

ORDINANCE NO. 018- 2025

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1C) ZONE TO A TOWNHOUSE RESIDENTIAL (R-1T) ZONE, FOR 0.520 NET (0.756 GROSS) ACRES, FOR PROPERTY LOCATED AT 940 HIGBEE MILL ROAD. (REALTY UNLIMITED BLUEGRASS, LLC; COUNCIL DISTRICT 9).

WHEREAS, at a Public Hearing held on January 30, 2025, a petition for a zoning ordinance map amendment for property located at 940 Higbee Mill Road, from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 7-1-1; and

WHEREAS, the Urban County Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 940 Higbee Mill Road, from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres, being more fully described in Exhibit “A” which is attached hereto and incorporated herein by reference.


Section 2 – That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 3 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 20~~7~~2025


MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL
PUBLISHED: March 28, 2025-1t
0214-25:TWJ:4922-0342-0960, v. 1

Rec'd by _____

Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN- MAR-22-00016: REALTY UNLIMITED BLUEGRASS, LLC** – a petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres for property located at 940 Higbee Mill Road. (Council District 9)

Having considered the above matter on **January 30, 2025**, at a Public Hearing, and having voted **7-1-1** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The proposed Townhouse Residential (R-1T) zone is in agreement with the 2018 Comprehensive Plan and the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning encourages the expansion of housing choices by providing for townhome development in an area predominantly characterized by single-family detached development (Theme A, Goal #1.b).
 - b. By developing an underutilized parcel of land within the Urban Service Area, the proposal supports goals relating to redevelopment and strategic growth (Theme A, Goal #2.a; Theme E Goal #1.d).
 - c. By converting the dead end street into a usable cul-de-sac, the proposal improves the transportation network present in the area (Theme D, Goal#1.b).
2. The proposed R-1T zone is in agreement with the Policies of the 2018 Comprehensive Plan and the Imagine Lexington 2045 Comprehensive Plan for the following reasons:
 - a. By introducing attached townhome units into the area, the request increases the diversity in housing types (Theme A, Design Policy #8; Theme A, Density Policy #6).
 - b. The street system and pedestrian connections are appropriate for the context of the surrounding area (Theme D, Connectivity Policies #1 & 2).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2018 Comprehensive Plan and the Imagine Lexington 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location, as the proposal increases the density of development on an underutilized lot (A-DN2-1; E-GR9-4), introduces townhome units to the area (A-DN6-1; A-DS8-1), and avoids over parking (C-PS10-3).
 - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the proposal provides for an extension of the neighborhood's sidewalk network, and provides an appropriate termination for Higbee Mill Road (D-CO1-1; D-CO4-1).
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as the rezoning incorporates street trees (B-RE1-1) and does not impact any environmentally sensitive areas (B-PR2-1).
4. This recommendation is made subject to approval and certification of **PLN-MJDP-22-00059 Higbee Mill Court Lot 11** prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 21st day of February 2025.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

KRS 100.211(7) requires that the Council take action on this request by April 30, 2025

Note: The corollary development plan, PLN-MJDP-22-00059: HIGBEE MILL COURT, LOT 11 was approved by the Planning Commission on January 30, 2025 and certified on February 13, 2025.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Matt Miniard, applicant.**

OBJECTORS

- Lexi Holland, attorney for Claire and Clovis Collins, 3541 Cephas Way.

- Michelle Harr, President of the Higbee Mill Neighborhood Association.

OBJECTIONS

- Objected to this application because of Mr. Miniard's public engagement, which they characterized as antagonistic. Additionally, Mr. Miniard has filed a lawsuit against them and other neighbors alleging entitlement to portions of the right of way.
- Stated that the neighbors were not supportive of the project and were not in favor of denser townhome units at this location. The neighborhood was also concerned with the amount of parking proposed.

VOTES WERE AS FOLLOWS:

AYES:	(7)	Barksdale, Johnathon Davis, Forester, Penn, Pohl, Wilson, and Worth
NAYS:	(1)	Owens
ABSENT:	(1)	Zach Davis
ABSTAINED:	(1)	Michler
DISQUALIFIED:	(0)	

Motion for **APPROVAL** of **PLN-MAR-22-00016** carried.

Enclosures: Application
Justification
Legal Description
Plat
Development Snapshot
Staff Reports
Applicable excerpts of minutes of above meeting

Amended 09/4/2024

MAP AMENDMENT REQUEST (MAR) APPLICATION**1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)****Applicant:**

REALTY UNLIMITED BLUE GRASS LLC, PO BOX 910470, LEXINGTON, KY 40591

Owner(s):

REALTY UNLIMITED BLUE GRASS LLC, PO BOX 910470, LEXINGTON KY 40591

Attorney:**2. ADDRESS OF APPLICANT'S PROPERTY**

940 HIGBEE MILL RD, LEXINGTON, KY 40503

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing		Requested		Acreage	
		Use	Zoning	Use	Net	Gross
R-1C		VACANT	R-1T	TOWNHOUSE	0.520	0.756

4. COMPREHENSIVE PLAN

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	ENHANCED NEIGHBORHOOD
b. Utilizing Placebuilder, what Development Type is proposed for the subject site? If residential, provide the proposed density	LOW DENSITY RESIDENTIAL

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided)

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable



Realty Unlimited Blue Grass LLC
PO Box 910470
Lexington KY 40503
Phone 859-489-7611
Email; mminiard@windstream.net

Date 09/5/2024

Mr. Chairman Lexington-Fayette Urban Co Planning Commission 200 E. Main Street Lexington, KY 40507

Dear Chairman: I Matt Miniard Developer and the property owner Realty Unlimited Blue Grass LLC aka RUBG which has filed a zone change application and associated preliminary development plan for property located at 940 Old Higbee Mill Road 40503 in Lexington, Kentucky. The site is comprised of parcel totaling 22,651.20 sq.ft or .52 total acres. Bound West side single family home 936 Higbee Mill; Fronted by the right-of-way of Higbee Mill Road, Reared by Man-of -War, East Side Abandon ROW Higbee Mill "that now infested in invasive species honeysuckle". The site is located at the end of Old Higbee Mill Hidden Springs neighborhood that terminates into rear of Stone Creek neighborhood back of Cephes Way rendering it ideal for "LR Enhanced Neighborhood" @ E-GR9-4 re-development into Enhanced Neighborhood rearing Man Of War in "jaws mouth" building plan configuration @ A-DS10-2. Therefore, providing relief @ D-CO-4-1 within Place builder criteria

GOALS AND OBJECTIVES

I Matt Miniard Developer Owner President RUBG believe that my proposed development is in agreement with the 2024 Comprehensive Plan, specifically the Goals and Objectives that encourage expanding housing choices (Theme A, Goal # 1), support infill and redevelopment (Theme A, Goal # 2), A-DN2-1 (Theme B Solar facade site Sustainability # 7 and # 12) (Theme D, Goal # 1), and more specifically, accommodate the demand for housing in Lexington responsibly, prioritizing higher-density residential and a mixture of housing types (Theme A, Goal # 1, Objective B.)

ENGAGEMENT

I met with your staff on July 15, 2021 to discuss the proposed development and zone change request prior to filing the application with the Division of Planning. During the meeting, your staff suggested and was supportive of the redevelopment of the existing vacant lot into multifamily townhouses. In contrast the owner developer believes that a more appropriate use of site that better meets the market demand and community needs is 3 story apartments style building of 1 bedroom flats or condo's. Your staff was NOT totally averse to the developer owner desire for 3 story style apartment or condo buildings but prefer townhouse land use. The developer will concur with planning staff recommendations but only if concessions deem necessary to successfully achieve fulfillment of townhouses land use are granted to applicant as part of the zone change process.

Side yard of 3' adjoining 936 Higbee Mill; whereby, no obstacles like outside AC Units will be permitted to block access within the 3' side yard.

SITE DESCRIPTION

Brief development history; the site was created as remnant parcel with stub street termination into rear of 3 houses in the stone creek neighborhood. Additional investigation reveals this site is and remains undevelopable due to being plagued with numbers abandon and un-marked utilities easements. The developer has successfully negotiated most of the utility release's, had others consolidated, with ongoing negotiations with other utility stake holders on hold until final draft of development plan and obtainment of remaining Higbee Mill ROW is now resolved. The remaining portion of Higbee Mill abandon ROW was created by the construction of Man of War BLVD causing abrupt termination of one neighborhood Hidden Springs into another Stone Creek neighborhood. Therefore, being in direct conflict with 2024 Comprehensive plan "Stub Street".

