

ORDINANCE NO. 95-2016

AN ORDINANCE CHANGING THE ZONE FROM A PLANNED SHOPPING CENTER (B-6P) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE, FOR 8.46 NET (9.02 GROSS) ACRES; AND FROM AN AGRICULTURAL URBAN (A-U) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE FOR 2.90 NET (3.26 GROSS) ACRES, FOR PROPERTY LOCATED AT 1850 OLD HIGBEE MILL ROAD. (WYNNDALE DEVELOPMENT, LLC (AMD.); COUNCIL DISTRICT 9).

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WHEREAS, at a Public Hearing held on April 28, 2016 a petition for a zoning ordinance map amendment for property located at 1850 Old Higbee Mill Road from a Planned Shopping Center (B-6P) zone to a Planned Neighborhood Residential (R-3) zone for 8.46 net (9.02 gross) acres; and from an Agricultural Urban (A-U) zone to a planned neighborhood residential (R-3) zone for 2.90 net (3.26 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-1; 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 1850 Old Higbee Mill Road from a Planned Shopping Center (B-6P) zone to a Planned Neighborhood Residential (R-3) zone for 8.46 net (9.02 gross) acres; and from an Agricultural Urban (A-U) zone to a planned neighborhood residential (R-3) zone for 2.90 net (3.26 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property via conditional zoning:


- a. All lighting installed on the subject property shall be directed downward and away from any adjacent single-family residential zone.

- b. A 10-foot landscape buffer shall be established along the improved right-of-way for Old Higbee Mill Road. Within this landscape buffer, street trees shall be planted every 40'-45' on center nearest any new residential structures, with a maximum of ten (10) trees. Such trees may also count toward requirements of Article 18 of the Zoning Ordinance for vehicular screening.

Section 3 - 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 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 16, 2016

  
\_\_\_\_\_  
MAYOR

ATTEST:  
  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

Published: June 23, 2016-1t

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WYNNDALE DEVELOPMENT, LLC PROPERTY  
1850 Old Higbee Mill Road (a portion of)  
Lexington, Fayette County, Kentucky  
Zone Change from B-6P to R-3

A TRACT OF LAND SITUATED SOUTH OF OLD HIGBEE MILL ROAD IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

**BEGINNING AT A POINT** in the northwestern most corner of Lot 29 (known as 4292 Steamboat Road) of Zanwynn Station, Unit 1 as recorded in Plat Cabinet "K", Slide 491 in the Fayette County Clerk's Office; thence with the northern line of Zanwynn Station, Unit 1 for the following four (4) calls: North 63 degrees 03 minutes 26 seconds West, 193.13 feet to a point; thence North 53 degrees 55 minutes 53 seconds West, 195.26 feet to a point; thence North 38 degrees 04 minutes 32 seconds West, 72.67 feet to a point; thence North 25 degrees 50 minutes 21 seconds West, 445.41 feet to a point; thence leaving said northern line South 65 degrees 39 minutes 32 seconds East, 202.91 feet to a point; thence North 55 degrees 15 minutes 44 seconds East, 379.21 feet to a point in the centerline of Old Higbee Mill Road; thence with said centerline for the following three calls: South 20 degrees 45 minutes 20 seconds East, 298.80 feet to a point; thence 347.20 feet along a curve to the left having a radius of 477.47 feet and a chord which bears South 41 degrees 35 minutes 23 seconds East, 339.60 feet to a point; thence South 62 degrees 25 minutes 17 seconds East, 157.76 feet to a point; thence leaving said centerline South 27 degrees 24 minutes 06 seconds West, 144.47 feet to a point; thence South 04 degrees 48 minutes 29 seconds West, 178.76 feet to a point; thence North 77 degrees 34 minutes 48 seconds West, 133.20 feet to a point; thence North 64 degrees 01 minutes 31 seconds West, 208.18 feet to **THE POINT OF BEGINNING** and containing 9.02 acres (gross) and 8.46 acres (net).

WYNNDALE DEVELOPMENT, LLC PROPERTY  
1850 Old Higbee Mill Road (a portion of)  
Lexington, Fayette County, Kentucky  
Zone Change from A-U to R-3

A TRACT OF LAND SITUATED SOUTH OF OLD HIGBEE MILL ROAD IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

**COMMENCING AT A POINT** in the northeastern most corner of Lot 5 (known as 4201 Steamboat Road) of Zanwynn Station, Unit 1 as recorded in Plat Cabinet "K", Slide 491 in the Fayette County Clerk's Office; thence South 86 degrees 11 minutes 27 seconds East, 708.35 feet to a the **TRUE POINT OF BEGINNING**; thence North 12 degrees 27 minutes 09 seconds East, 192.41 feet to a point; thence North 72 degrees 33 minutes 19 seconds East, 60.50 feet to a point; thence South 17 degrees 26 minutes 40 seconds East, 55.27 feet to a point; thence South 24 degrees 05 minutes 41 seconds East, 50.00 feet to a point; thence South 33 degrees 48 minutes 09 seconds West, 29.70 feet to a point; thence South 55 degrees 15 minutes 44 seconds West, 145.61 feet to **THE POINT OF BEGINNING** and containing 0.33 acres (gross) and 0.18 acres (net).

