

2. HOMES BY ANDERSON TATE ZONING MAP AMENDMENT & HIGBEE MILL RESERVE (A PORTION OF) (AMD.) ZONING DEVELOPMENT PLAN

- a. MAR 2012-16: HOMES BY ANDERSON TATE (12/30/12)* - petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone (with conditional zoning restrictions) to a High Density Apartment (R-4) zone, for 9.3 net (11.67 gross) acres, for property located at 4250 & 4290 Harrodsburg Road and 4113 & 4204 Reserve Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 11) recommends Medium Density Residential (MD) future land use for the subject property, defined as 5-10 dwelling units per net acre. The petitioner proposes a 168-unit residential apartment development, in addition to the existing 12-unit building on the property.

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommended: Disapproval, for the following reasons:

1. This requested High Density Apartment (R-4) zone is not in agreement with the 2007 Comprehensive Plan for the following reasons:
 - a. The Comprehensive Plan recommends Medium Density Residential future land use for the subject property, which is defined as 0-8 dwelling units per gross acre.
 - b. For the area of just the subject property (11.67 gross acres), the plan would suggest that up to 93 dwelling units be developed on the subject property.
 - c. The petitioner proposes 180 units of residential development at a density of 15.42 dwelling units per gross acre, which exceeds the density range recommended by the Plan.
 2. The existing Planned Neighborhood Residential (R-3) zoning of the subject property remains appropriate for the following reasons:
 - a. The subject property was restricted less than 10 years ago, because, as stated at that time, "with the flexibility inherent in the R-3 zone, and the excess of open space being provided by the petitioner, a conditional zoning restriction limiting the total number of units on the property would be appropriate to ensure future compliance with the Comprehensive Plan's density recommendations."
 - b. The current density, floor area ratio and building height permitted on the property would provide an appropriate transition from the Harrodsburg Road corridor to the single-family Grasmere subdivision and the First Alliance Church to the east. This would also be compatible with the already constructed multi-family buildings to the south of the subject property.
 3. There have been no unanticipated changes in this area since adoption of the 2007 Comprehensive Plan that would warrant this zone change.
- b. ZDP 2012-94: HIGBEE MILL RESERVE (A PORTION OF) (AMD) (12/30/12)* - located at 4113 Reserve Road.
(EA Partners)

Note: The purpose of this amendment is to increase density and revise parking.

The Subdivision Committee Recommended: Postponement. Not all of the property proposed for rezoning has been identified for development.

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

1. Provided the Urban County Council rezones the property R-4; 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. Building Inspection's approval of landscaping, buffer and arterial screening.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Department of Environmental Quality's approval of environmentally sensitive areas.
9. Dimension existing building(s).
10. Dimension clubhouse building and correct clubhouse square footage in site statistics.
11. Denote construction entrance location.
12. Denote as an amended plan in plan title.
13. Addition of purpose of amendment note.
14. Denote building encroachment into storm and drainage easements.
15. Addition of 5' contours.
16. Document ability to meet tree canopy requirements at the time of the Final Development Plan.
17. Discuss whether detention area will be used to meet open space requirements.

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

18. Discuss status of Stedman Drive connection.
19. Discuss emergency vehicle and pedestrian access to existing and proposed development.
20. Discuss future development of vacant Stedman Drive lot.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property on Harrodsburg Road, south of Man O' War Boulevard. She stated that the subject property, which is approximately nine acres in size, was originally a 15-acre site. In the vicinity of the subject property are some parcels with A-U zoning, both across Harrodsburg Road and adjacent to the subject site to the north and southeast; the remainder of the parcel that was previously rezoned for the Old Higbee Mill Reserve condominium and townhouse development; R-1D and R-1C areas to the east, for part of the Plantation subdivision; and across Harrodsburg Road, the Palomar neighborhood and the Bowman Property, both of which are developed or proposed for single-family residential use. Ms. Wade noted that Reserve Road is a private roadway that connects from Old Higbee Mill Road to Stedman Drive to the north.

