

1. **NORTH FORTY PROPERTIES, LLC, ZONING MAP AMENDMENT & CLARK PROPERTY, UNIT 4, ZONING DEVELOPMENT PLAN**

- a. **MAR 2015-10: NORTH FORTY PROPERTIES, LLC (8/30/15)\*** – petition for a zone map amendment from an Expansion Area Residential-1 (EAR-1) zone to an Expansion Area Residential-2 (EAR-2) zone, for 46.64 net (47.18 gross) acres, for property located at 1551 Deer Haven Lane (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 subject property is located within the Expansion Area, more specifically Subarea 2A. The Expansion Area Master Plan recommends Expansion Area Residential 1 and Conservation future land use for the subject property.

The petitioner proposes a residential development of approximately 225 single family lots within the portion of the subdivision proposed for rezoning, and a total of 356 (detached) dwelling units within the boundary of the corollary zoning development plan (Clark Property, Unit 4). This represents a density of 4.77 dwelling units per gross acre on the subject property, and 4.92 dwelling units per gross acre for the larger Clark Property development, as a whole.

**The Zoning Committee Recommended: Approval**, for the reasons provided by staff.

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

1. The requested zone change is in agreement with the 2013 Comprehensive Plan, and in substantial agreement with the more detailed recommendations of the 1996 Expansion Area Master Plan, for the following reasons:
  - a. The 2013 Plan recommends increased residential densities, where appropriate, within the existing Urban Services Area. This proposed development is consistent with this theme.
  - b. The Clark Property, in its entirety, is recommended for Expansion Area Residential-1 (48± acres) and Expansion Area Residential-2 (134± acres), defined as 0-3 units/gross acre and 3-6 units/gross acre, respectively. This equates to a recommendation of between 403-953 residential units for that land area.
  - c. The petitioner proposes to utilize density averaging and clustering; therefore, Article 23A-2(m) of the Zoning Ordinance requires that the land be located within the same zoning category.
  - d. Across the entire Clark Property, a total of 879 dwelling units are now proposed (523 units in Units 1-3 and 356 units in Unit 4) for development, at an overall density of 4.80 dwelling units per gross acre, which remains in agreement with the EAMP, since up to 953 dwelling units are recommended by the EAMP for the Clark Property.
  - e. The petitioner intends to develop 403-807 units on the proposed Expansion Area Residential-2 portion of the property, at a density of 3-6 units/gross acre.
  - f. The greenway recommended by the EAMP is proposed on the corollary development plan filed in conjunction with this rezoning request.
  - g. The "park road" (Blackford Parkway) is proposed to be extended through the property to an intersection with Polo Club Boulevard, as recommended by the EAMP.
2. This recommendation is made subject to approval and certification of **ZDP 2015-52: Clark Property, Unit 4**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of Planning Commission Approval.

- b. **ZDP 2015-52: CLARK PROPERTY, UNIT 4 (8/30/15)\*** - located at 1551 Deer Haven Lane.

**(EA Partners)**

**The Subdivision Committee Recommended: Postponement**. There were some questions regarding the configuration of the streets, lotting proportions and access to the park areas.

**Should this plan be approved**, the following requirements should be considered:

1. Provided the Urban County Council rezones the property **EAR-2**; 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. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Correct note #4 to reference Chapter 16 of the Code of Ordinances.
7. Provide a stub street to the existing LFUCG park (at Lots 278 & 279).
8. Denote acreage in open space, per Art. 23A-6(k)(2).
9. Denote cross-section of Polo Club Boulevard on plan.

\* - Denotes date by which Commission must either approve or disapprove request.

10. Provide sidewalks for both sides of street (reference cross-section "C-C") or denote approved waiver.
11. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
12. Delete Lot 359 adjacent to Blackford Property, per the Land Subdivision Regulations.
13. Revise "A-A" cross-section to "B-B" along cul-de-sac for Lots 96-131.
14. Discuss connectivity in relation to proposed cul-de-sac for Lots 96-131.
15. Discuss width-to-depth proportions of lots (per Art. 6-4(g) of the Land Subdivision Regulations).
16. Discuss configuration of Blackford Parkway at southeast end of property, adjacent to LFUCG park.
17. Discuss irregularity of Lot 84 (per Art. 6-4(b) of the Land Subdivision Regulations).
18. Discuss lack of access proposed to LFUCG Rails-to-Trails park areas.
19. Discuss greenway and tree protection area(s) in relation to the EAMP.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property on Polo Club Boulevard, near Deer Haven Lane. The property is located on the east side of Polo Club Boulevard, north of the Brighton Trail and the former King property, which is proposed as a neighborhood park and no longer provides frontage for the property. It is south of Man O' War Boulevard, outside of Interstate 75. The subject property also borders the Blackford Property, with an extension of Blackford Parkway expected to continue through it. Deer Haven Lane, which terminates in a cul-de-sac after an interdiction some years ago, is located to the southeast of the subject property.