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

**IN RE: MAR 2016-8: WYNNDALE DEVELOPMENT, LLC (AMD)** – amended petition for a zone map amendment from a Planned Shopping Center (B-6P) zone to a Planned Neighborhood Residential (R-3) zone, for 8.46 net (9.02 gross) acres; and from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 2.90 net (3.26 gross) acres, for property located at 1850 Old Higbee Mill Road (a portion of). (Council District 9)

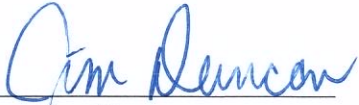
Having considered the above matter on **April 28, 2016**, at a Public Hearing, and having voted **9-1** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. A restricted Planned Neighborhood Residential (R-3) zone is appropriate, and the existing Planned Shopping Center (B-6P) zone and 0.18 acres of an Agricultural Urban (A-U) zone east of Clemens Park, is inappropriate at this location, for the following reasons:
  - a. The Goals and Objectives of the Plan encourage expanding housing choices (Theme A, Goal #1); identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.). These will be furthered by this rezoning and development, east of Clemens Park.
  - b. The placement of fill on the site, or hundreds of feet of stream channelization to allow this location to be developed for a shopping center would be impractical in this twenty-first century environment.
  - c. The subject site is so constrained by the FEMA floodplain, it cannot accommodate both the 50' building setbacks and the off-street parking requirements mandated by the existing B-6P zone.
  - d. At this location, there is room for a single 3-story apartment building, which can be buffered (with street trees) from the established single-family residential neighborhoods in this area. Also, the proposed development will be buffered in three directions from lower density residential uses by either the FEMA floodplain (a Special Flood Hazard Area) or by the Clemens Park property.
  - e. Although the site is situated along a major drainage way within the Urban Service Area, there is still a viable buildable area for the proposed apartment building.
2. This recommendation is made subject to the approval and certification of ZDP 2016-45: South Lexington Development Co., Inc. (Higbee Creek), 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 following use restrictions are recommended via conditional zoning for the subject property:
  - a. All lighting installed on the subject property shall be directed downward and away from any adjacent single-family residential zone.
  - b. A 10-foot landscape buffer shall be established along the improved right-of-way for Old Higbee Mill Road. Within this landscape buffer, street trees shall be planted every 40'-45' on center nearest any

new residential structures, with a maximum of ten (10) trees. Such trees may also count toward any requirements of Article 18 of the Zoning Ordinance for vehicular use screening.

These restrictions are appropriate in order to protect the adjacent residential properties to the north and east of the subject property from the possible increase in activity and light associated with the proposed development and its off-street parking area.

ATTEST: This 13<sup>th</sup> day of May, 2016.



Secretary, Jim Duncan

MIKE OWENS  
CHAIR

Note: The corollary development plan, ZDP 2016-45: South Lexington Development Co., Inc. (Higbee Creek), was approved by the Planning Commission on April 28, 2016 and certified on May 11, 2016.

K.R.S. 100.211(7) requires that the Council take action on this request by July 27, 2016.

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

OBJECTORS

- Karen Akins, 1825 Hopemont Court
- Andrew McSpadden, 3820 Hopemont Drive

OBJECTIONS

- She is concerned about the loss of greenspace in the vicinity of the subject property, and its impact on wildlife.
- He believes that the proposed development, along with other new developments in the area, will exacerbate existing creek flooding.

VOTES WERE AS FOLLOWS:

AYES: (9) Berkley, Brewer, Cravens, Mundy, Owens, Penn, Richardson, Smith, Wilson

NAYS: (1) Plumlee

ABSENT: (1) Drake

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **MAR 2016-8 (AMD)** carried.

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

MAR 2016-8

Date Received 3/7/16

Pre-Application Date 1/25/16

Filing Fee \$ 500<sup>00</sup>

**GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION**

**1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)**

APPLICANT:	Wynndale Development, LLC 859-523-8612 101 Stable Way, Nicholasville, Kentucky 40356
OWNER:	Wynndale Development, LLC 859-523-8612 101 Stable Way, Nicholasville, Kentucky 40356
ATTORNEY:	Jacob Walbourn, MMLK 859-231-8780 201 East Main Street, Suite 1000, Lexington, Kentucky 40356

**2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)**

1850 Higbee Mill Road (a portion of)

**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
B-6P	Vacant	R-3	Residential	8.46	9.02
A-U	Vacant	R-3	Residential	2.90	3.26

**4. SURROUNDING PROPERTY, ZONING & USE**

Property	Use	Zoning
North	Residential	R-1D
East	Residential	R1D & R-1T & R-3
South	Residential	R1-D & R-3
West	Residential	R-1D

**5. 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 ____ % 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 checked="" type="checkbox"/> NO ____ Units

**6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)**

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input checked="" type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
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

**7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)**

This is in...  in agreement with the Comp. Plan  more appropriate than the existing zoning  due to unanticipated changes.

**8. APPLICANT/OWNER SIGNS THIS CERTIFICATION**

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am  OWNER or  HOLDER of an agreement to purchase this property since \_\_\_\_\_.

APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

OWNER Jacob Walbourn ATTORNEY \_\_\_\_\_ DATE 3/7/16

LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_

March 7, 2016

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

RE: Zone Change Application from B-6P and A-U to R-3  
A portion of 1850 Old Higbee Mill Road

Dear Chairman Owens:

Please be advised that we represent Wynndale Development LLC, which is the owner of 1850 Old Higbee Mill Road. My client desires to rezone a portion of the above-mentioned parcel from its current Planned Shopping Center (B-6P) zone and Agricultural-Urban Zone (A-U) to the Planned Neighborhood Residential (R-3) zone. We believe that the existing B-6P and A-U zoning is inappropriate for the site, and that the site is more appropriately zoned R-3. Further, we believe that such a rezoning request is in accord with the Goals and Objectives of the 2013 Comprehensive Plan, as further explained herein.

