

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-1: M.I.A. BROOKHAVEN, LLC

DESCRIPTION

Zone Change: From a Neighborhood Business (B-1) Zone
To a Highway Commercial Business (B-3) Zone

Acreage: 5.66 net (6.90 gross) acres

Location: 2434 & 2450 Nicholasville Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	B-1	Commercial, Vacant
To North	P-1, R-4	Professional Offices, Apartments
To East	B-1	Commercial
To South	R-4, B-1	Apartments, Restaurant
To West	B-1	Pharmacy, Restaurants, Retail

URBAN SERVICES REPORT

Roads – The subject property fronts along Nicholasville Road (US 27) as well as Malabu Drive to the north and Surfside Drive to the south. Nicholasville Road is a major arterial road, consisting of 7 reversible lanes, which change to accommodate both morning and evening rush hour traffic. Although discussed in the past, the subject property does not have, and does not propose, direct vehicular access to this major arterial street because of the intersection spacing requirements. Malabu Drive is a collector street that extends from Nicholasville Road to Tates Creek Road, with a mixture of commercial and residential land uses along its length. Surfside Drive is a local street, that provides a second connection between Nicholasville Road and Malabu Drive. Primarily, this street is residential in nature on the southern side, and commercial on the northern side.

Curb/Gutter/Sidewalks – Curbs, gutters, and sidewalks exist along all of the adjoining streets. Where necessary, the applicant will repair or replace any sidewalks along their frontage as a normal part of the development process.

Storm Sewers – The subject property is located within the upper reaches of the West Hickman Creek watershed. Stormwater facilities may be required to be developed, as required by the Engineering Manuals, during the redevelopment of this site. No FEMA floodplain or major flooding problems exist on the subject property.

Sanitary Sewers – The subject property is located in the West Hickman sewershed, which is served by the West Hickman Wastewater treatment Plant in northern Jessamine County. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed change of land use at this location.

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

Police – The nearest police station is located at the East Sector Roll Call Center on Centre Parkway, about 2 miles southeast of the subject property.

Fire/Ambulance – The nearest fire station (#12) is located approximately one mile northwest of the subject property on Southland Drive.

Utilities – Utilities, including natural gas; electric; water; cable television; and telephone service all served this property previously and are readily available in the area.

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. The 2013 Comprehensive Plan also encourages growing successful neighborhoods (Theme A) through adaptive reuse that respects the area’s context and design features (Goal 2.a.); protecting the environment (Theme B), encouraging green building design that reduces Lexington’s carbon footprint (Goal 2.c); creating jobs and prosperity (Theme C), with emphasis on creating jobs near where people live (Goal 1.d.); and encourages the improvement of our desirable community features (Theme D). This includes enhancement to the transportation systems and recommending collaboration with educational and healthcare facilities to meet the needs of Lexington’s residents and visitors.

The petitioner proposes a rezoning to a Highway Service Business (B-3) zone in order to construct a small shopping center, which would be anchored by a new hotel. The proposed hotel use is not a permitted use in the existing Neighborhood Business (B-1) zone.

CASE REVIEW

The petitioner has requested a zone change from a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone for 5.6 acres of property, located at 2434 & 2450 Nicholasville Road.

The subject properties are located on the east side of Nicholasville Road, and are also bounded by Malabu Drive and Surfside Drive. These properties make up almost the entire block, except for the Rite Aid property at the corner of Nicholasville Road and Malabu Drive and a small retail building to the rear at the corner of Malabu and Surfside Drives. The property is surrounded by a mix of commercial and residential land uses and zoning. Primarily, the commercial uses are to be oriented toward Malabu Drive or to the Nicholasville Road corridor. Residential apartment buildings face the subject property along Surfside Drive and a portion of Malabu Drive.

The properties are currently vacant, due to the recent demolition of the existing structures, and the petitioner wishes to redevelop the existing Brookhaven Shopping Center. Many will recognize this center as the previous location of Circuit City and a Rafferty’s restaurant. The redeveloped center is proposed to be anchored by a hotel, with an additional 15,000± square feet of restaurant and retail space.

