

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

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 desire 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 facilitate the process by distilling the Goals and Objectives, and Policies into a set of Development Criteria. In this case, the applicant has stated their objection to addressing the Development Criteria, which necessitates a full review of how they are complying with the Goals, Objectives, and Policies laid out in the Comprehensive Plan. Since the recommendation of postponement to allow for greater time to review the Goals, Objectives, and Policies, the applicant has not provided additional information as to how they are addressing the following Goals, Objectives, and Policies:

Theme B, Goal #3.d: Incorporate green infrastructure principles in new plans and policies, including, but not limited to, land use and transportation.

Theme C, Goal #1.d: Provide entertainment and other quality of life opportunities that attract young, and culturally diverse professionals, and a work force of all ages and talents to Lexington.

Theme A:

Design Policy 3: Multi-Family residential developments should comply with the Multi-Family Design Standards in Appendix A.

Design Policy #6: Adhere to the recommendations of the Lexington Area MPO Bike / Pedestrian Plan, Adopted in 2018.

Design Policy #12: Support neighborhood-level commercial areas.

Density Policy#3: Create opportunities for additional neighborhood supportive uses, especially in areas where services are lacking.

Density Policy #4: Generally, locate high-density areas of development along higher capacity roadways (minor arterial, collector) to facilitate future transit enhancements.

Density Policy #5: Provide Affordable and/or compact residential options through accessory dwelling units.

Equity Policy #1: Meet the demand for housing across all income levels.

Equity Policy #6: Provide flexibility for senior housing through accessory dwelling units.

Equity Policy #7: Community facilities should be well integrated into their respective neighborhoods.

Equity Policy #8: Housing developments should implement universal design principles on a portion of their units.

Theme B:

Protection Policy #10: Install iconic rural fencelines around major greenways to enhance their natural beauty.

Sustainability Policy #2: Promote Roadway, pedestrian and bicycle connectivity.

Restoration Policy #1: Protect and recover Lexington's Urban Forest by strategically planting new trees and creating walkable streetscapes.

Restoration Policy #2: Use green infrastructure to bridge gaps in the greenspace network.



Restoration Policy #4: Improve air quality by reducing the vehicle miles traveled (VMT).

Theme C

Livability Policy #6: Attract and retain young professionals by improving affordable housing opportunities, amenities, and entertainment options that are attractive to them.

Livability Policy #7: Continue to create a true multi-modal and mixed-use community with safe and quality access to community facilities, greenspace, employment, neighborhood businesses, shopping, and entertainment.

Livability Policy #8: Promote quality of life aspects, including greenspace, as an attraction to new businesses and residents.

Theme D

Connectivity Policy #2: Create multi-modal streets that satisfy all user needs.

Connectivity Policy #3: Provide equitable multi-modal access for those who do not drive due to age, disability, expense or choice.

Connectivity Policy #4: Design street networks that provide alternative route options, which reduces traffic congestion.

Connectivity Policy #6: Take a holistic approach to designing context-sensitive streets, addressing them within the framework of the county-wide network land use context and the needs of all users.

Placemaking Policy #4: Create quality and usable open space for all developments over one acre.

Placemaking Policy #7: Cultivate a more collaborative per-development process, incorporating community feedback before development is formally submitted for review.

Placemaking Policy #10: Coordinate with the Public Art Commission to designate public art easements on new development that would be curated by the Commission.

Support Policy #6: Ensure all social service and community facilities are safely accessible via mass transit, bicycle, and pedestrian transportation modes.

Support Policy #9: Implement creative housing opportunities that are both accessible and affordable for seniors and people with disabilities.

Theme E

Accountability Policy #5: Increase dedicated bike lanes, pedestrian and transit facilities in the existing right-of-way, focusing on moving people rather than exclusively single-occupancy vehicles.

Growth Policy #3: Provide varied, abundant, and connected greenspaces throughout Lexington's Urban and Rural Areas.

