

# STAFF REPORT ON AMENDED PETITION FOR ZONE MAP AMENDMENT PLN-MAR-19-00010: BALL HOMES, INC. (AMD)

## DESCRIPTION OF ZONE CHANGE

Zone Change: From an Agricultural Rural (A-R) zone  
To an Expansion Area Residential-1 (EAR-1) &  
Expansion Area Residential-2 (EAR-2) zone

Acreeage: A-R to EAR-1: 26.34 net (27.19 gross) acres  
A-R to EAR-2: 11.92 net (13.30 gross) acres  
Total: 38.26 net (40.49 gross) acres

Location: 2575 Polo Club Boulevard (a portion of)



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	A-R	Agricultural
To North	A-R	Agricultural
To East	EAR-1 / EAR-2	Single Family / Vacant
To South	EAR-3 / CC	Multi-Family / Vacant
To West	A-R	Agricultural

## URBAN SERVICE REPORT

**Roads** - The subject property is bounded to the southeast by Man o' War Boulevard (KY 1480), which transitions to a two-lane highway along the property frontage between Interstate 75 and Winchester Road (US 60). Intersections along Man o' War Boulevard are to be provided at a minimum spacing interval of approximately 500'. The applicant is proposing to construct a collector street and local roads extending into the proposed development directly across from the existing intersection of Blackford Parkway. The Expansion Area Master Plan (EAMP) calls for a "park road" at this location, extending Blackford Parkway northward to Winchester Road.

**Curb/Gutter/Sidewalks** - This section of Man o' War Boulevard has a rural cross-section; it was constructed without curb, gutter and sidewalk facilities. Such improvements should be considered in association with the proposed development of the subject property. All collector and local streets proposed by the developer will be required to include curb, gutter and sidewalks.

**Utilities** - All utilities, including electric, gas, water, telephone, and cable are available in the immediate area. All utilities should be easily extended into the subject property.

**Storm Sewers** - The subject property is located in the North Elkhorn watershed. There are no storm sewers available along the Man o' War Blvd frontage of the subject property; however, due to the location of the proposed development relative to the topography of the site, the developer will be required to provide these facilities at the time this property is developed. Such improvements should comply with the adopted infrastructure plans for Expansion Area 2a for stormwater management and adhere to Engineering and Stormwater Manuals. There is a FEMA designated Special Flood Hazard Area (floodplain) along the greenways bordering the southeast edge of the subject property.

**Sanitary Sewers** - The subject property is located in the North Elkhorn sewershed and is served by the West Hickman Wastewater Treatment facility in northern Jessamine County. A sanitary sewer force main serves the Hamburg area. The sanitary sewer system will be extended by the developer as part of the development of this property.

**Refuse** - The Urban County Government serves this portion of the Urban Service Area with refuse collection to residences on Tuesdays.

**Police** - The nearest police station is located near Eastland Shopping Center at the Central Sector Roll Call Center, approximately 4.4 miles northwest of the subject property, just off Winchester Road.

**Fire/Ambulance** - The nearest fire station (No. 21) is located about 2.5 miles southwest of the subject property on Mapleleaf Drive, just south of Man o' War Boulevard. Additionally, Fire Station No. 17 is located approximately 2.7 miles northeast of the subject property at the intersection of Winchester Road and Royster Road in the Rural Service Area.

## SUMMARY OF REQUEST

The petitioner has requested a zone change from an Agricultural Rural (A-R) zone to an Expansion Area Residential-1 (EAR-1) zone for 26.34 net (27.19 gross) acres and an Expansion Area Residential-2 (EAR-2) zone for 11.92 net (13.30 gross) acres for the rear portion of the property located at 2575 Polo Club Blvd. The corollary development plan no depicts of 80 detached single family dwelling units and 78 attached single family dwelling units, for an average density of 3.9 dwelling units per gross acre.

## PLACE-TYPE

Not provided by the applicant.

## DEVELOPMENT TYPE

Not provided by the applicant.

## PROPOSED ZONING

**EAR-1**

The intent of the Expansion Area Residential 1 zone is to provide a mixture of low density residential uses which will serve as a transition between the more intensely developed suburban neighborhoods and the Rural Service Area.

**EAR-2**

The intent of the Expansion Area Residential 2 zone is to provide a mixture of residential uses and housing types, to allow density transfer from areas which should not be developed, and to provide for well designed neighborhoods.

