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Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Zone Change Request for 2575 Polo Club Boulevard

Dear Members of the Planning Commission:

We represent Ball Homes, LLC (“Ball Homes” or “Applicant”) and on its behalf have filed a zone change request for a portion of the property located at 2575 Polo Club Boulevard (the “Property”). The Property consists of 38.26 net (40.49 gross) acres currently zoned Agricultural-Rural (A-R) and is vacant. The Applicant’s request is to rezone 26.34 net (27.19 gross) acres of the Property to Expansion Area Residential 1 (EAR-1) zone for and 11.92 net (13.30 gross) acres of the Property to Expansion Area Residential 2 (EAR-2) to allow for a single-family and townhome development as recommended by the Expansion Area Master Plan.

The Property is the northern portion of 2575 Polo Club Boulevard and located across Man o’War Boulevard from the existing Blackford Parkway. The development consists of 80 single family lots and 78 townhomes, with the continuation of the collector street Blackford Parkway. It is adjoined by complementary single family residential neighborhoods across Man o’War to the east, agricultural uses to the north, and multi-family residential and commercial uses to the west and south.

This request is in agreement with the Comprehensive Plan for the multitude of reasons outline below. Primarily, the acreage in question is recommended for EAR-1 and EAR-2 for the future land use of the Property in the Expansion Area Master Plan. While the proposed location of the two zones has partially changed sides of the EAMP’s Park Road – the uses and the zones are still in substantial compliance with what was recommended by the Future Land Use Map. One of the main reasons that the proposed zoning switched is due to the actual location of Blackford Parkway. The EAMP originally proposed for Park Road on the south side of Man o’War to be built in between the Blackford and Justice properties. Due to various design issues, Blackford Parkway was built to the south of the original recommended location. This proposal takes advantage of this change to Blackford Road by curving it towards the greenway in order to create a community amenity as called for in the Comprehensive Plan. These changes result in a contained pocket of land where a detached single family development simply isn’t an efficient use of the acreage as contemplated by the Future Land Use Map. As such, the development proposes to swap some of the acreage of the EAR-2 and EAR-1 zoned property across Blackford Parkway while retaining the uses recommended by the EAMP and creating a community

feature. The Zone Map Amendment Request is also in compliance with the Comprehensive Plan as it offers a chance to begin developing longtime underutilized agricultural land inside the Urban Service Area for the recommended residential use. Indeed, this project allows for additional housing types and units to develop on vacant land along an important corridor inside the Urban Service Area while acknowledging the desperate need for additional single family houses and townhomes as detailed in the 2017 Fayette County Housing Demand Study. The development will not put any strain on the surrounding infrastructure and in fact expands the existing collector street system that will eventually tie into Winchester Road to aid in dispersing traffic throughout the area's transportation system. The project is also respectful of and accommodating to the adjacent greenways to the south of the Property as called for by the 2018 Comprehensive Plan.

This project aligns with the aspects of a desirable community and the place making concepts the Comprehensive Plan stresses such as openness, social offerings, and aesthetics with its placement of the greenway lot along single loaded streets with ample pedestrian access and the internal townhouse open space areas. The proposed development plan follows many of the specific recommendations of the Comprehensive Plan in its discussion on how to grow successful neighborhoods while protecting the environment as we are expanding the housing types in the area by providing additional single-family attached & detached residential development; supporting infill and redevelopment throughout the urban service area; providing a well-designed neighborhood that furthers the commitment to mixed-type housing with locations for safe and positive social interactions including easy access to the protected greenway system. Also, by increasing the residential land within the Winchester Road, Polo Club, and Man o'War triangle, it potentially can lead to an expansion of mass transit to better serve the Expansion Area.