Ms. Wade stated that the subject property, which is part of the larger Clark Property, was originally rezoned to the existing configuration of EAR-1 and EAR-2 zoning in the late 1990s. That configuration did match the recommendations of the Expansion Area Master Plan (EAMP), which was approved in 1996. The petitioner is currently proposing to rezone the property in order to average the density across the entire Clark Property. Unit 4 of the Clark Property is proposed to be developed in a pattern similar to Units 1-3, which are located to the north and west of the subject property. Those units all contain single-family residential dwelling units, with lots approximately 40' wide. Unit 4 is currently split-zoned, with approximately 47 acres in the EAR-1 zone, and 25 acres in the EAR-2 zone. Ms. Wade noted that EAR-1 allows a density of 0-3 dwelling units per gross acre, while EAR-2 allows between three and six dwelling units per acre.

Ms. Wade explained that the petitioner is requesting that the EAR-1 portion of the subject property be rezoned to EAR-2 in order to allow for higher-density development. Article 23 of the Zoning Ordinance permits density clustering in the Expansion Area zones, provided that the properties are part of a single development plan; the properties must also be under the same ownership, in the same zone, and in the same portion of the Expansion Area. In this case, the subject properties meet three of those four criteria, but they are not in the same zone. The petitioner would like to continue the development pattern from the remainder of the property by utilizing the zone change to change the allowable density for this parcel.

Ms. Wade displayed several photographs of the subject property, which is currently vacant: 1) an aerial view of the property, noting the location of the King property, which is proposed to be used as a neighborhood park, and the Brighton Trail; 2) an aerial view from a different perspective, noting the location of Blackford Parkway, which is planned to be continued through the subject property; 3) a view of the property from Polo Club Boulevard; 4) a view along the Brighton Trail, adjacent to the subject property to the south; 6) a view of the intersection of the trail at Polo Club Boulevard; 7) a view of Polo Club Boulevard to the north from the subject property, at the Blackford Parkway stub; 8) a view along Polo Club Boulevard to the south.

Ms. Wade stated that the 2013 Comprehensive Plan does not include specific land use recommendations, but the EAMP remains in effect and is referred to specifically in Article 23 of the Zoning Ordinance. The subject property is located in Expansion Area 2A, wherein the entire Clark Property was proposed for a density between 403 and 953 dwelling units. Unit 4, which includes the subject property, was recommended for between 77 and 300 dwelling units. The petitioner is proposing to average that density across the entire Clark Property, but stay within the overall cap of 953 dwelling units. Including this plan and Units 1 – 3, the Clark Property is proposed for a total of 879 dwelling units, which would leave a balance of 74 dwelling units remaining under the EAMP recommendation. Ms. Wade noted that, in addition to the land use recommendation, the EAMP also recommended the construction of a park road, which is the existing Blackford Parkway; and Polo Club Boulevard, which is fully constructed. The EAMP recommendation for a park area has been met through the Lexington-Fayette Urban County Government's purchase of the King Property for use as a neighborhood park. The petitioner is also proposing to continue the existing area greenway through the subject property, which will connect from the park into the Blackford Property greenway to the south.

Ms. Wade stated that the staff has concluded that the petitioner's proposal meets the recommendations of the EAMP, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, noting that a revised staff recommendation had been distributed to the Commission members prior to the start of the hearing. Using a

rendered version of the plan, he described the layout of the property, noting the locations of Blackford Parkway; the Brighton Trail; the existing greenway; and the adjoining Blackford Property and Clark Property developments.

