

1. WYNNDALE DEVELOPMENT, LLC ZONING MAP AMENDMENT & WINDING CREEK AT MONTICELLO ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00024 WYNNDALE DEVELOPMENT, LLC (9/3/17)*- petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1D) zone, for 10.14 net and gross acres, for property located at 3455 Saybrook Road.

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 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), by expanding housing choices (Goal #1), supporting infill and redevelopment (Goal #2) and providing well-designed neighborhoods (Goal #3). It also recommends protecting the environment (Theme B) by reducing the community's carbon footprint (Goal #2), supporting the community's green infrastructure program (Goal #3) and implementing the adopted environmental policy (Goal #2.a.); and recommends improving a desirable community (Theme D) through preservation and enhancement of urban neighborhoods. Lastly, the Plan also advocates that infill development be context sensitive and contiguous to accommodate future growth needs and sustain the Urban Service Area concept (Theme E, Goal #1).

The petitioner proposes to develop 18 detached single-family dwelling units, which would yield a residential density of 1.78 dwelling units per acre.

The Zoning Committee Recommended: Approval.

The Staff Recommended: Approval, for the following reasons:

1. The requested Single Family Residential (R-1D) zone is in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The 2013 Comprehensive Plan recommends infill and redevelopment that is compatible with and context-sensitive to its environment, and, in this case, with two established single-family neighborhoods.
 - b. The Plan also states that infill development can have a positive impact on neighborhoods, but only if it respects the scale, massing and size of surrounding buildings. The petitioner proposes a single-family residential zone that will promote infill of this site by contributing to the existing well-designed neighborhood (Theme A, Goals #2 and #3).
 - c. The R-1D zone will provide lots that are more in character and similar in lot frontage to those in the adjoining neighborhoods; therefore, the R-1D zone will encourage context-sensitive infill development at this location.
 - d. The 2013 Plan recommends single loaded streets when development is adjacent to greenways and open space throughout the community. The petitioner has proposed a partial single loaded street, which can provide a shared view and easier maintenance of the greenway (and floodplain) around the South Elkhorn Creek. This open design and protection of this floodplain helps to meet *Theme B: Protecting the Environment* and *Theme D: Improving Desirable Communities* of the Plan.
 - e. The proposed development is contiguous to existing development and is located within the Urban Service Area, where all utilities can easily be extended to serve the development of this site.
 2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00056: Winding Creek at Monticello, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-17-00056: WINDING CREEK AT MONTICELLO (9/3/17)* - located at 3455 Saybrook Road.
(EA Partners)

The Subdivision Committee Recommended: Approval. The tree inventory information is missing from this plan submission.

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

1. Provided the Urban County Council rezones the property R-1D; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Addition of tree size information in tree inventory information.

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

7. Addition of street tree information on plan.
8. Clarify trees to be removed on Lot 19 (if any).
9. Discuss maintenance of Lot 19.
10. Discuss plan status (Preliminary Subdivision Plan).

Staff Zoning Presentation – Ms. Wade said that there was one email sent to the staff, which she shared with the Planning Commission. She presented and summarized the staff report and recommendations for this zone change, and displayed photographs of the subject property and aerial photographs of the general area. She said the applicant is proposing 18 single family lots on the subject property, which is a density of 1.78 dwelling units per acre. She said that South Elkhorn creek does cross the subject property and a portion of the property is in a floodplain and is undevelopable. She gave a brief history of the subject property.

Ms. Wade said that prior to being rezoned to the current Agricultural Urban (A-U) zone, the subject property had been an industrial zone, private waste water plant, and then a park until the neighborhood got concerned about the environmental degradation of the property. She said the subject property has remained vacant since 1994, when a zone change proposal by Ball Homes was withdrawn. In 2015, the applicant proposed a zone change to an R-3 zone, for which the Planning Commission recommended disapproval. In 2016, the applicant proposed a zone change to another R-3 zone, which the Planning Commission recommended for approval; however, the Council disapproved the zone change.

