

1. **REALTY UNLIMITED BLUEGRASS, LLC ZONING MAP AMENDMENT AND HIGBEE MILL COURT, LOT 11 DEVELOPMENT PLAN**

- a. **PLN-MAR-22-00016: REALTY UNLIMITED BLUEGRASS, LLC** (12/5/24)\* – a petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres for property located at 940 Higbee Mill Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 the rezoning of the subject properties to the Townhouse Residential (R-1T) zone to allow the infill of the subject property with single family residential. The applicant is now seeking to construct six (6) single family attached dwelling units at a density of 11.54 dwelling unit per net acre.

The Zoning Committee Recommended: **Disapproval.**

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

1. The proposed zone change to the R-1T zone is not in agreement with the 2018 Comprehensive Plan or the 2045 Comprehensive Plan, for the following reasons:
    - a. The proposed development oriented towards the parking areas rather than the townhomes, and does not create a pedestrian friendly environment (A-DS5-3; D-C01-1).
    - b. The applicant has not demonstrated that they have made any attempt to engage the surrounding neighborhood regarding the updates to their proposal (D-PL7-1).
    - c. The request does not meet the requirements of the zoning ordinance, and the applicant has not provided any information or justification to support the variances that they are seeking.
  2. The site's existing R-1C zone remains appropriate.
  3. There has not been a significant physical, social, or economic change in the immediate area or to the subject property.
- b. **PLN-MJDP-22-00059: HIGBEE MILL COURT, LOT 11** (1/30/2025) \* - located at 940 Higbee Mill Road, LEXINGTON, KY.

Council District: 9

Project Contact: Matt Miniard/Palmer Engineering

Note: The purpose of this plan is to depict 6 townhomes, in support of the requested zone change from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone.

Note: The applicant submitted a revised plan on December 17, 2024 to address side yard requirements and street improvements. Based on that submittal, staff can offer the following revised recommendation

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

1. Provided the Urban County Council approves the zone change to R-1T; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Modify vehicular use area in front yards to comply with Article 16-5(a) and (b).
8. Modify dwelling unit setbacks to meet staggering requirements of Article 8-10 (o)(1).
9. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum presented the revised staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Single Family Residential (R-1C) zone to a

Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres for property located at 940 Higbee Mill Road. Mr. Crum indicated that the applicant is proposing six attached townhouse units with the Enhanced Neighborhood Place Type and the Low Density Residential Development Type, and Mr. Crum indicated Staff was in agreement with those selections.

Mr. Crum stated that the surrounding area was primarily residential and that there were a number of easements that complicated the site, as well as a remnant piece of right of way that was intended to connect to Man O' War. That right of way became overgrown and Mr. Miniard was deeded a portion from the Urban County Government, and the adjoining property owners have the ability to claim their portions as well. Mr. Crum stated that many of the issues since this application was filed in 2022 were the appropriate termination of the roadway, and the initial dimensions of the applicant's proposed cul-de-sac was not an adequate way to address the issue and emergency vehicles would have difficulty accessing the site. Additionally, the number of units that the applicant was proposing needed variances in order to operate.

Mr. Crum indicated that the applicant had amended his development plan to include 6 townhome units and are able to meet all the appropriate setbacks, greenspace, and driveways to make the application meet the ordinance. Mr. Crum stated that the application was accommodating the need for housing, with different housing types, while maximizing the development of underutilized land.

Mr. Crum concluded by stating that Staff was recommending approval of this application and could answer any questions from the Planning Commission.

Commission Questions – Mr. Mike Owens asked why there was a reduction of parking spaces from 13 to 6. Mr. Crum stated that the original plan had two driveways per unit to unit and with the reduction of the amount of units, and a reduction in paving lead to just one driveway per unit.

Development Plan Presentation – Ms. Traci Wade oriented the Planning Commission to the location and characteristics of the subject property. Ms. Wade stated that the six structures will front onto Higbee Mill Road and their rears would abut onto Man O War Boulevard. Ms. Wade reiterated that the reduced shared driveways helped the structures meet the ordinance and would only accommodate one vehicle. Additionally, Ms. Wade stated that the townhomes were 1300 square feet and had backyards.

Ms. Wade went over the conditions for approval and stated that the Planning Commission needed to discuss the modification of the vehicular use area in the front yards and modifying the dwelling unit setbacks. Ms. Wade indicated that there would need to be a pushing back of the middle two dwelling units to allow the driveways to be a long enough to meet the ordinance.

