

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-16-00017: HAYMAKER DEVELOPMENT CO., LLC

DESCRIPTION

Zone Change: From a Highway Service Business (B-3) zone, with conditions
To a Highway Service Business (B-3) zone, with modified conditions

Acreeage: 1.44 net (1.85 gross) acres

Location: 3101 Wall Street

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	B-3	Vacant
To North	P-1	Professional Offices
To East	B-3	Hotels
To South	B-3	Commercial & Hotels
To West	B-3	Professional Offices

URBAN SERVICES REPORT

Roads – Beaumont Centre Circle forms a ring road within the Beaumont Farm development – northwest of the Harrodsburg Road interchange with New Circle Road. Beaumont Centre Parkway, a wide boulevard, connects this ring road to Harrodsburg Road (US 68), and provides access to the existing commercial uses on either side. Lakecrest Circle and Wall Street are local streets that provide access to the subject property, as well as other commercial and office uses in the area. No additional public or private streets are proposed with the current request to modify the existing conditional zoning restrictions.

Curb/Gutter/Sidewalks - Curbs, gutters and sidewalks exist within the Beaumont Centre development. Any additional sidewalks or cross-walks required for the development of the subject lot will need to be constructed by the developer.

Storm Sewers - The property is within the South Elkhorn watershed. There are no known flooding issues in the immediate vicinity of the subject property. No new storm water basins are expected to be constructed by the developer for this proposed change to conditional zoning restrictions.

Sanitary Sewers - The subject property is located within the South Elkhorn sewershed and is served by the West Hickman Treatment Plant, located in northeastern Jessamine County, near the Jessamine/Fayette County line. There is currently some sanitary sewer capacity in the Mint Lane sewershed, but the subject property has a “grandfathered” capacity of about 4,000 gpd under the provisions of the Capacity Assurance Program.

Refuse - Trash pickup is currently provided in this portion of the Urban Service Area on Mondays. Oftentimes, office and commercial developments hire private contractors to either replace or supplement the service provided by the Urban County Government. According to the application submitted with this zone change request, “other” private trash pickup will be provided to the proposed development in addition to service by the LFUCG.

Police - The nearest police station is the West Sector Roll Call Center, located on Old Frankfort Pike at its interchange with New Circle Road, a little more than three miles to the northwest of the subject property.

Fire/Ambulance - Fire Station #20 is located just ¼ mile south of this location across Harrodsburg Road, at the corner of Arrowhead Drive.

Utilities - Electric, gas, water, telephone, and cable television service are all available in the immediate area and can be easily extended to serve the subject property.

LAND USE 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 petitioner proposes alteration of the existing conditional zoning restrictions on the subject property to permit a surface parking lot or structure as a principal use in the existing B-3 zone.

CASE REVIEW

The petitioner has requested to modify conditional zoning restrictions, which prohibit several uses, including surface parking lots and/or parking structures as a principal use. Conditional zoning restrictions were first put in place portions of the Beaumont Farm development by the Urban County Council in 1990; however, the restrictions applicable to the subject property were first established in 2008 and later modified in 2014.

The subject property is about 1.5 acres in size and is located at the intersection of Lakecrest Circle and Beaumont Centre Circle, which forms an identifiable ring road within the Beaumont Farm development. The subject property also has frontage along Wall Street, which is a private roadway in the Beaumont Office Park. Beaumont Centre Circle connects to many other local streets serving residential and commercial development in Beaumont Farm, and provides access to the many existing commercial uses located between Harrodsburg Road and the subject property. The Beaumont Farm development is comprised of restricted B-3, B-6P, P-1 and R-3 zoning.