Mr. Martin said that the current version of the plan is the second revision provided by the petitioner, following several meetings with them to address the staff's concerns. He explained that the revised plan includes the addition of medians along Blackford Parkway, which were not provided in the Blackford Property development. The staff is recommending approval of the plan, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property EAR-2; 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. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Correct note #4 to reference Chapter 16 of the Code of Ordinances.
7. ~~Provide a stub street~~ Increase street frontage to the existing LFUCG park (at Lots 257-278 & 279).
8. Denote acreage in open space on plan, per Art. 23A-6(k)(2).
9. ~~Denote cross-section of Polo Club Boulevard on plan.~~
10. ~~Provide sidewalks for both sides of street (reference cross-section "C-C") or denote approved waiver.~~
- 9.11. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
12. ~~Delete Lot 359 adjacent to Blackford Property, per the Land Subdivision Regulations.~~
13. ~~Revise "A-A" cross-section to "B-B" along cul-de-sac for Lots 96-131.~~
14. ~~Discuss connectivity in relation to proposed cul-de-sac for Lots 96-131.~~
15. ~~Discuss width-to-depth proportions of lots (per Art. 6-4(g) of the Land Subdivision Regulations).~~
- 10.16. ~~Discuss configuration~~ Delete "proposed entry feature" from right-of-way of Blackford Parkway at eastern southeast end of property, adjacent to LFUCG park existing development.
17. ~~Discuss irregularity of Lot 84 (per Art. 6-4(b) of the Land Subdivision Regulations).~~
- 11.18. ~~Discuss lack of~~ Provide a median break for vehicular access proposed to LFUCG Rails-to-Trails park area.
- 12.19. ~~Discuss greenway and~~ Taper tree protection area(s) in relation to the EAMP on Lot 156, along LFUCG Rails-to-Trails area.

Mr. Martin stated that the remaining conditions would require an increase of street frontage to the existing park area; the removal of the proposed entry feature from the plan; and the provision of a median cut near the park. He explained that the original plan included a very long cul-de-sac, which was of concern to the staff due to lack of connectivity. The petitioner revised the plan to include a loop street system, which the staff believes is much improved. Mr. Martin noted that the lots proposed to the east of the greenway had been reversed, to move the cul-de-sac nearer the greenway. The previous plan depicted that cul-de-sac closer to the adjoining residential lots, with a large, poorly-situated HOA lot. The petitioner agreed with the staff's concerns, and the plan now depicts a row of single family residential back yards, with a Tree Protection Area, adjoining the similar residential area in the existing Blackford Property development. Several lots appear to be comparatively deep and oddly configured, but they were laid out in that fashion in order to accommodate a Tree Protection Area and utility easement. Mr. Martin added that the petitioner is proposing to construct 356 buildable lots, with over 14 acres of street right-of-way and eight acres of greenway.

EAMP Compliance Report: Mr. Martin stated that condition #9 requires that the Planning Commission make a finding that the development plan is in compliance with the EAMP; the staff provided copies of their EAMP Compliance Report to the Commission members prior to the start of the hearing.

Mr. Martin said, with regard to the Future Land Use Element, that this development is proposed for single-family residential use, in an area that was recommended for Single-Family Low Density use by the EAMP. The Community Design element is addressed through the use of good street connectivity; the provision of sidewalks; and a bike lane along Polo Club Boulevard. The staff believes that the completion of Blackford Parkway as the final portion of the street system in the area will provide for excellent connectivity to shopping and other neighborhoods in the area. The greenway provides the required central design element, and the development plan depicts a distinct, well-defined neighborhood, which is encouraged by the EAMP.

With regard to the Infrastructure Element, Mr. Martin explained that the sanitary sewers and stormwater facilities are in place. Due in part to the large greenway system, no engineered stormwater facilities are required in this portion of the Expansion Area. The roadway infrastructure will be complete with the construction of the remaining portion of Blackford Parkway. Mr. Martin stated that, for those reasons, the staff is recommending that the Commission find that this plan is in substantial compliance with the EAMP.

Commission Question: Mr. Owens asked, with regard to condition #11, if parking would be allowed in the park. Mr. Martin answered that the Division of Parks & Recreation would like to have parking available in that area.

**Petitioner Representation:** Dick Murphy, attorney, was present representing the petitioner. He explained that the development plan depicts a larger area than is being requested for rezoning at this time, and noted that, although the property has a Deer Haven Lane address, it no longer has frontage on that roadway. The property's frontage is along Polo Club Boulevard, and it will have frontage on Blackford Parkway as well.

Mr. Murphy stated that the Clark family, who owns North Forty Properties, has been developing the area for the past 15 years. They built at least a mile of Polo Club Boulevard in order to provide connectivity through the area; dedicated their interest in the Brighton Trail; and donated the property for the new elementary school. The overall development has a good mix of residents, including first-time homebuyers and downsizing empty-nesters, and it has proven very popular due to its close proximity to the Hamburg shopping area, Interstate 75, and the Brighton Trail. It is also one of the few new subdivisions in Lexington-Fayette County that sells lots to independent builders, which contributes to the health of the construction industry in the area.