Ms. Wade displayed several photographs of the subject property, noting the location of Stedman Drive, which is constructed, but does not meet the requirements for dedication of a public street; a barricade between a portion of Stedman Drive and a stub street that was constructed along with the adjacent subdivision; the location of Reserve Road, including the five buildings that were constructed after the property was rezoned; and one structure that exists on the subject property. She said that the property was rezoned from A-U to R-3 in 2003; at that time, the property was limited via conditional zoning to a maximum of 177 dwelling units. There were concerns during that rezoning that the flexibility inherent in the R-3 zone, along with the excess open space and off-street parking depicted by the petitioner on their development plan, could result in a lack of compliance with the Comprehensive Plan's recommended density for the subject property. Displaying additional aerial photographs, Ms. Wade noted for the Commission the location of the existing structure on the subject property, which contains 12 residential units; the petitioner is proposing to add 170 new units, for a total of 182. All but two of those units are proposed to be contained in multi-family buildings, with the remaining two units as a duplex. Ms. Wade also displayed the following street-level photographs: 1) a view of Stedman Drive, noting the location of the barrier and the lack of sidewalks and the final course of asphalt; 2) a view of Reserve Road, which connects the two portions of the proposed development; 3) a view to the north, including the existing structure on the subject property; and 4) part of the existing development at the southern end of Old Higbee Mill Road.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Medium Density Residential land use for the entire Higbee Mill Reserve development, including the portion proposed for rezoning. Medium Density use is defined as 0-8 dwelling units per gross acre, which was the format used to determine the appropriate density on the site during the 2003 rezoning of the entire Higbee Mill Reserve property. For the 11.67 gross acres proposed for rezoning, the Comprehensive Plan would recommend up to 93 dwelling units; the petitioner is currently proposing 170 units. Ms. Wade said that the staff does not believe that the petitioner has provided an appropriate justification for increasing density and floor area ratio beyond that permitted with the existing zoning and conditional zoning restrictions. In addition, there have been no unanticipated changes in the vicinity of the subject property, and the staff does not believe that the existing R-3 zoning is inappropriate at this location. Ms. Wade noted that the zoning restrictions that are currently in place would permit an additional 99 dwelling units on the subject property. However, because the petitioner wishes to construct 170 dwelling units, the staff is concerned about the increased density on the property. The staff also believes that the Reserve Road connection should be maintained, while the petitioner is proposing to either sever that connection or reduce its connectivity. The staff contends that, without that connection, residents of both developments would suffer. Ms. Wade stated that the staff is recommending disapproval of this request, for the reasons as listed in the staff report and on the agenda. She noted that the Zoning Committee recommended referral to the full Commission.

Commission Question: Mr. Owens asked if the staff would be willing to consider an approval recommendation for this request if Reserve Road was proposed to remain connected. Ms. Wade answered that the possible lack of connectivity of Reserve Road is directly related to the staff's determination of whether more density on the property might be appropriate.

Mr. Penn asked if the Stedman Drive barrier would need to be removed and that roadway upgraded in order for this request to move forward. Ms. Wade responded that any party who expects to move forward with the development of the subject property will likely be required to make those improvements, whether or not the density is increased as proposed. She explained that the staff believes that, when this development was proposed, Stedman Drive was clearly intended to be connected.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, noting that the staff had prepared and distributed revised conditions for approval prior to the start of today's hearing. Using a rendered copy of the plan, he noted the location of the area proposed for rezoning; the existing condominium buildings; Stedman Drive, including the existing barrier; Reserve Road, and the proposed location of interdiction with a fire gate; and Higbee Mill Road, including its signalized intersection with Harrodsburg Road. Mr. Martin stated that the development plan depicts seven proposed new buildings with associated parking, including covered garages for

some of the units; the existing drainage easement and detention area; a proposed clubhouse and pool; and the proposed duplex across Stedman Drive. He said that this is a revised version of the development plan. The Subdivision Committee originally recommended postponement, primarily due to the omission of the duplex area from the original plan. Mr. Martin noted, for the benefit of the citizens present, that the staff and the Subdivision Committee review each zoning development plan as if the proposed zone was already in place.

