

## 1. PALOLO ZONING MAP AMENDMENT AND BEAUMONT FARM (A PORTION OF) UNIT 1 & 3, LOT 1B) DEVELOPMENT PLAN

- a. **PLN-MAR-23-00001: PALOLO LLC** – a petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 1.16 net (1.36 gross) acres, for property located at 950 Midnight Pass.

### COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 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 property to a restricted Wholesale and Warehouse Business (B-4) zone within Beaumont Centre to allow for the construction of a four-story, climatized self-storage warehouse.

The Zoning Committee Recommended: **Postponement.**

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

1. The requested rezoning to the restricted Wholesale and Warehouse Business (B-4) zone is not in agreement with the 2018 Comprehensive Plan for the following reasons:
  - a. The requested rezoning is not in agreement with the Goals, Objectives, and Policies of the 2018 Comprehensive Plan.
    1. The proposed development does not activate the front wall plan of the structure, which creates a domineering wall frontage that is not in character with the surrounding commercial or residential development (Theme A, Goal #2.b). The proposed development does not provide a pedestrian first design and development (Theme D, Goal #1.a) and the proposed use is autocratic in nature.
    2. The proposed development does not encourage creating jobs and prosperity (Theme C), rather the proposed self-storage facility will generate very few jobs in support of this policy.
  - b. The Wholesale and Warehouse Business (B-4) zone is not a recommended zone in the Regional Center Place-Type and Medium Density Non-Residential / Mixed Use Development Type. The proposed rezoning could introduce potential nuisance producing uses in an area of residential and commercial development.
  - c. The requested rezoning is not in agreement with the Development Criteria of the 2018 Comprehensive Plan. The following Development Criteria are not being met with the proposed rezoning.
    1. A-DS5-4 Development should provide a pedestrian-oriented and activated ground level.
    2. C-DI1-1 Consider flexible zoning options that will allow for a wide range of jobs.
    3. E-GR10-2 Developments should provide walkable service and amenity-oriented commercial spaces.
2. There have been no major unanticipated changes of an economic, social or physical nature in the area of the subject property since the adoption of the 2018 Comprehensive Plan.
3. The applicant has not provided a justification regarding the inappropriateness of the restricted Highway Service Business (B-3) zone and the appropriateness of the Wholesale and Warehouse Business (B-4) zone. Staff concludes that the restricted Highway Service Business (B-3) zone remains appropriate for the subject property, because it is consistent and compatible with the existing development of the Beaumont Centre Development.

- b. **PLN-MJDP-23-00008: BEAUMONT FARM (A PORTION OF) UNIT 1 & 3, LOT 1B (4/30/2023)\*** - located at 950 MIDNIGHT PASS, LEXINGTON, KY  
Council District: 10  
Project Contact: MHL Civil

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

Note: The purpose of this amendment is to depict building and parking layout for storage building, in support of the requested zone change from Highway Service Business (B-3) zone to Wholesale and Warehouse Business (B-4) zone.

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

1. Provided the Urban County Council approves the zone change to B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree inventory map.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Discuss Placebuilder criteria.

Staff Presentation – Mr. Hal Baillie presented the 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 Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 1.16 net (1.36 gross) acres, for property located at 950 Midnight Pass. Mr. Baillie indicated that the applicant was seeking this zone change to allow for the construction of a four-story self-storage warehouse.

Mr. Baillie stated that the area around the subject property in Beaumont Circle was intended to have many mixed uses, including residential, business, and professional offices. This specific portion of Beaumont Circle is the remaining vacant property and Mr. Baillie noted its proximity to the Moondance Amphitheater, as well as the various townhomes and other businesses near the site.

Mr. Baillie continued his presentation by stating that the applicant had selected the Regional Center Place-Type and the Medium Density Non-Residential Development Type and indicated that the Staff was in agreement with those selections. However, the applicant did not chose a recommended zone within the Place-Type and Development Type and instead chose the Wholesale and Warehouse Business (B-4) zone.

Mr. Baillie gave a brief history of the different zones that this property had in the past, and noted the principal and conditional uses in the current B-3 zone, as well as the zoning restrictions currently imposed on the property. Some of these restrictions included pawnshops, adult arcades, billboards, and self-service laundry.