The subject site is located within a mixed-use neighborhood that currently includes single family residences, commercial greenhouse use that is not compatible with the existing neighborhood, although the green house was established on this street in the mid-1970s their use is atypical; other street property types include 2 churches and residential homes of various densities. The 940 Higbee Mill site with its unique sitting at the terminated end of Old Higbee Mill backing to Man of War is ideal for townhouse enclave @ E-GR9-3 and EGR9-4. Thus the jaw mouth building lay out pattern creating A-DS10-2 while driving west to east on Man-of-War mitigating D-CO4-1. A new focal point well be created and enhanced the completion of the "50' turnaround" that was never built for reasons unknown will creating buffer space between the townhouses and rear of homes in Stone Creek neighborhood.

The gently rolling topography of the site with its gradual front to rear slope is ideal for partial basements or split-level design of the proposed townhouses. This design feature will blend and adapt utilitarian building design into the Bluegrass terrain creating visual illusion of smaller building size overall due to below grade construction. Creating roof tops elevations that visually "stair-step" the Hidden Springs roof lines into the Stone Creek roof lines faculties balance to and harmony within theme of "sence of space" aesthetics creating external stimulus of quality of transition with urban silhouette from all prospective.

PLACE-TYPE, DEVELOPMENT TYPE AND REQUESTED ZONE

The Place builder defines seven place-types within the Urban Service Area boundary. This location is "Enhanced Neighborhood" and the proposed development place-type is context-sensitive to the surrounding area and implemented in a way that adds sense to place. The immediate area is built out with no remaining buildable site except for the subject site. Whereby, low density multifamily is the most suitable development type for the site within the framework "LR Enhanced Neighborhood" based on planning staffs understanding of Placebuilder.

The subject site is currently located in a low density residential zone, and the applicant is proposing to re-zone the .52 acres for townhouse zoning. The proposed plan includes 7 unit townhouses represents a density of 3 dwelling units per acre. Matt Miniard Developer President of RUBG prides itself on the

quality of its SMART HOUSE product with foot print of 18 x 36 per unit; thus (18 x 36 x 6 = 3,888 sq.ft / 23,086.8 sq.ft = .168 site coverage ratio. Proposed plans to include partial brick facades for the townhouses that will “ jaw mouth” along the 164 LF frontage Higbee Mill with building roof line orientation towards the sun so to maximize solar technology meeting the goals at Sustainability #12. This complacent site nestled at the end of Higbee Mill will transition R-1 C single family to low density townhouses. Thus, transcending from single family residential land use into townhouse land use; utilizing the abandon Higbee Mill ROW into green space buffer; creating pocket of residential density; with sence of space of ambiance, and quality of setting, being unique, and not typically found in urban Lexington. Whereby meeting local, state, national and international goals, by reducing carbon foot print, by utilizing solar energy. Thus, reducing not only global warming prevention, better resource allocation, meeting all LFULG Planning and Zoning goals per 2018 comprehensive plan.

Whereby the applicant understands the vision of the community, as outlined in Imagine Lexington: The 2024 Comprehensive Plan. The mission statement, goals and objectives, and the Place builder are furthered by the owners proposed development and believe that the request is in agreement with the Comprehensive Plan for numerous reasons. Based upon the context of the site location, the owner developer believes the site most closely aligns with the “LR Enhanced Neighborhood” place-type. Therefore owner developer believes that the proposed low density townhouse zone is in agreement with the place-type definition, is a suitable development type and agrees with one of the recommended zones, as established by Placebuilder within the framework of Image Lexington vision of the community.

DEVELOPMENT CRITERIA

In attempt to further address the Place builder development criteria; applicant has prepared a "synopsis" annotated graphic of the proposed development plan ability to adapt to development criteria. However, numerous other development criteria deserve further explanation and you will find the following information helpful in determining that the requested zone change is in agreement with the Comprehensive Plan. There are several Placebuilder development criteria that are not applicable to the proposed zone change, only those that are applicable well be detailed.

Graph

The following design standards and criteria are being met, and are annotated on the development plan:

A-DN2-1; in fill residential should aim to increase density

A-DN6-1; Allow and encourage new compact single-family housing types

Site Design, Building Form & Location

A-DS5-3 ; Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere

A-DS11-1; Common public uses that serve as neighborhood focal points, such as parks and schools, should be on single loaded streets

B-PR9-1; Minimize disturbances to sensitive areas by utilizing the existing topography to the greatest extent possible

B-SU11-1; Green infrastructure should be implemented in new development (E-GR3)

D-SP3-1; Adequate ROW, lease areas and easements for infrastructure, with emphasis reliable service throughout Lexington.

E-GR9-3; less intense multi-family residence types (duplexes, four-plex's, courtyard apartments, etc) should be incorporated into primarily single-family areas

E-GR9-4; Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods (E-GR6)

Transportation & Pedestrian Connectivity

A-DS5-2; Roadways should provide a vertical edge, such as trees and buildings

A-DS10-2; new focal points should be designed with multimodal connections to the neighborhood

D-CO1-1; ROW and multimodal facilities should be designed to reflect and promote the desired place type

D-CO4-1; Dead end streets and Cul-de-sacs should be discouraged except where connections are not topographically or environmentally feasible

Green space & Environmental Health

A-EQ7-3; Community open spaces should be easily accessible and delineated from private open spaces

B-PR7-2; Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability

B-PR7-3; Developments should improve the tree canopy

B-RE1-1; Development should incorporate street trees to create a walk able streetscape

B-RE3-1; Green infrastructure should be used to connect the green space network

E-GR3-2; new focal points should emphasize geographic features unique to the site

In addition, the following information supports our assertion that the proposed zone change is in agreement with Imagine Lexington: The 2018 Comprehensive Plan. Based upon Density Policy # 1 (page 41), the subject property is not located along a major corridor; therefore, several of the development criteria are not applicable. In addition, this section of Higbee Mill does have a LexTran route available.

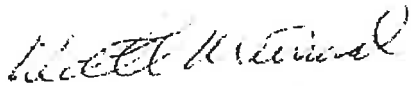
Site Design, Building Form & Location A-DS3-1 the applicant intends to meet the multi-family design standards at the time of the final development plan (A-DS3-1). At that stage, I will engage my architect to further demonstrate compliance with the site planning and architectural standards. For this stage, we will note compliance on the preliminary development both graphically and via a note. In addition, several of the site planning and open space & landscaping can be identified and addressed on the preliminary development plan. These include:

- orienting the proposed residential buildings to the street (SP.1),
- providing individual parking and entries to the townhomes
- Entrances are all visible and prominent from the street (SP.3),

The applicant is proposing to maximize the site to provide appropriate infill and redevelopment and to meet the need for more households in Fayette County with the proposed A-DN2-2 Townhomes. The balance of the neighborhood would benefit from the redevelopment of the site for residential land use since it will be more context sensitive creating new focal point with acquisition of the abandon ROW of Higbee Mill with single loaded street, and removal of the invasive Honeysuckle.

In conclusion I want to thank you for the favorably consider of the proposed zone change and its relationship to fulfilling the mission, goals, objectives and policies of Imagine Lexington: The 2018 Comprehensive Plan. The applicant has compiled the .52 acres of land in order to make significant improvements to the City Of Lexington image of prosperity and equity. Again Thank, you for your consideration of my proposed zone change and look forward to presenting my case at the public hearing on February 23, 2023. After which that should result in obtainment of zone change request, requested variances, acquisition of now abandon Higbee Mill ROW . I Matt Miniard owner developer will welcome questions and provide answers about my proposed development between now and the public hearing.

Thank You In Advance



Matt Miniard Developer, President RUBG

Realty Unlimited Blue Grass LLC

Date

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GOALS AND OBJECTIVES

I Matt Miniard Developer Owner President RUBG believe that my proposed development is in agreement with the 2018 Comprehensive Plan, specifically the Goals and Objectives that encourage expanding housing choices (Theme A, Goal #1), support infill and redevelopment (Theme A, Goal #2), A-DN2-1(Theme B Solar facade site # Sustainability #7 and # 12 (Theme D, Goal #1), and more specifically, accommodate the demand for housing in Lexington responsibly, prioritizing higher-density residential and a mixture of housing types (Theme A, Goal #1, Objective b.)

ENGAGEMENT

I met with your staff on July 15, 2021 to discuss the proposed development and zone change request prior to filing the application with the Division of Planning. During the meeting, your staff suggested and was supportive of the redevelopment of the existing vacant lot into multifamily townhouses. In contrast the owner developer believes that a more appropriate use of site that better meets the market demand and community needs is 3 story apartments style building of 1 bedroom flats or condo's. Your staff was not totally averse to the developer-owner desire for 3 story style apartment or condo buildings but prefer townhouse land use. The developer will concur with planning staff recommendations but only if concessions deem necessary to successfully achieve fulfillment of townhouses land use are granted to applicant as part of the zone change process.