Mr. Martin stated that the staff is now recommending approval of this revised plan, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-4; 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. Building Inspection's approval of landscaping, buffer and arterial screening.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Department of Environmental Quality's approval of environmentally sensitive areas.
- ~~9. Dimension existing building(s).~~
- ~~10. Dimension clubhouse building and correct clubhouse square footage in site statistics.~~
- ~~11. Denote construction entrance location.~~
- ~~12. Denote as an amended plan in plan title.~~
- ~~13. Addition of purpose of amendment note.~~
9. 14. Denote that building encroachment into storm and drainage easements shall be resolved at the time of the Final Development Plan.
10. 15. Addition of 5' contours.
11. 16. Document ability to meet Denote that tree canopy requirements will be met at the time of the Final Development Plan.
12. 17. Discuss Denote whether or not detention area will be used to meet open space requirements.
13. 18. Discuss status of Stedman Drive connection.
- ~~19. Discuss emergency vehicle and pedestrian access to existing and proposed development.~~
- ~~20. Discuss future development of vacant Stedman Drive lot.~~

Mr. Martin stated that the petitioner is proposing to construct 168 apartment units in seven buildings, with 372 bedrooms. There are 12 units in the existing buildings, with 30 bedrooms. The petitioner is proposing 337 parking spaces, which is slightly over the requirement of 313 spaces for the proposed development. Mr. Martin said that the total lot coverage for the development would be 26.7% of the lot, with a 30% limit. The development is proposed to be 275,960 square feet in size, with a floor area ratio of .68, and a limit of .7. He noted that the proposed development is therefore very close to the lot coverage and FAR limits for the R-3 zone.

With regard to the conditions for approval, Mr. Martin stated that condition #9 is standard, given the large number of easements on the subject property, and that #10 is standard as well. He said that #11 refers to the staff's concerns that the tree canopy can be met, since there is a large amount of building coverage and parking proposed for the site. Condition #12 refers to the staff's concerns about the use of the detention area as open space for the development. Mr. Martin stated that that concept has been applied to other sites, including the Sharkey Property, but the staff believes that the issue is important and its resolution should be assured. The petitioner is proposing a clubhouse and pool, which can be included in the usable open space for the property; however, the staff is concerned that there might be a conflict between the detention area, tree canopy, and open space requirements, and they want to ensure that the issue is resolved. Mr. Martin said, with regard to condition #13, that a final record plat was approved for the subject property that included Stedman Drive as a public roadway; however, that portion of the plat has not been recorded. Subsequently, a couple of minor plats have reconfigured the property somewhat. The staff is comfortable that Stedman Drive will be completed and dedicated, but they felt it important to leave that condition as a discussion item so that it will not be overlooked at some point in the future. Mr. Martin noted that the staff was informed that the barrier was placed on Stedman at some point in the late 1980s, around the time of the dedication of a portion of that roadway in 1987. After speaking with several LFUCG divisions, the staff determined that that barrier will be removed at such time as Stedman Drive is completed and dedicated as a public roadway.

Mr. Penn asked, if a fire gate is constructed on Reserve Road, how drivers would be able to access the nearest signalized intersection in order to reach Harrodsburg Road. Mr. Martin answered that the route to reach the Higbee Mill/Harrodsburg Road intersection would be convoluted, since a driver would have to travel through the parking lot of the proposed development; but it would be possible.

Ms. Plumlee asked if there would be only one way out of the proposed development. Mr. Martin answered that connections are proposed at Reserve Road, with a fire gate; at Higbee Mill Road, without the existing direct access; and at Stedman Drive.

Mr. Owens asked if the fire gate would be accessible to the police department. Mr. Martin responded that that issue is a concern to the staff as well.

Note: Mr. Wilson arrived at this time.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. He stated that the proposed development presents the Planning Commission with the opportunity to uphold the principle set forth in both the 2001 and 2007 Comprehensive Plans to not expand the Urban Service Area boundary. There is also no intent in the 2012 Comprehensive Plan to expand that boundary, since the community's overarching goal has been to preserve the rural landscape. Mr. Simpson said that, in order to maintain that boundary, development within the Urban Service Area will require creativity and flexibility, and not just "looking at what the color on the map recommends." He said that, in the previous zone change, the property had been recommended for Professional Office zoning in the 2001 and 2007 Comprehensive Plans, but the staff recommended approval of residential zoning based on the recommendation of the 1996 Plan. Mr. Simpson believes that the Planning Commission made a good decision in that case, because the development market has changed considerably since 2007.