Mr. Baillie went on to give an overview of the B-4 zone and the various conditional and principal uses and indicated that this particular zone focuses on warehousing and shops of specialty trade. Mr. Baillie also reviewed the applicant's proposed conditional zoning restrictions to limit the impact of the B-4 zone. Mr. Baillie stated that the B-4 zone was not appropriate in this location due to the proximity to residential, and the location was meant for retail opportunities.

Mr. Baillie concluded his presentation by stating that the Staff was recommending disapproval and could answer any questions from the Planning Commission. Additionally, Mr. Baillie entered letters of opposition into the record.

Staff Development Plan Presentation – Ms. Cheryl Gallt oriented the Planning Commission to the location and characteristics of the subject property. Ms. Gallt highlighted the development plan, and noted the locations of access as well as the existing access easement along the side property line. Ms. Gallt indicated that there are very few conditions of approval, and that most were sign-off conditions for the Urban Forester, greenspace, and environmental quality. Additionally, Ms. Gallt indicated that the final condition to "Discuss Placebuilder Criteria" could be removed since Mr. Baillie have reviewed the Placebuilder Criteria in relation to the zone change request.

Ms. Gallt concluded her presentation by stating that Staff was recommending approval and could answer any questions from the Planning Commission.

Commission Questions – Mr. Michler asked if the access easement ends just shy of the property line or if the easement continues to where the roads connect to the residential and Ms. Gallt indicated that it did not.

Applicant Presentation – Nick Nicholson, attorney for the applicant, started his presentation stating that he knows that this type of development has been a topic of discussion the past few years, with neighbors and the Staff having different concerns that come with a commercial use near a residential zone. Mr. Nicholson argued that this type of development was a “dream next-door neighbor” because it would not bring in traffic congestion, noise, or light pollution associated with different possible businesses on this property. Mr. Nicholson also noted that they have proposed a zoning restriction for outdoor storage, that there would not be any late night delivery trucks, and that there would not be any late night hours.

Mr. Nicholson stated that the Planning Commission has approved similar developments like this, in similar spaces before and that in doing the research for this type of storage facility, the users are 80% residential customers and 20% commercial. Additionally, Mr., Nicholson indicated that most residential users rent a storage unit for about 3 years and the space becomes an extension of someone’s house or business. He concluded that this area would be wonderful for this type of business.

Mr. Nicholson continued, showcasing the various zones in the surrounding area and argued that there are examples where there are B-3 zone uses mixed with a pocket of restrictive B-4 zone uses in this area and that the mix is working and that there is a path forward for this use to work on the subject property.

Mr. Nicholson focused his next comment on the proposed development plan and stated that the applicant is adding 17 trees and shrubs along Beacon Street near the townhomes to ensure that headlights will never be an issue with this property, as well as the inclusion of a fence.

Mr. Nicholson stated that he was not surprised that Staff had recommended disapproval, but stated that the applicant was disappointed. Mr. Nicholson believes there was a road map for this to work out, highlighting a staff report from a similar development that started with disapproval but ended up with approval.

Mr. Nicholson went over the detailed Beaumont Centre Development guidelines, which are private restrictions, and stated that this development would meet all of the rigorous requirements. Additionally, Mr. Nicholson showcased a map showing where the existing self-storage facilities were in Lexington, and noted that this type of development is happening all over Lexington.

Finally, Mr. Nicholson went through the Comprehensive Plan and showed how this development was in line with it, including that this development could be considered an infill and redevelopment project, and upholds the Urban Service Area concept. He presented his proposed findings and asked the Planning Commission to approve this zone change.

Commission Questions – Mr. Michler inquired about the Beaumont Guidelines and about the concerns about the hours of operation. Mr. Nicholson stated that the hours of operation would not be 24 hours and instead would be from 6:30 AM to 10:30 PM, but they are willing to move that time if it’s too late for the neighborhood. Mr. Michler also asked about the type of windows that the building would use and if a lot of light would come from the building. Mr. Nicholson indicated that the type of windows that are allowable in this area would not give off a lot of light.