Property Information

The parcel we propose to rezone is a unique parcel in many ways. It is a large parcel (approximately 27.8 acres in whole) that is bounded by Old Higbee Mill Road and Man O' War Boulevard to the north, an R-1T parcel (under the control of the applicant) to the east, and residential development (in the form of R-1D and PUD-1 zoning) to the south and west. The parcel is in two parts, split by 1960 Old Higbee Mill Road, which is owned by the Urban County Government, and is currently an unimproved property known as Clemens Park. The property currently has three separate zoning designations – R-3 on the eastern end, B-6P in the middle, and A-U to the west. The South Elkhorn Creek passes through the property, and a large portion of the property is flood plain. There is, however, some developable area nearer Old Higbee Mill Road in the B-6P area that is beyond the limits of the flood plain. The property is presently undeveloped.

Portions of the property have been slated for residential development for nearly 30 years. In October 2015, the applicant received approval from the Planning Commission of a preliminary subdivision plan for the southern portion of the R-3 segment of the property. Additionally, a final development plan was approved for the applicant's adjacent property, an R-1T zoned parcel, located at 3757 Kings Glen Park. The present rezoning proposal will allow the final pieces of developable land to be developed in this area. The Applicant desires to construct one apartment building within the developable area.



Planned Shopping Center Zoning is Inappropriate; Residential Zoning is Appropriate

As a threshold matter, we submit that the present Planned Shopping Center (B-6P) and Agricultural-Urban (A-U) zoning is inappropriate and the proposed Planned Neighborhood Residential (R-3) zoning is appropriate.

The A-U zoning category is often identified as a “placeholder” zone, appropriate for property within the Urban Service Boundary that is rural in character prior to its development. The intent section of the zone notes that it is to “control the development of the rural land within the Urban Service Area over a period of time so as to manage the growth of the community.” Zoning Ordinance, §8-4(a). A review of the surrounding area reveals that the area has developed, and that A-U zoning is no longer appropriate for the site.

Likewise, B-6P zoning is also inappropriate for this parcel. While the parcel as a whole is relatively large, the developable land within the B-6P segment is actually quite small. The intent section of the B-6P zone notes that its provisions are to “[a]ssure convenience by providing commercial areas of sufficient size and in the property location to service conveniently the people in the area.” Zoning Ordinance, §12-1. Simply put, the developable area on this parcel is too small to accommodate a shopping center of sufficient size to adequately serve the area. Even under the least restrictive parking requirements, two square feet of off-street parking are required for every foot of “parking floor area.” As such, the parking requirements for B-6P zoning, when contrasted with the developable area available, would make this an extremely difficult site for B-6P development. Further, while additional shopping centers are likely needed for this area, there are B-6P and B-1 developments within a mile of this parcel.

In short, the present zoning for this parcel is inappropriate. R-3 would appear to be a more appropriate zone than the existing zoning for several reasons: a large portion of the property is already zoned R-3; the area is predominantly residential in character, and the proposed development would maintain that residential character; the proposed zoning would allow for higher density, but the size of the developable area necessarily constrains the possible density to appropriate levels; and the location of the proposed development should have limited impact on the existing residential development in the area.

In conclusion, the present zoning for the site is inappropriate, and R-3 zoning is appropriate for the site.

Proposal in Agreement with 2013 Comprehensive Plan

The proposal to rezone the subject parcel is also in accord with several of the goals and objectives of the 2013 Comprehensive Plan. 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.* Lexington seeks to create and implement housing incentives that strengthen the opportunity for economic development, new business, and jobs, including, but not limited to higher density and housing. “At its core, the 2013 Comprehensive Plan promotes neighborhood prosperity and success” (Comp Plan, p. 38). In pursuit of that goal, the Comp Plan encourages varied housing choices featuring townhomes, apartments, and condominium and duplex housing adjacent and mixed with single-family homes.

This proposal is in accord with the comprehensive plan because it adds the availability of apartment style living in an area that is dominated by single family residences. However, because of the location of the parcel, this housing variety can be introduced without significantly altering the character of the existing neighborhood. The location of the flood plain will constrain the size of the development, and thus, increase the diversity of housing choices in the immediate area without substantially impacting the existing character of the neighborhood. As this Planning Commission has heard in many recent zone changes, apartment living is increasing in popularity among various segments of the population.

*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 utilizes vacant land within the Urban Service Boundary, which is becoming increasingly rare in Lexington. 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 housing choices to the ever increasing population within the USA. The Comp Plan calls for quality connections with parks, schools, and stores, and pedestrian friendly streets and amenities (Comp Plan, p. 39). Our project is immediately adjacent to an LFUCG owned park property, and will be located in an area with substantial green space.

*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). Our proposed development will provide a modest increase in density to an area that that has largely developed, but will minimally

impact the existing neighborhood. Additionally, this development will minimize disruption of the natural features of an area, another objective of Goal 3, as it will avoid building within or altering the flood plain, and will maintain a significant tree canopy in the area. In fact, we submit that this proposal truly embraces Goal 3 of Theme A: this development has found the one area of developable land, and proposes to use it (and only it) to provide for a modest increase in neighborhood density while predominantly maintaining the character of the existing neighborhood.