Mr. Murphy said that the subject property was rezoned to EAR-1 and EAR-2 in 2003. At that time, the dividing line between the two zones was the proposed location for the "park road," now Blackford Parkway. The developer of the adjacent parcel shifted the location of the park road somewhat, but the zone line for the EAR-1 and EAR-2 zones did not shift. The lot sizes on the other side of the boundary, adjacent to the subject property, are similar to those in the proposed development, with an average lot frontage of 40 feet.

Mr. Murphy explained that the petitioner is proposing to rezone the subject property at this time because, when it was rezoned in 2003, the maximum density for the property was established at 953 units. This zone change will not increase that number; rather, it will allow the petitioner to average the density across both portions of the property. The EAR-2 portion that is already developed is under the density originally proposed, since most of the greenways on the Clark property are located in that area. The petitioner would like to average density across both properties, but that type of averaging is not allowed across different zones. Mr. Murphy stated that the petitioner is proposing to construct the same type of single-family, detached dwelling units that exist on the other portion of the property, in accordance with the goals set forth by the EAMP and the Comprehensive Plan.

Mr. Murphy said that the petitioner contends that the proposed zone change is in agreement with the principles of both the 2013 Comprehensive Plan and the EAMP. He quoted the following, from Theme E(1)(b): "Encourage compact, contiguous, and/or mixed-use, sustainable development within the Urban Service Area, as guided by market demand to accommodate future growth needs." The petitioner believes that the proposed development will help to further that objective.

With regard to the recommended development plan conditions, Mr. Murphy stated that the petitioner had a number of meetings with the staff, and revised the plan several times in order to address the staff's concerns. The major changes from the version of the plan displayed at the Subdivision Committee meeting three weeks ago include increasing the street frontage along the park property; widening the access point to the Brighton Trail; revising a cul-de-sac to a through street in order to increase connectivity; and relocating a roadway along the property boundary. Condition #10 refers to the proposed entry feature, which the petitioner still intends to construct, but which will need to be relocated from the right-of-way. In addition, a portion the Blackford Parkway right-of-way has been revised to include medians as an aesthetic feature that can also promote traffic calming. Mr. Murphy said that the petitioner is in agreement with the staff recommendations on the development plan.

Mr. Murphy acknowledged that, although citizens were present in opposition to this request, the petitioner contends that the proposed development is exactly in agreement with the recommendations of the EAMP. He said that developing property in the Expansion Area has required some creativity from developers, and the Clark family believes that they have met the needs of the community in doing so. The individual builders involved in the neighborhood have responded with varied floor plans and architectural details to create a high-quality, small-lot development that has proven to be very desirable in the community. The petitioner is requesting to be allowed to continue to develop that community, as they have done for the past 15 years, in agreement with the EAMP and the Comprehensive Plan.

**Citizen Opposition:** Susan Enlow, 2382 Walnut Grove Lane, was present representing Greenbrier Residents, Inc. She noted that, because the address of the subject property is listed as Deer Haven Lane, no one in Greenbrier or the surrounding subdivisions received notice of the proposed development. Ms. Enlow said that she understands that the subject property is a remnant of a parcel located on Deer Haven Lane, but all of the discussion at this hearing has centered on other nearby subdivisions that were developed by the petitioner, rather than the existing developments on Walnut Grove and Deer Haven Lane. The subject property, however, is actually located nearer to Walnut Grove Lane, where the Greenbrier and Walnut Grove Estates subdivisions have existed for many years, prior to the creation of the Expansion Area. Ms. Enlow said that, although there has been some discussion about the proposed development being in keeping with the character of nearby subdivisions, she does not believe that it is at all in keeping with the character of the closest developments. Ms. Enlow stated that she would like to request that the Planning Commission consider continuing or postponing this hearing, so that residents of the Greenbrier and Walnut

Grove Estates neighborhoods could have an opportunity to get more information about the proposed development, since they only recently learned about this hearing.

Ms. Enlow stated that Greenbrier has existed with "huge homes on larger lots" for over 40 years, and that type of development is continuing in the more recent Walnut Grove Estates subdivision. The residents of those neighborhoods are concerned about the density of the proposed development, which will be "dramatically different" from that of the surrounding properties. Ms. Enlow said that homeowners have invested a great deal of money in their properties in these areas, expecting that everything around them will remain in the EAR-1 zone. She asked that, if the Commission does not choose to postpone or continue this hearing, they recommend disapproval of this rezoning request.

