

2. **IVCP ATHENS SOUTH LLC ZONING MAP AMENDMENT & BOONESBORO MANOR (INTERSTATE PARK) ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-22-00023: IVCP ATHENS SOUTH LLC** – a petition for a zone map amendment from an Interchange Service Business (B-5P) zone, to a Highway Service Business (B-3) zone, for 30.24 net (37.36 gross) acres, for property located at 5380 and 5354 (a portion of) Athens-Boonesboro Road. In association with the application, the petitioner is seeking a conditional use permit to allow for the construction of a soccer stadium.

**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 applicant is seeking to rezone the subject property to the Highway Service Business (B-3) zone to allow for the construction of a 6,500 seat soccer stadium, training facility, and a medical treatment facility. To allow for the construction of the stadium, the applicant is also requesting a conditional use permit. The proposed development would be accessed from Doe Run Trail and a proposed access point a 1,000 feet west of the current access point.

**The Zoning Committee Recommended: Approval.**

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

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies, for the following reasons:
  - a. The proposed development supports infill opportunities (Theme A, Goal #2) by developing in an area that is meant for commercial or industrial development with a commercial development focused on economic development.
  - b. The proposed development will create jobs and prosperity by showcasing local assets, which will be specifically focused on the promotion and enhancement of sports tourism, entertainment and other quality of life opportunities that attract young, and culturally diverse professionals and a work force of all ages and talents (Theme C, Goal #1 and #2).
  - c. The proposed development will enhance Lexington's ability to host regional athletic tournaments through the inclusion of the soccer stadium and training facility (Theme C, Livability Policy #3 of the Comprehensive Plan).
2. The justification and corollary development plan are in agreement with the 2017 Rural Land Management Plan, for the following reasons:
  - a. The proposed rezoning will allow for greater utilization of property within the Blue Sky Rural Activity Center that support highway and interstate service commerce, while also allowing for greater flexibility for job production, which would target the production of employment at higher wages.
  - b. The proposed development is situated along the portion of the property that is most heavily impacted by light, air and sound impacts that are caused by Interstate 75 and is adequately buffered from the westernmost Agricultural Rural (A-R) zoning that abuts 5354 Athens Boonesboro Road.
  - c. The proposed development does not negatively impact the viewshed along Athens Boonesboro Road as the area is buffered by topographic variations and the established development along the roadway.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance,** the following use restrictions are recommended via conditional zoning:
  - a. The following uses shall be prohibited:
    - i. 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.
    - ii. Minor or major automobile and truck repair.
    - iii. Pawnshops.

- iv. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- v. Retail sale of automotive parts with storage and distribution of inventory to other local establishments under the same ownership.

The restrictions are necessary and appropriate in order to restrict those land uses that could have a negative impact on the surrounding agricultural zones and Athens Boonesboro Road, a major gateway into the Lexington Fayette Urban County. These restrictions will protect the aesthetic character of the Athens Boonesboro Road gateway, as recommended by the 2017 Rural Land Management Plan (RLMP).

- 4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00073: Boonesboro Manor (Interstate Park Property)(AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. **CONDITIONAL USE REQUEST** – In association with the zone change request for the property, the applicant is seeking a Conditional Use Permit within the Highway Service Business (B-3) zone to operate a stadium on property located at 5380 Athens Boonesboro Road and associated parking which extends into 5354 Athens Boonesboro Road.

The Zoning Committee Recommended: **Approval.**

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

- 1. Granting the requested conditional use permit should not adversely affect the subject property or surrounding properties since noise and lighting issues will be addressed to the extent possible, in order to minimize any negative effect they may have on surrounding property owners; access will be available and adequate to allow traffic to flow into and out of/away from the stadium without causing a significant negative impact on peak hour levels of service; and the location is to inaccessible arterial roadway; and illuminated signage will be screened from the public right-of-way.
- 2. Adequate public facilities will be available in the area to support the proposed stadium.
- 3. Parking will be provided in accordance with the submitted Parking Demand Mitigation Study, including shared parking with the adjacent proposed uses and should be adequate to serve the stadium use.