Ball Homes is quite confident in calling this project a well-designed project as it furthers many of the design policies laid out in the Comprehensive Plan. By continuing the collector and local roads with future stubs to the adjacent undeveloped properties and ample pedestrian sidewalk and greenway connections, we are utilizing a people-first/pedestrian friendly street pattern design with efficient roadways and separate pedestrian infrastructure that is making the proper road connections to enhance emergency services accessibility while creating inviting streetscapes. (Design Policy #1, #2, #5, #6, and #13). This mostly single-family development is certainly sensitive to the surrounding context of both the existing neighborhoods and the surrounding greenway system. (DP #4). The mix of single family and townhouses provide varied housing choices, while also providing compact single family housing types with the substantial townhouses parcel. (DP #8). The townhouse parking areas are interior to the site to ensure it isn't a primary visual component to the neighborhood. (DP #7). The adjacent greenway system is accessible through a dedicated HOA lot and single loaded streets with pedestrian access to this neighborhood focal point that is within easy walking distance for all residents. (DP #9 and #10). By shifting the townhouse section to be adjacent to the greenway system, the proposed development is able to incorporate a unique open space amenity into the townhouse project as called for by the Comprehensive Plan's neighborhood design policies encouraging greenspace to be in close proximity to residents, on singly loaded streets, and to create open space that is truly usable and a focal point of the development instead of merely an afterthought. (DP #9, #10 and #11). The ability to capture this townhouse feature certainly justifies the swap of the two zoning categories recommended by the Expansion Area Master Plan land use map. Further, the urban woodlands will be preserved by creating separate parcels for the greenway, providing added

protection while also enhancing existing wetland areas. The project utilizes several impervious area disconnects, which direct impervious area runoff to greenspace between the existing streambank and the 100-year floodplain boundary. Also, by virtue of our street tree and canopy provisions, we will be adding additional green infrastructure.

In summary, this well-designed project upholds the Urban Service Area preservation strategy, is appropriate development of a vacant parcel in Expansion Area 2A, provides additional housing units with a mix of housing types, encourages community interaction through pedestrian connectivity, encourages a more comprehensive transportation system, all while respecting its neighbors and protecting the environment with landscaping buffers and protected greenspace. As such, it is quite clear that the proposed zone change is in compliance with the 2018 Comprehensive Plan. As outlined above, the proposed project meets the following Goals and Objectives of the Comprehensive Plan:

Theme A - Growing Successful Neighborhoods

Goal 1: Expand housing choices.

Objectives:

- b. Accommodate the demand for housing in Lexington responsibly...
- c. Plan for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents.

Goal 2: Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.

Objectives:

- b. Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form.
- c. Incorporate adequate greenspace and open space into all development projects, which serve the needs of the intended population.

Goal 3: Provide well-designed neighborhoods and communities.

Objectives:

- a. Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County
- b. Strive for positive and safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians and various modes of transportation.
- c. Minimize disruption of natural features when building new communities.
- d. Promote, maintain, and expand the urban forest throughout Lexington.

Goal 4: Address community facilities at a neighborhood scale.

Objectives:

- c. Establish and promote road network connections in order to reduce police, EMS, and fire response times.

Theme B - Protecting the Environment

Goal 2: Reduce Lexington-Fayette County's carbon footprint.

Objectives:

- d. Prioritize multi-modal options that de-emphasize single-occupancy vehicle dependence.

Goal 3: Apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources.

Objectives:

- b. Identify and protect natural resources and landscapes before development occurs.

Theme D - Improving a Desirable Community

Goal 1: Work to achieve an effective and comprehensive transportation system.

Objectives:

- a. Support the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles.
- b. Develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ridesharing, greenways and other strategies.

Goal 2: Support a model of development that focuses on people-first to provide accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors.

Objectives:

- a. Encourage public safety and social sustainability by supporting Secured-by-Design concepts and other policies and programs for the built and natural environments of neighborhoods to help reduce opportunities for crimes.

Theme E - Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land

Goal 1: Uphold the Urban Service Area concept.

Objectives:

- b. Ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.
- c. Emphasize redevelopment of underutilized corridors.
- d. Maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.
- e. Pursue strategies to activate large undeveloped landholdings within the Urban Service Area.

Goal 3: Maintain the current boundaries of the Urban Service Area and Rural Activity Centers; and create no new Rural Activity Centers. To ensure Lexington is responsive to its future land use needs, this Goal shall be superseded and no longer in effect upon completion of Theme E, Goal 4, Objective D.

This letter specifically does not address The Placebuilder and Appendix A. The 2018 Comprehensive Plan's inclusion of The Placebuilder and Multi-Family Design Guidelines is legally invalid and unconstitutional. As such, there is no public interest and certainly no Planning Commission right to require applicants to comply with an unlawful and unconstitutional governmental regulation. Under KRS 100.213, zone change applicants need only demonstrate their proposed developments are "in agreement with" the comprehensive plan without exhaustively addressing up to 70 additional hyper-technical development criteria. Kentucky case law provides that zone change applications may be granted where they agree "as a whole" with a comprehensive plan by promoting its various goals and objectives. Under KRS 100.203, urban county governments can only impose architectural or other visual requirements or restrictions upon development in areas zoned historic, which the Property is not. By requiring zone change applicants to address The Placebuilder's numerous development criteria and any design requirements for multi-family structures, the 2018 Comprehensive Plan requires far more of applicants than KRS 100.203 and 100.213 authorizes it to. As such, this Applicant refuses to partake in this clear violation of Kentucky law.