Growth Policy #9: Support the "Missing Middle Housing" types throughout Lexington.

In total, 42 Goals, Objectives and Policies are relevant to the requested zone change, yet the applicant has only addressed ten. Of those that have been addressed, the applicant has been exclusively focused on the Design Policies outlined in Theme A: Building Successful Neighborhoods in the 2018 Comprehensive Plan.

In addition to the various Goals, Objectives, and Policies that have not been addressed by the applicant, the recent modification in the location of the proposed zoning deviates from the Land Use Element of the Expansion Area Master Plan (EAMP). The EAMP, an adopted element of the 2018 Comprehensive Plan, detailed future land use, locations and densities throughout the Expansion Areas. The subject property, which is located within Expansion Area 2a, is recommended to have 20.41 acres of Expansion Area Residential-1 land use adjacent to the greenway. This was meant to allow for the development of a multi-modal transportation system that took full advantage of the greenway as a unifying feature and to locate low density residential, 0-3 dwelling units per acre, nearby the greenway. The amount of dwelling units within this land use for the subject property is recommended to be between 0 to 61 dwelling units. The remaining 20.08 acres of the subject property is recommended for the Expansion Area Residential-2 land use. This is intended to allow for an increase in density, 3-6 dwelling units per acre, or a total of 60 to 120 dwelling units. While there has been a modification in the location of the Blackford Parkway, which has necessitated a modification in the location of the park road, the applicant has proposed to flip the location of the EAR-1 and EAR-2 land uses. The EAR-2 land use is proposed to be located along the greenway, southwest of the



proposed roadway, and the EAR-1 land use is proposed to be located northeast of the proposed roadway, extending to the edge of the subject property. This change is not in agreement with the EAMP Land Use Element, an adopted element of the 2018 Comprehensive Plan.

In conclusion, the staff has determined that the applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, the applicant has deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change is not in agreement with the 2018 Comprehensive Plan.



Since the October Zoning Committee meeting, the applicant has provided staff with additional information regarding the alternative justifications for the proposed zone change. KRS 100.213 states that before any map amendment is granted, the Planning Commission must find that the map amendment is in agreement with the adopted Comprehensive Plan. In the absence of such a finding, KRS provides two potential options:

- (a) That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and/or
- (b) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

Since the staff cannot find that the zone change request is in agreement with the 2018 Comprehensive Plan, the Planning Commission should consider the applicant's justification that the current zoning for the subject property is inappropriate and that the proposed zoning is appropriate.

APPROPRIATE VS INAPPROPRIATE

The petitioner contends that the existing Agricultural Rural (A-R) zone is inappropriate and that the Expansion Area Residential-1 (EAR-1) and Expansion Area Residential-2 (EAR-2) zones are appropriate at this location. Utilizing this justification for a zone change necessitates the applicant to both address the inappropriateness of the current zoning and the appropriateness of the proposed zoning. Often the inappropriateness of a zone is focused on the physical limitations of the site, the inability to utilize the site due to the zoning restrictions, and/or the context of the surrounding area. The justification for the appropriateness of the proposed zoning is often based on the policies established by the legislative body, continuity of land uses, continuity of zoning, the feasibility of the use in association with the existing landscape, and the context of the surrounding properties or immediate area.

Inappropriate: A-R Zone

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. In terms of inappropriateness, this argument is 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, there is substantial evidence that shows that the proximity of farmland to urbanized localities can reduce some of the impacts of the urbanized environment, while also reducing costs for fresh and healthy foods for those living in urban areas.

However, within the additional material provided, the applicant goes further to discuss the limitations to the current land and available land uses. They state that the grade of the land, which slopes toward the floodplain, has made the use of the land for cattle production difficult. This resulted in the discontinuation of cattle production approximately 50 years ago. They also state that there has been little interest in utilizing the land for production of crops outside of the production of hay.

