

AN ORDINANCE CHANGING THE ZONE 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. (WYNNDALE DEVELOPMENT, LLC; COUNCIL DISTRICT 9).

WHEREAS, at a Public Hearing held on July 27, 2017, a petition for a zoning ordinance map amendment for property located at 3455 Saybrook Road from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1D) zone, for 10.14 net and gross acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 11-0; and

WHEREAS, this 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 3455 Saybrook Road from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1D) zone, for 10.14 net and 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: September 14, 2017

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

Published: September 21, 2017-1t

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MAYOR



CERTIFICATE

I do hereby certify that the title to this enactment
contains an accurate synopsis of the contents
thereof and may be used to satisfy the reading
and publication requirements of law.

Thay N. Long
DEPARTMENT OF LAW

WYNNDALE DEVELOPMENT, LLC
3455 Saybrook Road
Lexington, Fayette County, Kentucky
Zone Change from A-U to R-1D

A TRACT OF LAND SITUATED SOUTH OF SAYBROOK ROAD IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the southwestern most corner of Lot 36 (known as 3449 Wallingford Court) of Monticello, Unit Two as shown on Plat Cabinet C, Slide 715 of record in the Fayette County Clerk's Office; thence South 63 degrees 33 minutes 40 seconds East, 342.50 feet to a point; thence South 56 degrees 21 minutes 40 seconds East, 220.30 feet to a point; thence South 11 degrees 21 minutes 40 seconds East, 248.60 feet to a point; thence South 33 degrees 38 minutes 20 seconds West, 334.60 feet to a point; thence South 78 degrees 38 minutes 20 seconds West, 248.60 feet to a point; thence North 56 degrees 22 minutes 30 seconds West, 481.89 feet to a point; thence North 26 degrees 44 minutes 20 seconds East, 581.40 feet to a point; thence North 26 degrees 26 minutes 20 seconds East, 66.70 feet to **THE POINT OF BEGINNING**.

The above described parcel contains 10.14 acres Gross and Net.

Rec'd by BCM

Date: 8-11-17


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

IN RE: **PLN-MAR-17-00024: WYNNDALE DEVELOPMENT, LLC** – a 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. (Council District 9)

Having considered the above matter on **July 27, 2017**, at a Public Hearing, and having voted **11-0** 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 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.

ATTEST: This 11th day of August, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, **PLN-MJDP-17-00056: WINDING CREEK AT MONTICELLO** was approved by the Planning Commission on July 27, 2017 and certified on August 10, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by October 25, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Jacob Walbourn, attorney.**

OBJECTORS

- Otto Piechowski, 3451 Saybrook Road.

OBJECTIONS

- Sanitary sewer overflows in the neighborhood.

VOTES WERE AS FOLLOWS:

AYES: (11) Bell, Berkley, Brewer, Cravens, Forester, Mundy, Owens, Penn, Plumlee, Richardson, and Wilson

NAYS: (0)

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-17-00024** carried.

Enclosures: Application
Plat
Staff Report
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant: WYNNDALE DEVELOPMENT, LLC, 101 STABLE WAY, NICHOLASVILLE, KY 40356 PH:333-8129
Owner(s): Wynndale Development, LLC, 101 Stable Way, Nicholasville, KY 40356
Attorney: Jacob Walborn, MCBrayer McGinnis Leslie & Kirkland, PLLC, 201 E Main Street #900, Lexington, KY 40507 PH: 231-8780

2. ADDRESS OF APPLICANT'S PROPERTY

3455 SAYBROOK RD LEXINGTON KY

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

Zoning	Existing		Zoning	Requested		Acreage	
		Use			Use	Net	Gross
A-U		Vacant	R-1D		Single-Family Residential	10.14	10.14

4. 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

5. 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



June 5, 2017

Mr. William Wilson, Chairman
Lexington-Fayette Urban County Planning Commission
200 East Main Street
Lexington, Kentucky 40507

RE: Zone Change Application from A-U to R-1D
3455 Saybrook Road

Dear Chairman Wilson:

Please be advised that we represent Wynndale Development, LLC, which is the owner 3455 Saybrook Road here in Lexington. My client desires to rezone the above-mentioned parcel from its current agricultural category to the Single Family Residential (R-1D) Zone. We believe this parcel can be redeveloped in accord with the goals and objectives of the 2013 Comprehensive Plan. Additionally, we submit that the present zoning is no longer appropriate and the proposed zone is appropriate.

