

AN ORDINANCE CHANGING THE ZONE FROM AN AGRICULTURAL URBAN (A-U) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL(R-3) ZONE, FOR 11.37 NET (11.76 GROSS) ACRES, AND FROM A TOWNHOUSE RESIDENTIAL (R-1T) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE, FOR 0.13 NET (0.25 GROSS) ACRE, FOR PROPERTIES LOCATED AT 2311 ARMSTRONG MILL ROAD AND 3539 KENESAW DRIVE. (ATCHISON HELLER CONSTRUCTION; COUNCIL DISTRICT 8).

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WHEREAS, at a Public Hearing held on August 24, 2017, a petition for a zoning ordinance map amendment for property located at 2311 Armstrong Mill Road and 3539 Kenesaw Drive from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 11.37 net (11.76 gross) acres, and from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone for 0.13 net (0.25 gross) acre, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 10-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.


NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:


Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 2311 Armstrong Mill Road and 3539 Kenesaw Drive from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 11.37 net (11.76 gross) acres, and from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone for 0.13 net (0.25 gross) acre, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

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

PASSED URBAN COUNTY COUNCIL: October 12, 2017

MAYOR 

ATTEST:   
CLERK OF URBAN COUNTY COUNCIL

Published: October 19, 2017-1t  
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3539 Kenesaw Drive(a portion of)  
Harper Woods, LLC Property  
Zone Change from A-U to R-3  
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED WEST OF AND ADJACENT TO KENESAW DRIVE LOCATED AT THE INTERSECTION OF KENESAW DRIVE AND ARMSTRONG MILL ROAD IN SOUTHEAST LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

**BEGINNING AT A POINT** in the centerline intersection of Armstrong Mill Road and Kenesaw Drive; Thence with the centerline of Armstrong Mill Road North 55 Degrees 44 Minutes 03 Seconds West, a distance of 41.47 feet to a point; thence leaving said centerline North 44 degrees 24 minutes 11 Seconds East, a distance of 344.26 feet to a point; Thence South 21 Degrees 18 Minutes 38 Seconds West, a distance of 176.18 feet to a point in the centerline of Kenesaw Drive; Thence with said centerline for the following two (2) calls: 105.80 feet along a curve to the left having a radius of 500.00 feet and a chord which bears South 53 Degrees 12 Minutes 35 Seconds West, a distance of 105.61 feet to a point; Thence South 47 Degrees 08 Minutes 52 seconds West, a distance of 89.04 feet to the **POINT OF BEGINNING** and containing 0.32 acres gross and 0.15 acres net.

3539 Kenesaw Drive(a portion of)  
Harper Woods, LLC Property  
Zone Change from R-1T to R-3  
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED WEST OF AND ADJACENT TO KENESAW DRIVE LOCATED AT THE INTERSECTION OF KENESAW DRIVE AND ARMSTRONG MILL ROAD IN SOUTHEAST LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

**COMMENCING AT A POINT** in the centerline intersection of Armstrong Mill Road and Kenesaw Drive; Thence with the centerline of Kenesaw Drive for the following two (2) calls: North 47 Degrees 08 Minutes 52 Seconds East, a distance of 89.04 feet to a point; thence 105.80 feet along a curve to the right having a radius of 500.00 feet and a chord which bears North 53 degrees 12 minutes 35 Seconds East, a distance of 105.61 feet to **THE TRUE POINT OF BEGINNING**; Thence leaving said centerline North 21 Degrees 18 Minutes 38 Seconds East, a distance of 176.18 feet to a point; Thence South 68 degrees 41 minutes 22 seconds East, a distance of 112.05 feet to a point in the centerline of Kenesaw Drive; Thence with said centerline for the following three (3) calls: 150.95 feet along a curve to the right having a radius of 500.00 feet and a chord which bears South 51 Degrees 29 Minutes 53 Seconds West, a distance of 150.37 feet to a point; Thence South 59 Degrees 35 Minutes 07 Seconds West, a distance of 56.10 feet to a point; Thence 2.74 feet along a curve to the left having a radius of 500.00 feet and a chord which bears South 59 Degrees 25 Minutes 44 seconds West, a distance of 2.74 feet to the **POINT OF BEGINNING** and containing 0.25 acres gross and 0.13 acres net.