Furthermore, the ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property is approximately 40 acres of a much larger farm that



was added to the Urban Service Area (USA) boundary, via the adoption of the Expansion Area in 1996. Although the parcel is approximately 40 acres, it is limited because the subject property has a significant floodplain, which covers approximately 7.5 acres of land. The floodplain limits the ability to consistently utilize the property for crop production.

In the previous staff report, the staff discusses the fact that agricultural uses of land or agricultural uses of buildings or structures, which were lawful prior to the adoption of Article 23 of the Zoning Ordinance (Expansion Areas Zoning Categories and Restrictions) and would be otherwise prohibited, regulated, or restricted by the provisions of Article 23, shall be deemed permitted uses in the zone or district in which they are located and shall not be deemed non-conforming. This would continue to be the case should the property be rezoned, and until the property is developed.

Appropriate: EAR-1 & EAR-2 Zones

The applicant posits that the proposed zone change is compatible with the surrounding land uses and zoning, which supports their opinion regarding the appropriateness of the EAR-1 and EAR-2 land use and zones for the subject property. The areas located southeast of the subject property, across Man o' War Boulevard, are comprised primarily of residential land uses that are at a similar density as those being proposed for the subject property. Additionally, the residential density proposed for the subject property is within the range recommended for this area, and is similar to the densities found across Man o' War Boulevard within the immediate vicinity.

During and since the committee meetings, the applicant has also provided reasoning as to the appropriateness of the step-down in the residential land use for the portion of land between Polo Club Boulevard and Man o' War Boulevard. The applicant posits that it is appropriate to have the higher densities of residential land use against large collector streets, like EAR-3 land uses located along Polo Club Boulevard. The application states that it is more appropriate to step that from the highest intensity land uses, located along the interstate, to subsequently less intense uses as development extends towards the Urban Service Boundary. The proposed zone change would locate the EAR-2 zone adjacent to an existing the EAR-3 zone, providing for an appropriate step-down or buffer in land use from the least intense residential land use, found in the EAR-1 zone. Positioning higher density residential land uses adjacent to the greenway also allows for greater access for those residents to the open space, while also providing infrastructure that is needed for the proposed development.

Finally, sewer services have been built through a portion of the subject property to provide services to Expansion Area 2a. A trunk sewer line was constructed on this property in 2008, with a portion of the line located on the area that is proposed to be rezoned. This portion of the trunk line serves the residential and commercial uses east of Man o' War Boulevard, as well as the residential land use located to the south of the subject property. Due to the availability of these services and the location of the subject property within the Urban Service Area, the residential land uses available in the EAR-1 and EAR-2 zones are appropriate at this location.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, the applicant has deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change is not in agreement with the 2018 Comprehensive Plan.
2. The existing Agricultural Rural (A-R) zoning is inappropriate for the subject property, for the following reasons:
 - a. The grade of the subject property has resulted in the difficulty of utilizing agricultural uses and those conditional uses in the A-R zone.
 - b. The ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property was added to the Urban Service Area (USA) boundary, via the adoption of the Expansion Area in 1996 and has a significant area of land that is unsuitable for agricultural land uses due to the floodplain, which covers approximately 7.5 acres of land.
3. The proposed Expansion Area Residential-1 (EAR-1) Expansion Area Residential-2 (EAR-2) zones are appropriate for the subject property, for the following reasons:
 - a. The proposed zoning is compatible with the surrounding land uses and zoning at this location.
 - b. The proposed zoning presents an appropriate step-down in the residential uses from the highest intensity residential zoning to the lowest intensity, as the zoning in the area transitions away from the interstate corridor and Polo Club Boulevard toward the Urban Service Area boundary.
 - c. Positioning higher density residential land uses adjacent to the greenway at this location allows for greater access for those residents to the open space, while also providing connectivity and infrastructure that is needed for denser development.
 - d. The subject property is located within the Urban Service Area and is currently supported by urban services, including the transportation network and sewer services.
4. 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.
5. This recommendation is made subject to approval and certification of [PLN-MJDP-19-00036: Hamburg East \(Belhurst\)](#), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.