Mr. Bell asked how long this property has been available and Mr. Nicholson indicated that it has been available since Beaumont Center was built.

Mr. Nicol asked why there was a need for a zone change when warehouse and storage is a use available in the B-3 zone and Mr. Nicholson stated that self-storage was only available in the B-4 and I-1 zones.

Mr. de Movellan inquired about the height of the other storage facilities that Mr. Nicholson mentioned. Mr. Nicholson stated that the site at Sand Lake was originally 5 stories, the Townley storage facility was 48 feet tall, and he was unsure of the height of the Centennial storage facility near Eastland Parkway.

Public Comment – Walt Gaffield, 2001 Bamboo Drive, agreed with Staff’s recommendations, and stated that Beaumont is an economic engine for Fayette County, and this development would not create a lot of jobs.

John Ball, 3307 Beacon Street, stated that his home is directly adjacent to the property and does not want his daughters to grow up next to a storage unit facility.

Arleigh Kerr, 3220 Beaumont Centre Circle, agrees with the Staff's recommendation of disapproval and does not think the structure is in character with the neighborhood.

Debora Alexander, 3256 Beacon Street, stated that she wanted to retire to a neighborhood with peace and security and that this development would bring constant noise and nuisance. She urged the Planning Commission to disapprove this zone change.

Anwara Polera, 3258 Beacon Street, is against this zone change and states that he does not think that Mr. Nicholson's assertion that people within a two mile radius will use this development, because all that oppose it are in that radius.

Gale Reece, 3312 Beacon Street, stated that she is against the development and that it would "cast a massive shadow over the neighborhood."

Jackie Monzo, 3312 Beaumont Centre Circle, is against the zone change and stated that it would bring in an element of people that she did not want there.

Applicant Rebuttal – Mr. Nicholson stated that while this development might not bring jobs, it is crucial to support the commercial uses in this area and that commercial properties rely on these storage facilities. Mr. Nicholson also stated that while the applicant did not do a sunlight study, there is only a difference of 13 feet and that should not affect the sunlight. Mr. Nicholson stated that they are not trying to light anyone out of the neighborhood and the applicant is happy to make sure the lights are off at night. Mr. Nicholson concluded stating that this development will look like every other building in the area and the main difference between this use and a B-3 use is that this development would provide less trip generation.

Commission Questions – Mr. Davis asked what other uses the applicant could use at this site. Mr. Nicholson indicated that they would need a development plan, but some of the uses include an office building, gas stations, and hotels.

Staff Rebuttal – Mr. Baillie once again highlighted the prohibited uses on the property in the current B-3 zone and indicated there was a height limit of 75 feet. Mr. Baillie continued, answering Mr. de Movellan's question about the height of the storage facilities, stating that the Louis Place's facility was 50 feet tall and the Sand Lake property was 40 feet tall. Additionally, Mr. Baillie noted that each zone change, and the context of the area is unique, and because one specific project worked in one area, does not mean it would work somewhere else.

Commission Questions – Mr. Bell asked Mr. Baillie what he thought was suitable for that property in its current B-3 zone. Mr. Baillie indicated that he could not give his opinion, but he could give Staff's and said that if the applicant submitted a development plan of any of the allowable uses, Staff could make a determination.

Mr. Michler asked about the nuisance noise from HVAC units on the property and how Staff takes that into consideration. Mr. Baillie stated that is not something that is governed by the Zoning Ordinance, but the Planning Commission could regulate buffering so the noise is not as detrimental.

Mr. Michler also asked if there was any discussion between Staff and the applicant about what was on the applicant's zoning restriction list and Mr. Baillie stated that there was not.

Action – A motion was made by Ms. Meyer, seconded by Mr. de Movellan and carried 7-3 (Penn absent) (Davis, Forester, and Nicol opposed) to disapprove PLN-MAR-23-00001: PALOLO LLC for reasons provided by Staff.

Action – A motion was made by Ms. Meyer, seconded by Mr. de Movellan and carried 10-0 (Penn absent) to indefinitely postpone PLN-MJDP-23-00008: BEAUMONT FARM (A PORTION OF) UNIT 1 & 3, LOT 1B