### 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 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 entertainment and other quality of life opportunities that will bring a workforce of all ages and talents to the city. The proposed development will allow members of the working community to live in a desirable neighborhood without having to commit to the substantial investment and maintenance required when purchasing a single-family home. These housing opportunities will be attractive to not only young-professionals, but also graduate students, young couples, and perhaps even older individuals wishing to downsize. The median age in Fayette County is 34 (Comp Plan, p. 17), and 34% of the population is between the ages of 20 and 39 (Comp Plan, p. 18). The opportunities for young professionals to live within the USA must be expanded to accommodate this growing demographic. This will in turn attract more young professional (and jobs) to Lexington. The Comp Plan also reflects commitment to allowing people to live where they work and creating opportunities to make this a reality (Comp Plan, p. 74). This property is within a short bike ride of the Nicholasville and Harrodsburg Road corridors, which are thriving commercial areas with new commercial development. It is also only approximately one mile from an existing Lextran stop on Route #13, which is an every day, day-night route.

### 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 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. This project will utilize undeveloped but developable land within the Urban Services Boundary. Finding vacant land within the USA is an

increasingly rare prospect, and when such land is located, it is important to develop it as efficiently as practicable.

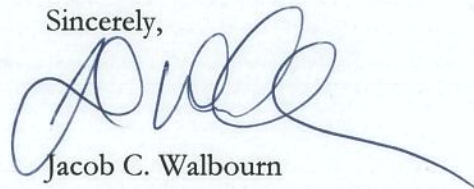
The Comp Plan also encourages maintenance of this balance by encouraging infill, redevelopment, and adaptive reuse. As noted, this project utilizes existing vacant land. The Comp Plan provides guidelines in what it calls “context-sensitive design.” This allows for a project to approach the development 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). Because of the location of the developable land, this modest increase in density will only minimally impact the existing neighborhood.

#### 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 precisely the type of project the Comp Plan encourages – it provides for appropriate density in unused or underutilized land. Such a project is important to limiting expansion into Lexington’s agricultural areas, and is the type of project needed to make Lexington a desirable community. This type of 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.

Based on the foregoing, we respectfully request approval of our application as submitted.

Sincerely,



Jacob C. Walbourn

JCW/klm  
Enclosures

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Lexington, Fayette County, Kentucky  
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**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**MAR 2016-8: WYNNDALE DEVELOPMENT, LLC**

**DESCRIPTION**

Zone Change:	<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>
	B-6P	R-3	8.46	9.02
	A-U	R-3	<u>2.90</u>	<u>3.26</u>
	TOTAL:		11.36	12.28

**Location:** 1850 Old Higbee Mill Road (a portion of)

**EXISTING ZONING & LAND USE**

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	B-6P & A-U	Vacant
To North	A-U & R-1D	Single Family Residential
To East	R-1D, R-1T & R-3	Residential
To South	R-1D & R-3	Residential
To West	R-1D	Residential

**URBAN SERVICES REPORT**

Roads – Old Higbee Mill Road is a collector street that connects Man o’ War Boulevard with Harrodsburg Road. It was formerly connected to Higbee Mill Road, which is currently an unimproved local street to the east of this site. In the 1980s, this formerly rural roadway was disconnected and became separate streets when Man o’ War Boulevard was constructed. Old Higbee Mill has been partially improved and widened and now provides access to several residential subdivisions located between Man o’ War Boulevard (to the north) and the Fayette/Jessamine County line (to the south), and between Clays Mill Road Extended (to the east) and Harrodsburg Road to the west. Both sections of the subject property that are proposed for re-zoning have frontage along Old Higbee Mill.

Curb/Gutter/Sidewalks – Old Higbee Mill Road was originally constructed without curb, gutter or sidewalks. Over time, Old Higbee Mill has been widened and partially improved (i.e., improved in sections) with curb, gutter and sidewalks. The applicant proposes to construct a sidewalk along much of the subject property’s street frontage.

Storm Sewers – The subject property is located within the South Elkhorn Creek watershed. A portion of South Elkhorn Creek is located on the property, generally flowing from east to west toward the Harrodsburg Road/Bowman Mill Road area. No storm sewers or stormwater improvements exist on the property, and the developer will be responsible for their provision. Any stormwater facility designs will be required to meet the Engineering Manual specifications and should be designed to accommodate water quality improvements, as well. A significant floodplain area is associated with the South Elkhorn Creek, which traverses the subject site. The applicant’s proposed residential development will primarily remain outside of the designated Special Flood Hazard Area, although a post development floodplain (PDFP) is shown on the zoning development plan, indicating that grading and fill material are anticipated for the parking areas and entrance driveway nearest the current floodplain limits.

Sanitary Sewers – The subject property is in the South Elkhorn sewershed, which is served by the West Hickman Wastewater Treatment Plant. A major trunk line runs through the property, parallel to South Elkhorn Creek. The property is planned to be connected to the sanitary sewer when development occurs.

Refuse – The Urban County Government serves this portion of the Urban Service Area with residential collection on Mondays. Apartment developments sometimes contract with private waste haulers for more frequent service.

Police – The nearest police station is located approximately five miles north of the subject property, at the West Sector Roll Call Center (Police Sector 1) on Old Frankfort Pike near New Circle Road.

Fire/Ambulance – The nearest fire station to the subject property is Station #20, located approximately two miles to the northwest at the intersection of Harrodsburg Road and Arrowhead Drive.