The 2013 Comprehensive Plan no longer includes a parcel-based land use map; rather it encourages land use decisions to be made based upon small area plan recommendations, policy statements and the Goals and Objectives of the Plan. The petitioner contends that the requested rezoning for a Highway Service Business (B-3) zone is in agreement with several Themes of the 2013 Plan. In particular, they address Theme A (*Growing Successful Neighborhoods*), Theme B (Protecting the Environment), Theme C (*Creating Jobs and Prosperity*), and Theme D (Improving a Desirable Community).

The petitioner opines that the proposed rezoning is supported by Theme A, Goal 2, Objective a., which states: “Identify areas of opportunity for infill, redevelopment and adaptive reuse that respect the area’s context and design features whenever possible,” as well as Theme C, Goal 1, Objective d., which encourages the creation of jobs near where people live. They also go on to opine that their redevelopment project will be an environmentally sustainable project, facilitating the use of alternative transportation along a major public transit line and creating a walkable development, further supported

by Theme B, Goal 2, Objective c. Finally, the petitioner states that the proposed hotel use supports the health care and tourist industries that are already thriving in Lexington and promotes the purpose of Theme D, Goal 2, which is to provide for accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors.

The proposed hotel chain, Aloft Hotels, is new to Lexington and is described by the applicant as a destination or boutique hotel. It is proposed to have 130+ suites in a 5-story 75'-tall building located toward the rear of the shopping center. Like many hotels, it will feature its own bar/nightclub, which is an allowable use in the B-3 zone, whether accessory to the hotel or not. Unlike many hotels, some Aloft Hotels host regular live music shows as part of their venues. Live entertainment would be allowed as an accessory use to any restaurant under the existing B-1 zone, as long as that use were located 100 feet or more from any residential zone. A similar restriction on live entertainment in the B-3 zone would have very little effect on the development, as most of the proposed buildings are located more than 100 feet from the adjoining residential zones. Other conditional zoning restrictions are being proposed by the applicant.

The developer proposes to restrict the use of this property with conditional zoning restrictions that will "ensure that future development will be compatible with the character of the adjoining area by prohibiting certain uses that would be too intensive or inappropriate at this location." The petitioner's list of prohibited B-3 uses is located at the end of this report, with a minor alteration proposed by the staff.

The staff concurs with the petitioner's justification for this zone change, especially Themes A & C, which focus on redevelopment compatible with neighborhoods and economic development. The proposed B-3 zoning is more appropriate with the submitted conditional zoning restrictions, due to the close proximity of the surrounding apartment buildings. The Nicholasville Road corridor has been a logical choice for hotels to locate due to the access of public transit, and the prominence of health care facilities, shopping and other tourist activities easily accessible from this corridor. Lastly, the B-3 zone, when restricted, will be an appropriate land use for this shopping center, located on a major arterial with good access to the collector and local street systems which intersect it.

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

1. The proposed Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan and is supported by several Goals and Objectives of the Plan, including:
 - a. Theme A (*Growing Successful Neighborhoods*), Goal 2, Objective a., which states: "Identify areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible." The petitioner is redeveloping an "under-performing" shopping center with a new center, giving greater attention to the landscaping and pedestrian amenities than the previous development.
 - b. Theme C (*Creating Jobs and Prosperity*), Goal 1, Objective d., which encourages the creation of jobs near where people live. The subject property is located very near residential neighborhoods, which the applicant opines will give nearby residents opportunities to work within walking distance of their homes.
 - c. Theme D, Goal 2, which provides for accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors.
2. The proposed hotel use supports the healthcare and tourist industries that are already thriving in Lexington, and which are acknowledged by the 2013 Plan.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses are recommended to be prohibited on all portions of the subject property:
 - a. Establishments for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.

- b. Garden Centers
- c. Kennels, animal hospitals or clinics, including offices of veterinarians.
- d. Carnivals.
- e. Taxidermy establishments.
- f. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- g. Retail sale of automotive parts with storage and distribution of inventory to other local establishments under the same ownership, when such use is at least 200 feet from a residential zone.
- h. Outdoor live entertainment when located within 100 feet of a residential zone.
- i. All conditional uses listed under Article 8-20(d), except:
 - 1. Churches and Sunday schools.
 - 2. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration for the use of any and all such structures on a single property.

These use prohibitions are appropriate and necessary to ensure that future development will be compatible with the character of the adjoining area by prohibiting certain uses that would be too intensive or inappropriate at this location.

- 4. This recommendation is made subject to the approval and certification of ZDP 2015-10: Brookhaven Subdivision, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.