## PROPOSED USE



This petitioner is proposing the Expansion Area Residential-1 (EAR-1) zone and Expansion Area Residential-2 (EAR-2) zone to construct a low density residential development containing 80 detached single family dwelling units and 78 attached single family dwelling units. The applicant is proposing to construct a collector roadway and local streets supporting the proposed residential uses. These roadways will stub into the adjacent properties to the north and east to provide access and connections to future development.

## APPLICANT & COMMUNITY ENGAGEMENT



The petitioner has indicated that they met with Blackford Home Owners Association (HOA) on June 20th, 2019. During the Subdivision and Zoning Committee meetings, the applicant indicated that the Blackford HOA was not interested in scheduling further meetings.

## PROPERTY & ZONING HISTORY



The subject property is located within Expansion Area 2a, situated between Polo Club Blvd and Man o' War Blvd, and located approximately ½ mile northeast of the Man o' War Blvd interchange with Interstate 75. The subject property is part of a larger agricultural area located along the eastern portion of the Urban Service Boundary that has been platted as Hamburg East. The property is currently situated in an area of mixed land uses and zoning.

The subject property was added to the Urban Service Area in 1996 with the approval of the Expansion Area and adoption of the Expansion Area Master Plan (EAMP). During the 1996 expansion, the Planning Commission initiated and recommended approval of a zone change for the entire 5,400 acres of the Expansion Area to update the zoning across the county. However, at that time, the Urban County Council denied the zone change because of community concerns and a want to have a broader discussion regarding the potential zoning in the expansion areas. It is important to note that the Urban County Council made clear that the decision not to rezone the expansion areas was based on the need to provide greater public discussion and reliance on the public process beyond mere compliance with the EAMP. The weight of the Urban County Council's decision and the tie to community input was further reiterated in 2001, when the EAMP became an adopted element of the Comprehensive Plan. As updates to the Comprehensive Plan have occurred, the future land use recommendations have been carried forward. However, with the changes that have occurred within the Urban County since 1996 there has been a greater need to both meet the EAMP and provide places that comply with the adopted Comprehensive Plans. These plans represent the changing needs and desires of the Lexington community.

The subject property has been recommended for EAR-1 and EAR-2 landuses and the extension of the "park road" from Man o' War Boulevard to Winchester Road. The EAMP envisions the EAR-1 land use and zoning to be located along the greenway, with the park road acting as a separation between the greater available density in the EAR-2 land use and zone. The greenway located along the southwest portion of the recommended EAR-1 land use is meant to act as a unifying element to connect residents to goods and services, and provide integration between the various land uses on both sides of Man o' War Boulevard. For the land included in this application, 20.41 acres are recommended for EAR-1 land use, defined as 0-3 dwelling units per gross acre, totaling 0 to 61 dwelling units. Likewise, 20.08 acres are recommended for EAR-2 land use, defined as 3-6 dwelling units per gross acre, totaling 60 to 120 dwelling units. This amended application does not conform to the EAMP's future Land Use Element for this portion of Expansion Area 2a, flipping the areas proposed for EAR-1 and EAR-2 zoning.

The portion of the subject property that is located west of the North Elkhorn Creek was rezoned to the Expansion Area Residential-3 (EAR-3) zone in 2010. This rezoning (Ord. 52-2010, MAR 2009-17) resulted in the flipping of Community Center (CC) zoned land, which was recommended by the EAMP to be located on the east side of Polo Club Blvd, and the EAR-3 zoned land, recommended to be located on the west side of Polo Club Blvd. The applicant argued that the area east of Polo Club Boulevard was more appropriate for residential development than the area adjacent to I-75, and that the proximity to the proposed greenway system, and future park planned to the north along Polo Club Boulevard was more advantageous to residential development. The Planning Commission agreed, which resulted in the construction of Costco west of Polo Club Blvd and a multi-family residential development and an assisted living facility south and east of Polo Club Blvd.

The portion of the Expansion Area south and east of Man o' War Blvd is primarily characterized by residential land use of varying types, including the Blackford Oaks and Glen Eagles subdivisions (EAR-1 and EAR-2 zoning), and agricultural land use, which is intended for residential development, to the northeast of the subject property. The area between Man o' War Blvd and Polo Club Blvd has been recommended by the EAMP for a mixture of residential zoning, including EAR-1, EAR-2, and EAR-3, as well as a Transitional Area and Conservation Area.

## COMPREHENSIVE PLAN COMPLIANCE



### GOALS & OBJECTIVES, AND POLICIES

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.