Side yard of 3' adjoining 936 Higbee Mill.

25' front building line site back

The remaining abandon portion of Higbee Mill ROW deeded to RUBG for incorporation into final development plan for fillment of the criteria at LR Enhanced Neighborhood focal point, created single-loaded street.

SITE DESCRIPTION

Brief development history the site was created as remnant parcel with stub street termination into rear of 3 houses in the stone creek neighborhood. Additional investigation reveals this site was undevelopable due to being plagued with numbers abandon and un marked utilities easements. The developer has successfully negotiated most of the utility release's, had others consolidated, with ongoing negotiations with other utility stake holders on hold until final draft of development plan and obtainment of remaining Higbee Mill ROW is resolved. The remaining portion of Higbee Mill abandon ROW was created by the construction of Man of War BLVD causing abrupt termination of one neighborhood Hidden Springs into another Stone Creek neighborhood. Therefore, being in direct conflict with 2018 Comprehensive plan "Stub Street".

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The gently rolling topography of the site with its gradual front to rear slope is ideal for partial basements or split-level design of the proposed townhouses. This design feature will blend and adapt utilitarian building design into the Bluegrass terrain creating visual illusion of smaller building size overall due to below grade construction. Creating roof tops elevations that visually "stair-step" the Hidden Springs roof lines into the Stone Creek roof lines faculties balance to and harmony within theme of "sence of space" aesthetics creating external stimulus of quality of transition with urban silhouette from all prospective.

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with no remaining buildable site except for the subject site. Whereby, low density multifamily is the most suitable development type for the site within the framework "LR Enhanced Neighborhood" based on planning staffs understanding of Placebuilder.

The subject site is currently located in a low density residential zone, and the applicant is proposing to re-zone the .53 acres for townhouse zoning. The proposed plan includes 6 unit townhouses represents a density of 3 dwelling units per acre. Matt Miniard Developer President of RUBG prides itself on the quality of its SMART HOUSE product with foot print of 18 x 36 per unit; thus (18 x 36 x 6 = 3,888 sq.ft / 23,086.8 sq.ft = .168 site coverage ratio. Proposed plans to include partial brick facades for the townhouses that will "saw tooth" along the 164 LF frontage Higbee Mill with building roof line orientation towards the sun so to maximize solar technology meeting the goals at Sustainability #12. This complacent site nestled at the end of Higbee Mill will transition R-1 C single family to low density townhouses. Thus, transcending from single family residential land use into townhouse land use; utilizing the abandon Higbee Mill ROW into green space buffer; creating pocket of residential density; with sence of space of ambiance, and quality of setting, being unique, and not typically found in urban Lexington. Whereby meeting local, state, national and international goals, by reducing carbon foot print, by utilizing solar energy. Thus, reducing not only global warming prevention, better resource allocation, meeting all LFULG Planning and Zoning goals per 2018 comprehensive plan.

Whereby the applicant understands the vision of the community, as outlined in Imagine Lexington: The 2018 Comprehensive Plan. The mission statement, goals and objectives, and the Place builder are furthered by the owners proposed development and believe that the request is in agreement with the Comprehensive Plan for numerous reasons. Based upon the context of the site location, the owner developer believes the site most closely aligns with the "LR Enhanced Neighborhood" place-type. Therefore owner developer believes that the proposed low density townhouse zone is in agreement with the place-type definition, is a suitable development type and agrees with one of the recommended zones, as established by Placebuilder within the framework of Image Lexington

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A-DS5-3 ; Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere

A-DS11-1; Common public uses that serve as neighborhood focal points, such as parks and schools, should be on single loaded streets

B-PR9-1; Minimize disturbances to sensitive areas by utilizing the existing topography to the greatest extent possible

B-SU11-1; Green infrastructure should be implemented in new development (E-GR3)

D-SP3-1; Adequate ROW, lease areas and easements for infrastructure, with emphasis reliable service throughout Lexington.

E-GR9-3; less intense multi-family residence types (duplexes, four-plex's, courtyard apartments, etc) should be incorporated into primarily single-family areas

E-GR9-4; Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods (E-GR6)

Transportation & Pedestrian Connectivity

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A-DS10-2; new focal points should be designed with multimodal connections to the neighborhood

D-CO1-1; ROW and multimodal facilities should be designed to reflect and promote the desired place type

D-CO4-1; Dead end streets and Cul-de-sacs should be discouraged except where connections are not topographically or environmentally feasible

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In addition, the following information supports our assertion that the proposed zone change is in agreement with Imagine Lexington: The 2018 Comprehensive Plan. Based upon Density Policy #1 (page 41), the subject property is not located along a major corridor; therefore, several of the development criteria are not applicable. In addition, this section of Higbee Mill does have a LexTran route available.

Site Design, Building Form & Location A-DS3-1 the applicant intends to meet the multi-family design standards at the time of the final development plan (A-DS3-1). At that stage, I will engage our architect to further demonstrate compliance with the site planning and architectural standards. For this stage, we will note compliance on the preliminary development both graphically and via a note. In addition, several of the site planning and open space & landscaping can be identified and addressed on the preliminary development plan. These include:

- orienting the proposed residential buildings to the street (SP.1),
- providing individual parking and entries to the townhomes
- Entrances are all visible and prominent from the street (SP.3),
- Variance for saw tooth 25 street setbacks for the area for the townhomes (SP.4),

The applicant is proposing to maximize the site to provide appropriate infill and redevelopment and to meet the need for more households in Fayette County with the proposed A-DN2-2 Townhomes. The balance of the neighborhood would benefit from the redevelopment of the site for residential land use since it will be more context sensitive creating new focal point with acquisition of the abandon ROW of Higbee Mill with single loaded street, and removal of the invasive Honeysuckle.

In conclusion I want to thank you for the favorably consider of the proposed zone change and its relationship to fulfilling the mission, goals, objectives and policies of Imagine Lexington: The 2018 Comprehensive Plan. The applicant has compiled the .53 acres of land in order to make significant improvements to the City Of Lexington image of prosperity and equity. Again Thank you for your consideration of my proposed zone change and look forward to presenting my case at the public hearing on@@@, 2021 After which that should result in obtainment of zone change request, requested variances, acquisition of now abandon Higbee Mill ROW . I Matt Miniard owner developer will welcome questions and provide answers about my proposed development between now and the public hearing.

Thank You In Advance



Matt Miniard Developer, President RUBG



September 13, 2024

LEGAL DESCRIPTION

REALTY UNLIMITED BLUE GRASS, LLC
Zone Change from R-1C to R-1T
940 Higbee Mill Road
Lexington, Fayette County, Kentucky

A TRACT OF LAND SITUATED SOUTH OF HIGBEE MILL ROAD AND NORTH OF MAN-O-WAR BOULEVARD IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

Beginning at a corner in the southwest right of way line of Higbee Mill Road common to Lots 10 and 11 of Higbee Mill Court (Plat Cabinet "J", Slide 884), thence North 19°25'00" East, 25.16 feet to the centerline of Higbee Mill Road as shown in Plat Cabinet "J", Slide 884; thence with said centerline South 66°31'29" East, 82.88 feet to the center of that portion of the old Higbee Mill Road right of way remaining; thence with the centerline of Old Higbee Mill Road South 28°53'20" East, 42.68 feet to a point corner to lot 11 of Higbee Mill Court (Plat Cabinet "J", Slide 884, thence continuing with lot 11 and the centerline of Old Higbee Mill Road for the following three calls: (1) South 28°53'20" East, 3.17 feet, (2) South 15°50'58" East, 42.25 feet, (3) South 23°06'35" West, 190.28 feet to the centerline of Man-O-War Boulevard as shown in Plat Cabinet "J", Slide 884; thence with said centerline for the following three calls: (1) North 66°56'32" West, 24.90 feet, (2) North 67°27'44" West, 47.12 feet, (3) North 68°15'34" West, 57.18 feet, thence North 19°25'00" East 229.07 feet passing the corner common to Lots 10 and 11 of Plat Cabinet "J", Slide 848 to the point of beginning, containing in gross area 0.756 acres and a net area of 0.520 acres, more or less.

This description has been prepared by Garrett O'Brian Ward, PE, PLS, Palmer Engineering Company, PO Box 0747, Winchester, KY 40392-0747 using adjusted information from Plat Cabinet "J", Slide 884 and does not represent a survey by Palmer Engineering Company.

