

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

**MAR 2014-15: HAYMAKER DEVELOPMENT CO., LLC**

**DESCRIPTION**

**Zone Change:** From a Highway Service Business (B-3) zone, with conditions  
To a Highway Service Business (B-3) zone, with modified conditions

**Acreeage:** 9.92 net (13.62 gross) acres

**Location:** 950, 960, 961, 973 & 980 Midnight Pass, 3101 Wall Street, and 3052 & 3084 Beaumont Centre Circle

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Property	B-3	Vacant
To North	P-1	Vacant & Offices
To East	P-1 & B-3	Offices & Commercial
To South	B-3	Branch Banks & Commercial
To West	B-3 & R-3	Branch Bank & Townhouses

**URBAN SERVICES REPORT**

**Roads** – Much of the vacant property proposed for re-zoning is near Beaumont Centre Circle, which forms a main ring road within the Beaumont Farm development – northwest of the Harrodsburg Road interchange with New Circle Road. Beaumont Centre Parkway, a wide boulevard, connects this ring road to Harrodsburg Road (US 68), and provides access to the existing commercial uses on either side. Several of the subject lots are corner lots - some fronting on Wall Street, Lakecrest Circle, and along Midnight Pass, which is centrally located within the ring road. No additional public or private streets are proposed with the current request to modify conditional zoning restrictions.

**Curb/Gutter/Sidewalks** - Curbs, gutters and sidewalks exist within the Beaumont Centre development. Any additional sidewalks required for development of the subject lots will be constructed by the developer.

**Storm Sewers** - The property is within the South Elkhorn watershed. While the subject property is not subject to flooding, there is a potential problem near the Rosa Parks School property, which is some distance to the north of this location. In the remainder of the Beaumont Farm development, there are no known flooding problems. No new storm water basins are expected to be constructed by the developer as the subject lots.

**Sanitary Sewers** - The subject property is located within the South Elkhorn sewershed and is served by the West Hickman Treatment Plant, located in northeastern Jessamine County, near the Jessamine/Fayette County line. There is some sanitary sewer capacity in the Mint Lane sewershed, and some properties in this vicinity are “grandfathered” under the provisions of the Capacity Assurance Program.

**Refuse** - Trash pickup is currently provided in this portion of the Urban Service Area on Mondays. Oftentimes, office and commercial developments hire private contractors to either replace or supplement the service provided by the Urban County Government. According to the application submitted with this zone change request, “other” private trash pickup will be provided to the proposed development in addition to service by the LFUCG.

**Police** - The nearest police station is the West Sector Roll Call Center, located on Old Frankfort Pike at its interchange with New Circle Road, a little more than three miles to the northwest of the subject property.

**Fire/Ambulance** - The nearest fire station (#20) is located just ¼ mile south of this location across Harrodsburg Road, at the corner of Harrodsburg Road and Arrowhead Drive.

**Utilities** - Electric, gas, water, telephone, and cable television service are all available in the immediate area and can be easily extended to serve the proposed development.

**LAND USE 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 petitioner proposes alteration of the existing conditional zoning restrictions on the eight subject lots, to lessen the overall restrictions and prohibited uses on them.

## CASE REVIEW

The petitioner has requested to modify conditional zoning restrictions, which prohibit several uses and to eliminate signage restrictions, put in place when these eight lots were originally rezoned to B-3 by the Urban County Council.

The subject property is comprised of about ten acres of vacant land that is almost all located within the interior of Beaumont Centre Circle, which forms an identifiable ring road within the Beaumont Farm development. One lot is at the corner of Lakecrest Circle and Beaumont Centre Circle, and was part of a zone change to B-3 in this area in 2008. The others were rezoned to B-3 in 2005. Beaumont Centre Circle connects to many other local streets serving residential and commercial development in Beaumont Farm, and provides access to the many existing commercial uses located between Harrodsburg Road and the subject property. To the north of the subject property are located the B-6P zoned Kroger Center at Beaumont Farm, which serves the numerous residential uses in this and other neighborhoods. Townhouses are under construction west of the subject property, just west of the Midnight Pass location, and except for the subject property, the Beaumont Farm development is nearing completion.

The Beaumont development has a long history of zone changes and development plan amendments since the first zone change was approved in 1990. When it was first re-zoned from an Agricultural Urban (A-U) zone, the 1988 Comprehensive Plan had a mixture of land use recommendations for Beaumont Farm. Prior to the adoption of the 1996 Comprehensive Plan, a sub-committee was formed, consisting of neighborhood residents representing the nearest neighborhood association in the area at the time; Planning Commission members; Planning staff; the developer of the property; attorneys and design professionals. Its purpose was to discuss future development within the Beaumont area. The group met from late 1995 to early 1996, and a lengthy report (with recommendations) was forwarded to the Planning Commission at its conclusion. That ended a two-year period where the amount of commercial acreage that should be provided in the Beaumont Farm development was reviewed in detail by the Planning Commission. In 2005, this issue was revisited, in essence, when about 1/3 of the land inside Beaumont Centre Circle was rezoned to B-3, despite disapproval recommendations from the Planning Commission and the staff. The 2001 Plan had recommended Professional Services land use for all of the land inside Beaumont Centre Circle. Much of that rezoned B-3 land has not yet developed, and is now the subject of this request.