This recommendation of **Approval** is made subject to the following conditions:

- a. Provided the Urban County Council approves the requested zone change to the B-3 zone, otherwise the requested conditional use shall be null and void.
- b. Any outdoor theater screen or illuminated scoreboard shall be screened from view so that it cannot be seen from Athens Boonesboro Road.
- c. There shall be no fireworks utilized on the site.
- d. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- e. All necessary permits and approvals shall be obtained from the KY Transportation Cabinet, and Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- f. Action of the Planning Commission shall be noted on the Development Plan for the subject property.
- g. The conditional use shall be operated in accordance with the submitted justification statement.
- h. Any outdoor lighting shall be directed downward and toward the interior of the site in order to minimize any light overflow onto adjoining or nearby properties.
- i. Hours of events held at the stadium shall be limited to no earlier than 7:00 a.m. and no later than 11:00 p.m.
- j. Timing of access and roadway improvements shall be determined at the time of the Final Development Plan, prior to the establishment of the conditional use.

- c. **PLN-MJDP-22-00073: BOONESBORO MANOR (INTERSTATE PARK) (AMD)** (1/29/2023)\* - located at 5380 ATHENS-BOONSBORO ROAD, LEXINGTON, KY  
Council District: 12  
Project Contact: CMW, Inc.

\* - 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 the size and location of the proposed stadium and training facility, in support of the requested zone change from Interchange Service Business (B-5P) zone to Highway Service Business (B-3) zone.

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

1. Provided the Urban County Council approves the zone change to B-3; 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 preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval if environmentally sensitive areas.
7. United States Postal Service Office's approval of kiosk locations or easement.
8. Department of Highway's approval of proposed access to Athens Boonesboro Road (KY 418).
9. Provided the Planning Commission approves the conditional use permit for a stadium.
10. Provided the Planning Commission accepts the Parking Demand Mitigation Study.
11. Resolve parking locational and connection standards.
12. Resolve stormwater management.
13. Resolve access to Athens Boonesboro Road at Doe Run Trail.
14. Resolve design and timing of new proposed access to Athens Boonesboro Road.
15. Resolve sanitary sewer connection and pump station upgrades.
16. Resolve bicycle/pedestrian infrastructure at roadway intersections and bicycle parking.
17. 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 an Interchange Service Business (B-5P) zone, to a Highway Service Business (B-3) zone, for 30.24 net (37.36 gross) acres, for property located at 5380 and 5354 (a portion of) Athens-Boonesboro Road. Mr. Baillie stated that in association with the application, the petitioner is seeking a conditional use permit to allow for the construction of a 6,500 seat soccer stadium. In addition to the proposed stadium, the applicant is also seeking to construct a training facility, a medical treatment facility, and commercial outlots. Mr. Baillie stated the Place-Type was in the Blue Sky Rural Activity Center as designated by the Rural Land Management Plan.

Mr. Baillie gave a brief explanation of the Rural Land Management Plan, as well as the Rural Activity Centers (RACs) and their locations throughout Fayette County. These RACs are hubs of existing employment outside of the Urban Service Area. Mr. Baillie indicated that the policy emphasis of the RAC's is to maximize the potential for jobs while maintaining their boundaries and minimizing impacts on the rural area. Further, Mr. Baillie stated that the applicant is not seeking to modify the boundaries of the RAC in this application.

Mr. Baillie compared and contrasted the intents and allowable uses of the current B-5P zone and the proposed B-3 zone. The B-5P zone focuses on providing resources to the traveling public, while the B-3 zone is intended to blend of the needs of the traveling public and economic development.

Mr. Baillie highlighted the proposed job creation and economic impacts of the proposed development, which would include approximately 300 jobs created and a total annual economic impact within Lexington of \$30 million. Additionally, Mr. Baillie stated the soccer fields, stadium, and the proximity to the interstate would enhance the viability for local, state, and regional sports tournaments and enhance sports tourism within the Lexington-Fayette Urban County.

Mr. Baillie indicated that there were some staff concerns regarding all of the uses available in the B-3 zone. He stated that through the use of conditional zoning restrictions the zone could be appropriate for the area. The staff recommends prohibiting car lots, truck repair shops, pawnshops, and all adult entertainment establishments.

Mr. Baillie concluded his presentation by stating that the Planning Staff is recommending approval for the zone change.

Staff Development Plan Presentation – Ms. Autumn Goderwis oriented the Planning Commission to the location of the subject property and highlighted the revised conditions. Ms. Goderwis indicated that the property is currently accessed through Doe Run Trail and that the applicant is proposing a new access point to the west along Athens Boonesboro Road. She highlighted the location of the proposed 6,500 seat stadium to the southeast of the property, as well as the parking lot, training facility and the soccer fields. Additionally, Ms. Goderwis highlighted the outlots on the property that will accommodate the commercial businesses in the area.

Ms. Goderwis reviewed the cleanup items on the plan that included depicting the contours at 2 foot intervals, denoting the proposed street names, and depicting the existing tree stands.