Ms. Wade said the applicant contends that their application is in agreement with the 2013 Comprehensive Plan, Goals & Objectives, in terms of residential infill development. She said the staff is in agreement with the applicant that this zone change proposal is compliant with the 2013 Comprehensive Plan. She said that there is an open space area that will be maintained by the Homeowners Association, with the potential that it is given to the City.

Commission Question – Mr. Penn asked what the units per acre would be without the floodplain area in the equation. Ms. Wade replied that it would be approximately 3 or 4 units per acre.

Development Plan Presentation – Mr. Martin presented a rendering of this preliminary subdivision and a preliminary development plan, which was displayed, and he also handed out an updated staff report to the Commission with revised conditions, as follows:

The Staff Recommends: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-1D; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. ~~Addition of tree size information in tree inventory information~~ Denote size of existing sanitary sewer easement.
7. Addition of street tree information on plan.
8. ~~Clarify trees to be removed on Lot 19 (if any)~~ Denote lineal feet of proposed street in site statistics.
9. Discuss maintenance of Lot 19.
10. ~~Discuss~~ Denote plan status as both a (Preliminary Subdivision Plan) and a Preliminary Development Plan in the title block.

Mr. Martin said that there are 18 buildable lots, with the 19th lot being the floodplain. He pointed out the 25' setback off of the 100-year floodplain. He said there are only three lots that are less than 8,000 sq. ft. in size.

Mr. Martin said this development plan has been recommended for approval with a few conditions. He said the applicant needs to denote of size of the existing sanitary sewer easement, delineate street measurement in feet, and denote the status of the plan.

Mr. Martin said there has been a lot of discussion about the maintenance of the 4.9 acres of floodplain. He said the Urban County Council will decide if the City would accept and maintain this floodplain area. He commented on condition #19, that staff recommends the HOA maintain this lot. He also stated that there is a large sycamore tree that has been delineated outside of the buildable area and it will be protected.

Applicant Presentation – Jacob Walbourn, attorney, was present representing the petitioner. He congratulated the new members. He is also pleased to report to the Planning Commission that they have approval of the staff, the Robinwood Neighborhood association and Monticello Neighborhood association.

Mr. Walbourn addressed issues that Mr. Martin had mentioned regarding the sanitary sewer easement and that he doesn't believe that there is an actual recorded easement for that line, but he stated that they will make sure the easement is protected; however, there may need to be some sewage and utility line relocations. He also said that "the developer, 100% supports lot 19 going to the possession of the Urban County Government" and they are prepared to make that transfer. They are continu-

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ing to work with the Urban County Government to take ownership of the property; and, in the interim, they will note HOA maintenance unless and until it is accepted by the Urban County Government. He stated for the record that it isn't the applicant's desire that the HOA holds lot 19, they certainly do want to give it to the government and will continue to work so that can happen.

The following citizens were present for to this application:

Angela Carpenter, 3420 Stillwater Road, thanked Mr. Walbourn for meeting with the neighborhood residents to discuss their concerns. They are pleased that the applicant wants to develop the floodplain into a park. She stated that Renee Park Mooney has been communicating the neighborhood's desire for the City to take lot 19 as a greenspace, and, if not, the HOA will take over.

Robin Young, 3525 Berwyn Court, representing the Robinwood Neighborhood Association, also thanked Mr. Walbourn for meeting with the residents and said that this is a good example of how things can be worked out with discussions.

Janet Piechowski, 3451 Saybrook Road, said that she has objected to this development for the past 24 years and she is grateful for the work of the staff with the attempts to develop this property. She said that her property is currently the last house on the street, and she appreciates this development over the prior attempts.

Amy Clark, 628 Kastle Road, also thanked Jacob and staff. She said the latest revision of the preliminary development plan should include a tree protection plan, as the Zoning Ordinance requires. She asked if a note could be added to include that a tree protection plan shall be approved by Urban Forester.

Commission Comments – Mr. Wilson stated that the issue regarding the tree inventory map had been discussed in condition #4.