Since the appellant is requesting a change in the conditional zoning restrictions, agreement with the 2013 Comprehensive Plan is not a required part of the typical evaluation by the staff and Planning Commission, although the applicant contends that the "current (B-3) zone application is in agreement with the Comprehensive Plan." Rather, Article 6-7(c) of the Zoning Ordinance requires that a finding be made that there have been unanticipated changes of an economic, physical, and social nature in the immediate area since the time the conditional zoning restrictions were imposed that have substantially changed the basic character of the area, in order to alter these limitations.

The appellant's development plan is contemplating a new gas station/convenience store and several new restaurants. The current uses prohibited via conditional zoning, now proposed to be allowed on some of these eight lots, include: car washing establishments, garden centers, kennels, animal hospital or clinics, offices of veterinarians, hotels and/or motels, drive-in restaurants, restaurants with drive-through facilities, drug stores, supermarkets, discount stores, automobile service stations (and convenience stores), business colleges, technical or trade schools, private schools for academic instruction, truck rental businesses, carnivals (on a temporary basis), outdoor theatres, and minor automobile and truck repair when not accessory to an automobile service station.

The petitioner also proposes to permit advertising signs (aka billboards) and free-standing business signs for this entire eight-lot B-3 area. The staff understands that, with the exception of the new convenience store shown on a lot on Midnight Pass, the other lots are shown for conceptual development only, thereby demonstrating that they can comply with the revised conditional zoning restrictions now proposed.

The existing conditional zoning restrictions are now eight or more years old, and there have been some unanticipated changes in this area since the conditions were initially proposed. The applicant cites "an increase in business market needs coupled with a stagnant office market" and the 2008 rezoning and construction of two Marriott hotels between this location and the New Circle Road interchange as unanticipated events. The staff would also offer that "the Great Recession" is an event whose magnitude was certainly not foreseen in 2005. No doubt, it has altered the timing and magnitude of the commercial development in Beaumont Farm, as there are still vacant properties some 25 years after it was initially rezoned for development. In any event, the staff can concur with most of the petitioner's request to simplify the conditional zoning restrictions for vacant B-3 land in this area, especially since there are very few existing residential uses in this immediate area.

The existing restriction on advertising signs and billboards should be retained in this area, as it is well removed from both Harrodsburg Road and New Circle Road, and they are not nearly as appropriate for collector streets in this area. In addition, a total relaxation of free-standing signage restrictions would be out of character with the restrictions in place in the adjacent B-3 and P-1 zones. As such, a 10' height restriction (the same as exists in the P-1 zone) should

be retained so that the free-standing signage on these lots is consistent with the remainder of the Beaumont Farm development.

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

1. In accordance with Article 6-7(c) of the Zoning Ordinance, there have been unanticipated changes of an economic, physical, and social nature in the immediate area since the time the conditional zoning restrictions were imposed in 2005 and 2008 that have substantially changed the basic character of the area of the subject property. In particular:
  - a. The subject property remains vacant almost 25 years after it was originally zoned P-1, and more importantly, for almost a decade after an approved rezoning to a highly restricted B-3 zone for most of these lots.
  - b. The Great Recession of the last decade, unanticipated at the time the existing zoning restrictions were adopted in 2005, has slowed the demand for commercial development in Beaumont Farm, as it has throughout the country.
  - c. More recently, Kroger has expanded its Beaumont store to be one of the largest sized facilities in its chain.
2. This recommendation is made subject to approval and certification of ZDP 2014-67: Beaumont Farm prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall now be restricted with the following restrictions via conditional zoning:

**PROHIBITED USES:**

- a. Establishments and lots 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. Indoor amusements, such as billiard or pool halls, dancing halls, skating rinks, miniature golf or putting courses, theatres, or bowling alleys.
- c. Self-service laundry.
- d. Shoe repair, clothing alteration, tailoring services and tattoo parlors.
- e. Carnivals, even on a temporary basis.
- f. Taxidermy establishments.
- g. Pawnshops.
- h. Parking lots and structures.
- i. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- j. Advertising signs (and billboards) as defined in Article 17- 7(3)(b)(1) of the Zoning Ordinance.
- k. Free-standing signs taller than 10' in height.

These use restrictions are appropriate in that they have been offered by the applicant, The signage restrictions are similar, but significantly relaxed, from those originally approved for these properties, and will ensure consistency with other signage restrictions already in place for adjacent P-1 and B-3 zoned properties in Beaumont Farm.

WLS/TLW/BJR

8/5/14

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