Ms. Enlow stated that, several years ago, she worked with Mr. King and the Planning staff on a zone change for a development adjoining Greenbrier. She appreciated the collaborative nature of that process, and was pleased with the resulting development. There are two remaining vacant tracts adjacent to the subject property that are currently zoned EAR-1, and Ms. Enlow is concerned that this proposed rezoning to EAR-2 could set a precedent that would result in those properties being rezoned for greater density as well. She opined that such a development could be the "knife through the heart" for Greenbrier.

Ms. Enlow noted that she had received a phone call from the attorney for the petitioner, in which she felt a "veiled threat" was made that she should not oppose this request, because the petitioner could develop the property with 950 apartments. She opined that that tactic was very unprofessional, and she does not believe that the Planning staff typically acts in such a fashion.

Marsha Stanhope, 2496 Walnut Grove Lane, stated that she is the vice-president of Greenbrier Residents, Inc. She said that she opposes the proposed rezoning, because the Greenbrier residents just heard about it and have not had sufficient time to learn anything about it. Ms. Stanhope requested that the Commission postpone this request so that Greenbrier residents can have an opportunity to understand the proposal and develop a consensus among themselves about it.

Elizabeth Booth, 1940 Deer Haven Lane, stated, with regard to Mr. Owens' question, that there was to be no parking from the two cul-de-sacs nearest the park property.

Ms. Booth indicated the boundary between the EAR-1 and A-R zones in the vicinity of the subject property on the rendered zoning map, noting that those property owners in the A-R area opted to not be included in the Expansion Area when it was created in the 1990s. She said that the subject property abuts agricultural land, and the Commission needed to keep that in mind when considering this request.

Ms. Booth asked the Commission to disapprove this request, since she believes that the EAR-2 zone could result in twice the number of dwelling units being constructed on the same acreage. She is also concerned that the proposed zone change could set a "dangerous precedent" in the Expansion Area.

Noting the location of her property, Ms. Booth stated that she purchased her farm in 1993, and participated in the EAMP process. She opined that the process was expensive, lengthy, and difficult, but it was important to establish the rules that needed to be followed in order to protect the land and the quality of life. Ms. Booth opined that, if developers were following the guidelines of the EAMP, however, they would never have attempted to rezone land in the Expansion Area or submit development plans for it. She believes that, since Marion Clark agreed to the terms of the EAMP, she should not be allowed to change the zone on any of the property she owns.

Ms. Booth said that EAR-1 zoning was intended to provide a buffer between high-density residential development and the nearby agricultural land. She stated that the Planning Commission should not consider whether the proposed development will conform to nearby subdivisions, but whether it will protect the agricultural area.

Ms. Booth added that she was also concerned that approving the proposed rezoning could set a precedent for the other EAR-1 parcels in the Expansion Area. She said that prior Planning Commissions had made decisions in favor of builders, rather than maintaining the rules of the EAMP. She requested that the Commission disapprove this request, since she does not believe that it is in agreement with the requirements of the EAMP.

Brandon Jacobs, 3416 Bay Springs Park, noted the location of his residence on the rendered development plan. He stated that he loved the location of his home, particularly because the adjoining greenway provides privacy for his back yard. Mr. Jacobs stated that he was concerned that the proposed plan would result in "high-density development in his back yard."

Mr. Jacobs said that, when he built his home eight years ago, he was told that the greenway was a Tree Protection Area. He received a notification letter for this requested zone change, but he did not realize that it was near his home since the property address is Deer Haven Lane. Mr. Jacobs asked that the Planning Commission not approve this request, which "would ruin the back yards of 25 to 30 homes."

David Booth, 1940 Deer Haven Lane, stated that he had read the justification for this zone change, and he believed that it made more of a case for disapproval than for approval. He read the following from the justification: " We are requesting a zone change from the Expansion Area Residential (EAR-1) to the Expansion Area Residential (EAR-2) zone so that the property can continue to be developed in a similar manner." Mr. Booth opined that this justification "could be used as a form letter" for other developers seeking to rezone other EAR-1 parcels.

With regard to the petitioner's desire to average density on the subject property, Mr. Booth stated that averaging density across properties that have existing, approved development plans should not be permitted. In addition, he does not believe that the petitioner's density calculations are correct; by his calculations, the petitioner should be allowed only 294 units. The EAMP noted that there could be as few as 400 dwelling units on the subject property, but the petitioner is already over that number because of the development on the adjoining parcels. Mr. Booth opined that, once a development plan has been approved with a certain number of dwelling units, it should not be permitted to include it in averaging density on another parcel.