Ms. Goderwis concluded her presentation stating that Planning Staff was recommending approval for the development plan.

Staff Conditional Use Request Presentation – Mr. Baillie oriented the Planning Commission to the location of the proposed stadium for the conditional use request. Mr. Baillie stated that there are three conditional use requirements within the B-3 zone, which include proximity and access to an arterial roadway, that any outdoor theater screen cannot be visible from any street for a distance of 1000 feet, and that entrances, acceleration lanes, and deceleration lanes shall be provided in conformance with requirements as established by the Urban County Traffic Engineer.

Mr. Baillie indicated that the applicant was complying with these conditions and that Staff is recommending approval subject to conditions.

Commission Questions – Mr. Michler asked if the operational hours would only apply to the public, or if it would also apply to the training facility use as well. Mr. Baillie indicated that the limitation for hours of operation are for the stadium only.

Ms. Meyer asked if this conditional use allows the applicant to lease this land to another user, like a lacrosse tournament. Mr. Baillie stated that Staff was not recommending a singular sport for this use and suggested that the stadium could be used for other sports.

Mr. Davis asked if there were any restrictions considered on live music or festivals. Mr. Baillie stated that the condition that Staff recommends pertains to the hours of operation, if there were to be some sort of festival outside of the stadium they would also need a special permit.

Staff Traffic Impact Study Presentation – Mr. Stuart Kearns provided the findings for the Traffic Impact Study. Mr. Kearns stated that the study looked at the conditions of Athens Boonesboro Road and at the on/off ramps on I-75, and how the proposed new intersection with Athens Boonesboro Road would affect current roadway capacity and operational conditions. At the proposed entrance on Athens Boonesboro Road, Mr. Kearns stated that the Division of Traffic Engineering had reviewed two options for ingress and egress to the site: one with an RCUT and a signal, and another with just a signal. Both options provided safe movement along Athens Boonesboro to and from the site.

Additionally, Mr. Kearns stated that the access point at Doe Run Trail will experience delays with left hand turns, and the movement on the north and southbound interstate ramps will operate at a Level of Service D or better during peak hours. He indicated that this is an acceptable level of service.

Applicant Presentation – Steve Ruschell, attorney for the applicant, stated that they are accepting all of the Staff's recommendations, but wanted to highlight some important points. Mr. Ruschell reiterated their plans for a stadium, soccer fields, their need for a training and medical facilities. Mr. Ruschell stated that the Lexington Sporting Club would be the primary tenant of the site, and would use the stadium for their professional matches and would use the 10 soccer fields for youth regional tournaments. Mr. Ruschell invited Mr. Vince Gabbart, the president of Lexington Sporting Club, to speak more about the team and various programs.

Mr. Gabbart introduced himself and gave an overview of Lexington Sporting Club, stating that they are now the largest youth club in Kentucky and have been in operation for about 9 months. Mr. Gabbart stated that practice for the men's professional team would begin next week and league play begins in March. Mr. Gabbart stated he was very excited for this and wanted to thank Staff for their diligent work.

Mr. Ruschell next introduced Diego DeAngelo, coach for Lexington Sporting Club. He gave a short speech covering his work over the last 20 years and stated that having this stadium is important for the young people of Lexington and could build a community.

Mr. Ruschell ended his presentation stating that they have met their burden of proof and this zone change is in compliance with the Comprehensive Plan, as well as the Rural Land Management Plan, and he could answer any questions.

Commission Questions – Mr. Penn asked if they don't build the soccer stadium in the B-3 zone, would the applicant go back to the B-5P zone. He indicated that he wanted to clear the air given the rumors surrounding this application. Mr. Ruschell stated that he could not answer that question at this point, but that the applicant needs the B-3 zone to have the indoor training and practice facility and medical facilities. Mr. Ruschell concluded that he thought the B-3 zone change stands on its own, with or without the stadium.

Mr. Penn continued stating that he believed that the stadium was not as important as the other things that Mr. Ruschell had named. Mr. Ruschell stated that besides industrial zoning, there was not a zone besides the B-3 zone where a stadium is a conditional use and stated again that the B-3 zone change stands on its own and is important for the applicant.

Mr. de Movellan asked if someone could speak on the lighting and the sound and how the applicant intends to minimize impact on the neighbors. Mr. Brad Boaz, CMW Engineering, stated that the applicant did a lighting analysis on the site so that the stadium could meet all of the Staff's standards, as well as the requirements of the soccer league. Mr. Boaz admitted that there would be a small amount of light spillover onto the interstate, but that it was already lit with large overhead street lights. Mr. Boaz did confirm that no light would spill onto any adjoining residential property.