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

IN RE: **PLN-MAR-17-00028: ATCHISON HELLER CONSTRUCTION** – a petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 11.37 net (11.76 gross) acres, and from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 0.13 net (0.25 gross) acre, for properties located at 2311 Armstrong Mill Road and 3539 Kenesaw Drive. (Council District 8)

Having considered the above matter on **August 24, 2017**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Comprehensive Plan recommends *Growing Successful Neighborhoods* (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.). The petitioner has proposed a mixture of single-family and townhouse residential dwelling unit types to meet the needs of the community at a density of 3.39 units per net acre. The development will need to be incorporated into the adjoining neighborhoods to the west and east of the subject property to ensure a well-designed neighborhood is provided at this location, and access easements for single-family residences should be minimized.
  - b. The 2013 Comprehensive Plan recommends *Protecting the Environment* (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas, before development occurs. The petitioner proposes, through the corollary development plan to maintain the drainageway, which has now been identified as a floodplain, and tree stand along the tributary of East Hickman Creek. The petitioner is also protecting numerous significant trees on the site.
  - c. The 2013 Comprehensive Plan recommends *Improving a Desirable Community* (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1). The petitioner will need to provide an appropriate termination of Beringer Drive, an existing stub street, or connect Beringer Drive through the subject property to Kenesaw Drive.
  - d. The 2013 Comprehensive Plan recommends compact and contiguous development within the Urban Service Area through absorption of vacant and underutilized land (Theme E, Goal #1), which is being met by the petitioner's proposal, and the plan is compatible with the existing residential uses surrounding the subject property.
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00077: Harper Woods**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 8<sup>th</sup> day of September, 2017.

  
Secretary, Jim Duncan

WILLIAM WILSON  
CHAIR

Note: The corollary development plan, PLN-MJDP-17-00077: Harper Woods was approved by the Planning Commission on August 24, 2017 and certified on September 7, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by November 22, 2017.

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

**OBJECTORS**

- None

**OBJECTIONS**

- None

**VOTES WERE AS FOLLOWS:**

AYES: (10) Bell, Berkley, Brewer, Cravens, Forester, Mundy, Owens, Plumlee, Richardson, and Wilson

NAYS: (0)

ABSENT: (1) Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-17-00028** carried.

Enclosures: Application  
Plat  
Staff Report  
Applicable excerpts of minutes of above meeting

## MAP AMENDMENT REQUEST (MAR) APPLICATION

### 1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

**Applicant:**

Atchison Heller Construction, 3999 Tates Creek Road, Suite 210, Lexington, KY 40502

**Owner(s):**

HARPER WOODS, LLC, 3399 Tates Creek Road, Ste 210, LEXINGTON, KY 40502

**Attorney:**

Jacob Walborn, 201 E Main Street #900, Lexington, KY 40507 PH: 2318780

### 2. ADDRESS OF APPLICANT'S PROPERTY

2311 ARMSTRONG MILL RD LEXINGTON KY

### 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing		Requested		Acreage	
		Use	Zoning	Use	Net	Gross
A-U		Residence	R-3	Residence	11.37	11.76
R-1T		Residence	R-3	Residence	0.13	0.25

### 4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

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

Roads:	To Be Constructed
Storm Sewers:	To Be Constructed
Sanity Sewers:	To Be Constructed
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable



July 3, 2017

Mr. William Wilson, Chairman  
Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, Kentucky 40507

RE: Zone Change Application from A-U/R-1T to R-3  
2311 Armstrong Mill Road and 3539 Kenesaw Drive

Dear Chairman Wilson:

Please be advised that we represent Atchison Heller Construction, which has a contract to purchase 2311 Armstrong Mill Road and 3539 Kenesaw Drive here in Lexington. The Planning Commission previously heard this application at its March 2017 meeting, and approved our early rehearing request at its June 22, 2017 meeting. My client desires to rezone the above-mentioned parcels from their current agricultural category (and a small portion of R-1T zoned property) to the Planned Neighborhood Residential Zone (R-3). We believe this parcel can be redeveloped in accord with the goals and objectives of the 2013 Comprehensive Plan. Additionally, we submit that the present zoning is no longer appropriate and the proposed zone is appropriate.

The above referenced properties are located about seven tenths of a mile from the current eastern boundary of the Urban Service Area. To the south is the entrance to Hartland, one of Lexington's largest residential communities. To the east are several R-1T zoned properties and the Squire Mill Townhomes development, an R-3 zoned project. To the north are R-1E zoned single family residential properties, and to the west is the Victory Baptist Church. The general area, at this point, has mostly been developed, though there are a few remaining undeveloped parcels. The land use in the area is almost exclusively residential.