Mr. Booth stated that the petitioner's justification referred to all the reasons why the proposed zone change is in compliance with the EAMP, but he does not concur. He added that, although the petitioner contends that the proposed zone change is in agreement with the 2013 Comprehensive Plan, he does not believe that the Plan proposed moving zoning boundaries.

Petitioner Rebuttal: Mr. Murphy stated, with regard to the concerns raised by the residents of Greenbrier, that the petitioner notified 137 property owners within the required 500' and supplemental notification areas, and the staff notified the nearest neighborhood associations. He said that, since Greenbrier is not adjacent to the subject property, that neighborhood association did not receive such a notice. The closest point of the subject property to the Greenbrier subdivision is approximately 2,200'; and the subject property is not visible from Greenbrier. In addition, the traffic from the two subdivisions cannot mix, due to the interdiction of Walnut Grove Lane. For those reasons, the petitioner contends that the proposed development will have no impact on the Greenbrier subdivision.

With regard to the comments about a recommended density of three units per five acres, Mr. Murphy noted that an area along Walnut Grove Lane is zoned EAR-1, and is defined by the EAMP as a Special Design Area. Density in that Special Design Area portion of the EAR-1 zone is limited to a maximum of three units per five acres; however, properties on the west side of Deer Haven Lane are not part of a Special Design Area. The subject property is constrained by a 200' Scenic Resource Area along Deer Haven Lane, to maintain the scenic viewshed along that roadway.

Mr. Murphy stated, with regard to Ms. Enlow's comments, that he had attempted to reach out to her, and he apologized if his comments had been misconstrued as a threat. He noted that he had explained to Ms. Enlow that the EAR-1 zoning would allow single and multi-family development, but the petitioner believed that their property would be better suited to an entirely single-family residential use.

Mr. Murphy reiterated that the proposed zone change would not result in an increase of density on the Clark property overall, although it will go up slightly on the subject property itself. The proposed development would result in a total density of 4.7 units per acre, where six units per acre are allowed in the EAR-2 zone. The proposed development will also not result in a total number of units above the number that was recommended at the time of their original zone change in 2003.

With regard to Mr. and Mrs. Booth's comments, Mr. Murphy stated that the petitioners have had two zone changes on the subject property: first, for the portion south of the railroad tracks, in 1998; and second, for the portion north of the railroad, in 2003. The petitioner has been before the Planning Commission many times, however, to present subdivision and development plans, as required by the Subdivision Regulations and the Zoning Ordinance. The Booths have consistently appeared during that time to voice their opposition to the proposed development of the Clark property.

Mr. Murphy said, with regard to comments about parking for the proposed LFUCG park property, that the petitioner has provided a median cut for vehicular access to the park. If the Division of Parks and Recreation chooses to provide an area for parking, they can do so from Blackford Parkway. He added that Walnut Hill-Chilesburg Road is not the major thoroughfare through the neighborhood that it could have been, had it not been interdicted as part of the EAMP. The petitioner is not proposing any changes to the interdiction, or to the required 200' setback along Deer Haven Lane.

With regard to Mr. Jacobs' comments about the possible effects of the proposed development on the homes along Bay Springs Park, Mr. Murphy stated that the development plan for the subject property depicts the greenway in the same location as the EAMP. In addition, the petitioner has increased the amount of area proposed for the greenway, above that recommended by the EAMP. The development plan originally proposed that the cul-de-sac near Bay

Springs Park be laid out with a small greenspace to the rear of the homes, but they "flipped" it based on a recommendation by the staff. The petitioner is agreeable to maintaining that cul-de-sac as it is, or to re-orienting the homes to suit the residents of Bay Springs Park, if that is preferred.

Mr. Murphy said, with regard to the concerns that the proposed zone change could set a precedent for the development of the Blackford property to the north, that the northern border of the subject property along Bay Springs Park is completely developed, with lots with a median of 40' of frontage. Another portion of the northern border is not developed, but an approved development plan for it does exist, with approximately 21 lots that are comparable in size to the proposed development. Mr. Murphy explained that similar-size lots can be developed in both the EAR-1 and EAR-2 zones, because those zones speak to density, rather than lot size. Most of the greenways on the Blackford Property are located in the EAR-1 area, which reduced the density in that area. The subject property developed primarily with the greenways in the EAR-2 area, which resulted in less density in that portion of the property.

Mr. Murphy noted that a total of 40 feet of Tree Protection Area will be provided for the existing lots on Bay Springs Park, which should help to mitigate any impact on those residences.