In addition to compliance with the Comprehensive Plan, the request is justified because the existing zoning is inappropriate and improper and the proposed zoning is appropriate. The current zoning is A-R and any type of agricultural use on the Property has become increasingly difficult as most of the surrounding area has developed as residential subdivisions, multi-family developments, commercial uses, and the interstate system. Make no mistake about it; if Lexington is going to maintain its Urban Service Boundary, it is wholly inappropriate for this particular parcel to remain A-R. The Property already has sewer available and is able to be seamlessly tied into the surrounding transportation system. It is within half of a mile from major commercial centers, multi-family developments, and the I-75 onramp. Simply put, it is prime land to be developed; as such the Agricultural-Rural zoning is clearly inappropriate. In the initial Staff Report for this zone change request, it is argued that the inappropriateness of the A-R zone is not predicated on the availability of services. While that might be true with regards to the A-R zoned property adjacent to the Urban Service Boundary – for this particular Property, this is not the case. This parcel has been inside the Urban Service Area for 25 years. Urban services have been available to serve it for almost as long. As Staff correctly points out, the Property is not located in the Rural Service Area, as such the appropriateness of any designation of a rural zoning for the Property should be questioned. When LFUCG brought this Property into the Urban Service Area decades ago, it showed the clear intent that, although zoned A-R instead of A-U, this Property should be rezoned at the time when city services were available to serve it. The review of periodic expansion of the Urban Service Boundary achieves the goal of managing the growth of the community in order to avoid premature or improper development regardless of whether that land is zoned A-U or A-R. In fact just this past year, the Planning Staff used this Property and the surrounding A-R zoned property between Winchester and Man o'War as one of the prime reasons that an expansion of the Urban Service Boundary was not necessary as the community has such a large area of available vacant land that was

ready and appropriate for the recommended residential development. To turn around in such a short time period and claim that the A-R zone in fact remains appropriate for the Property directly conflicts with the clear message that the Planning Commission and Urban County Council sent by opting to not expand the Urban Service Boundary.

On the other hand, the proposed EAR-1/EAR-2 zoning is clearly appropriate as the Property has been inside the Urban Service Area for over 20 years and slated for this exact type of residential development since the adoption of the Expansion Area Master Plan. It is proper to use the Expansion Area Master Plan in evaluating whether the requested zoning is appropriate even though the EAMP is included by reference in the Comprehensive Plan as the EAMP exists outside of the Comprehensive Plan. A significant amount of research went in to selecting what uses should be recommended on any particular parcel. To ignore the existence of the EAMP and its research simply due to it being incorporated into a later plan is unnecessarily short sighted. When determining whether a particular zone is appropriate for a property, the Planning Commission should utilize any and all available research and guides our community has to offer. While the EAMP is an adopted part of the Comprehensive Plan, the research that went into it is still a valuable guide when determining the appropriateness of proposed zoning outside of the question of whether a proposal is in compliance with the Comprehensive Plan. Thus, it must be pointed out that this parcel is recommended by the Future Land Use map for the exact zoning proposed, albeit on different sides of Park Road. The EAR-1/EAR-2 zoning also allows the Property to be developed as a mixed-type residential neighborhood as urged by the Expansion Area Master Plan while remaining consistent with the types and densities of residential uses in the area. Outside of supporting the EAMP, the proposed zones match the adjacent zones in the Blackford neighborhood to allow for continuity in neighborhood character preservation to help ensure the development will respect the existing atmosphere of the area. This further justifies the use of the proposed zones to ensure appropriate consistency between existing neighborhoods and proposed new development. With the shift of Blackford Parkway and the desire to reestablish its relationship with the greenway, the proposed location of the EAR-1 and EAR-2 zones is ideal to create an efficient single-family neighborhood and townhouse complex, while retaining the openness of the greenway for all of the residents. Further, by excluding the greenway system from any residential lots, but allowing easy access, this Project will set the tone for the future adjacent developments and the preservation of the greenway system. As such, it is without question that the proposed zones are appropriate for the Property.

We will be at the October 24th public hearing in order to make a complete presentation of this application and request your favorable consideration.

Sincerely,

Stoll Keenon Ogden PLLC



Nick Nicholson

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