Mr. Simpson stated that the petitioner is proposing to provide affordable housing on land that has been designated for multi-family use, at a density of 71 units more than the number recommended by the Comprehensive Plan, but in one fewer building than was approved when the property was rezoned in 2003. The petitioner contends that this proposal would use the existing space more efficiently, and provide better connectivity in the area via the connection of Stedman Drive.

Mr. Simpson said that the original developer of the subject property became a victim of the recession in 2008, which was unanticipated by the 2007 Comprehensive Plan. The existing 60 units on the property were developed as a condominium regime. Due to the way the property was developed, and changes to the banking laws in 2008, the existing condo owners are now able to sell only to cash buyers. For the past year, the condo owners, along with the petitioner and the bank that owns a large portion of the property, have been working to remove themselves from the regime and in order to be able to sell their property. The petitioner contends, therefore, that there has been an economic change since 2007 that has substantially altered the character of the subject property.

Mr. Simpson stated that the petitioner also contends that the proposed rezoning to R-4 is substantially in compliance with the Comprehensive Plan because, for the first time since the 1970s, Stedman Drive is proposed to be completed in order to become a connection between the Grasmere and Plantation neighborhoods and Harrodsburg Road. He said that the Zoning Committee members expressed concerns at their meeting two weeks ago about the lack of connectivity in the development due to the proposed fire gate on Reserve Road. The existing residents on the subject property have requested the interdiction of Reserve Road in order to limit traffic, since, because it is a private roadway, they are required to pay for its maintenance. The residents are also concerned about the use of Reserve Road as a "raceway, straight shot" to Stedman Drive, which many drivers use as a means to access the signalized intersection at Higbee Mill Road and Harrodsburg Road. Mr. Simpson said that, at the Zoning Committee meeting, one of the Committee members suggested providing connectivity around the western edge of the property. The petitioner contends that the proposed configuration depicted on their development plan will deter the unwanted cut-through traffic, while still providing the important connectivity. Mr. Simpson said that the condo owners are aware that it is a balancing act between their desire to limit traffic on Reserve Road, which is in need of repair due to several exposed manhole covers, and the need for connectivity. He added that the petitioner contends that all of these issues could be resolved at the time of a Final Development Plan for the property, and should not hold back the requested zone change.

Referring again to the previous zone change, Mr. Simpson stated that he represented the Meadowthorpe neighborhood when the Leestown Center development was originally rezoned. The developer proposed to construct apartments, and the neighborhood strenuously objected; they eventually compromised on a professional office development. Now, increases in density are more common, and there were no Meadowthorpe residents present to object to the request just approved by the Commission. Mr. Simpson said that apartment developments are often controversial; but, in this case, the existing condo owners are in full support of the proposed development.

Nathan Billings, attorney, was present representing the Palomar Reserve Council of Co-owners, which is the condominium association representing the existing residents on the subject property. He said that homeowners often object to increased density in their neighborhoods; but, in this case, the condominium association has been working with the petitioner, and 78% of the members present at a meeting last week voted in support of the proposed development.

Mr. Billings said that the Planning Commission does not normally need to consider issues like owner financing when reviewing zone change requests; but, in this instance, it is necessary. He said that there are five buildings on the south end of the subject property, and a sixth building at the north end of the property. The five buildings to the south, which contain 60 units, are all of a similar architectural style and have garages and brick facades; the building to the north has 12 units, is vinyl-clad, and has all exterior hallways and open parking. There is a significant amount of acreage involved in the condominium regime. Mr. Billings said that, of the 72 units, approximately 30 are owned by investors, banks, or non-owner occupants; and the remainder of the residents own their units. He explained that those numbers are significant because banking guidelines were changed in August of 2012 to the effect that developments that have 50% or less owner-occupied units are now not eligible for federally-backed financing. In addition, developments must be completed, or slated to be completed, in order to be eligible for that financing. Because the condo development was never completed, any owner now has a significant burden to overcome, because the units are marketable to only cash buyers (who are typically investors, not residents) and prospective buyers who can obtain a loan from a local bank, which will not be sold on the mortgage market. Mr. Billings said that the end result is that most of the condo owners, many of whom are retirees, are unable to sell their units for a market rate, because financing is unlikely.

