF SEASON, LLC, for the reasons provided by the staff.

Motion Discussion - Mr. Penn said that if this property was six separate single-family houses, the same issues and concerns would arise. He said that the R-1T zone would not diminish the neighborhood concerns either. He said that at the time of the final development plan, the neighbors will be notified.

Mr. Cravens stated that this is a completely different plan than what was presented to the Zoning Committee on March 1, 2018. He said that the applicant has made many changes.

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Mr. Owens said that the word “precedence” was mentioned and said that each application has a different set of circumstances. They look at each of them individually, as an individual application, and the Planning Commission doesn’t have precedence setting.

Zoning Action – Motion carried 9-0 (Brewer and Plumlee absent).

Mr. Wilson also thanked members of the community for attending and expressing their concerns.

Development Plan Action – A motion was made by Ms. Mundy, seconded by Mr. Owens, carried 9-0 (Brewer and Plumlee absent) to approve PLN-MJDP-18-00002: HINDA HEIGHTS SUBDIVISION, BLK B, for the reasons provided by the staff.

Note: Planning Commission took a recess at 3:12 p.m. until 3:20 p.m.

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