BEC **BALDWIN ENGINEERING CORPORATION**

116 South Highland Street P.O. Box 4315
Winchester, Kentucky 40392-4315
(859) 744-6943 (phone)

CONSULTING ENGINEERS
becrlb@att.net (e-mail)
(859) 744-2558 (fax)

March 8, 2022

File No. 22-6279

LEGAL DESCRIPTION

REALTY UNLIMITED BLUE GRASS, LLC
Zone Change from R-1C to R-1T
940 Higbee Mill Road
Lexington, Fayette County, Kentucky

A TRACT OF LAND SITUATED SOUTHWEST OF HIGBEE MILL ROAD AND NORTHEAST OF MAN-O-WAR BOULEVARD IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

Beginning at a corner in the southwest right-of-way line of Higbee Mill Road common to Lots 10 and 11 of Higbee Mill Court (Plat Cabinet "J", Slide 884), thence N.19°25'00"E. 26.06 feet to the centerline of Higbee Mill Road as shown in Plat Cabinet "J", Slide 884; thence with said centerline S.66°31'29"E. 104.66 feet to the center of that portion of the old Higbee Mill Road right-of way remaining after the transfer of Parcel 1 (Plat Cabinet "J", Slide 884); thence with said center of remaining right-of-way three calls as follows: (1) S.28°53'20"E. 29.32 feet, (2) S.15°50'58"E. 47.99 feet, (3) S.23°09'15"W. 195.84 feet to centerline of Man-O-War Boulevard as shown in Plat Cabinet "J", Slide 884; thence with said centerline three calls as follows: (1) N.66°56'32"W. 37.12 feet, (2) N.67°27'44"W. 47.12 feet, (3) N.68°15'34"W. 57.18; thence N.19°25'00"E. at 60.05 feet passing a corner common to Lots 10 and 11, in all 229.21 feet to the point of beginning, containing a gross area of 0.836 acre and a net area of 0.520 acre, more or less.

This description has been prepared by Robert L. Baldwin, PE, PLS, Baldwin Engineering Corporation, P O Box 4315, Winchester, KY 49092-4315 using adjusted information from

Plat Cabinet "J", Slide 884 and does not represent a survey by Baldwin Engineering Corporation.

C:\CORRESPONDENCE\MINIARD-22-03-08.DOC

**REALTY UNLIMITED BLUE GRASS, LLC
(PLN-MAR-22-00016)**

Rezone the property to allow for an attached townhome development.

940 Higbee Mill Road

Applicant/ Owner

REALTY UNLIMITED BLUE GRASS, LLC
PO BOX 910470
LEXINGTON, KY 40511

Application Details

Acreage:

0.52 net (0.756 gross) acres

Current Zoning:

Single family residential (R-1C) zone

Proposed Zoning:

Townhouse Residential (R-1T) zone

Place-type / Development Type:

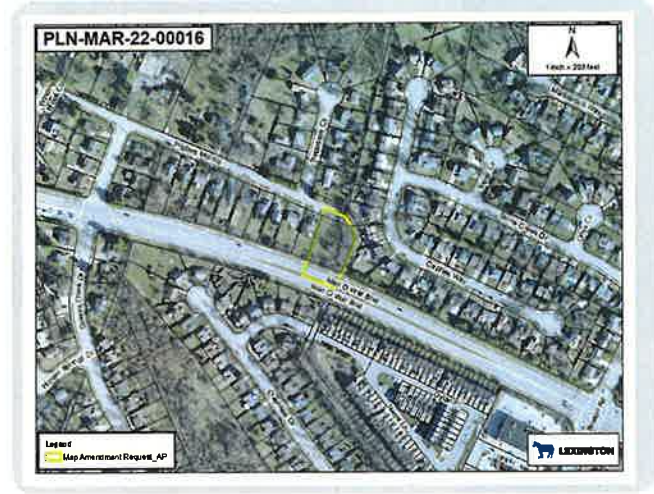
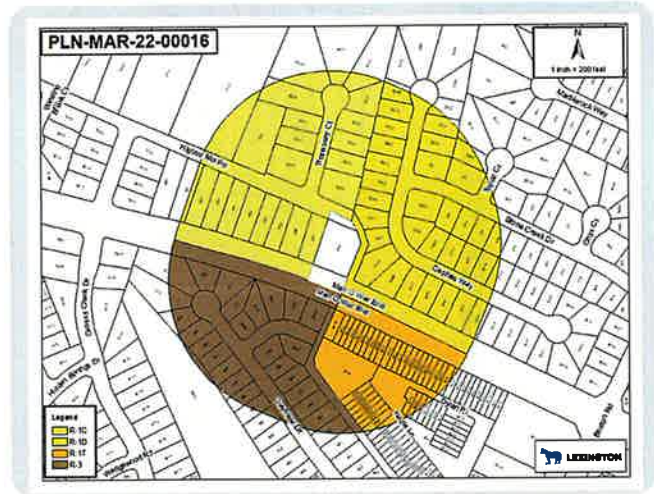
Enhanced Neighborhood

Low Density Residential

For more information about the Enhanced Neighborhood Place-Type see Imagine Lexington pages 328-337. For more information on Low Density Residential Development Type see page 270.

Description:

The applicant is seeking to rezone the subject property to the Townhouse Residential (R-1T) zone to allow for the construction of a 7-unit attached townhome development.



Status

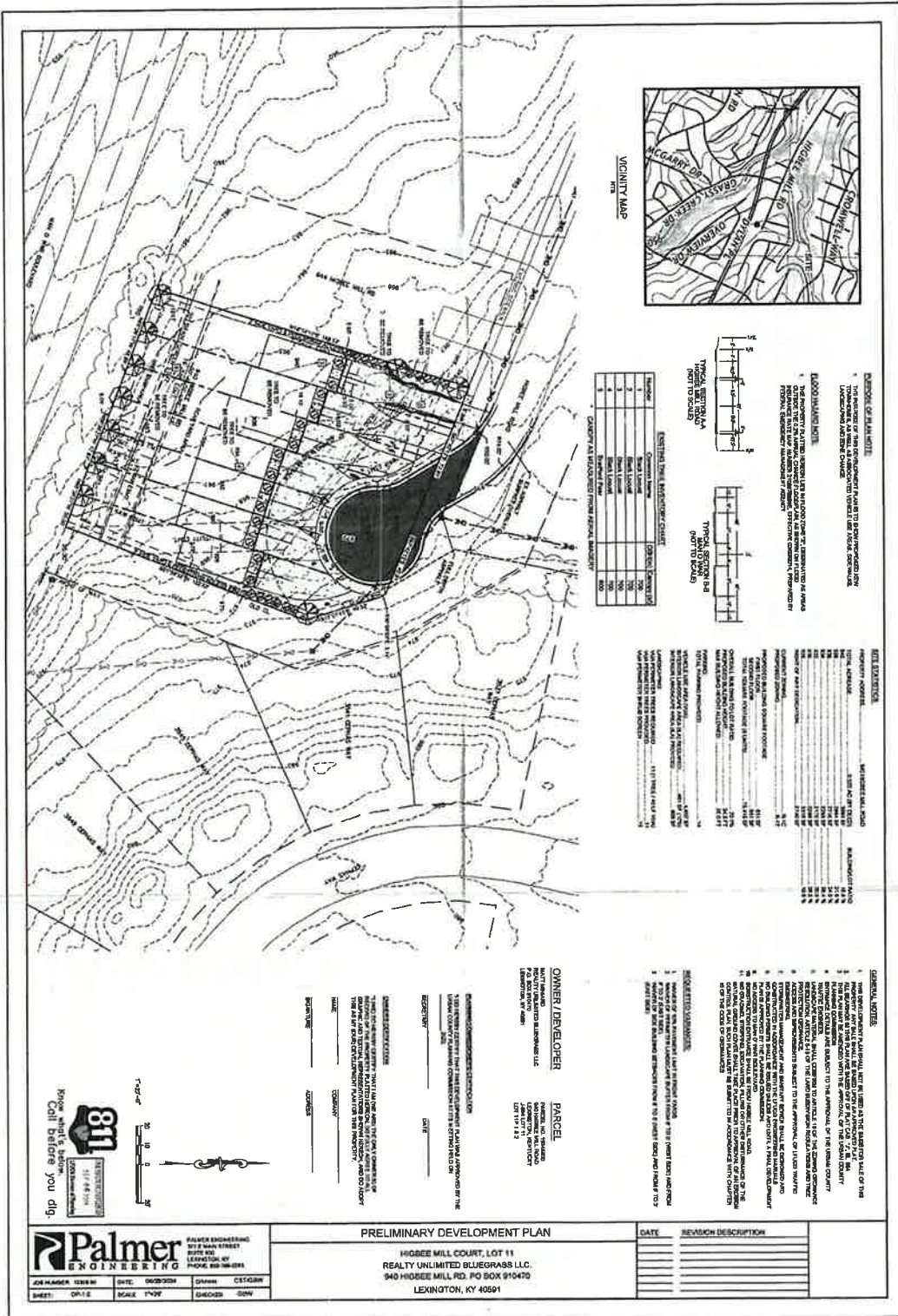
- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

Public Engagement

- The applicant has not indicated what public engagement they have conducted.