My client proposes to develop the subject property with a mix of single-family residential units and townhomes. We believe our proposal is a reasonable request, an appropriate use of the land considering the surrounding uses, and is in accord with many of the goals and objectives of the 2013 Comprehensive Plan. Our plan attempts to achieve an appropriate amount of residential density, while at the same time endeavors to save several of the large trees on the lot. We believe the proposal largely mirrors the types of uses that are already present in the area, and should not be a significant change for adjoining property owners. Additionally, the preliminary development plan has gone through several changes in light of staff and Commission concerns raised during the initial zone change hearing. The



numerous points of agreement with the 2013 Comprehensive Plan will be discussed in detail below.

Additionally, we submit that the A-U zoning designation is no longer appropriate and R-3 zoning is appropriate. The intent of the A-U zone, as articulated in Zoning Ordinance §8-4(a), states that the zone is appropriate “until public facilities and services are or will be adequate to serve urban uses.” The subject property has roadway access, access to sanitary and storm sewers, and can be serviced by LFUCG Emergency Services, Waste Management vehicles, and utilities. In short, the “holding” zone, based on the intent section of the zone, becomes inappropriate once public services are available. Here, it is clear that there are adequate public facilities and services to serve the proposed development. Additionally, it appears the property is too small (only about 11 ½ acres, in total) to provide for a viable agricultural use.

In sum, we believe that this rezoning request is in accord with many of the goals and objectives of the Comprehensive Plan, and further submit that the current zone is inappropriate and the proposed zone is appropriate. We are pleased with the compromises we have been able to reach with staff regarding their concerns, and believe the request is now approvable by the Commission. Our conclusion that this rezoning request is in agreement with the 2013 Comprehensive Plan (hereinafter “Comp Plan”) is based on the following:

#### Growing Successful Neighborhoods

Theme A of the Comp Plan embraces several goals regarding residential life in Fayette County. We believe this redevelopment proposal embraces Goals 1, 2 and 3 articulated in Theme A of the Comp Plan.

*Expand housing choices.* The first goal articulated in the first theme of the Comp Plan is to expand housing choices. Our proposal seeks to integrate two different forms of housing choice in to the same “neighborhood” – single family and townhome. We believe providing a diversity of housing options in the same general area makes for a desirable community. Additionally, market trends indicate that many individuals, including young professionals and the elderly, sometimes prefer a townhome option to a single family residential home due to a desire to limit maintenance obligations, though single family residential is still a very popular option. Mixed housing types in neighborhoods are emphasized in the Comp Plan, and several successful Lexington neighborhoods demonstrate the successful nature of this concept.

*Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.* This goal is accomplished by identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area’s context and design features whenever possible. This project would provide additional residential density while still respecting the context of the surrounding area. As you are no doubt aware, 95% of Fayette

County's population resides within the Urban Services Area ("USA"), and this number is expected to rise by nearly 35,000 people by 2020 (Comp Plan, p. 13). It is anticipated that the USA will reach its capacity within the next 12 to 17 years. Thus, redevelopment is needed to provide services to the ever increasing population within the USA.

*Provide well designed neighborhoods and communities.* The Comp Plan calls not only for well-designed new developments, but to provide enhancements to existing neighborhoods to increase their desirability (Comp Plan, p. 38). The proposed development will add density and diversity of housing choice in a highly desirable area. We believe by providing similar uses to those in the area, the existing residential neighborhoods in the area will be enhanced. We have also endeavored to preserve large trees on the lot. We have provided for mixed-type housing options, as specifically called for in the objectives of this Goal.

### Creating Jobs and Prosperity

Theme C of the Comp Plan embraces goals related to continued economic prosperity in Fayette County. We believe this redevelopment proposal embraces elements of Goal 2 of Theme C of the Comp Plan.

*Attract the world's finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community.* One way to attract new jobs and young professionals to Lexington is by providing housing choice and other quality of life opportunities that will bring a workforce of all ages and talents to the city. The proposed development will allow new residences and greater residential density in a desirable area. This, in turn, will make Lexington a more desirable place to live.

### Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land

Theme E of the Comp Plan embraces goals related to preserving rural land while encouraging growth. We believe this redevelopment proposal embraces elements of Theme E of the Comp Plan.

*Uphold the Urban Services Area concept.* This goal requires close monitoring of the absorption of vacant or under-utilized land in the Urban Service Area as well as encouraging the compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs. As discussed above, this provides additional residential density in a desirable neighborhood, thus reducing the demand for new housing and an expansion of the USA.

The Comp Plan also encourages maintenance of this balance by encouraging infill, redevelopment, and adaptive reuse. The project discussed here would involve both infill and redevelopment concepts. The Comp Plan provides guidelines in what it calls "context-sensitive design." This allows for a project to approach the development with an eye

towards the exterior and architectural features that reflect, relate to, or are in proportion to the surrounding neighborhood (Comp Plan, p. 98). Context-sensitive design can quell many of the fears expressed by neighborhood residence when presented with an infill project (Comp Plan, p. 101). Infill and redevelopment are geared towards improvement, reinvigoration, and development of the quality neighborhoods that create compact development, livable neighborhoods, and viable neighborhood commercial centers (Comp Plan, p. 98). The Comp Plan admits that to successfully achieve infill and redevelopment, regulatory change to the Zoning Ordinance must be reviewed on a regular basis (Comp Plan, p. 99). Of course, we are committed to a context-sensitive residential development, and demonstrate that commitment through our zoning development plan.

#### Present Zone Inappropriate, Proposed Zone Appropriate

As was discussed above, we also submit that the present A-U zone is no longer appropriate and that R-3 zoning is appropriate. The intent of the A-U is to provide for a “holding” zone “until public facilities and services are or will be adequate to serve urban uses.” It is unquestionable that the subject property can be adequately served by the existing infrastructure and services in the area. Simply stated, this parcel is ready for development.

Having addressed the inappropriateness of the A-U zone, it is further appropriate to determine whether R-3 is an appropriate zone. We submit that R-3 is wholly appropriate for this location. The zoning development plan reflects the suitability of R-3 zoning for the site, as it allows housing variety, while also providing for additional density in a desirable neighborhood. Further, many neighborhoods have flourished with a combination of single family housing and townhome developments. For instance, Masterson Station, one of the largest residential communities in Lexington, is a combination of single family residential (R-1D, R-1E) and planned neighborhood residential (R-3) zones.

#### Alterations from Prior Plan

The preliminary development plan filed contemporaneously with this application reflects several improvements from its prior iteration. Specifically, the plan recognizes the need to set residential structures back from a potential (albeit currently unmapped) flood plain; reflects staff’s desire for an appropriate termination of Beringer Drive; and has the addition of a trail system. We think these improvements address many of the deficiencies noted by staff and the Commission during the prior zone change.

#### Conclusion

As you can see, this proposal comports with many of the applicable goals and objectives of the Comp Plan. We believe this project is important in that it implements numerous goals and objectives of the Comp Plan, while respecting the existing development in the area. This type of infill project is vitally important to preserving the USA boundary at its current location. In short, this project complies with the goals and objectives of the 2013

Comprehensive Plan. We further submit that the A-U zone is no longer appropriate for this location, and R-3 zoning is appropriate.

Based on the foregoing, we respectfully request approval of our application as submitted. We look forward to presenting this application to you and discussing it with you.

Sincerely,



Jacob C. Walbourn

JCW/klm  
Enclosures

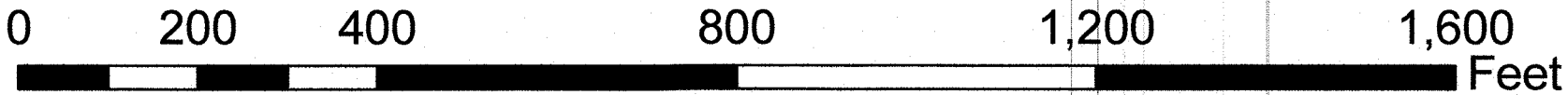
4814-1043-2331, v. 1



**Vicinity Map**

Site Location

**Notification Map**



**LEGEND**

- A: S47°08'52"W - 89.04'
- B: L=105.80'
- R=500.00'
- CD=S53°12'35"W
- LC=105.61'
- C: N21°18'38"E - 176.18'
- D: S59°35'07"W - 56.10'
- E: N55°44'03"W - 41.47'