Ms. Worth asked about the amount, and the quality of the conversations that had taken place between the applicant and nearby residents. Mr. Ruschell stated that he was not aware of any recent conversations that had taken place, but the applicant made themselves available if the residents wanted to speak.

Mr. Davis asked if there are any noise restrictions on the soccer fields. Mr. Baillie indicated that there are restrictions about timing of events and a prohibition on the use of fireworks, but that is coupled with an operational plan.

Citizen Comment – Gloria Martin, 7416 Grimes Mill, stated that allowing B-3 zoning near a Rural Activity Center would open a can of worms that she is not sure that the Planning Commission wants to open. She indicated that there were concerns regarding the proposed use and the agreement with the Rural Land Management Plan. She requested that the Planning Commission consider adding numerous conditions should they approve the proposed rezoning and conditional use.

Judge Julie Goodman, 4998 Athens Boonesboro Road, gave a presentation regarding her opposition and stated that this was not in compliance with the law or the Comprehensive Plan, and that the stadium will never be built. She indicated that the applicant was seeking to bait and switch to allow gambling.

Tom Miller, 271 W Short Street, gave a presentation about his opposition, indicated that he was in agreement with Judge Goodman's presentation, and stated that it was his opinion that the application was not in compliance with the Comprehensive Plan. He stated that the stadium was a "Trojan Horse," and that the applicant was planning on going elsewhere in Kentucky. He indicated that the economic impact was not significant.

Ed Hastie, 141 Ashley Woods Road, gave his history of living at Ashley Woods and stated he was against this proposal because of increased traffic and access to the site.

Don Todd, 153 Market Street, attorney for the Old Richmond Road Neighborhood Association, stated that the Association is against this proposal because there has not been a major change in the area, the existing zoning is appropriate, and there is no compelling need for it.

Andy Pearson, 111 Ashley Woods Road, stated that this was a bait and switch, and that they were going to build the stadium in Jessamine County, and they would bring in sports gambling instead.

Dennis Yalkut, 4990 Athens Boonesboro Road, stated that he was concerned about the traffic that this development will bring.

Melissa Brown, 7211 Grimes Mill Road, stated that she was concerned with the lack of information and wants an Environmental Impact Study done in the area.

James Hodge, 6050 Old Richmond Road, stated that he is against the proposal and that the applicant has not met the burden of proof to justify the rezoning and the proposed development.

Applicant Rebuttal – Mr. Ruschell stated that he did not know where to start, but stated that Staff had found that this plan is in compliance with the Comprehensive Plan and that all those opposed have misread the statute and the ordinance. Mr. Ruschell continued by saying that this was not the Wild West and that a lot of the information and accusations are just wrong.

Mr. Ruschell implored the Planning Commission to look to their Staff, and that those who are in opposition are throwing stuff at the wall and seeing what sticks.

To address concerns about traffic, Mr. Ruschell stated that there was going to be a stoplight or an R-CUT and a stoplight that will provide access and egress to the new road. He stated that Traffic Engineering would not approve a plan that would put anyone in peril. Additionally, Mr. Ruschell indicated that the applicant went with the B-3 zone to allow for increased uses and to allow the training facility next to their soccer fields. Mr. Ruschell also emphasized that they would not be encroaching on any PDR farms or agricultural land.

Mr. Ruschell stated that this development would bring tourism to Lexington and will bring people from all around the region, not just for professional matches, but for regional tournaments for kids.

Mr. Ruschell reiterated the applicant's work with the Staff, and that the Staff were the experts. He stated the Staff know what they are talking about and that a lot of the criticism from the objectors is disingenuous. He concluded his remarks by stating this is an appropriate zone change, it is in compliance with the Comprehensive Plan, they have agreed to the restrictions, and he could answer any questions that the Planning Commission had.

Commission Questions – Ms. Worth asked about the rumor mill and the comment that the stadium was going to be built elsewhere. Mr. Ruschell stated that during the process to find a stadium location, several communities reached out to Lexington Sporting Club about building in other counties, but Mr. Ruschell emphasized that they wanted to be in Lexington. Additionally, Mr. Ruschell said that their client was contractually obligated to build a stadium.

Citizen Rebuttal – James Hodge, 6050 Old Richmond Road, stated that he has the utmost respect for the Staff, but there has been no evidence given for this zone change and gave his own findings for disapproval for the record.

