

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2013-16: URBAN COUNTY PLANNING COMMISSION

DESCRIPTION

Zone Change: From an Agricultural Urban (A-U) zone, a Neighborhood Business (B-1) zone, and a Planned Shopping Center (B-6P) zone, with conditions
To an Agricultural Urban (A-U) zone, a Neighborhood Business (B-1) zone, and a Planned Shopping Center (B-6P) zone, with modified conditions

Acreage: 26.82 net (30.80 gross) acres

Location: 760 and 789 Newtown Springs Drive, and 1433 and 1445 Newtown Center Way

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	A-U, B-1 & B-6P	Legacy Trail and Vacant
To North	P-1	Professional Office & Business
To East	B-1, P-1, R-3 & R-1D	Residential & Vacant
To South	A-U	Vacant & Recreation
To West	P-2	Professional Offices

URBAN SERVICES REPORT

Roads – Newtown Pike (KY 922) is a major arterial roadway that connects downtown Lexington to the interstate system to the north. Newtown Springs Drive and Newtown Center Way are local streets within the Newtown Springs development, located near the intersection of Citation Boulevard and Newtown Pike. These local streets were constructed several years ago, although much of the adjoining property remains vacant. Citation Boulevard is a minor arterial roadway that, when complete, will connect many neighborhoods and employment centers in the northern half of the community from Leestown Road (US 421) to Russell Cave Road (KY 353). As one of the primary connector roadways to the interstate, Newtown Pike, in the vicinity of the subject property, carries an average daily traffic volume of 43,800 vehicles.

Curb/Gutter/Sidewalks – Curbs, gutters and sidewalks are available on both sides of Newtown Center Way and Newtown Springs Drive. The Legacy Trail, a 12-foot wide shared use path, was completed in 2010 and runs parallel to Newtown Pike along the frontage of the subject property.

Storm Sewers – Storm sewers exist in the area, which is within the Cane Run watershed. There are no known flooding problems in the immediate vicinity. No stormwater improvements are necessary to accommodate the requested modification to the conditional zoning restrictions.

Sanitary Sewers – Sanitary sewers also exist in the area. The subject property and all of the immediately surrounding area is served by the Town Branch Wastewater Treatment Facility, located about 2.5 miles to the southwest of the property, between Old Frankfort Pike and Leestown Road.

Refuse – Refuse pickup is provided by the Urban County Government on Thursdays in this vicinity.

Police – The nearest police station is the main headquarters facility, located on East Main Street in downtown Lexington, approximately 2.5 miles to the southwest of this location.

Fire/Ambulance – Fire Station #10 is located less than a mile to the southwest of the property, along Finney Drive near the Georgetown Road and New Circle Road interchange.

Utilities – Natural gas, telephone service, electric, and water are all existing on the subject property. Streetlights will likely be installed once development occurs in this area.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 7) recommends Retail, Trade, and Personal Services (RT) and Greenspace (GS) future land use. The Urban County Planning Commission has initiated a zone change to revise a conditional zoning restriction in order for the restriction to match an existing legal agreement

between the property owner and the government as it relates to screening and landscaping along the Legacy Trail, which was constructed parallel to the Newtown Pike right-of-way.

CASE REVIEW

The property owner, Newtown Springs, LLC, previously requested that the Urban County Planning Commission act as the applicant in order to facilitate the amendment of an existing conditional zoning restriction for the portion of the Newtown Springs development that fronts Newtown Pike. A horse farm fence and landscaping were required when the zone change was initially approved in August 2001 (*MAR 2001-02: Newtown Springs*). The existing conditional zoning restriction, as it pertains to the request, reads as follows (Ordinance 210-2001): "1. The developer shall construct a four-plank horse farm fence and shall install planting within the 75' buffer area along Newtown Road all as more particularly shown on the rendered Landscape Plan."

Four parcels comprise the subject property, which is located at the southwest corner of the intersection of Newtown Pike and Citation Boulevard. The northern three are primarily located within a Neighborhood Business (B-1) zone, and the fourth is primarily located within a Planned Shopping Center (B-6P) zone. The frontage along Newtown Pike of all four parcels is located within an Agricultural Urban (A-U) zone. The underlying zoning will remain unchanged.

In 2001, when the conditional zoning restrictions were put in place for the subject property, the Legacy Trail was not planned for the property; but a greenspace along Newtown Pike was depicted on the 2001 Land Use Element map. The zone change was approved with the conditional zoning restriction that is now proposed for modification, as well as use limitations in the office (located to the east) and business zones and requirements for a landscaped berm along the Griffin Gate neighborhood to the north of Citation Boulevard.

The conditional zoning restriction proposed for modification would be altered to read as follows "1. The developer shall construct a ~~four-plank~~ three-plank horse farm fence, generally parallel to the Legacy Trail (shared use path) along Newtown Pike and shall install planting within the 75' buffer area along Newtown Road all as more particularly shown on the rendered Landscape Plan." This modification will allow for the conditional zoning restrictions to match the legal agreement signed in December 2009 by the local government and the property owner.

In considering a modification to a conditional zoning restriction, Article 6-7(c) of the Zoning Ordinance requires that the Planning Commission must find that there has been an unanticipated change of an economic, physical or social nature in the immediate area since the time the conditional zoning restriction was imposed that has substantially changed the basic character of the area (emphasis added). In this case, an easement agreement between the property owner and the local government, and the subsequent construction of the Legacy Trail, were not anticipated at the time the restriction was adopted. Trees have been planted along the Legacy Trail approximately 50 feet apart that meet the basic intent of the existing landscaping requirement.

The property owner has acknowledged that they will still plant shrubs and landscape island trees to meet their on-site requirements for vehicular use area screening (VUA) once the commercial lots adjacent to the Legacy Trail begin to develop. In addition, once resolution of the differing requirements for the number of planks in the horse farm fence is achieved, the property owner will also construct the required fence when development of these commercial sites occurs.

The Staff Recommends: Approval, for the following reason:

1. An easement agreement/contract between the property owner and the government, signed in December 2009, and the subsequent construction of the Legacy Trail, constitute major changes of a physical and economic nature that were not anticipated at the time the conditional zoning restriction was imposed on the subject property in 2001. These changes justify a modification to the conditional zoning on the subject property.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall maintain conditional zoning restrictions #2 and #3; however, restriction #1 shall be modified to read:
 1. The developer shall construct a three-plank horse farm fence, generally parallel to the Legacy Trail (shared use path) along Newtown Pike.