**ZOMAR HARPER WOODS:**

ADDRESSES: 2311 ARMSTRONG ROAD & 3539 KENESAW DRIVE

APPLICANT: ATCHISON HELLER CONSTRUCTION  
3399 TATES CREEK ROAD, SUITE 210  
LEXINGTON, KY 40502

OWNER: CYRUS A. DICKEN, JR.  
1013 TURKEY FOOT ROAD  
LEXINGTON, KY 40502

PREPARED BY: EA PARTNERS, PLC

DATE FILED: JULY 3, 2017

EARLY REHEARING REQUEST:  
FROM: AGRICULTURAL URBAN (A-U) ZONE  
TO: PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE  
11.37 ACRES NET & 11.76 ACRES GROSS

FROM: TOWNHOME RESIDENTIAL (R-1T) ZONE  
TO: PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE  
0.13 ACRES NET & 0.25 ACRES GROSS

A-U to R-3  
11.44 AC. GROSS  
11.22 AC. NET

A-U to R-3  
0.32 AC. GROSS  
0.15 AC. NET

R1-T to R-3  
0.25 AC. GROSS  
0.13 AC. NET

L=2.74'  
R=500.00'  
CD=S59°25'44"W  
LC=2.74'

**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**PLN-MAR-17-00028: ATCHISON HELLER CONSTRUCTION, LLC**

**DESCRIPTION**

<b>Zone Change:</b>	<b><u>REQUEST</u></b>		<b><u>ACREAGE</u></b>	
	<b><u>FROM</u></b>	<b><u>TO</u></b>	<b><u>NET</u></b>	<b><u>GROSS</u></b>
	A-U	R-3	11.37	11.76
	R-1T	R-3	<u>0.13</u>	<u>0.25</u>
		TOTAL:	11.50	12.01

**Location:** 2311 Armstrong Mill Road and 3539 Kenesaw Drive

**EXISTING ZONING & LAND USE**

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	A-U & R-1T	Single Family Residence & Agriculture
To North	R-1E	Single Family Residential
To East	R-1T & R-3	Duplexes & Multi-Family Residential
To South	R-4	Single Family Residential
To West	A-U & R-1E	Church & Single Family Residential

**URBAN SERVICES REPORT**

Roads – Armstrong Mill Road is designated a collector street east of Man o’ War Boulevard. Its current traffic volume is less than 6,000 daily vehicle trips in this portion of the Urban Service Area. Kenesaw Drive is also a collector street that runs parallel to Man o’ War Boulevard between Buckhorn Drive (to the north) and Tates Creek Road (KY 1974) (to the south). The intersection of Armstrong Mill Road and Kenesaw Drive is controlled by a four-way stop. The subject property is located in the northern corner of the intersection, and proposes accessing Kenesaw Drive for its future development, and prohibiting vehicles from using the existing driveway onto Armstrong Mill Road. Beringer Drive, a local street, also stubs into the subject property from the west, and there is a right-of-way reservation in place for its extension on the subject and the adjoining church property. Any local streets proposed on the subject property must be constructed by the developer in accordance with the Engineering Manuals.

Curb/Gutter/Sidewalks – Along Armstrong Mill Road and Kenesaw Drive, the curbs and gutters have been constructed with the roadway, but sidewalks were not built along the subject property’s frontage. Sidewalks do exist along Kenesaw Drive north of the subject property. Beringer Drive has been constructed with curbs, gutters and sidewalks, and its extension is expected to continue such improvements onto the subject site.

Storm Sewers – The subject property is located within the East Hickman watershed. The Armstrong Mill tributary of East Hickman Creek has its headwaters on the subject property; however, the FEMA special flood hazard area (100-year floodplain) associated with the tributary is only located on a very small portion of the subject property near the intersection of Kenesaw Drive and Armstrong Mill Road. Although not a designated FEMA floodplain, the headwaters of the tributary have recently been studied, as required by the Engineering Stormwater Manual. All storm sewer and/or detention facilities, if any, must be constructed in compliance with the Stormwater Manual.

Sanitary Sewers – The subject property is in the East Hickman sewershed, which is served by the West Hickman Wastewater Treatment Plant, located in northern Jessamine County. Several sanitary sewer lines cross the property, to serve the adjoining neighborhoods. According to the Capacity Assurance Program, capacity is currently available to serve the proposed residential development.