The Beaumont development has a long history of zone changes and development plan amendments since the first zone change was approved in 1990. When it was first re-zoned from an Agricultural Urban (A-U) zone, the 1988 Comprehensive Plan had a mixture of land use recommendations for Beaumont Farm. Prior to the adoption of the 1996 Comprehensive Plan, a sub-committee was formed, consisting of neighborhood residents representing the nearest neighborhood association in the area at the time; Planning Commission members; Planning staff; the developer of the property; attorneys and design professionals. Its purpose was to discuss future development within the Beaumont area. The group met from late 1995 to early 1996, and a lengthy report (with recommendations) was forwarded to the Planning Commission at its conclusion. That ended a two-year period where the amount of commercial acreage that should be provided in the Beaumont Farm development was reviewed in detail by the Planning Commission. In 2005, this issue was revisited, in essence, when about 1/3 of the land inside Beaumont Centre Circle was rezoned to B-3, despite disapproval recommendations from the Planning Commission and the staff because the 2001 Plan had recommended Professional Services land use for all of the land inside Beaumont Centre Circle.

The subject parcel was not originally a part of the restricted B-3 zoned property until the applicant requested a zone change "swap" of B-3 and P-1 land in 2008. At that time, the site and two larger properties adjacent to New Circle Road were rezoned to B-3, while land inside Beaumont Centre Circle was downzoned to a P-1 zone. Like all of the other B-3 zoned property in Beaumont, the subject property was conditionally zoned "to limit the B-3 uses for all of the properties fronting on Lakecrest Drive in a consistent and similar manner, and to ensure that the integrity of the Beaumont Farm commercial area is maintained in the future." A subsequent zone change request in 2014 proposed modifying the conditional zoning restrictions for eight B-3 zoned lots that were held by the developer and remained vacant in hopes or encouraging their development. This application is now the fourth zone change request for the subject property, according to the Division of Planning records.

Since the appellant is requesting a change in the conditional zoning restrictions, agreement with the 2013 Comprehensive Plan is not a required part of the typical evaluation by the staff and Planning Commission, rather, Article 6-7(c) of the Zoning Ordinance requires that a finding be made that there have been unanticipated changes of an economic, physical, and social nature in the immediate area *since the time the conditional zoning restrictions were imposed* that have substantially changed the basic character of the area, in order to alter these limitations.

The appellant's development plan is contemplating a new building, surrounded by a surface parking lot, to be occupied by Baptist Health, which also owns the parcel located kitty corner from the subject property across Beaumont Centre Circle and Lakecrest Circle. The petitioner proposes to modify the conditional zoning restriction from "parking lots and structures" to "commercial parking lots and structures, pay for parking." They hope to clarify that the proposed user, Baptist Health, can construct a stand-alone parking lot prior to building their office building on the lot, so long as they do not operate a commercial parking lot. A commercial parking lot is a parking area where people pay per space or per hour to occupy a space in the parking lot. Stand-alone commercial parking lots or structures are rather rare outside of downtown Lexington or near the University of Kentucky campus since there is hardly ever a need for such a use and they are not an efficient use of the land we have inside the Urban Service Area.

Conditional zoning restrictions have limited development of this lot since 2008, but those that currently apply to the subject property are only two years old, having been adopted by the Urban County Council on September 25, 2014. In fact, the set of restrictions were brought forward by the applicant two years ago, when they stated that the "proposed restrictions are more appropriate." At that time, five restrictions were carried forward from 2008, five new restrictions were offered and one restriction for free-standing signs was changed. One of the five restrictions offered was the one being requested for change today.

Article 6-7(c)(1)(a) of the Zoning Ordinance states that a request to modify conditional zoning restrictions may be granted “ only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper.” The Zoning Ordinance goes on to state that “the burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.” The applicant has provided no evidence about any such change since the conditional zoning restriction was put in place, only statements about wanting to construct a parking lot to serve their nearby use, prior to constructing the structure depicted on the corollary development plan. With no evidence to support that required finding, legally the staff and Planning Commission cannot support this request.

The Staff Recommends: **Disapproval** for the following reasons:

1. In accordance with Article 6-7(c) of the Zoning Ordinance, there have been no unanticipated changes of an economic, physical, and social nature in the immediate area since the time the conditional zoning restrictions were imposed in 2014 that have substantially changed the basic character of the area of the subject property.
2. The applicant has provided no evidence to support the requested modification to the conditional zoning restrictions, which were offered by the applicant only two years ago.

TLW/WLS

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