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal (lexingtonky.gov/plans) or contact Planning for the latest information.

Development Plan



ENTIRE TRACT

Item	Area (sq. ft.)	Area (Acres)
1. Total Area	1,200,000	27.47
2. Hobee Mill Court	100,000	2.28
3. Pond	100,000	2.28
4. Other	1,000,000	22.91
5. Total	1,200,000	27.47

GENERAL EXHIBIT

Item	Area (sq. ft.)	Area (Acres)
1. Total Area	1,200,000	27.47
2. Hobee Mill Court	100,000	2.28
3. Pond	100,000	2.28
4. Other	1,000,000	22.91
5. Total	1,200,000	27.47

- GENERAL NOTES:**
1. THIS DEVELOPMENT PLAN SHALL NOT BE USED AS THE BASIS FOR ANY OTHER DEVELOPMENT OR CONSTRUCTION.
 2. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.
 3. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.
 4. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.
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 6. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.
 7. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.
 8. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.
 9. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.
 10. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL GOVERNMENT.

Palmer
ENGINEERING

301 E MAIN STREET
LEXINGTON, KY 40502
TEL: 606-253-1111
WWW.PALMERENGINEERING.COM

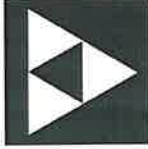
DATE: _____
DRAWN BY: _____
CHECKED BY: _____

PRELIMINARY DEVELOPMENT PLAN

HOBEE MILL COURT, LOT 11
REALTY UNLIMITED BLUEGRASS LLC
940 HOBEE MILL RD, PO BOX 910470
LEXINGTON, KY 40561

DATE	REVISION DESCRIPTION

THIRD SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00016: REALTY UNLIMITED BLUE GRASS, LLC



STAFF REVIEW

In the period following the December Subdivision and Zoning Committee meetings, the applicant submitted a revised development plan for their rezoning request. The revised development plan provides an adequate termination of Higbee Mill Road, through a cul-de-sac with a 40-foot wide radius. The revised development plan reduces the number of townhome units from seven (7) to six (6). In reducing the unit count, the development is now able to meet the minimum setbacks, and has withdrawn their variance requests. In order to meet ordinance requirements, the applicant has reduced the amount of paving within the required front yard areas, and has reduced the provided parking from fourteen (14) spaces to six (6) spaces.

PUBLIC ENGAGEMENT

Throughout the zone change process, Planning Staff has emphasized the need to conduct public outreach with the surrounding neighborhood. In the period since the December Zoning Committee, the applicant has provided their correspondence with the Higbee Mill Neighborhood Association representatives. Ultimately, the neighborhood representatives indicated that they were not in favor of the project, citing concerns with the number of units at that location, and declined to meet in-person for further discussion.

DEVELOPMENT CRITERIA

The revised plan also addresses several of the Development Criteria previously identified by staff as requiring further clarification.

A-DS5-3: Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.

While parking is still being provided in front of the townhomes under the revised design, the parking areas are significantly reduced in scope, and the applicant is proposing street tree plantings to help mitigate the visual impact of these areas. The redesigned parking areas have paired driveways, resulting in three curb cuts for the development, instead of the seven individual curb cuts proposed under the initial request. These changes result in a design that is friendlier to pedestrians.

D-CO1-1: Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.

The initial design of the proposed cul-de-sac termination of Higbee Mill Road that did not meet the minimum requirements of the Land Subdivision Regulations. The updated design accommodates sufficient right-of-way, and provides connections to the existing sidewalk network.

C-PS10-3 Over-parking of new developments should be avoided; A-DS7-1 Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.

The revised proposal reduces the number of parking spaces provided on-site from fourteen (14) to six (6), significantly reducing the amount of impervious surface on each lot, and reducing the visual impact on the front of the property. When possible, the Comprehensive Plan encourages parking to be located to the rear of developments; however, due to the need to provide an appropriate termination of Higbee Mill Road, the applicant has limited room to also accommodate an additional two-way driveway and parking in the rear of the site.

D-PL7-1 Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.

The applicant provided information regarding the project to the respective neighborhood association, and offered to meet with the group. The neighborhood association declined the invitation to meet, and submitted a letter of opposition to the project, citing concerns with the number of units proposed on the lot. While these

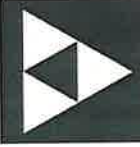
efforts should occur prior to the submission of an application, the applicant has demonstrated an attempt to engage public feedback before moving forward with the application.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The proposed Townhouse Residential (R-1T) zone is in agreement with the 2018 Comprehensive Plan and the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning encourages the expansion of housing choices by providing for townhome development in an area predominantly characterized by single-family detached development (Theme A, Goal #1.b).
 - b. By developing an underutilized parcel of land within the Urban Service Area, the proposal supports goals relating to redevelopment and strategic growth (Theme A, Goal #2.a; Theme E Goal #1.d).
 - c. By converting the dead end street into a usable cul-de-sac, the proposal improves the transportation network present in the area (Theme D, Goal#1.b).
2. The proposed R-1T zone is in agreement with the Policies of the 2018 Comprehensive Plan and the Imagine Lexington 2045 Comprehensive Plan for the following reasons:
 - a. By introducing attached townhome units into the area, the request increases the diversity in housing types (Theme A, Design Policy #8; Theme A, Density Policy #6).
 - b. The street system and pedestrian connections are appropriate for the context of the surrounding area (Theme D, Connectivity Policies #1 & 2).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2018 Comprehensive Plan and the Imagine Lexington 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location, as the proposal increases the density of development on an underutilized lot (A-DN2-1; E-GR9-4), introduces townhome units to the area (A-DN6-1; A-DS8-1), and avoids over parking (C-PS10-3).
 - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the proposal provides for an extension of the neighborhood's sidewalk network, and provides an appropriate termination for Higbee Mill Road (D-CO1-1; D-CO4-1).
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as the rezoning incorporates street trees (B-RE1-1) and does not impact any environmentally sensitive areas (B-PR2-1).
4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00059 Higbee Mill Court Lot 11 prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00016 REALTY UNLIMITED BLUE GRASS, LLC (AMD)



STAFF REVIEW

In 2022, the applicant opted to postpone their zone change request for the property located at 940 Higbee Mill Road. In September of 2024, the applicant re-activated the request, revised the acreage for the rezoning, submitted a revised development plan, and provided an updated letter of justification.

The applicant's shift in gross acreage from the initial request, from 0.836 gross acres to 0.756 gross acres, reflects the removal of portions of remnant Higbee Mill Road right-of-way that belongs to the adjoining property owners.

This change in acreage also necessitated a change in the applicant's proposed access design, which previously utilized portions of the remnant right-of-way for access to the site. The updated design no longer encroaches into these areas; however, it appears that the proposed radius of the new cul-de-sac does not meet the minimum requirements for a public road. The applicant's revised development plan still details seven (7) townhome units accessed from this cul-de-sac; however, the frontages of the units are located at a more uniform depth than the previous design, which staggered each unit vertically. It does not appear that the proposed townhome configuration meets the required side yard setbacks for the R-1T zone. While the applicant has the ability to request variances from required setbacks within the process of applying for a zone change, the applicant has opted not to request relief from those provisions at this time.

The applicant's revised letter of justification provides an overview of the history of the project, describes their proposal, speaks to the design of the townhome units, and opines that the request will intensify the site and provide a denser residential product.

DEVELOPMENT CRITERIA

The initial staff report recommended Postponement, and identified a number of Development Criteria for the request that warranted further discussion. The applicant initially filed their application under the 2018 Comprehensive Plan before postponing, and so the plan is being evaluated using the Development Criteria that were applicable at the time. Staff would like to note that these criteria were largely unchanged with the adoption of the 2045 Comprehensive Plan.

A-DS5-3: Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.