Refuse – The Urban County Government serves this portion of the Urban Service Area with collection on Fridays.

Police – The nearest police station is located approximately 1½ miles to the northwest of the subject property, at the East Sector Roll Call Center (Police Sector 3) on Centre Parkway.

Fire/Ambulance – The nearest fire station to the subject property is Station #16, located approximately ½ mile to the northwest on Man o' War Boulevard, directly across from Bold Bidder Drive.

Utilities – Natural gas, telephone service, electric, water, and cable television are all available to the subject property, and can be extended to serve the proposed development.

### **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, the Comprehensive Plan has established six themes and goals and objectives to support each of the themes, which include: growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D), maintaining a balance between planning for urban uses and safeguarding rural land (Theme E) and implementing the plan for Lexington-Fayette County (Theme F).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to develop a combination of detached single-family and townhouse residential dwelling units. The petitioner proposes 39 dwelling units for the site, for an average density of 3.39 units per net acre.

### **CASE REVIEW**

The petitioner has requested a zone change from an agricultural Urban (A-U) zone and a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone for 11.5 net acres of property.

The subject property is located on the north side of Armstrong Mill Road, at its intersection with Kenesaw Drive. Both Armstrong Mill Road and Kenesaw Drive are collector streets in this portion of the Urban Service Area. The subject property currently accesses Armstrong Road via a lengthy driveway, but proposes a future entrance to their development from Kenesaw Drive, about 300 feet from the intersection of Kenesaw Drive and Armstrong Mill Road. The subject property is a small agricultural tract that is currently occupied by a single-family residence and a barn.

The Armstrong Mill corridor, between of Man o' War Boulevard and the Urban Service Area boundary, is characterized by a mixture of residential zoning categories (R-1E, R-3, and R-4). The type of residential development is also varied and includes single-family residential (Hartland, The Vineyard, and Summerhill subdivisions) and an apartment complex along Man o' War Boulevard. A number of parcels also remain in an A-U zone, which accommodates navigational equipment for the airport, a church, a utility sub-station and the subject property. A variety of residential zones also exist along Kenesaw Drive (including R-1E, R-1T, and R-3) for single-family, duplexes and an apartment residential development.

The subject property was proposed for the same zone and very similar development earlier this year by the petitioner. The Planning Commission recommended disapproval of the request in April 2017, and the application was subsequently withdrawn prior to the Urban County Council's consideration. In June 2017, the petitioner sought permission from the Planning Commission to file a new application for the subject property for reconsideration prior to the Commission's Bylaws restriction (Section 8.8: Rehearing of Previously Disapproved Zone Change Amendment). The Commission approved the request, which led to the current application being submitted in early July 2017. The petitioner now proposes development of

a mix of single-family (31 units) and townhouse residential dwelling units (8 units), for an average density of 3.39 units per net acre.

Similar to their previous request, the petitioner opines that the requested zone change is in agreement with the 2013 Comprehensive Plan, specifically the goals and objectives of the Plan. They cite the following goals and objectives as relevant and supported by the proposed mixed type housing development: expand housing choices (Theme A, Goal #1); support infill and redevelopment as a strategic component of growth (Theme A, Goal #2); provide well-designed neighborhoods and communities, including neighborhoods that are connected for pedestrian and various modes of transportation (Theme A, Goal #3); and uphold the Urban Service Area concept through absorption of vacant or underutilized land (Theme E, Goal #1).

The Planning Commission should also consider the following goals and objectives that pertain to the existing drainageway/creek on the site and the extension of Beringer Drive, the existing stub street: identify and protect natural resources before development occurs (Theme B, Goal #3a.), incorporate green infrastructure into plans and policies (Theme B, Goal #3b.), and work to achieve an effective and comprehensive transportation system (Theme D, Goal #1). The petitioner also contends that the proposed R-3 zone is appropriate and the existing A-U zone is not appropriate.

The staff is generally favorable about the requested zone change because (1) the residential use and varied housing types are supported by the Comprehensive Plan, and (2) the residential zone is considered compatible in this location. In addition, the petitioner now proposes the appropriate termination of Beringer Drive, which is consistent with past Planning Commission and Board of Adjustment decisions. At the time the subject property and the adjoining church parcel (2261 Armstrong Mill Road) were subdivided, a right-of-way reservation was established, which should be followed in order to establish appropriate circulation for the public and city services.