Ms. Wade concluded by stating that Staff is recommending approval with these conditions and could answer any questions from the Planning Commission.

Commission Questions – Ms. Worth asked if there will be any other places for people to park with this current configuration. Ms. Wade stated that the cul-de-sac allowed for some additional parking, but that Higbee Mill Road is a low density area and there should be plenty of spaces to park.

Mr. Michler asked what the zone to zone landscape buffer was between the adjoining residential zone and Mr. Crum indicated it was 8 feet.

Applicant Presentation – Matt Miniard, applicant, stated that this development was a "labor of love" and that this project was safe, eliminating a stub street and allowing emergency vehicles to turn around safely. Mr. Miniard stated that he was praying for the Planning Commissions support and could answer any questions.

Public Comment – Lexi Holland, attorney for Claire and Clovis Collins, 3541 Cephass Way. The Collins' object to this application because of Mr. Miniard's public engagement that allegedly included late night house calls to neighbors where the police was called and baseless Zoning Enforcement calls to antagonize them. Additionally, Mr. Miniard has filed a lawsuit against them and other neighbors alleging entitlement to portions of the right of way. Ms. Holland stated that she did not believe the application met the requirements to be granted a zone change.

Michelle Harr, President of the Higbee Mill Neighborhood Association, stated that the neighbors had nothing good to say about this project and these townhouses are being jammed down their throats.

Applicant Rebuttal – Mr. Miniard stated that when Higbee Mill was first created, the city of Lexington was required to build a court at this location that was never built and he is trying to fix the safety and soundness issue of a stub street. In response to questions about parking, Mr. Miniard stated that there was enough parking on Higbee Mill to accommodate guests and residents.

To the allegations from the neighborhood and the Collins family, Mr. Miniard stated that it was not true and he has been trying to buy the right of way from the Collin's since 2016 and they would not do so. Mr. Miniard stated that he had spent thousands of dollars to resolve this issue for many years

Public Rebuttal – Ms. Holland, stated that her clients came to her after they had already bought their house and realized that parts of their backyard were abandoned right of way and they are entitled to that as the owners. Ms. Holland stated that this development does not alleviate any right of way issues.

Applicant Rebuttal – Mr. Miniard stated that there are a serious of mistakes here that are not his problem, and that the plan in front of the Planning Commission has taken years to get to this point and to be feasible. Mr. Miniard concluded by stating that he was trying to do the right thing and he would appreciate the Planning Commission's support.

Commission Questions – Ms. Worth asked Mr. David Filiatreau if Higbee Mill Road could accommodate the parking. Mr. Filiatreau stated that it looks like there is parking in the area, but most people park in their driveways and not a lot of on-street parking.

Mr. Johnathon Davis asked if Mr. Filiatreau thought that the neighbors could park safely here. Mr. Filiatreau stated that safe can be a little difficult to define but the fire trucks and emergency vehicle usually look for 20 feet but that is not an across the board rule. Mr. Filiatreau stated that Higbee Mill is 24 feet wide and with cars parking there it would reduce it down to just under 20 feet.

Ms. Ivy Barksdale asked if cars parking in the cul-de-sac allowed for emergency vehicles to fit. Mr. Filiatreau stated that its typical to limit parking in the cul-de sac for that reason.

Mr. Wilson stated that this was the first application he could remember where police intervention was necessary during public engagement and he did not understand what the purpose of the lawsuit was and why the police was called.

Applicant Rebuttal – Mr. Miniard stated that he did not know anything about the police being called and had to file a lawsuit to resolve the right of way problem that Mr. Miniard says is an eyesore and environmental hazard. Mr. Miniard said he was trying to do the right thing again and asked for the Planning Commission to do the same.

Commission Comments – Mr. Wilson stated that the Planning Commission's job here was to see if this application is in compliance with the Comprehensive Plan and the Staff has said that it does. He stated he understood where the neighbors were coming from but he would support the approval of the application.

Action – A motion was made by Mr. Wilson and seconded by Mr. J. Davis and carried 7-1-1(Z. Davis absent) (Owens opposed)(Michler abstained) to approve PLN-MAR-22-00016: REALTY UNLIMITED BLUEGRASS, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Wilson and seconded by Mr. J. Davis and carried 7-1-1(Z. Davis absent) (Owens opposed)(Michler abstained) to approve PLN-MJDP-22-00059: HIGBEE MILL COURT, LOT 11 with the nine conditions recommended by Staff.