Utilities – Natural gas, telephone service, electric, water, and cable television are all available to the areas surrounding the subject property, and all can easily be extended to serve the property. Several utilities crisscross this property, and a 40' wide high pressure natural gas line easement is located near the proposed apartment building.

### **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 Comprehensive Plan encourages expanding housing choices (Theme A, Goal #1); identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); encourages developing underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3); and locating higher density development near greenways and public parks (policy statement).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to construct one multi-family residential building, with a total of 24 dwelling units (with 36 bedrooms). This equates to a proposed residential density of 6.88 dwelling units per net acre.

### **CASE REVIEW**

The petitioner has requested a zone change from a Planned Shopping Center (B-6P) zone, and from an Agricultural Urban (A-U) zone, to a Planned Neighborhood Residential (R-3) zone for approximately seven acres of property, located on the south side of Old Higbee Mill Road, between Gladman Way and Hopemont Drive.

Old Higbee Mill Road is a sub-standard, formerly rural roadway located on the west side of Man o' War Boulevard, which connects that road to Harrodsburg Road to the west of this vicinity of the Urban Service Area. The subject property is located on the south side of Old Higbee Mill Road, and has over 700 feet of road frontage. Old Higbee Mill Road is where the access is planned for the proposed development of the site. Hopemont Drive, a local street to the north of Old Higbee Mill Road, has its T-intersection along the subject property's frontage.

The immediate area is characterized by single-family residential neighborhoods on both sides of Old Higbee Mill Road, with R-1C, R-1T and PUD-1 zoning being prevalent. A 10-acre site on the south side of both Man o' War Boulevard and Old Higbee Mill Road (located in an R-3 zone) is in the early phase of development of 26 single family residential lots. That location remained vacant until recently when it and the subject property became available for development.

The subject property is bisected by 8.7 acres of unimproved parkland (Clemens Park) owned by the Urban County Government. The park property is in an Agricultural Urban (A-U) zone, like portions of the subject site. The zone change to the southeast of the park property is about 8.66 net acres in size (A-U & B-6P to R-3), but the vast majority of that acreage is located in a floodplain associated with the South Elkhorn Creek. The 2.72 net acres to the west of the Clemens Park location is also mostly encumbered by the floodplain associated with the South Elkhorn Creek, leaving a small building site on the south side of the lot, which can only be accessed through the park, or via a fording or crossing of the creek from Old Higbee Mill Road (A-U to R-3). These floodplain areas are heavily vegetated and treed.



The petitioner is requesting an R-3 zone in order to construct 24 townhome dwelling units (with 36 bedrooms) to the southeast of the park, across from the Hopemont Drive intersection with Old Higbee Mill Road. The anticipated residential density of the proposed development to the southeast of the park is 2.78 dwelling units per net acre. The R-3 density to the west of the park is purely speculative (technically, 0.00 units per acre), as the corollary development plan filed with this application depicts no development of that tract.

The applicant opines that their request furthers the Goals and Objectives of the 2013 Comprehensive Plan by its encouragement of expanded housing choices (Theme A, Goal #1); identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); providing for well-designed neighborhoods (Theme A, Goal #3); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3). In addition, the applicant believes that Theme C of the Plan is furthered, since this development will allow new housing opportunities to attract new young professionals for our local workforce. Finally, they also put forth that this will minimize disruption of natural features when building new communities (Theme A, Goal #3d.). It is difficult for the staff to associate the development of a single apartment building with meeting so many Comprehensive Plan policies and goals.

Although the petitioner contends that the proposed rezoning is in agreement with the Goals and Objectives of the 2013 Comprehensive Plan, their primary justification is that the existing B-6P and A-U zoning is inappropriate and the proposed R-3 zoning is appropriate. The staff does not disagree. The development of this site is so constrained by the FEMA floodplain, that it cannot accommodate both the 50' building setbacks and the off-street parking requirements mandated by the existing B-6P zone. The placement of fill on the site, or hundreds of feet of stream channelization to allow this location to be developed for a shopping center would be impractical in this twenty-first century environment. R-3 zoning exists just a short distance to the southeast of this location; and, clearly, this area is mostly residential in character. For these reasons, the rezoning to the southeast of Clemens Park would be appropriate.

The petitioner wishes to provide a multi-family residential building in an area where none currently exists. At this location, a single, new 3-story apartment building can be buffered (with street trees) from the established single-family residential neighborhoods in this area. The proposed development also will be buffered in three directions from lower density residential developments by either the floodplain (Special Flood Hazard Area) or the Clemens Park property. Although the site is situated along a major drainage way within the Urban Area, there is still a viable buildable area for the proposed apartment building.

The building site to the west of Clemens Park is entirely different. No development is currently contemplated for that location, but there is so little buildable area, and such poor access to the site, that any increase in its allowable density should be carefully considered. Since access to that buildable area is so constrained, the staff believes it should remain in an A-U zone, and effectively limited to the development of one single family dwelling, until such time as other access to it could be considered. Even if that were the case in the future, it is hard to foresee how a more intense development of that small site could be done in a fashion that meets all the Zoning Ordinance provisions for building setbacks and off-street parking. Thus, the staff recommends it remain in an A-U zone, and restricted to one dwelling unit.