It is the staff's opinion that Beringer Drive should be extended onto the subject property, and connect through to Kenesaw Drive via another street without restrictions (gates). Also, the petitioner's engineer has completed a flood study in June 2017, which is documented on the corollary development plan, along with the 50-foot vegetative buffer required by the Stormwater Manual. The corollary development plan now can be accurately evaluated to determine compliance with environmental regulations and best practices.

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

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Comprehensive Plan recommends *Growing Successful Neighborhoods* (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.). The petitioner has proposed a mixture of single-family and townhouse residential dwelling unit types to meet the needs of the community at a density of 3.39 units per net acre. The development will need to be incorporated into the adjoining neighborhoods to the west and east of the subject property to ensure a well-designed neighborhood is provided at this location, and access easements for single-family residences should be minimized.
  - b. The 2013 Plan recommends *Protecting the Environment* (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas, before development occurs. The petitioner proposes, through the corollary development plan to maintain the drainageway, which has now been identified as a floodplain, and tree stand along



the tributary of East Hickman Creek. The petitioner is also protecting numerous significant trees on the site.

- c. The 2013 Plan recommends *Improving a Desirable Community* (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1). The petitioner will need to provide an appropriate termination of Beringer Drive, an existing stub street, or connect Beringer Drive through the subject property to Kenesaw Drive.
  - d. The 2013 Plan recommends compact and contiguous development within the Urban Service Area through absorption of vacant and underutilized land (Theme E, Goal #1), which is being met by the petitioner's proposal, and the plan is compatible with the existing residential uses surrounding the subject property.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00077: Harper Woods, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/WLS

7/28/2017

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**5. ATCHISON HELLER CONSTRUCTION ZONING MAP AMENDMENT & HARPER WOODS ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-17-00028: ATCHISON HELLER CONSTRUCTION (10/1/17)\*- petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 11.37 net (11.76 gross) acres, and from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 0.13 net (0.25 gross) acre, for properties located at 2311 Armstrong Mill Road and 3539 Kenesaw Drive.

**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, the Comprehensive Plan has established six themes and goals and objectives to support each of the themes, which include: growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D), maintaining a balance between planning for urban uses and safeguarding rural land (Theme E) and implementing the plan for Lexington-Fayette County (Theme F).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to develop a combination of detached single-family and townhouse residential dwelling units. The petitioner proposes 39 dwelling units for the site, for an average density of 3.39 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, for the following reasons:
    - a. The Comprehensive Plan recommends *Growing Successful Neighborhoods* (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.). The petitioner has proposed a mixture of single-family and townhouse residential dwelling unit types to meet the needs of the community at a density of 3.39 units per net acre. The development will need to be incorporated into the adjoining neighborhoods to the west and east of the subject property to ensure a well-designed neighborhood is provided at this location, and access easements for single-family residences should be minimized.
    - b. The 2013 Comprehensive Plan recommends *Protecting the Environment* (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas, before development occurs. The petitioner proposes, through the corollary development plan to maintain the drainageway, which has now been identified as a floodplain, and tree stand along the tributary of East Hickman Creek. The petitioner is also protecting numerous significant trees on the site.
    - c. The 2013 Comprehensive Plan recommends *Improving a Desirable Community* (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1). The petitioner will need to provide an appropriate termination of Beringer Drive, an existing stub street, or connect Beringer Drive through the subject property to Kenesaw Drive.
    - d. The 2013 Comprehensive Plan recommends compact and contiguous development within the Urban Service Area through absorption of vacant and underutilized land (Theme E, Goal #1), which is being met by the petitioner's proposal, and the plan is compatible with the existing residential uses surrounding the subject property.
  2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00077: Harper Woods, 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-17-00077: HARPER WOODS (10/1/17)\* - located at 2311 Armstrong Road and 3539 Kenesaw Drive.  
(EA Partners)

**The Subdivision Committee Recommended: Postponment**, There were some questions regarding the plan status, the long-term maintenance of private infrastructure and the number of "discussion" items.

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.

\* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Extend interior sidewalk system to Beringer Drive in front of townhouse Units 32-38.
7. Clarify 25' floodplain setback on Lots 30 & 31.
8. Addition of right-of-way reservation on adjoining (church) property.
9. Addition of vehicular use area landscaping adjacent to the R-1C zone.
10. Revise street geometrics at Beringer Drive cul-de-sac to have right-of-way at the back of sidewalk.
11. Discuss street status (private or public).
12. Discuss potential subdivision of townhouses and lot access findings.
13. Discuss buildable area proposed on Lots 19, 20 & 31.
14. Discuss proposed structures on Lots 5-15.
15. Discuss long term maintenance of 100' vegetative buffer zone on single-family lots.
16. Discuss tree protection area and/or measures on Lots 24-30.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change, and displayed photographs of the subject property and aerial photographs of the general area. She said the subject property has been utilized as a single-family home and small farm. The applicant is proposing to develop a mixture of townhouses and single-family residential on the property for 39 dwelling units, which is a density of 3.39 dwelling units per acre.

Ms. Wade said that this request was previously heard by the Planning Commission and was denied. The applicant then withdrew their application and requested an early rehearing and had re-filed in July 2017. She said the applicant contends that their application is in agreement with the 2013 Comprehensive Plan Goals & Objectives. She said the proposed development plan is now consistent with the Board of Adjustment and the Planning Commission's decisions, which were the approval of the church, a portion of a cul-de-sac on Beringer Drive, and the extension of Beringer Drive. She also stated that the Planning Commission made the decision to subdivide the Featherstone Farm, which reserved a right-of-way for the cul-de-sac. She said the applicant conducted a floodplain study and identified the floodplain location, which makes the applicant in agreement with portions of the 2013 Comprehensive Plan. She said the staff is in agreement with the applicant that this zone change proposal is compliant with the 2013 Comprehensive Plan.

Development Plan Presentation – Mr. Martin presented a rendering of this preliminary development plan, which was displayed, and he also handed out an updated staff report to the Commission with revised conditions, as follows:

The Staff Recommends: 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. Department of Environmental Quality's approval of environmentally sensitive areas.
- ~~6. Extend interior sidewalk system to Beringer Drive in front of townhouse Units 32-38.~~
- ~~7. Clarify 25' floodplain setback on Lots 30 & 31.~~
- ~~8. Addition of right of way reservation on adjoining (church) property.~~
- ~~9. Addition of vehicular use area landscaping adjacent to the R-1C zone.~~
- ~~10. Revise street geometrics at Beringer Drive cul de sac to have right of way at the back of sidewalk.~~
6. 11. Discuss street status (private or public) Denote: Status of proposed street shall be determined at time of Preliminary Subdivision Plan.
- ~~12. Discuss potential subdivision of townhouses and lot access findings.~~
7. 13. Discuss Denote: bBuildable area proposed on Lots 19, 20 & 31 shall be determined at time of Preliminary Subdivision Plan.
- ~~14. Discuss proposed structures on Lots 5-15.~~
- ~~15. Discuss long term maintenance of 100' vegetative buffer zone on single family lots.~~
- ~~16. Discuss tree protection area and/or measures on Lots 24-30.~~

Mr. Martin said the applicant is proposing a private street to go through the property, crossing the floodplain, and continuing down to intersect with Beringer Drive. He said that there are 31 buildable single-family detached lots, along with the townhouses. He said that there was extensive discussion and concerns regarding the property. He pointed out the 25' setback off of the 100-year floodplain, which does impact a few of the lots. He said staff is anticipating a preliminary subdivision plan that will create the lots. He said that there is a vegetative buffer area, which is required under the Stormwater Manuals, which will also have an impact on the property. He said the issue of long-term maintenance will also need to continue to be worked on as development of the property evolves. He said the applicant is proposing a trail system as an amenity, along the creek tying in to the public trail system along Armstrong Mill Road. He said that there are two very significant burr oak trees that are being protected.

Mr. Martin said this development plan has been recommended for approval. He said the applicant needs to resolve the issue of the Beringer Drive cul-de-sac.

Applicant Presentation – Jacob Walbourn, attorney, was present representing the petitioner. He said the applicant is in agreement with the staff's recommendations. He said that he was appreciative of staff working with them with this complicated plan.

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

Commission Comment – Mr. Owens thanked the applicant for their cooperation with the staff.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Mundy, and carried 10-0 (Penn absent) to approve PLN-MAR-17-00028: ATCHISON HELLER CONSTRUCTION, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Ms. Mundy, and carried 10-0 (Penn absent) to approve PLN-MJDP-17-00077: HARPER WOODS, for the revised conditions provided by the staff.