Mr. Murphy concluded by noting that the petitioner contends that the Expansion Area was created in order to avoid the spread of development into agricultural regions of the county. He said that the petitioner has developed the subject property in agreement with the EAMP. The petitioner is proposing to continue the type of single-family residential development which has proven to be very popular and successful in this portion of the Expansion Area.

Citizen Rebuttal: Ms. Enlow opined that she was very pleased with the greenway and trail system, which she believed was a great asset to the neighborhood. She agreed with Mr. and Mrs. Booth that the EAR-1 area should serve as a buffer for the nearby agricultural areas and large-lot neighborhoods.

Ms. Enlow stated that, contrary to Mr. Murphy's statements, the subject property is located on the Greenbrier side of the Brighton Trail, close to the interdiction of Walnut Grove Lane. She said that she is not opposed to development, but she believes that it is important to consider the impact of that development on "residents who were promised EAR-1 many years ago." She noted again that the subject property should not be compared to development along Polo Club Boulevard, but in Greenbrier and along Walnut Grove Lane.

Ms. Enlow reiterated her request for postponement of this item, since Greenbrier and Walnut Grove Estates residents were not aware of it prior to a few days before the hearing.

Mr. Booth stated, with regard to Mr. Murphy's comments about the approved development plan for an adjoining parcel, that the plan was four years old and the project was never constructed. He said that Blackford Parkway was intended by the EAMP to be a divider between the EAR-1 and EAR-2 zones, and asked that the Planning Commission disapprove this request, so that it can continue to be used that way.

Staff Rebuttal: Ms. Wade displayed the land use map for Expansion Area 2a from the EAMP, noting the location of Blackford Parkway, which was originally intended to be the boundary between EAR-1 and EAR-2 zoning. Blackford Parkway was shifted eastward, as was the conservation area (park) on the boundary between Expansion Areas 2a and 2b. Ms. Wade explained that, as plans such as the EAMP are implemented, things sometimes change due to environmental features. In this case, the conservation area was relocated due to the purchase by LFUCG of the King Property for use as a park. She noted that the park is located nearer to the Booth's property than was originally planned, which should help to serve as a buffer from the proposed development. The shifting of the park road did not originally result in a shift of the EAR-1/EAR-2 zoning boundary; however, through the development process on the subject property, the petitioner discovered a demand in the market for the type of housing they hope to continue to provide.

Ms. Wade explained that the zone change area is a portion of Unit 4 of the Clark Property. There are 25 acres that are already zoned EAR-2, and 47 acres in the EAR-1 zone. The petitioner is proposing approximately 225 dwelling units on those 47 acres. Under the existing zoning, the petitioner would be allowed approximately 140 units, so the total number of units for that area would be increased by about 85 dwelling units. The petitioner contends that the proposed zone change will provide for a more uniform development for the Home Place neighborhood, without creating too great an impact on surrounding properties.

Ms. Wade noted that the Walnut Grove Lane interdiction was not part of the EAMP; rather, it was a separate initiative from the Urban County Council. The EAMP did recommend boulevards and parkways as connections throughout the Expansion Areas, but did not address existing roadways.

With regard to Mr. Murphy's comments about meeting the staff's recommendations for the development plan, Ms. Wade said that several of those concerns were about street connectivity. One of the areas of particular concern was a cul-se-sac proposed along the northeast property boundary, where houses were proposed next to the Blackford Property, rather than along the greenway. She read the following from the 2013 Comprehensive Plan: "What does

the 2013 Comprehensive Plan recommend in terms of growing successful neighborhoods? It recommends to place the fronts of housing toward parks and open space." The staff believes that the best means of implementing the Comprehensive Plan recommendation is to face those homes along the open space.

Commission Questions: Mr. Drake stated that there appeared to be only a small sliver of A-R land along Deer Haven Lane, despite the citizens' comments about providing a buffer for the agricultural areas. Ms. Wade answered that the A-R zone depicted on the ZOMAR plat associated with this zone change is the King Property, which has been designated for use as a park. The remainder of the Clark Property is zoned EAR-2, with a 200' setback from Deer Haven Lane where no development could occur. The staff contends that the park will also help to provide a buffer between the subject property and properties outside the Expansion Area. The properties to the north of the interdiction are inside the Expansion Area, but they require clustered development due to their location in a Special Design Area.