Mr. Billings stated that the Planning Commission reviews many zone changes where the nearby residents are opposed to the new development. In this instance, however, the petitioner met with the residents at the outset and began a dialogue with them to facilitate a plan that will benefit both parties. The result of those discussions was a mutual agreement to create two separate developments so that the condominium regime will have five buildings on the south end of the property, without the cost of caring for the 12 acres on the north side, which will be shifted to the apartment complex.

With regard to the issue of connectivity, which has been a major point of concern throughout this hearing, Mr. Billings said that many of the condo owners are retirees and/or elderly people. He said that Reserve Road is private, and will have to be maintained by the condo owners, but it is currently used by drivers "speeding through to avoid the stoplight." The condo owners contend that, while connectivity is important, their safety is more so, and the necessary connection can be provided at the western end of the property.

Mr. Billings said that he contends that this proposed zone change, although not in specific compliance with the recommendations of the Comprehensive Plan, can accomplish goals that are broader than what that Plan intended when it was approved in 2007. On behalf of the Palomar Reserve Council of Co-owners, he asked that the Planning Commission approve this rezoning request, and the associated revised development plan.

Commission Questions: Mr. Penn asked if the condo association members were truly in favor of having the residents of the proposed large apartment complex cut through their parking lot in order to provide the necessary connectivity. Mr. Billings answered that, ideally, there would be no connection between the two properties. However, the condo owners are willing to agree to that stipulation in order to allow their development to be completed, and to facilitate the sale of their property in the future. Mr. Penn asked if providing the connection as proposed would be a safety issue. Mr. Billings responded that, if the eastern end of the proposed development remains open, that could create a safety issue. Mr. Penn stated that he was concerned about the safety of the retired residents if a large amount of traffic uses the condo parking area as a cut-through. Mr. Billings answered that, if a "straight shot" is provided through the property, safety could be an issue. However, he does not believe that there will be as much cut-through traffic if the route through the subject property is circuitous. He added that, once Stedman Drive is opened to through traffic, residents of both developments could exit through the neighborhood toward Man O' War Boulevard.

Mr. Brewer asked for clarification with regard to the percentage of owner support for the proposed rezoning. Mike Mason, president of the Palomar Reserve Council of Co-owners, stated that there are 72 units in the condo development; approximately 30 of those units are investor-owned. He said that, at a meeting of the owners, 80% were represented either in person or by proxy. Of the overall owners, 78.8% voted in favor of the proposed rezoning in order to protect their investment in their community. Mr. Mason added that the majority of the condo owners agree that the proposed development is the best way to save their community. Mr. Billings added that 80% of the condo owners attended the meeting either in person or by proxy; 20% of the property owners were not represented. Out of all of those who attended the meeting, there was only one vote in opposition. Mr. Brewer stated that he was attempting to determine how many of the actual residents of the property are in favor, since they will bear the effects of the additional traffic cutting through their parking lot. Mr. Mason responded that the vast majority of those who voted are owner-occupants. He said that the bulk of those who do not typically vote on issues affecting the condominiums are not owner-occupants.

Mr. Cravens asked if the proposed development is shovel-ready. Mr. Simpson answered that all of the financial elements are in place, and the petitioner is ready to go forward. Brian Anderson, 2233 Guilford Lane, and David Tate, petitioners, stated that they have all of the financing approved and in place; and they are ready to begin construction on the proposed development. They would likely start with the construction of two of the new buildings.

Citizen Comments: Ray Waits, 2200 Old Higbee Mill Road, stated that his family had owned their land for many years, and, in fact, sold the subject property to the original developer. At the time of the rezoning in 2003, Mr. Waits granted an easement to the developer based on the promise of a certain density and type of development. The property was not developed as proposed, however, and the road in front of his home has proven to be inadequate for the amount of traffic. Mr. Waits is concerned about the possibility of additional traffic on Old Higbee Mill Road, and the lengthy wait times to make the right-hand turn onto Harrodsburg Road inbound. He suggested that the petitioner consider installing a traffic signal at Stedman Drive, where there have been numerous accidents, and work to eliminate cut-through traffic through the existing condominium development.

Risto Marttinen, 4205 Reserve Road, #201, stated that he is concerned about the proposed number of parking spaces for the apartment development, since there will be no covered garages. He said that he was also concerned about the steep slopes in the area, including a quarry with a solid limestone hillside that will have to be removed for the construction of the proposed development. Mr. Marttinen said that he was the one owner present at the condo meeting who voted in opposition to this request.