The initial design for the access and parking areas featured front yards that were entirely paved with impervious surface and vehicular use area, and did not provide for any pedestrian connections to the neighborhood. While some green space has since been added, the applicant's revised design is still characterized by parking within the front yard area, and the applicant appears to exceed the maximum amount of impervious surface allowed by ordinance in the front yard area (60%). The applicant should provide information regarding the feasibility of locating parking to the rear of the units, which would allow for buildings oriented towards the streetscape, and reduce the need for impervious surface in the front yard area.

B-SU11-1: Green infrastructure should be implemented in new development. (E-GR3).

The applicant has not provided any information regarding green infrastructure on the site.



C-PS10-3: Over-parking of new developments should be avoided. (B-SU5)

In the time since the application was submitted in 2022, minimum parking requirements have been eliminated; however the applicant should examine alternate configurations for the parking areas so that the residential use is the primary focal point of the site.

D-PL71: Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.

The applicant has still not provided any information regarding their public outreach efforts.

A-DS5-2: Roadways should provide a vertical edge, such as trees and buildings; B-RE1-1: Developments should incorporate street trees to create a walkable streetscape.

The applicant's plan at this time does not utilize buildings or landscaping to provide a vertical edge along the roadway. The applicant's revised plan appears to show green space on each lot where trees near the roadway could be provided; however, there is no such notation provided on the plan.

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



1. The applicant should review potential locations for street trees along the frontage of the subject property (Theme B, Restoration Policy #1).
2. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the Enhanced Neighborhood Place-Type, and the Low Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS5-3: Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.
 - b. B-SU11-1: Green infrastructure should be implemented in new development. (E-GR3)
 - c. D-PL7-1: Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
 - d. A-DS5-2: Roadways should provide a vertical edge, such as trees and buildings.
 - e. B-RE1-1: Developments should incorporate street trees to create a walkable streetscape.
3. The proposal does not meet the required side yard setbacks for the R-1T zone, and appears to exceed the maximum amount of paving within the front yard areas, which may indicate that the proposed zone or the proposed density is not appropriate for the project.

SECOND SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00016 REALTY UNLIMITED BLUE GRASS, LLC



STAFF REVIEW

In the period following the October Planning Committee meetings, the applicant submitted a request for variances in order to reduce required side yard setbacks, required property perimeter landscaping, and increasing the amount of paving within the front yard area. Additionally, the applicant submitted a request for a waiver of the subdivision regulations pertaining to the proposed width of the cul-de-sac. To date, the applicant has not addressed the requests for further justification included within the previous staff report, nor did they provide any form of justification for the proposed variances.

Staff's consistent concern with this application has been the impact on the walkability and streetscape of Higbee Mill Road. The applicant's intent to maximize the number of homes on the parcel, while also maximizing parking in front of the homes results in a front yard area that are nearly 70% paved, with seven separate curb cuts. While the variance process provides relief from statutory requirements, the applicant must still demonstrate that their design is in agreement with the Comprehensive Plan. The proposal prioritizes parking over the built environment, does not create a pedestrian friendly environment, and is a significant shift in character from other development in the immediate vicinity (A-DS5-3).

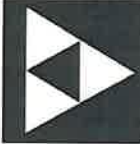
Within the original staff report in 2022, the supplemental staff report in 2024, and this secondary supplemental report, Planning Staff have emphasized the importance of conducting neighborhood outreach to discuss the proposal. Based on conversations with the applicant, it appears that the last contact to discuss the project came prior to the application submission in 2022, as part of the applicant's attempt to procure additional right-of-way from the remnant portion of Higbee Mill Road (D-PL7-1).

STAFF RECOMMENDS: **DISAPPROVAL**, FOR THE FOLLOWING REASONS:



1. The proposed zone change to the R-1T zone is not in agreement with the 2018 Comprehensive Plan or the 2045 Comprehensive Plan, for the following reasons:
 - a. The proposed development oriented towards the parking areas rather than the townhomes, and does not create a pedestrian friendly environment (A-DS5-3; D-C01-1).
 - b. The applicant has not demonstrated that they have made any attempt to engage the surrounding neighborhood regarding the updates to their proposal (D-PL7-1).
 - c. The request does not meet the requirements of the zoning ordinance, and the applicant has not provided any information or justification to support the variances that they are seeking.
2. The site's existing R-1C zone remains appropriate.
3. There has not been a significant physical, social, or economic change in the immediate area or to the subject property.

SUPPLEMENTAL STAFF REPORT ON VARIANCE REQUEST



The applicant is seeking dimensional variances to reduce their required side yards, property perimeter landscaping areas, and increasing the amount of impervious paving permitted within the required front yard area.

Before any variance is granted, the Planning Commission must find the following:

- a. The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Planning Commission shall consider whether:
 1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Planning Commission shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 15-3 states that where a property adjoins the side or rear yard of a lot in another zone, the side or rear yard in the zone with the less restrictive yard requirements shall equal the adjoining side or rear yard (as appropriate) of the zone with the more restrictive yard requirements

Article 8-7(i) states that the required side yard for the adjoining R-1C zone is eight (8) feet.

Article 8-8(j) states that the required rear yard for the adjoining R-1D zone is eight (10) feet.

Article 8-10(i) states that the required side yard for the R-1T zone is six (6) feet.

Article 18-3(a)1 states that any R-1T zone that is developed with more than two units must be provide a property perimeter buffer from adjoining residential zones. This buffer shall be eight feet adjacent to all common boundaries, and include one tree/40 feet of linear boundary, OFT2, from Group A, B, or C of Plant List plus a continuous six feet high planting, hedge, fence, wall, or earth mound.

Article 16-5(a)9 states the maximum amount of paved area, including private walkways, shall not exceed sixty percent (60%) of the total required front or side street side yard in residential zones.

CASE REVIEW

The preliminary development plan submitted by the applicant details seven townhome units located at the termination of Higbee Mill Road. In order to accommodate the seven (7) townhome units and 14 front yard parking spaces, the applicant is seeking a variance to reduce the required side yard where the property adjoins Single Family Residential (R-1C) zoning from eight (8) feet to five (5) feet; a variance to reduce the required side yard where the property adjoins Single Family Residential (R-1D) zoning from ten (10) feet to three (3) feet; a variance to reduce the perimeter property landscape buffer from fifteen (15) feet to three (3) feet where the property adjoins single-family residential zoning; and a variance to increase the maximum amount of paving permitted in the required front yard area from 60% to 68%.

Staff cannot support the request. The applicant has not demonstrated that they meet any of the criteria necessary in order to be granted a variance. The applicant has not detailed any special circumstances that justify the need for the variance. The applicant has not provided any information that installing the required buffers and reducing the front yard paving would deprive them of use of their property.

STAFF RECOMMENDS: **DISAPPROVAL, FOR THE FOLLOWING REASONS:**



1. The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity or in the same zone that justify the need for the variance.
2. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land. There is sufficient space on the property to install the required landscaping with a reduction in the structure sizes, or a decrease in the number of units provided.

DAC/TLW
11/6/2024

Planning Services/Staff Reports/MAR/2023/PLN-MAR-22-00016 REALTY UNLIMITED BLUE GRASS, LLC

1. **REALTY UNLIMITED BLUEGRASS, LLC ZONING MAP AMENDMENT AND HIGBEE MILL COURT, LOT 11 DEVELOPMENT PLAN**

- a. **PLN-MAR-22-00016: REALTY UNLIMITED BLUEGRASS, LLC (12/5/24)*** – a petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres for property located at 940 Higbee Mill Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 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.

The petitioner proposes the rezoning of the subject properties to the Townhouse Residential (R-1T) zone to allow the infill of the subject property with single family residential. The applicant is now seeking to construct six (6) single family attached dwelling units at a density of 11.54 dwelling unit per net acre.

The Zoning Committee Recommended: Disapproval.

The Staff Recommends: Disapproval, for the following reasons:

1. The proposed zone change to the R-1T zone is not in agreement with the 2018 Comprehensive Plan or the 2045 Comprehensive Plan, for the following reasons:
 - a. The proposed development oriented towards the parking areas rather than the townhomes, and does not create a pedestrian friendly environment (A-DS5-3; D-C01-1).
 - b. The applicant has not demonstrated that they have made any attempt to engage the surrounding neighborhood regarding the updates to their proposal (D-PL7-1).
 - c. The request does not meet the requirements of the zoning ordinance, and the applicant has not provided any information or justification to support the variances that they are seeking.
 2. The site's existing R-1C zone remains appropriate.
 3. There has not been a significant physical, social, or economic change in the immediate area or to the subject property.
- b. **PLN-MJDP-22-00059: HIGBEE MILL COURT, LOT 11 (1/30/2025) *** - located at 940 Higbee Mill Road, LEXINGTON, KY.