Mr. Owens asked Ms. Wade to clarify the notification process for a zone change. Ms. Wade answered that, when a property is rezoned, the Property Valuation Administrator (PVA) records are utilized to verify property owners' addresses. She said that it was likely that, when the property was rezoned in 2003, the subject property did have frontage along Deer Haven Lane. Since that time, however, it was terminated due to the dedication of the Brighton East Trail. That frontage along Deer Haven Lane no longer exists, but property addresses are not automatically changed in such instances. State law requires that PVA records be used to verify notification letters. Notice is provided to properties within 500' of the subject property, which is indicated in the notice maps provided to the Commission and displayed throughout the hearing. Ms. Wade noted that much of the area surrounding the subject property is not yet platted into individual lots, so notification was provided to the owners of the large blocks of property. Supplemental agricultural notice was also provided to two additional parcels south of where the 500' notification ended, so properties were notified along Passage Mound Way, Angus Trail, and Deer Haven Lane.

Mr. Penn stated, with regard to Mr. Drake's question, that all of the parcels south of the King Property are zoned A-R. Ms. Wade agreed, and noted that those properties are outside the Expansion Area. Mr. Penn stated that EAR-1 zoning was intended to be located adjacent to the EAR-1 zone. Ms. Wade said that was true in some cases; according to the EAMP, EAR-1 zoning was supposed to be located to one side of the proposed park road. In Expansion Area 2b, property adjacent to the A-R area was recommended for EAR-2 zoning, with the 200' setback from Deer Haven Lane to provide a buffer. Mr. Penn asked if the property nearer to Greenbrier was recommended for EAR-1 or EAR-2 zoning. Ms. Wade responded that, in the EAMP, the area nearer to Greenbrier along Walnut Grove Lane was recommended for the Special Design Area, with a density restriction of three units per five acres. Development in that area will be required to respect the EAMP's clustered density recommendation.

Mr. Owens asked if clarification was needed on condition #10 for the zoning development plan. Mr. Kahly answered that a small rectangle was included on the plan, to be used as an entry feature. That feature was drawn incorrectly in the right-of-way, rather than on private property. Mr. Kahly acknowledged that the petitioner would like to construct two entry features along Polo Club Boulevard, and one from the Blackford Property into the proposed development. The petitioner still intends to construct those entry features, but will need to move them back approximately 20 feet from the right-of-way. Mr. Sallee stated that the staff had no issue with the entry features shown, provided they were not located within the street right-of-way.

Zoning Action: A motion was made by Mr. Cravens and seconded by Ms. Richardson to approve MAR 2015-10, for the reasons provided by staff.

Discussion of Motion: Mr. Penn stated that he would not vote to approve this request, because he believed the EAR-1 zone was promised to the community as part of the EAMP process. He agreed that the zoning development plan was much improved from its original configuration, but opined that this request should be postponed because Greenbrier did not receive notice, and because the 500' notification did not suffice. Mr. Penn said that a recommendation of postponement would provide nearby residents who did not receive notice with an opportunity to express their opinions. He urged the other Commission members to recommend either disapproval or postponement of this request.

Mr. Owens noted that, at this point in the hearing, it would be more appropriate to "continue" consideration of this item, rather than "postpone" it.

Mr. Owens agreed with Mr. Penn, opining that the Greenbrier residents should have been notified of the proposed zone change. He asked if Mr. Cravens would be willing to withdraw his motion, in favor of a continuance. Mr. Cravens answered that he did not see any need to continue this request, as notice was provided to all property owners within 500', as required by law. He said that, unless the applicant chose to continue this hearing, he would maintain his motion for approval. Mr. Murphy indicated that the petitioner would like for this request to go forward at this time.

Zoning Action: Mr. Cravens' motion carried, 7-2 (Brewer and Plumlee absent; Owens and Penn opposed.)

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 8-1 (Brewer and Plumlee absent; Penn opposed) to approve ZDP 2015-52, subject to the 12 conditions as listed in the revised staff recommendation.

**B. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS**

1. **ZOTA 2015-6: AMENDMENT TO ARTICLE 17: CONSTRUCTION SCREENING SIGNAGE & IDENTIFICATION SIGNS IN BUSINESS & INDUSTRIAL ZONES** – an amended Zoning Ordinance text amendment to permit up to four identification signs to be placed on large commercial or industrial developments.

REQUESTED BY: MIA Brookhaven, LLC

PROPOSED TEXT: (Text underlined indicates an addition to the existing Zoning Ordinance.)

**ARTICLE 17: SIGN REGULATIONS**

**17-7(b) BASIC SIGN TYPES BY FUNCTION**

- (4) **BUSINESS SIGN** - A sign which directs attention to a business, profession, product, activity, or entertainment, sold or offered upon the premises where such sign is located, and may include information as for an identification sign.

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\* - Denotes date by which Commission must either approve or disapprove request.