**The Staff Recommends: Approval of rezoning to R-3 southeast of Clemens Park**, for the following reason:

1. A restricted Planned Neighborhood Residential (R-3) zone is appropriate, and the existing Planned Shopping Center (B-6P) zone and 0.18 acres of an Agricultural Urban (A-U) zone east of Clemens Park, is inappropriate at this location, for the following reasons:
  - a. The Goals and Objectives of the Plan encourage expanding housing choices (Theme A, Goal #1); identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the

Urban Service Area (Theme E, Goals #1a., #1b. and #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.). These will be furthered by this rezoning and development, east of Clemens Park.

- b. The placement of fill on the site, or hundreds of feet of stream channelization to allow this location to be developed for a shopping center would be impractical in this twenty-first century environment.
  - c. The subject site is so constrained by the FEMA floodplain, it cannot accommodate both the 50' building setbacks and the off-street parking requirements mandated by the existing B-6P zone.
  - d. At this location, there is room for a single 3-story apartment building, which can be buffered (with street trees) from the established single-family residential neighborhoods in this area. Also, the proposed development will be buffered in three directions from lower density residential uses by either the FEMA floodplain (a Special Flood Hazard Area) or by the Clemens Park property.
  - e. Although the site is situated along a major drainage way within the Urban Area, there is still a viable buildable area for the proposed apartment building.
2. This recommendation is made subject to the approval and certification of ZDP 2016-45: South Lexington Development Co., Inc. (Higbee Creek), 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 following use restrictions are recommended via conditional zoning for the subject property:
- a. All lighting installed on the subject property shall be directed downward and away from any adjacent single-family residential zone.
  - c. A 10-foot landscape buffer shall be established along the improved right-of-way for Old Higbee Mill Road. Within this landscape buffer, street trees shall be planted every 40'-45' on center nearest any new residential structures, with a maximum of ten (10) trees. Such trees may also count toward any requirements of Article 18 of the Zoning Ordinance for vehicular use screening.
- These restrictions are appropriate in order to protect the adjacent residential properties to the north and east of the subject property from the possible increase in activity and light associated with the proposed development and its off-street parking area.

The Staff Recommends: **Disapproval of rezoning to R-3 west of Clemens Park**, for the following reasons:

1. A Planned Neighborhood Residential (R-3) zone at this location is not agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the Plan encourage infill, redevelopment and adaptive reuse when respective of an area's context and design features; and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area. No such changes are proposed in this area.
  - b. The Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods; minimizing disruption of natural features when building new communities; identifying and protecting natural resources and landscapes before development occurs; and preserving urban neighborhoods. A potential increase in the allowable density of the subject property would be contrary to these Goals, but may be possible by maintaining the current A-U zone.
2. The existing A-U zoning is appropriate at this location, for the following reasons:
  - a. The subject site can currently only be accessed by crossing the natural floodplain of the South Elkhorn Creek. Increasing allowable density at this location west of Clemens Park would potentially create a health, safety and welfare issue for new residents at this location.
  - b. The applicant has proposed no development of this property, due to the location's poor access.
  - c. The current A-U zone would allow construction of one single family residential dwelling on this portion of the subject property, which is the most appropriate of density for the portion of this 2.72 net acre site located outside of the 100-year floodplain.

3. **WYNNDALE DEVELOPMENT, LLC, ZONING MAP AMENDMENT & SOUTH LEXINGTON DEVELOPMENT CO., INC. (HIGBEE CREEK) ZONING DEVELOPMENT PLAN**

- a. **MAR 2016-8: WYNNDALE DEVELOPMENT, LLC (6/5/16)\*** - petition for a zone map amendment from a Planned Shopping Center (B-6P) zone to a Planned Neighborhood Residential (R-3) zone, for 8.46 net (9.02 gross) acres; and from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 2.90 net (3.26 gross) acres, for property located at 1850 Old Higbee Mill Road (a portion of).

**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 Comprehensive Plan encourages expanding housing choices (Theme A, Goal #1); identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); encourages developing underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3); and locating higher density development near greenways and public parks (policy statement).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to construct one multi-family residential building, with a total of 24 dwelling units (with 36 bedrooms). This equates to a proposed residential density of 6.88 dwelling units per net acre.

**The Zoning Committee Recommended: Approval of rezoning to R-3 southeast of Clemens Park and Disapproval of rezoning to R-3 west of Clemens Park**, for the reasons provided by staff.

**The Staff Recommends: Approval of rezoning to R-3 southeast of Clemens Park**, for the following reason:

1. A restricted Planned Neighborhood Residential (R-3) zone is appropriate, and the existing Planned Shopping Center (B-6P) zone and 0.18 acres of an Agricultural Urban (A-U) zone east of Clemens Park, is inappropriate at this location, for the following reasons:
  - a. The Goals and Objectives of the Plan encourage expanding housing choices (Theme A, Goal #1); identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.). These will be furthered by this rezoning and development, east of Clemens Park.
  - b. The placement of fill on the site, or hundreds of feet of stream channelization to allow this location to be developed for a shopping center would be impractical in this twenty-first century environment.
  - c. The subject site is so constrained by the FEMA floodplain, it cannot accommodate both the 50' building setbacks and the off-street parking requirements mandated by the existing B-6P zone.
  - d. At this location, there is room for a single 3-story apartment building, which can be buffered (with street trees) from the established single-family residential neighborhoods in this area. Also, the proposed development will be buffered in three directions from lower density residential uses by either the FEMA floodplain (a Special Flood Hazard Area) or by the Clemens Park property.
  - e. Although the site is situated along a major drainage way within the Urban Service Area, there is still a viable buildable area for the proposed apartment building.
2. This recommendation is made subject to the approval and certification of **ZDP 2016-45: South Lexington Development Co., Inc. (Higbee Creek)**, 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 following use restrictions are recommended via conditional zoning for the subject property:**
  - a. All lighting installed on the subject property shall be directed downward and away from any adjacent single-family residential zone.
  - b. A 10-foot landscape buffer shall be established along the improved right-of-way for Old Higbee Mill Road. Within this landscape buffer, street trees shall be planted every 40'-45' on center nearest any new residential structures, with a maximum of ten (10) trees. Such trees may also count toward any requirements of Article 18 of the Zoning Ordinance for vehicular use screening.