Council District: 9

Project Contact: Matt Miniard/Palmer Engineering

Note: The purpose of this plan is to depict 6 townhomes, in support of the requested zone change from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone.

Note: The applicant submitted a revised plan on December 17, 2024 to address side yard requirements and street improvements. Based on that submittal, staff can offer the following revised recommendation

The Subdivision Committee Recommended: Approval, subject to the following revised conditions:

1. Provided the Urban County Council approves the zone change to R-1T; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Modify vehicular use area in front yards to comply with Article 16-5(a) and (b).
8. Modify dwelling unit setbacks to meet staggering requirements of Article 8-10 (o)(1).
9. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum presented the revised staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Single Family Residential (R-1C) zone to a

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres for property located at 940 Higbee Mill Road. Mr. Crum indicated that the applicant is proposing six attached townhouse units with the Enhanced Neighborhood Place Type and the Low Density Residential Development Type, and Mr. Crum indicated Staff was in agreement with those selections.

Mr. Crum stated that the surrounding area was primarily residential and that there were a number of easements that complicated the site, as well as a remnant piece of right of way that was intended to connect to Man O' War. That right of way became overgrown and Mr. Miniard was deeded a portion from the Urban County Government, and the adjoining property owners have the ability to claim their portions as well. Mr. Crum stated that many of the issues since this application was filed in 2022 were the appropriate termination of the roadway, and the initial dimensions of the applicant's proposed cul-de-sac was not an adequate way to address the issue and emergency vehicles would have difficulty accessing the site. Additionally, the number of units that the applicant was proposing needed variances in order to operate.

Mr. Crum indicated that the applicant had amended his development plan to include 6 townhome units and are able to meet all the appropriate setbacks, greenspace, and driveways to make the application meet the ordinance. Mr. Crum stated that the application was accommodating the need for housing, with different housing types, while maximizing the development of underutilized land.

Mr. Crum concluded by stating that Staff was recommending approval of this application and could answer any questions from the Planning Commission.

Commission Questions – Mr. Mike Owens asked why there was a reduction of parking spaces from 13 to 6. Mr. Crum stated that the original plan had two driveways per unit to unit and with the reduction of the amount of units, and a reduction in paving lead to just one driveway per unit.

Development Plan Presentation – Ms. Traci Wade oriented the Planning Commission to the location and characteristics of the subject property. Ms. Wade stated that the six structures will front onto Higbee Mill Road and their rears would abut onto Man O War Boulevard. Ms. Wade reiterated that the reduced shared driveways helped the structures meet the ordinance and would only accommodate one vehicle. Additionally, Ms. Wade stated that the townhomes were 1300 square feet and had backyards.

Ms. Wade went over the conditions for approval and stated that the Planning Commission needed to discuss the modification of the vehicular use area in the front yards and modifying the dwelling unit setbacks. Ms. Wade indicated that there would need to be a pushing back of the middle two dwelling units to allow the driveways to be a long enough to meet the ordinance.

Ms. Wade concluded by stating that Staff is recommending approval with these conditions and could answer any questions from the Planning Commission.

Commission Questions – Ms. Worth asked if there will be any other places for people to park with this current configuration. Ms. Wade stated that the cul-de-sac allowed for some additional parking, but that Higbee Mill Road is a low density area and there should be plenty of spaces to park.

Mr. Michler asked what the zone to zone landscape buffer was between the adjoining residential zone and Mr. Crum indicated it was 8 feet.

Applicant Presentation – Matt Miniard, applicant, stated that this development was a "labor of love" and that this project was safe, eliminating a stub street and allowing emergency vehicles to turn around safely. Mr. Miniard stated that he was praying for the Planning Commissions support and could answer any questions.

Public Comment – Lexi Holland, attorney for Claire and Clovis Collins, 3541 Cephass Way. The Collins' object to this application because of Mr. Miniard's public engagement that allegedly included late night house calls to neighbors where the police was called and baseless Zoning Enforcement calls to antagonize them. Additionally, Mr. Miniard has filed a lawsuit against them and other neighbors alleging entitlement to portions of the right of way. Ms. Holland stated that she did not believe the application met the requirements to be granted a zone change.

Michelle Harr, President of the Higbee Mill Neighborhood Association, stated that the neighbors had nothing good to say about this project and these townhouses are being jammed down their throats.

Applicant Rebuttal – Mr. Miniard stated that when Higbee Mill was first created, the city of Lexington was required to build a court at this location that was never built and he is trying to fix the safety and soundness issue of a stub street. In response to questions about parking, Mr. Miniard stated that there was enough parking on Higbee Mill to accommodate guests and residents.

To the allegations from the neighborhood and the Collins family, Mr. Miniard stated that it was not true and he has been trying to buy the right of way from the Collin's since 2016 and they would not do so. Mr. Miniard stated that he had spent thousands of dollars to resolve this issue for many years

Public Rebuttal – Ms. Holland, stated that her clients came to her after they had already bought their house and realized that parts of their backyard were abandoned right of way and they are entitled to that as the owners. Ms. Holland stated that this development does not alleviate any right of way issues.

Applicant Rebuttal – Mr. Miniard stated that there are a serious of mistakes here that are not his problem, and that the plan in front of the Planning Commission has taken years to get to this point and to be feasible. Mr. Miniard concluded by stating that he was trying to do the right thing and he would appreciate the Planning Commission's support.

Commission Questions – Ms. Worth asked Mr. David Filiatreau if Higbee Mill Road could accommodate the parking. Mr. Filiatreau stated that it looks like there is parking in the area, but most people park in their driveways and not a lot of on-street parking.

Mr. Johnathon Davis asked if Mr. Filiatreau thought that the neighbors could park safely here. Mr. Filiatreau stated that safe can be a little difficult to define but the fire trucks and emergency vehicle usually look for 20 feet but that is not an across the board rule. Mr. Filiatreau stated that Higbee Mill is 24 feet wide and with cars parking there it would reduce it down to just under 20 feet.

Ms. Ivy Barksdale asked if cars parking in the cul-de-sac allowed for emergency vehicles to fit. Mr. Filiatreau stated that its typical to limit parking in the cul-de sac for that reason.

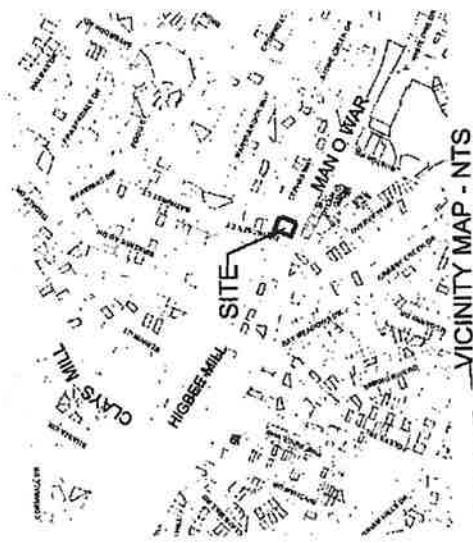
Mr. Wilson stated that this was the first application he could remember where police intervention was necessary during public engagement and he did not understand what the purpose of the lawsuit was and why the police was called.

Applicant Rebuttal – Mr. Miniard stated that he did not know anything about the police being called and had to file a lawsuit to resolve the right of way problem that Mr. Miniard says is an eyesore and environmental hazard. Mr. Miniard said he was trying to do the right thing again and asked for the Planning Commission to do the same.

