

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.