The following citizens were present in opposition to this application:

Otto Piechowski, 3451 Saybrook Road, said that the proposed development is good, but he is concerned about the sewage in the neighborhood. He said the homes that are downstream flow from this development are already having raw sewage flooding events. He asked for it to be resolved. He stated that he had purchased a portable sump pump that will pump into lot #19, and said that a neighbor has blocked the pipe, which causes more backup up into the street. He asked for the sewer line solution to be developed and installed, then be tested before this development is allowed to connect to it.

Petitioner Rebuttal – Mr. Walbourn said the applicant is mindful of the sewer issue, and there are guidelines that need to be met and that will satisfy the residents' concerns. He said that he had spoken with Charlie Martin of the Division Water Quality about the sewer improvements needed in this area and that the solution is on the way. He said that the applicant is trying to schedule the construction at the same as the sewer improvements to minimize disruption to the neighbors.

Mr. Walbourn also addressed the concern about the tree protection area. He stated that the sycamore tree mentioned is remaining and asked to have a condition imposed that the applicant work with the Urban Forester, and he doesn't believe there is a specific area of exclusion beyond that that the Urban Forester thinks is appropriate. He also said that he is gratified by the supportive comments.

Citizen Rebuttal, Mr. Piechowski said part of Mr. Walbourn's comment said that the condition that he suggested isn't legally allowed.

Ms. Clark said that a tree protection area is required on a preliminary subdivision plan and must be reviewed and approved by staff before approved by PC. She submitted the Zoning Ordinance into the record.

Staff Rebuttal – Mr. Martin said that a preliminary development plan doesn't require a tree protection plan, whereas it is required on a preliminary subdivision plan. He said that it could simply be added to condition #4 to read as follows:

4. Urban Forster's approval of tree inventory map and tree protection plan.

Mr. Martin also said to change condition #9 to the following:

9. ~~Discuss~~ Resolve maintenance of Lot 19.

Commission Question – Mr. Owens asked for clarification of the sewage overflow. He said that the sanitary sewers are a sign-off of the Division of Engineering. Mr. Martin said that the applicant will submit fully detailed construction plans that will be evaluated as to their design and function and they are aware of the problems in the area. Mr. Owens also asked if Engineering has any knowledge of the sewage overflow and the improvements for that issue. Mr. Martin stated that there has been discussion with the Division of Water Quality.

Mr. Wilson asked for clarification of Mr. Piechowski's comment regarding the sanitary sewer improvements. Mr. Walbourn said that at the initial meeting with the neighbors, several concerns were laid out - primarily around the floodplain lot, the density, and issues with the sanitary sewer. He said that he had contacted the Division of Water Quality and stated that they intend to do substantial rehabilitation and replacement work in this area. He said that the Division of Water Quality hasn't set a date and that the applicant is going to work with the Division of Water Quality to time the improvements together. He said that sanitary sewers will need to sign off on this plan, and it will be resolved prior to any occupation of these units.

Ms. Mundy asked what makes this new development different from any other new development and said that it isn't this developer's responsibility to fix or deal with the existing sewage issue. Mr. Martin said that is correct and that staff takes these things into account and coordinates issues. He stated that staff has been addressing this issue and redirecting the sump pumps to the proper areas.

Mr. Penn asked for clarification of lot 19 and the City taking over this lot and if they don't, if the HOA will maintain the lot from now on. Mr. Martin said that the HOA will maintain it until the government takes over, if they choose to do so.

Zoning Action – A motion was made by Mr. Brewer, seconded by Ms. Mundy, and carried 11-0 to approve PLN-MAR-17-00024: WYNNDALE DEVELOPMENT, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Brewer, seconded by Ms. Mundy, and carried 11-0 to approve PLN-MJDP-17-00056: WINDING CREEK AT MONTICELLO, with the revised conditions provided by the staff with the addition to condition #4 and the change of condition #9, as follows:

1. Provided the Urban County Council rezones the property R-1D; 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 and tree protection plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. ~~Addition of tree size information in tree inventory information~~ Denote size of existing sanitary sewer easement.
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