The property located at 3455 Saybrook Road is one of few remaining Agricultural Urban parcels left in Fayette County that is under private ownership but is otherwise vacant (e.g., readily able to be developed). The A-U zone has been described by Planning staff in the past as a "placeholder" zone, which is used to classify property that is not yet "ready" or proposed for development. The subject parcel is certainly ready to be developed. It is completely surrounded by R-1C zoned single family residential property, which are known as the Monticello and Robinwood subdivisions. This parcel is the previous location of the Monticello Wastewater Treatment Plant, which was a private sanitary sewer package plant. In 1984, the plant was condemned by the Urban County Government. Subsequent to the removal of the package plant, the property was used as a private park. In 1993, the government abandoned the park and removed all recreational facilities from it.

The property has been the subject of a somewhat lengthy zoning history, and the Commission is well aware of the issues surrounding the same. The property has been the subject of three rezoning requests. In 1994, a prior applicant sought rezoning for single family residential uses. That application was ultimately withdrawn, in part, apparently, due to potential environmental concerns. The present applicant presented an application to rezone this property to R-3 in 2015 in order to develop twenty-seven (27) single family residential lots. That request was denied by the Planning Commission, citing concerns about the flood plain present on the parcel, and concerns over the size of the lots. The Planning Commission reconsidered the site in 2016 and approved R-3 development, limited to single family detached residential units, but this request was rejected by the Urban County Council.

The present rezoning proposal attempts to address the concerns identified during previously rezoning proposals and incorporate proposed solutions to neighborhood concerns. Planning staff has consistently identified R-1D as the most appropriate zone for this site. While the applicant has disagreed with this assessment in the past, we understand the rationale of staff's opinion. In the hopes that this property can be developed so that desperately needed housing stock can be added to the area, we now seek the zone recommended by staff. We believe the proposal meets the goals and objectives of the 2013 Comprehensive Plan. The numerous goals and objectives addressed by this proposal will be explained below.

Additionally, we again submit that the A-U zoning designation is no longer appropriate and R-1D zoning is appropriate. The intent of the A-U zone, as articulated in Zoning Ordinance §8-4(a), states that the zone is appropriate "until public facilities and services are or will be adequate to serve urban uses." The subject property has roadway access, access to sanitary and storm sewers, and can be serviced by LFUCG Emergency Services, Waste Management vehicles, and utilities. In short, the "holding" zone, based on the intent section of the zone, becomes inappropriate once public services are available. Here, it is clear that there are adequate public facilities and services to serve the proposed development. Additionally, it is abundantly obvious that this property is far too small, particularly considering the flood plain on the property, for a viable agricultural use. Staff has also described the A-U zone as a "holding zone" until "appropriate development" is proposed. The applicant has accepted staff's recommendation regarding the appropriate zone and thus believes that the holding zone no longer remains appropriate.

In sum, we believe that this rezoning request is in accord with many of the goals and objectives of the Comprehensive Plan, and again submit that the current zone is inappropriate and the proposed zone is appropriate. Further, as was discussed exhaustively in the prior zone changes, that extensive environmental testing has been performed on this site and there are no environmental contamination issues present.

Our conclusion that this rezoning request is in agreement with the 2013 Comprehensive Plan (hereinafter "Comp Plan") is based on the following:

Growing Successful Neighborhoods

Theme A of the Comp Plan embraces several goals regarding residential life in Fayette County. We believe this redevelopment proposal embraces Goals 1, 2 and 3 articulated in Theme A of the Comp Plan.

Expand housing choices. The first goal articulated in the first theme articulated in the Comp Plan is to expand housing choices. The subject property is surrounded by single family homes, most developed in the '60s. By allowing this zone change, modern housing stock can be introduced to an existing desirable single family neighborhood. As the

Commission is aware, Lexington is in need of new housing stock to support expected population growth. This proposal will give prospective neighborhood residents the option to purchase modern housing with less of a need for maintenance.

Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth. This goal is accomplished by identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible. This project would provide additional residential density while still respecting the context of the surrounding area. As you are no doubt aware, 95% of Fayette County's population resides within the Urban Services Area ("USA"), and this number is expected to rise by nearly 35,000 people by 2020 (Comp Plan, p. 13). It is anticipated that the USA will reach its capacity within the next 12 to 17 years. Thus, redevelopment is needed to provide housing to the ever increasing population within the USA. The proposal further respects the area's context, as it adopts Planning staff's recommended zoning category.

Provide well designed neighborhoods and communities. The Comp Plan calls not only for well-designed new developments, but to provide enhancements to existing neighborhoods to increase their desirability (Comp Plan, p. 38). As has been discussed above, the applicant has taken to heart the recommendation of Planning staff and has selected a zoning category that these professionals believe will best serve the existing neighborhood.

Protecting the Environment

Theme B of the Comp Plan embraces goals related to protecting the environment. We submit that this proposal is in accord with Theme B, Goal 2 of the Comp Plan.

Reduce Lexington-Fayette County's carbon footprint. According to the Environmental Protection Agency, transportation activities contribute 26% of our total greenhouse gas emissions. By providing for additional housing density in areas near employment opportunities and retail spaces, the need for significant automobile use is reduced. The proposed development is a short bike ride away from the Fayette Mall, a significant destination for retail shopping. It is near the developing "Summit," also proposed for significant commercial uses. By providing for additional residential density in areas near significant commercial and professional destinations, the need for long car trips can be significantly reduced. It will also be possible for individuals to walk and bike to the Nicholasville Road and Harrodsburg Road corridors.

Creating Jobs and Prosperity

Theme C of the Comp Plan embraces goals related to continued economic prosperity in Fayette County. We believe this redevelopment proposal embraces elements of Goals 1 and 2 of Theme C of the Comp Plan.

Support and showcase local assets to further the creation of a variety of jobs. The Comp Plan emphasizes the importance of living near your workplace (Comp Plan, p. 74). This proposal will allow new residential opportunities for residents that will enable them to walk or ride to work. In fact, the Comp Plan includes the following passage:

“Adaptive reuse, infill, and redevelopment are not only about preserving farms and important buildings and making better use of existing infrastructure. They are also about putting jobs where people live. Many of Lexington’s businesses – large and small – can thrive as *neighbors* in and near neighborhoods. Land use regulations should enable opportunities to live where you work” (Comp Plan, p. 74).

This proposal is an example of providing additional housing density near significant commercial corridors in one of Lexington’s most desirable areas.

Attract the world’s finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community. One way to attract new jobs and young professionals to Lexington is by providing housing choices and other quality of life opportunities that will bring a workforce of all ages and talents to the city. The proposed development will allow new residences and greater residential density in a desirable area, near workplaces and significant transportation corridors. This, in turn, will make Lexington a more desirable place to live.

Improving a Desirable Community

Theme D of the Comp Plan embraces goals related to improving the quality of life. As has been extensively discussed above, we are providing for additional housing density in a desirable location, while respecting the context of the neighborhood by utilizing the zoning category recommended by the Planning staff.

Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land

Theme E of the Comp Plan embraces goals related to preserving rural land while encouraging growth. We believe this redevelopment proposal embraces elements of Theme E of the Comp Plan.

Uphold the Urban Services Area concept. This goal requires close monitoring of the absorption of vacant or under-utilized land in the Urban Service Area as well as encouraging the compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs. As discussed above, this provides additional residential density in a desirable neighborhood, thus reducing the demand for new housing and an expansion of the USA.