**These restrictions are appropriate in order to protect the adjacent residential properties to the north and east of the subject property from the possible increase in activity and light associated with the proposed development and its off-street parking area.**

**The Staff Recommends: Disapproval of rezoning to R-3 west of Clemens Park**, for the following reasons:

1. A Planned Neighborhood Residential (R-3) zone at this location is not agreement with the 2013 Comprehensive Plan, for the following reasons:

- a. The Goals and Objectives of the Plan encourage infill, redevelopment and adaptive reuse when respectful of an area's context and design features; and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area. No such changes are proposed in this area.
  - b. The Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods; minimizing disruption of natural features when building new communities; identifying and protecting natural resources and landscapes before development occurs; and preserving urban neighborhoods. A potential increase in the allowable density of the subject property would be contrary to these Goals, but may be possible by maintaining the current A-U zone.
2. The existing A-U zoning is appropriate at this location, for the following reasons:
    - a. The subject site can currently only be accessed by crossing the natural floodplain of the South Elkhorn Creek. Increasing allowable density at this location west of Clemens Park would potentially create a health, safety and welfare issue for new residents at this location.
    - b. The applicant has proposed no development of this property, due to the location's poor access.
    - c. The current A-U zone would allow construction of one single family residential dwelling on this portion of the subject property, which is the most appropriate density for the portion of this 2.72 net acre site located outside of the 100-year floodplain.
- b. ZDP 2016-45: SOUTH LEXINGTON DEVELOPMENT CO., INC. (HIGBEE CREEK) (6/5/16)\* - located at 1850 Old Higbee Mill Road.  
**(EA Partners)**

The Subdivision Committee Recommended: Postponement. No tree inventory information has been submitted by the applicant for this site. Also, no use has been proposed for three (3) acres of this area.

Should this plan be approved, the following requirements should be considered:

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
5. Remove +/- from height and denote minimum height of proposed retaining wall.
6. Identify limits of required tree inventory, per Article 26 requirements.
7. Discuss proposed use on the western lot adjacent to LFUCG property.
8. Discuss whether sidewalk should continue along the entire frontage of the subject property.
9. Discuss whether required parking lot screening can be provided next to proposed retaining wall.

Zoning Presentation – Mr. Sallee identified the location of this two-part zone change on the Commission's agenda. He said that the staff understands that the applicant is interested in requesting an amendment to their application to delete one of the two requested zone changes.

Request to Amend Application – Jacob Walbourn, attorney for the applicant, requested to withdraw the portion of the zone change the staff recommended for disapproval – this was a change from A-U to R-3 located to the west of the land known as Clemens Park. He said that the applicant had no use for it, as it is almost entirely located within the 100-year floodplain. They wished to proceed with their zone change on the remainder of the parcel involved.

Action: A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 11-0 to accept the withdrawal of the western parcel involved in MAR 2016-8: Wynndale Development, LLC.

NOTE: Mr. Smith departed the meeting at this time.

Zoning Presentation – Mr. Sallee said that the applicant is now requesting a rezoning from mostly a Planned Shopping Center (B-6P) zone to a Planned Neighborhood Residential (R-3) zone in order to construct a new apartment building. He used an aerial photograph to orient the Commission to the location of the subject site, which is near the intersection of Man o' War Blvd. with Higbee Mill Road. Most of the site is currently zoned B-6P, and is adjacent to tract owned by LFUCG, known as Clemens Park; however, no equipment or playgrounds, etc. have been developed on that site. A small area (about 0.2 acres) is in an Agricultural Urban (A-U) zone again, adjacent to the park. Most of the remainder of the subject property was rezoned to B-6P decades ago, with the thought that the creek and large floodplain could be channelized to allow a small, but conventional commercial development. That would have resulted in a very small commercial development, given those constraints. He said that the area of the subject property is dominated by single family residential zoning and uses.

Mr. Sallee said that the petitioner has cited several Goals & Objectives of the Comprehensive Plan, which this development supports. However, the staff does not agree that this amended application is in agreement with the Plan, due to the fact that only one residential building is involved in this application. But, like the applicant, the staff does believe that the existing zoning is inappropriate and the proposed zoning is appropriate. Mr. Sallee said that the property would be diffi-

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

cult to develop, and there would be hardly any developable area for a valid commercial use. The Zoning Committee and staff recommended approval of the rezoning for the parcel southeast of the LFUCG park, for the reasons as listed in the staff report and on the agenda, including two recommended conditional zoning restrictions.

Development Plan Presentation – Ms. Gallt noted that there needed to be a correction to the recommendation listed from the April Subdivision Committee meeting, which actually was for approval of this plan. Referring to the rendered plan, she oriented the Commission members to the location of property, and noted that the access is proposed to be slightly offset from the existing Hopemont Drive intersection with Higbee Mill Road. She also noted the location of the floodplain on the subject property. She said that, of the conditions listed for approval of this plan, #7 could be deleted since the western portion of this zone change has been withdrawn; #8 could be revised to denote that the sidewalk should be continued across the lot's frontage; #9 refers to landscaping, and the petitioner would provide more information about this discussion item in their presentation.