With the adoption of the 2018 Comprehensive Plan, the Lexington Community voiced their overwhelming want for a more transparent and collaborative approach to the development of the Urban County. Through the incorporation of *The PlaceBuilder*, applicants are asked to address the succinct and clear Development Criteria, meant to ease the process by distilling the Goals and Objectives, and Policies into a set of Development Criteria. In this case, the applicant has chosen to disregard the policies laid out in the Comprehensive Plan, choosing to focus purely on the Goals and Objectives. By doing so, the staff cannot conclude that the application is in agreement with the Comprehensive Plan and its adopted policies for implementation.

Since the July 3rd Subdivision and Zoning Committee meetings, the applicant has met with staff to discuss concerns regarding the development plan. Staff provided comments regarding some of the issues of the site based on Article 23 of the LFUCG Zoning Ordinance and the recommendations of the Community Design Element of the Expansion Area Master Plan. Staff also stressed the fact that without fully addressing the adopted 2018 Comprehensive Plan, the applicant would either need to prove that the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate, or that there have been major changes of an economic, physical, or social nature within the area, which were not anticipated in the adopted 2018 Comprehensive Plan and have substantially altered the basic character of the area.

The applicant opines that the proposed development is in agreement with the 2018 Comprehensive Plan. They begin their review with the statement that the proposed development will "accommodate the demand for housing in Lexington responsibly." This statement represents only a portion of Theme A, Goal #1.b. The entirety of the statement reads "Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types" (*Imagine Lexington*, 2018: Pg. 11). The applicant's perspective on the accommodation of the demand for housing is focused on single family dwelling units. They state that there is a "desperate need for additional single family houses and townhomes as detailed in the 2017 Fayette County Housing Demand Study". This perspective does not truly grasp the variety of housing options that the study calls for, nor does the interpretation understand the historical development of the Lexington community between 2010 and the present. The 2017 Housing Study states that a total of 12,170 Townhomes, Duplexes, or Single Family Homes should be developed between 2010 and 2025 to cope with the demand of the population in the region. Since the 2013 Comprehensive Plan, there has been an increase in the variety of the types of housing that have been built or planned to be built. However, the primary form of development in Lexington still remains the detached single family household at a low density.

The Housing Demand Study delves deeper into the need for a variety of single family occupancy, including townhomes, duplexes, single family homes, condominiums, and mobile homes, that are meant to meet the needs of the Urban County's growing population. The 2017 Fayette County Housing Study goes further to describe many of the elements that should be understood when reviewing who will be living in the housing that should be developed. The study states that there will be an increase of 11,555 householders over the age of 65. Based on research on aging communities, the majority of householders over the age of 65 will be seeking to downsize from their current housing situation, into smaller and more affordable housing options. The study also states that there will only be a slight increase in the homeownership rate for householders aged 35 to 64, typically the age range that necessitates larger square footage and a greater number of bedrooms. These trends suggest that smaller and more affordable housing should be promoted, including a mixture of townhomes, duplexes, single family homes, and condominiums.





The growth of an aging population in Lexington is reflected in the 2018 Comprehensive Plan. Theme A, Goal #1.c states that Lexington should, “plan for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents.” While the applicant is proposing to provide housing, they have not indicated how that housing will be safe, affordable, or accessible to meet the needs of Lexington’s aging residents. There are numerous ways to fulfill this goal, including but not limited to utilizing Universal Design (Theme A, Equity Policy #8), providing flexibility for senior housing through accessory dwelling units (Equity Policy #6), or seeking to provide compact single family housing types (Theme A, Density Policy #6).

Additionally, the applicant indicates that the proposed development will support infill and redevelopment throughout the Urban Service Area as a strategic component of growth (Theme A, Goal #2) by respecting the context and design features of an area’s surrounding development projects, and develop design standards and guidelines to ensure compatibility with existing urban form (Theme A, Goal #2.b). Within the body of their justification, the applicant states that they are “quite confident in calling this project a well-designed project as it furthers the design policies laid out in the Comprehensive Plan.” However, the applicant does not reference all of the specific policies from the Comprehensive Plan, nor do they indicate any best practices regarding urban design or urban form. The applicant states that by continuing the collector and local roads with future stubs to the adjacent undeveloped properties and pedestrian features, which is a requirement of new development in the Expansion Area, while also utilizing a people-first/pedestrian friendly street pattern design, they have met the essence of both this goal, and the associated policies. Their statement only covers Design Policies #1, 2, 4, 5, 7, 9, 10, 11, and 13. Furthermore, while the applicant indicates that they are seeking to utilize a people-first/pedestrian friendly street pattern design with efficient roadways and separate pedestrian infrastructure, there are portions of the townhouse development that put pedestrians into direct conflict with vehicles, should an individual choose to walk.