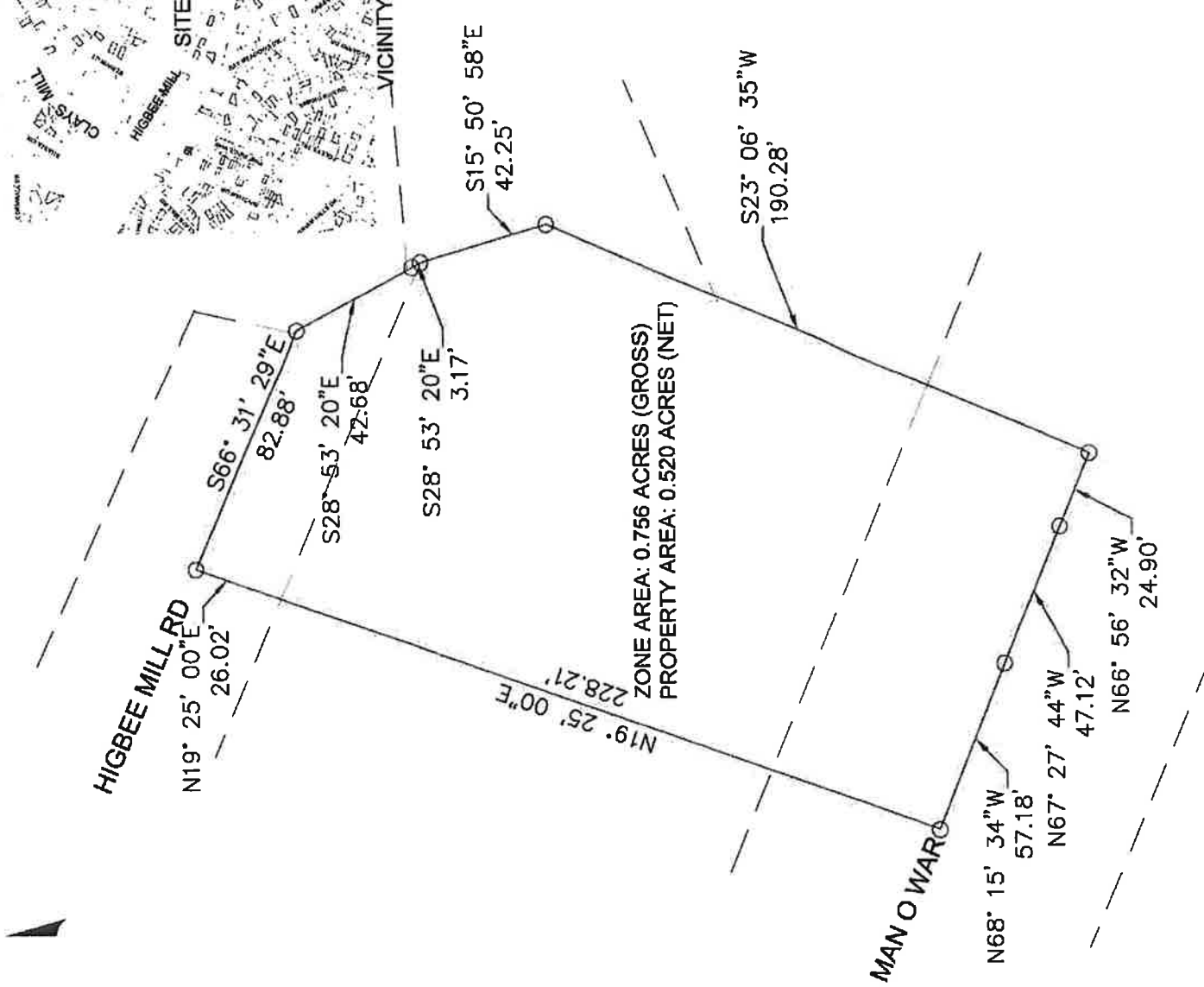
Commission Comments – Mr. Wilson stated that the Planning Commission's job here was to see if this application is in compliance with the Comprehensive Plan and the Staff has said that it does. He stated he understood where the neighbors were coming from but he would support the approval of the application.

Action – A motion was made by Mr. Wilson and seconded by Mr. J. Davis and carried 7-1-1(Z. Davis absent) (Owens opposed)(Michler abstained) to approve PLN-MAR-22-00016: REALTY UNLIMITED BLUEGRASS, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Wilson and seconded by Mr. J. Davis and carried 7-1-1(Z. Davis absent) (Owens opposed)(Michler abstained) to approve PLN-MJDP-22-00059: HIGBEE MILL COURT, LOT 11 with the nine conditions recommended by Staff.



VICINITY MAP - NTS

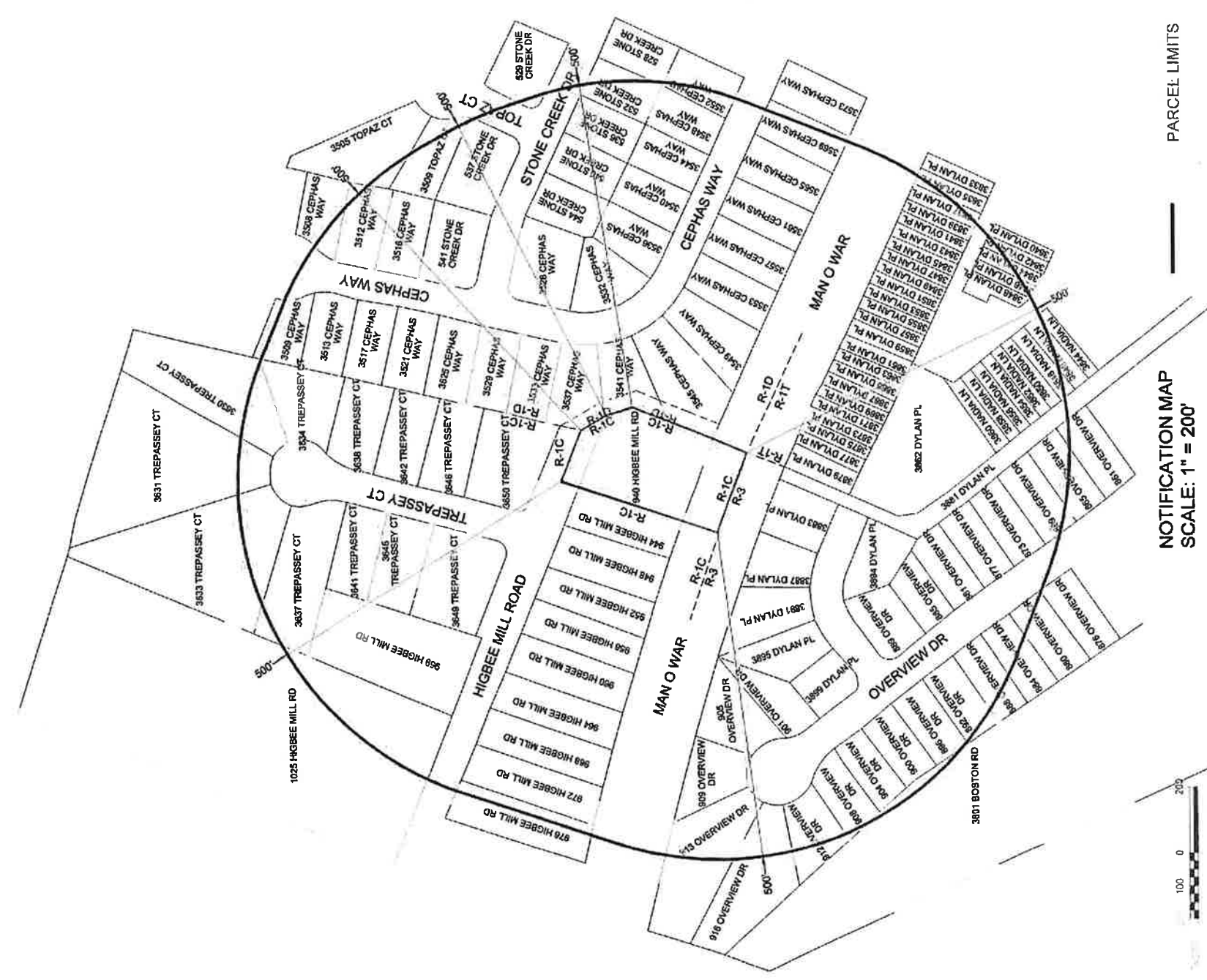


ZONE AREA: 0.756 ACRES (GROSS)
 PROPERTY AREA: 0.520 ACRES (NET)

ZONE BOUNDARY MAP
 SCALE: 1" = 50'



TITLE:	FROM	TO	NET	GROSS
REALTY UNLIMITED BLUEGRASS LLC.	R-1C	R-1T	0.520	0.756
PROPERTY ADDRESS: 940 HIGBEE MILL ROAD LEXINGTON, KY 40503				
APPLICANT / DEVELOPER: MATT MINIARD, AKA: REAL ESTATE DEVELOPER				
APPLICANT ADDRESS: P.O. BOX 910470, LEXINGTON, KY 40591				
OWNER NAME: REALTY UNLIMITED BLUEGRASS LLC				
OWNER ADDRESS: P.O. BOX 910470, LEXINGTON, KY 40591				
PREPARED BY: PALMER ENGINEERING COMPANY				
DATE FILED OR AMENDED: SEPTEMBER 15, 2022	TOTAL		0.520	0.756



NOTIFICATION MAP
 SCALE: 1" = 200'

PARCEL LIMITS

PROPERTY INFORMATION:
 LOT: 11p 1&2
 CABINET/SLIDE: J-884

PALMER ENGINEERING
 301 E. MAIN STREET
 SUITE 900
 LEXINGTON, KY 40507
 (859) 389-9293