Petitioner Presentation – Jacob Walbourn, attorney representing the petitioner, and said that they were in agreement with staff recommendation. He displayed a map of the subject property (Exhibit 1), noting that red or blue areas shown on this site are not buildable. There is very little developable area available. The buildable area is isolated so much so that the use of the property is confined to one specific area. For that reason, they were not trying to integrate the apartment building into the existing neighborhood. He said that this is a perfect example of "found and underused property."

Mr. Walbourn repeated that they were in agreement with the staff recommendations, including those recommended for the conditional zoning restrictions.

Rory Kahly, EA Partners, addressed the discussion item regarding the parking lot screening, and said that vehicular use area screening will be required from the parking area out to the existing public street. They were proposing a retaining wall, some 3-7' in height. He said that from the staff rendering of their development plan, the petitioner is not proposing vehicular use area screening along other portions of the parking lot, and they do not believe it is required along the park boundary.

Mr. Walbourn said that they are not opposed to the construction of a sidewalk along some of their frontage, but they would request to defer that decision to the time of the final development plan. This is due to talks currently in process with Commissioner Geoff Reed's office to purchase a small parcel from the LFUCG.

Citizen Comments - Karen Akins, 1825 Hopemont Court, said that the rear of her property includes the creek that also crosses the subject property. She said she came here from the Chicago area, and while there, saw the negative impacts of development, including the loss of greenspace. She said she was concerned about the loss of habitat for wildlife, including owls, and the increased risk of flooding posed by this development. She said that one acre of wetlands can hold one to one and a half million gallons of water.

Ms. Akins said that there are several other apartments currently under development in the general vicinity. This increases demands on schools and law enforcement personnel. She said that she was attracted to this area by the beauty of Lexington, but now she believes it is becoming more like Chicago. She requested that the Planning Commission consider what is best for the citizens of Lexington, and not just the homebuilders. She said that Old Higbee Mill Road is curvy and has little visibility, and that additional traffic can create a dangerous situation on that road.

Andrew McSpadden, a resident of Hopemont Drive, said that although only certain areas are declared to be a floodplain, the entire region floods during heavy rains. He said that the creek regularly overflows its banks, which is healthy for the stream but detrimental to area residents. He was concerned about seeing so many new developments in the area, particularly so much high density development within one mile of the proposed development. He questioned the need for another new high density development at this time, when the impacts of the projects currently under development have not yet been seen.

Petitioner Rebuttal – Mr. Walbourn said that the Planning Commission does not make the determination of a floodplain, but their regulations do not allow construction within a designated floodplain. They do not believe that the proposed development will impact this floodplain. As to the comment that this area is currently seeing a lot of development, he said that this is because it is one of the few areas within the Urban Service Area boundary that still has undeveloped property. Their zone change will only directly impact 1.5 acres of this 8-acre property, and should have limited impact on animal habitats in this floodplain. He said they have worked with the LFUCG on a greenway/trail system for this area, and their development will be of a small scope, overall.

Staff Rebuttal – Mr. Sallee said, referring to a Zoning Ordinance exhibit shown on the overhead projector, that Article 18-3 has a section that requires vehicular use screening next to any residential zone, and that "intervening...landscape strips, etc. do not eliminate adjacency." Thus, landscape screening is required for their parking lot, although the staff agrees it is not required adjacent to the LFUCG park (zoned A-U). He said that the staff has a simple recommendation, and that is to suggest deleting #7, 8 and 9, raising these issues again at the Final Development Plan stage of this development.

Planning Commission Questions – Mr. Berkley asked if conditions #8 and 9 could read "...to be resolved at the time of the final development plan." Mr. Sallee replied affirmatively.

Ms. Plumlee asked if lighting restrictions had been mentioned. Mr. Sallee replied that a conditional zoning restriction is recommended to restrict the direction of lighting on the subject property.

Chairman Owens asked if there were any plans to landscape the area between the apartment building and Old Higbee Mill Road. Mr. Walbourn replied that the staff is recommending a conditional zoning restriction to require street tree style plantings between the building and the new sidewalk.

Citizen Rebuttal – Ms. Akins said she believed this development will have a strong negative impact on the area's wildlife, as some animals need darkness and water. She also believed that the creek would be affected, and channelization would not be sufficient to prevent this. Finally, this development will negatively impact the beauty of the area.

Discussion – Ms. Plumlee thanked the neighbors for their comments. She reminded the public that the developer chooses what type of development to construct, and that the Planning Commission is charged with making sure that the development fits the requirements of the applicable ordinances.

Zoning Action – A motion was made by Mr. Berkley, seconded by Ms. Richardson and carried 9-1 (Plumlee opposed, Smith absent) to Approve MAR 2016-8: WYNNDALE DEVELOPMENT, LLC (AMD.) for the reasons provided by the staff, and subject to the conditional zoning restrictions recommended, for the reasons provided.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Ms. Richardson and carried 9-1 (Smith absent, Plumlee opposed) to approve ZDP 2016-45: SOUTH LEXINGTON DEVELOPMENT CO., INC. (HIGBEE CREEK) for the reasons provided by the staff, deleting condition #7, and changing conditions # 8 and 9 from "discuss" to "resolve."

Note: Mr. Drake left the meeting at this time.