The applicant also indicates that they are seeking to incorporate adequate open space into the development project, which is meant to serve the needs of the neighborhood residents (Theme A, Goal #2.c). The applicant states that the adjacent greenway system is proposed to be accessible through a dedicated HOA lot with pedestrian access, which would allow all residents to access this neighborhood focal point. By adjusting their development plan and single loading the street system along the greenway, the applicant has allowed for greater use of this space. Furthermore, they have opened this public space, rather than hiding the greenway behind single family detached housing.

Issues regarding the access to space are also important throughout the site and influence the forms of interaction within the proposed site. The applicant stresses that they are seeking to provide a well-designed neighborhood and community (Theme A, Goal #3), by enabling 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 (Theme A, Goal #3.a). While the applicant has described the mixture of housing, they have not described any forms of regulation or expanded opportunities that allow for neighborhood character preservation. Furthermore, the applicant’s description of the mixed-use and mixture of housing is limited, as they are not incorporating the housing strategies but are seeking to separate them. Additionally, the applicant states that they will 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 (Theme A, Goal #3.b), but do not describe the ways in which they are seeking to protect pedestrians, nor do they discuss the various modes of transportation they seek to incorporate.

The applicant’s perspective on the varied approach to transportation and the associated infrastructure also necessitate further review. They state that the proposed development works to achieve an effective and comprehensive transportation system (Theme D, Goal #1) by supporting the Complete Streets concept, prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit and other vehicles (Theme D, Goal #1.a) and 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 (Theme D, Goal #1.b). Beyond their description of the extension of the existing roadways and the connection to the greenway, the applicant has done little to elucidate how they will be achieving these goals. By describing the solutions by which they are varying the modes of transportation the applicant will also be able to better address community facilities at a neighborhood scale (Theme B, Goal #2) by prioritizing multi-modal options that deemphasizes single-occupancy vehicle dependence (Theme B, Goal #2.d).

The applicant has also indicated that they are proposing to 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 (Theme D, Goal #2). They will seek to do so by encouraging public safety and social sustainability by incorporating Secure-by-Design concepts and other policies and programs that enhance the built and natural environments of neighborhoods and help reduce opportunities for crimes (Theme D, Goal #2.a). However, the applicant does not delve into the strategies that they seek to employ from the Secure-by-Design or Crime Prevention through Environmental Design (CPTED). These principles include an integrated approach to site development, environmental quality and sense of ownership, natural surveillance, access management, open space management, and targeted lighting.

The development of the site will also have impacts on the surrounding environment. While the applicant states that they propose to minimize the disruption of natural features when building new communities (Theme A, Goal #3.c) and apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources (Theme B, Goal #3) before development occurs (Theme B, Goal #3.b), they have not discussed the strategies they will utilize to minimize development impacts. Additionally, despite the applicants inference that they will promote, maintain, and expand the urban forest throughout Lexington (Theme A, Goal #3.d), they provide no details as to how this will be accomplished nor do they provide the required tree inventory map associated with the preliminary development plan. These objectives can be done by planning with the environment, utilizing native plant species, protecting all significant trees, or planting more than the required tree canopy.

The applicant also stresses that the proposed development upholds the Urban Service Area concept (Theme E, Goal #1). The applicant indicates that they will ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land (Theme E, Goal #1.b), while also emphasizing the redevelopment of underutilized corridors (Theme E, Goal #1.c), and 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 (Theme E, Goal #1.d). To accomplish this goal and the associated objectives there are various strategies that the applicant can utilize, but the staff would clarify that several of the goals, objectives and policies within Theme E are not intended to be met by applicants in the zone change process.

In the original staff report, the applicable policies were provided to the applicant to address. With the amended application, the petitioner has chosen not to address the majority of those policies. They have chosen not to address the Place Type, Development Type, or the Development Criteria in their justification statement or through their development plan. The Place Type and Development Type allow for staff and the public to gain a greater understand as to the function of a development within Lexington. The Development Criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment, and allows for a more transparent review process and focused public comment. Until the applicant addresses the adopted Comprehensive Plan in a complete manner the staff cannot offer a substantive and fully analyzed recommendation in conjunction with the Comprehensive Plan.