Staff Rebuttal – Mr. Baillie stated that the comments about this being a “bait and switch” simply do not happen in Lexington because of the Planning Commission and Article 21-7(e) of the Zoning Ordinance. That section of the Ordinance gives the Planning Commission the ability to disapprove any major development plan that seeks to modify the essential character of the development as originally proposed during a zone change. Additionally, Mr. Baillie indicated that Rural Land Management Plan calls for this area to be developed for economic development and job production, which has been the focus of Staff's review.

Mr. Baillie stated that the Comprehensive Plan is not a checklist and that Staff stands by their recommendation for the zone change and the conditional restrictions.

Ms. Wade stated that the Staff presenting today is the same Staff that serves the Board of Adjustment and that Mr. Crum and Ms. Goderwis were both in attendance at the last public hearing about the soccer fields. Ms. Wade continued saying that it was very important for Staff to ensure that this development is complimentary to the uses and existing character for that part of our community. Ms. Wade said it is the applicant's responsibility to provide evidence about their conditional use, which they have done. When

neighbors come to a meeting, they have to provide evidence to support a finding in order for the Commission to for disapproval.

Additionally, Ms. Wade stated that the Board of Adjustment had the ability to review environmentally sensitive areas, but only in the agricultural zone, which this development is not in.

Ms. Wade stated that she appreciated the proposed conditions for regulating the conditional use, and if the Planning Commission wants to review them, they can. However, Ms. Wade indicated that Staff's recommendations address them already.

Commission Questions and Comments – Mr. Davis asked about the short recess they took earlier for the evidence and findings, and if they could do that now. Mr. Baillie indicated that the Planning Commission is free to talk to their legal counsel at any time to do just that.

Mr. Michler asked if skill games or other types of games are prohibited in this zone. Mr. Baillie stated that those uses are available in racetracks, but they are not allowable within the B-3 zone.

Mr. de Movellan asked when the current zone was put on the property, and if staff had any other recommended restrictions after today and the information provided by the public. Mr. Baillie responded by saying the current zone was place there in 1968 to create a resort development that never came to fruition. Regarding the 2<sup>nd</sup> question, Mr. Baillie stated that a lot of the restrictions are already taken care of by the Zoning Ordinance, but Ms. Wade indicated that one potential restriction that could be considered by the Commission is to maintain the existing trees along the interstate.

Ms. Tracy Jones confirmed what Mr. Baillie stated, that there was no provision that allows casinos, gambling, or anything like that.

Ms. Meyer asked for clarification on concern expressed for this property becoming a B-3 zone, and what ramifications would come with this happening. Mr. Baillie stated that Staff's position is that Rural Land Management Plan and the Comprehensive Plan push for increased economic development in this area and no residential zones. That leaves 5 zones for this area, and Mr. Baillie reiterated that Staff is recommending the B-3 zone and would provide an amenity to the community.

Ms. Meyer asked does it set a precedent for other B-5P zones to become B-3 zones. Mr. Baillie indicated that it would not.

Mr. Michler stated adding the stadium to the sports fields makes a lot of sense, and that he likes the idea of being flexible with uses along our developed areas. Mr. Michler stated that he found it personally disturbing that in the 50 acres, they could not find a single tree to remain or how the applicant could create a development that incorporated the more natural elements that make this area of Lexington so beautiful.

Mr. Penn stated that he was very hesitant to say a lot about this application but all he knows is that this soccer stadium belongs in Fayette County, but no matter how they vote, someone is going to walk out of the meeting upset with you. Mr. Penn stated he was having a hard time disagreeing with Staff on this application and he will support the application, but he does so with great reservations.

Mr. Davis stated he agreed with everything that Mr. Penn said, but he was ultimately going to vote for approval, but with great reservations.

Action – A motion was made by Mr. de Movellan, seconded by Ms. Barksdale and carried 8-0 (Bell, Nicol, and Pohl absent) to approve PLN-MAR-22-00023: IVCP ATHENS SOUTH LLC for reasons provided by Staff.

Action – A motion was made by Mr. de Movellan, seconded by Ms. Worth and carried 8-0 ((Bell, Nicol, and Pohl absent) to approve PLN-MJDP-22-00073: BOONESBORO MANOR (INTERSTATE PARK) (AMD) with the 19 revised Staff conditions.

Action – A motion was made by Mr. de Movellan, seconded by Ms. Barksdale and carried 8-0 (Bell, Nicol, and Pohl absent) to approve the Conditional Use for a stadium for reasons provided by Staff, and subject to the recommended 10 conditions.