Robert Nave, 4205 Reserve Road, #203, stated that he is a five-year resident of the Palomar Reserve development, and he loves living there. He said that there have been problems with the undeveloped portion of the property, including illegal dumping; speeding cut-through traffic; and children playing in dangerous, high-traffic areas. Mr. Nave said that he believes that, if the proposed rezoning is approved, the fire gate on Reserve Road should be installed to help control cut-through traffic. He added that the condominium residents need the rezoning in order to improve their situation.

Petitioner Rebuttal: Mr. Simpson stated that conspicuous by their absence is the "roomful of people" usually present to oppose rezoning requests for apartment developments. He reiterated that the petitioner believes that this request is in compliance with the Comprehensive Plan, but the planning process has been "stuck with the color on the map." In some cases, the "color on the map doesn't control" the Commission's decision, and Mr. Simpson believes that this should be one of those situations. Referring to his exhibit packet, he read the following into the record from the Comprehensive Plan:

"Plan interpretation should take into consideration the following outcomes: Support increased residential density in a manner complementary to and compatible with the existing nearby development; serve to create a cohesive urban form; promote environmental responsibility and sustainability; ensure timely provision and/or upgrade of community infrastructure..."

Mr. Simpson stated that the petitioner contends that the proposed rezoning could accomplish all of those outcomes, by providing affordable housing within the Urban Service Area boundary; completing the development of the urban form that was begun on the property; and completing the incomplete road system on the subject property.

Chairman Comment: Mr. Owens asked Mr. Simpson to limit his comments to rebuttal, rather than to reinforcement or reiteration of his earlier presentation. Mr. Simpson noted that he had not completed his presentation, and read further from the Zoning Ordinance:

"...Promote development that links, rather than isolates, the community and the neighborhood."

With regard to Mr. Penn's earlier question, Mr. Simpson stated that most of the residents of the apartment complex would likely make a right-hand turn from Stedman Drive to Harrodsburg Road toward downtown Lexington. He said that drivers wishing to make a left-hand turn could do so at the Stedman Drive intersection, or via a winding, 24' road through the parking lot to the signal at Old Higbee Mill and Harrodsburg Roads. Mr. Simpson said that the petitioner believes that the proposed rezoning complies with the Comprehensive Plan recommendation, takes advantage of an opportunity to increase density, and can provide completion of an existing neighborhood, with unprecedented support from the residents. He concluded by requesting approval.

Staff Rebuttal: Ms. Wade stated that Mr. Simpson had mischaracterized the staff's recommendation on the earlier Leestown Center rezoning, which involved a site with a different history and character, and is not really pertinent to this request.

With regard to the question of connectivity, Ms. Wade said that Stedman Drive is not the staff's primary concern; it will be required to be connected along with any development of the property, whether it is rezoned or not. The staff's issue is the connectivity of Reserve Road, which is an issue that can be deferred to the Final Development Plan stage, if the Commission so chooses. Ms. Wade said, however, that the staff cannot support a level of density above the Comprehensive Plan recommendation on the site when the petitioner appears to be unwilling to provide more appropriate street connectivity.

Ms. Wade stated that the staff is sympathetic to the concerns of the owners in the condominium regime; but that regime can be removed from the subject property, with the bank's cooperation, and the development can be constructed as the staff suggests: either with the connection of Reserve Road, or without the extra residential units. She reiterated that the staff is recommending disapproval of this request.

Commission Questions: Ms. Plumlee asked how many total units would be constructed. Mr. Simpson responded that the petitioner is proposing to construct 71 units above the number allowed by the existing R-3 zoning, for a total of 182 units. Ms. Wade answered that the entire development would have 248 units, including the six townhouses, all of the apartments, and the duplex.