### CRITERIA

The criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed place-type and development type. The applicant has chosen not to address the Place Type, Development Type, or the Development Criteria in their justification statement, through their development plan, or with supplemental graphics or other information.



### APPROPRIATE VS INAPPROPRIATE

The petitioner also contends that the Expansion Area Residential-1 (EAR-1) and Expansion Area Residential-2 (EAR-2) zones are appropriate at this location and that the existing Agricultural Rural (A-R) zone is inappropriate. The petitioner argues that the current zoning and any type of agricultural use is inappropriate as it has become increasingly difficult due to the development of the surrounding area as residential subdivisions, multi-family developments, commercial uses, and the interstate system. However, this argument is innately flawed as it contends the agricultural uses cannot occur in proximity to areas of residential or commercial development. This would indicate that all farms or farmland along the Urban Service Area boundary are inappropriately zoned and should be slated for rezoning. Furthermore, their is substantial evidence that shows that the proximity of farmland to urbanized localities can reduce some of the impacts of the urbanized environment and reduce costs for fresh and healthy foods for those living in urban areas.

Furthermore, Article 23 of the LFUCG Zoning Ordinance clearly states that “agricultural uses of land or agricultural uses of buildings or structures which were lawful prior to the adoption of the Expansion Areas Zoning Categories and Restrictions and which would be otherwise prohibited, regulated, or restricted by the provisions of this Article, shall for the purposes of this Article be deemed permitted uses in the zone or district in which they are located and shall not be deemed non-conforming.” Article 23-2(c) goes on to state that “notwithstanding any provision of this Article, any lot which was in existence at the time of the adoption of these Expansion Areas Zoning Categories and Restrictions may be used for one (1) single family house and permitted accessory uses with lot, yard and height as in the Agricultural Rural (A-R) Zone as a principal or accessory use, as appropriate.” This property can therefore be both operated as either of the principal permitted uses of the A-R zone which include land used solely for agricultural purposes, including small farm wineries and equine-related activities, as outlined in KRS 100, and single family detached dwellings. It is problematic for the applicant to suggest that a principal use of the land, single family detached dwellings, is inappropriate, while in the same statement suggesting that the proposed development of single family detached dwellings is appropriate. The subject property, has operated and continues to operate appropriately.

Additionally, the applicant’s reasoning that the availability of sewer and the proximity of the transportation system create “prime land to be developed” is correct for those areas zoned Agricultural Urban (A-U), but is incorrect for those areas zoned A-R. The intent of the A-U zone is to control the development of rural land within the Urban Service Area over a period of time, so as to manage the growth of the community and in order to avoid premature or improper development. Comparatively, the A-R zone is intended to preserve the rural character of the agricultural service area by promoting agriculture and related uses, and by discouraging all forms of urban development except for a limited amount of conditional uses. Therefore the inappropriateness of the A-R zone is not predicated on the availability of services.

The petitioner goes on to state that the current zoning is clearly appropriate as the property has been inside the Urban Service Area for over 25 years and was slated for this exact type of residential development since the adoption of the Expansion Area Master Plan (EAMP). This is partially accurate; however, the Urban County Government made the decision in 1996 that it would be in the interest of the community that zone changes in the Expansion Area be taken parcel by parcel, and be deliberated based on the compliance with the adopted Comprehensive Plan and circumstances at the time development was proposed. Staff does not disagree with the applicant that this property has the potential to be rezoned. However, as the current



zoning is appropriate, the petitioner should address the Goals, Objectives, Policies and Criteria to show how their proposed rezoning is in agreement with the 2018 Comprehensive Plan. Especially since the proposed land uses were recommended for this site, but in a different configuration, for a different acreage, and a lesser density.

### **SIGNIFICANT CHANGE**

The Planning Commission can also consider a justification that there has been a physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area. However, the applicant has not provided evidence in their justification, and the staff cannot find such a change has occurred since late February of this year, when the Comprehensive Plan was adopted.

### **STAFF RECOMMENDS: POSTPONEMENT, FOR THE FOLLOWING REASONS:**



1. The zone change application for the subject property, as proposed, does not address how the petitioner will implement the Goals and Objectives, nor the Policies of the 2018 Comprehensive Plan. Until the applicant addresses the adopted Comprehensive Plan in a complete manner the staff cannot offer a substantive and fully analyzed recommendation.
2. The current Agricultural Rural (A-R) zoning is appropriate for the subject property, as supported by the LFUCG Zoning Ordinance.
3. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area.