The Comp Plan also encourages maintenance of this balance by encouraging infill, redevelopment, and adaptive reuse. The project discussed here would involve both infill and redevelopment concepts. The Comp Plan provides guidelines in what it calls "context-sensitive design." This allows for a project to approach the development with an eye towards the exterior and architectural features that reflect, relate to, or are in proportion to the surrounding neighborhood (Comp Plan, p. 98). Context-sensitive design can quell many of the fears expressed by neighborhood residence when presented with an infill project (Comp Plan, p. 101). Infill and redevelopment are geared towards improvement, reinvigoration, and development of the quality neighborhoods that create compact development, livable neighborhoods, and viable neighborhood commercial centers (Comp Plan, p. 98). The Comp Plan admits that to successfully achieve infill and redevelopment, regulatory change to the Zoning Ordinance must be reviewed on a regular basis (Comp Plan, p. 99). Of course, we are committed to a context-sensitive residential development, and demonstrate that commitment through our selection of the R-1D zoning category.

Present Zone Inappropriate, Proposed Zone Appropriate

As was discussed above, we also submit that the present A-U zone is no longer appropriate and that R-1D zoning is appropriate. The intent of the A-U is to provide for a "holding" zone "until public facilities and services are or will be adequate to serve urban uses." It is unquestionable that the subject property can be adequately served by the existing infrastructure and services in the area. While in the past, concerns had been raised regarding the environmental suitability of the area for development, based in large part over the site's past as a sewer treatment facility, the applicant has performed environmental testing that indicates the site is not contaminated. In short, as one of very few undeveloped parcels inside Man O War Boulevard in this area of Lexington, this property is not only ready, but ripe for development.

Having addressed the inappropriateness of the A-U zone, it is further appropriate to determine whether R-1D is an appropriate zone. In short, it is appropriate as it is a single family zone that permits construction in a manner roughly comparable to the existing homes in the neighborhood. It is furthermore appropriate as this site would seem inappropriate for substantial commercial or industrial development, and is likewise too small for agricultural operations. Thus, a residential category would seem most appropriate. The applicant has selected the category consistently recommended by Planning staff during prior zoning processes.

Conclusion

As you can see, this proposal comports with many of the applicable goals and objectives of the Comp Plan. We believe this project is important in that it implements numerous goals and objectives of the Comp Plan, while respecting the existing development in the area. This type of infill project is vitally important to preserving the USA boundary at its current location. In short, this project complies with the goals and objectives of the 2013

Comprehensive Plan. We further submit that the A-U zone is no longer appropriate for this location, and R-1D zoning is appropriate. Though this property has a long history and has been a challenging site to redevelop, we believe that this proposal is approvable and meets the concerns raised during prior processes. We are hopeful that this project will meet with your approval.

Based on the foregoing, we respectfully request approval of our application as submitted. We look forward to presenting this application to you and discussing it with you.

Sincerely,



Jacob C. Walbourn

JCW/klm
Enclosures

4844-9817-7351, v. 1



Vicinity Map

Site Location

FROM A-U ZONE TO R-1D ZONE
10.14 NET & GROSS ACRES

LFUGG PROP.

ZOMAR WINDING CREEK AT MONTICELLO

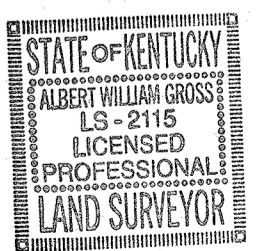
ADDRESS: 3455 SAYBROOK ROAD, LEXINGTON, KY 40503

OWNER/APPLICANT:
WYNNDAL DEVELOPMENT, LLC
101 STABLE WAY
NICHOLASVILLE, KY 40356

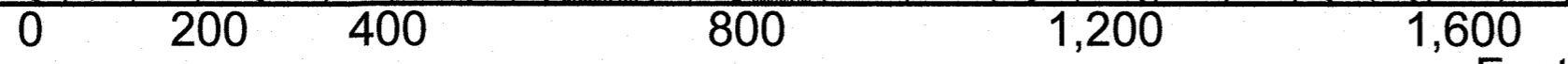
PREPARED BY: EA PARTNERS, PLC

DATE FILED: JUNE 5, 2017

ZONE CHANGE REQUEST:
FROM: AGRICULTURAL URBAN (A-U) ZONE
TO: SINGLE FAMILY RESIDENTIAL (R-1D) ZONE
AREA: 10.14 ACRES NET & GROSS