Ms. Roche-Phillips said that the Planning Commission is statutorily required to find that either the proposed rezoning is in compliance with the Comprehensive Plan, or that the existing zoning is inappropriate. She stated that the existing zoning does allow for group residential use, and asked Mr. Simpson why the petitioner believes the existing zoning is inappropriate. Mr. Simpson responded that the petitioner contends that the proposed rezoning is in agreement with the recommendations of the Comprehensive Plan. He said that the petitioner does not contend that the existing zoning is inappropriate and the proposed zoning is appropriate; rather, the petitioner contends that there have been significant changes of an economic nature in the area since the Plan was adopted in 2007, caused by the recession in 2008. Those economic changes "locked up" this condominium regime in terms of development. The petitioner contends that the proposed rezoning is justified based on that element of KRS 100.213.

Mr. Simpson added, with regard to Ms. Wade's rebuttal comments, that Stedman Drive will not be completed unless the petitioner constructs it, since it is owned by a bank.

Mr. Owens asked if the petitioner would be willing to add a condition to the development plan to require the resolution of the connectivity of Reserve Road at the Final Development Plan stage. Mr. Simpson answered that it is important to the condo residents to eliminate that connectivity; but, although the petitioner remains firm in their support of the development plan as proposed, they understand that that connection is not a condition of the zone change.

Ms. Beatty asked if the staff could provide more information about managing traffic in the proposed development. Ms. Wade responded that the Division of Traffic Engineering did not have a representative present at this hearing, but the Zoning Committee members addressed the question of other available options when they reviewed the zoning development plan. Other options mentioned were speed bumps on Reserve Road, and requiring the "convoluted" path through the proposed development along with the closure of Reserve Road. Ms. Wade stated that there are other available options, and that the Division of Traffic Engineering could review both the Old Higbee Mill/Harrodsburg Road and Stedman Drive/Harrodsburg Road intersections to see if they could be improved. She noted that any signalization at the Stedman Drive intersection would have to meet the warrants for such.

Ms. Beatty asked if she heard correctly that 99 additional units could be constructed on the subject property without a zone change. Ms. Wade responded that that was correct; the entire property includes six townhouse units; the five existing buildings in the condo regime; and one existing building to the north end of the property. The conditional zoning restriction applied in 2003 limits the property to 177 units; there are 78 existing units on the property.

Ms. Roche-Phillips asked how many more units would be permitted on the subject property if it is rezoned to R-4. Ms. Wade answered that 71 additional units would be permitted.

Zoning Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Penn, and carried 7-1 (Wilson abstained; Brewer opposed; Berkley, Blanton, and Mundy absent) to approve MAR 2012-16, for the following reasons:

1. Approval of the applicant's rezoning request will help fulfill several Goals and Objectives of the 2007 Comprehensive Plan, as well as many of the land use policies set out in the Plan; in particular, the following Goals of the 2007 Comprehensive Plan will be furthered:
 - a. The proposed increase in density will be compatible with the existing condominium project to the south, and these units will be located in one less building than when the 2003 zone change was approved for the entire parcel. The increase in connectivity to Harrodsburg Road will facilitate ingress and egress for those additional units as well as the single-family homes to the east.
 - b. The application is consistent with Goal 8, which encourages creating strategies to enable and encourage appropriate infill and redevelopment of established developments and neighborhoods.
 - c. The application is consistent with Goal 15, which is to preserve, protect and enhance the character and quality of existing neighborhoods.
 - e. The application is in substantial compliance with the 2007 Comprehensive Plan because it supports increased residential density in a manner complementary to and compatible with existing nearby development.

Chairman Comment: Mr. Owens suggested that a condition be added to the development to resolve connectivity for Reserve Road at the time of a Final Development Plan.

Commission Question: Mr. Penn stated that he voted in favor of the zone change because he believes that it is in the best interest of the community; but he is concerned about the connectivity on the subject property, particularly with increased density. He stated that that decision could be deferred to the Final Development Plan, but noted for the petitioner that providing safe connectivity will be necessary.

Mr. Owens agreed with Mr. Penn's comments, and stated that he is concerned about traffic on the subject property as well. He opined that the question will require serious discussion at the time of the Final Development Plan.

Ms. Roche-Phillips suggested amending condition #14 to resolve the method of connection of Reserve Road at the time of the Final Development Plan.

Development Plan Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Cravens, and carried 8-0 (Berkley, Blanton, and Mundy absent) to approve ZDP 2012-94, subject to the 13 conditions as listed in the revised staff recommendation, and adding a new condition #14 to read: "Resolve methods of connection of Reserve Road at the time of Final Development Plan."