Notification Map



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00024: WYNNDALE DEVELOPMENT, LLC

DESCRIPTION

Zone Change: From an Agricultural Urban (A-U) zone
To a Single Family Residential (R-1D) zone

Acreage: 10.14 net and gross acres

Location: 3455 Saybrook Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	A-U	Vacant
To North	R-1C	Single Family Residential
To East	R-1C	Single Family Residential
To South	A-U & R-1C	Vacant & Single Family Residential
To West	R-1C	Single Family Residential

URBAN SERVICES REPORT

Roads – The subject property is located at the end of Saybrook Road, a local street within the Robinwood and Monticello neighborhoods. Boston Road, Monticello Drive and Cromwell Way are all collector streets within the vicinity of the subject property, that provide connections to the nearby arterial roadways of Clays Mill Road (to the west) and Man o’ War Boulevard (to the south). The petitioner proposes the continuation of Saybrook Road with a standard cul-de-sac termination on the subject property. No other stub streets exist along the boundaries of this vacant tract.

Curb/Gutter/Sidewalks – Sidewalks, curbs and gutters exist along Saybrook Road, as well as along other local and collector streets in the immediate vicinity. The developer plans to construct similar improvements on the proposed extension, as required by the Land Subdivision Regulations for the extension of new streets.

Storm Sewers – The subject property is located in the South Elkhorn Creek watershed, and the South Elkhorn Creek traverses the property, flowing from its northeast corner toward the southwest. Approximately one-third of the property is located within a FEMA designated Special Flood Hazard Area (aka 100-year floodplain). The FEMA Special Flood Hazard Area does isolate a small portion of the subject property that lies outside of the floodplain, along the eastern edge of the site, adjacent to numerous rear yards for homes along Boston Road. Storm sewers do cross the subject property; however, they are not utilized by the vacant property. Documented stormwater and sanitary sewer overflow issues exist within the immediate area related to the existing infrastructure. The developer will be required to provide stormwater improvements at the time the property is developed.

Sanitary Sewers – The subject property is located in the South Elkhorn sewershed and is served by the West Hickman Wastewater Treatment facility in northern Jessamine County. Both a collector main and a trunk main traverse the subject property. The developer will need to extend the sanitary sewer system to serve the individual lots proposed as a part of the development of the property. There is currently sanitary sewer capacity available in this sewershed, according to the latest Capacity Assurance Program information; however, there have also been numerous complaints from neighbors related to stormwater and sanitary sewer overflow issues within the immediate area.

Refuse – The Urban County Government serves this portion of the Urban Service Area with refuse collection to area residences on Mondays.

Police – The nearest police station is located on Centre Parkway at the East Sector Roll Call Center in Gainesway, which is about 3½ miles east of the subject property.

Fire/Ambulance – Fire Station #15 is the nearest station to the subject property. It is located about one mile to the northeast, inside Shillito Park, just south of West Reynolds Road.

Utilities – All utilities including natural gas, electric, water, cable television, telephone, and streetlights should be able to be extended to serve the subject property, as they have been provided to the surrounding residential developments in this area.

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 recommend 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.

CASE REVIEW

The petitioner has requested a zone change from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1D) zone for 10.14 acres of property located at 3455 Saybrook Road.

The subject property is located at the end of Saybrook Road, and is bordered by the Monticello and Robinwood subdivisions. These neighborhoods are generally located in the southwest portion of the Urban Service Area, between Keithshire Way and Man o' War Boulevard, and to the east of Clays Mills Road. The property is entirely surrounded by single-family residential zoning (R-1C), and by single-family residences. A small tract of land bordering the south property line of the subject property (zoned A-U) is vacant and continues to be owned by the LFUCG.

The applicant, under an alternate corporate name, filed a zone change request for the subject parcel on two different occasions in the past two years. In both previous instances, the applicant requested a Planned Neighborhood Residential (R-3) zone in order to develop at a higher density than now proposed. In 2015, the zone change request was recommended for disapproval by the Planning Commission (MAR 2015-11: LEX Properties, LLC). The applicant subsequently withdrew the application, but was required to wait one year prior to filing another zone change for the same parcel. In 2016, the second zone change to R-3 was recommended for approval by the Planning Commission; however, it was denied by the Urban County Council (PLN-MAR-16-00015: LEX Properties, LLC) following a fairly lengthy public hearing.

The petitioner now proposes to develop 18 detached single-family dwelling units on this site, which would yield a residential density of 1.78 dwelling units per acre, in a Single Family Residential (R-1D) zone. This request is for a zoning category and density that has been suggested by the staff since 1994. The

property is traversed by the creek, and its associated floodplain, which occupies about one-third of the parcel, and the petitioner indicates on their corollary development plan that they intend to create a homeowners association to maintain the lot on which the creek is to be located.

The existing Agricultural Urban (A-U) zone on the subject property is the result of zoning decisions made in 1969 with the comprehensive rezoning of much of Lexington and Fayette County. In 1964, the subject property was rezoned to a Heavy Industrial (I-2) zone to allow the development of the Monticello Wastewater Treatment Plant, a private sanitary sewer package plant that was later constructed to serve the nearby neighborhoods in this portion of the county. In 1984, the LFUCG proceeded with a condemnation action in order to fully remove the private plant and connect the area to the available public sanitary sewer system. After its use as a sanitary sewer treatment plant, the 10-acre subject property was utilized by the adjoining neighborhoods as a private park for a number of years. An informal arrangement with the property owner and LFUCG allowed this to occur. In 1993, the government abandoned the park use and removed all recreational facilities from the park. The parcel has remained vacant since.

In 1994, a zone change was requested (MAR 94-1: Ball Homes, Inc.) to develop 22 single-family residential lots on the subject site. Ultimately, the request was later withdrawn over a combination of environmental concerns and neighborhood opposition. More recently, the applicant's two more recent zone change requests, also drew several concerns from neighborhoods regarding possible environmental degradation of the property and more general development compatibility concerns. Ultimately, those concerns have defeated zone change which would permit development that is "out of character" with the adjoining established neighborhoods.

The 2013 Comprehensive 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). The Goals and Objectives also recommend 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 recommend improving a desirable community (Theme D) through preservation and enhancement of urban neighborhoods. Lastly, the 2013 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). These themes, goals, and objectives speak directly to the review of new residential developments, such as this.

The petitioner contends that this request is in agreement with the Goals and Objectives of the 2013 Comprehensive Plan, and that the existing agricultural zoning is no longer appropriate and the proposed R-1D zone is appropriate at this location. This time around, the petitioner makes a slightly different case for their requested zone change, noting the importance of "respecting the existing development in the area" and supporting the staff's past recommendations. The Comprehensive Plan recommends infill and redevelopment that is compatible with and context-sensitive to its environment, which in this case, involves, two established single-family neighborhoods. The Plan also states that infill development can have a positive impact on neighborhoods, if it respects the scale, massing and size of surrounding buildings. The Plan further recommends that near open space and greenways, that streets should be "single loaded" – that is, only developed on one side, with the other side providing open access to green spaces for all to enjoy.

The petitioner is proposing residential land use, in a design (with a partial single loaded street) that respects the existing floodplain and proposes maintenance by a homeowners association, which is preferred to individual property access and maintenance. The petitioner is now proposing a density and lot frontages that are now much more in character and similar to the adjoining neighborhoods. The R-1D zone requires a minimum lot size of 6,000 square feet, which compares well to the R-1C zone that

surrounds the subject property that requires a minimum 8,000 square-foot lot size. The R-1D zone permits a more consistent infill development for this parcel of land, which is situated in the middle of two established neighborhoods.

The staff can now support the requested rezoning because it is fully supported by the 2013 Comprehensive Plan.

The Staff Recommends: **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.

TLW/WLS

7/5/17

Planning Services/Staff Reports/MAR/2017/PLN-MAR-17-00024.doc

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-

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

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.
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~~ Resolve maintenance of Lot 19.
10. ~~Discuss~~ Denote plan status as both a (Preliminary Subdivision Plan) and a Preliminary Development Plan in the title block.