

MAR V2014-13

Date Received July 7, 2014

Pre-Application Date 6/24/14

Filing Fee \$750

# GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

## 1. ADDRESS INFORMATION (Name, Address, City/State/Zip, & PHONE NUMBER)

APPLICANT: <b>A &amp; M Hamburg, LLC a Kentucky limited liability company, 2517 Sir Barton Way Suite 210, Lexington, KY 40509</b>
OWNER: <b>A &amp; M Hamburg, LLC a Kentucky limited liability company, 2517 Sir Barton Way Suite 210, Lexington, KY 40509</b>
ATTORNEY: <b>William M. Lear, Stoll Keenon Ogden PLLC, 300 W. Vine St, Ste. 2100, Lexington, KY 40508, (859) 231-3000</b>

## 2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

<b>2500 Polo Club Boulevard (portion of), Lexington, KY 40505</b>
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## 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
EAR/TA	Vacant	CC	Business & Residential	14.82	16.49

## 4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Vacant	EAR-3 & ED
East	Vacant	EAR-3
South	Business	CC
West	Vacant	ED

## 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 checked="" type="checkbox"/> NO  ____ Units

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

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
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

## 7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is <input checked="" type="checkbox"/> in agreement with the Comp. Plan <input checked="" type="checkbox"/> more appropriate than the existing zoning <input type="checkbox"/> due to unanticipated changes.
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## 8. APPLICANT/OWNER SIGNS THIS CERTIFICATION.

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted and the information they contain is true and accurate. I further certify that I am <input checked="" type="checkbox"/> OWNER or <input type="checkbox"/> HOLDER of an agreement to purchase this property since 2007.		
APPLICANT	<u>William M. Lear</u>	DATE <u>7/7/2014</u>
OWNER	<u>Same as Applicant</u>	DATE _____
LFUCG EMPLOYEE/OFFICER, if applicable	<u>Attorney for A's M Hamburg, LLC</u>	DATE _____



# DIMENSIONAL VARIANCE APPLICATION

### A. APPLICANT INFORMATION

Name: <b>A &amp; M Hamburg, LLC</b>
Address: <b>2517 Sir Barton Way, Suite 210</b>
City, State, Zip Code: <b>Lexington, KY 40509</b>
Phone # (w/ area code): <b>(859) 299-7028</b>

### B. CONTACT PERSON or REPRESENTATIVE INFO

Name: <b>William M. Lear - Stoll Keenon Ogden PLLC</b>
Address: <b>300 W. Vine St, Ste. 2100</b>
City, State, Zip Code: <b>Lexington, KY 40508</b>
Phone # (w/ area code): <b>(859)231-3000</b>

### C. PROPERTY INFORMATION

Address: <b>2500 Polo Club Boulevard</b>	Current Zoning: <b>EAR-3/TA</b>
Proposed Use: <b>Community Center</b>	Current Use: <b>Vacant</b>

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

Storm Sewers	<input checked="" type="checkbox"/> Existing	OR	<input type="checkbox"/> To be constructed by:	<input type="checkbox"/> Developer	<input type="checkbox"/> Others:
Sanitary Sewers	<input checked="" type="checkbox"/> Existing by:	<input type="checkbox"/> LFUCG	<input type="checkbox"/> Septic System	OR	<input type="checkbox"/> To be constructed by: <input type="checkbox"/> Developer <input type="checkbox"/> Others
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	OR	<input type="checkbox"/> Other (please list):		

### E. POSSIBLE DISPLACEMENT OF TENANTS

**Are there any existing dwelling units on the subject property that will be removed if this application is approved?**  
 Yes  No **If yes, please answer the next two questions:**

1. Have any such dwelling units on the property been occupied within the past 12 months?  Yes  No
2. Are these units currently occupied by households earning less than 40% of the median income in Lexington-Fayette County?  Yes  No **If yes, please answer the next two questions:**
3. How many units? [ \_\_\_\_\_ units]
4. Have any efforts already been taken to assist those residents in obtaining alternative housing?  Yes  No **If yes, provide an attachment and give details about those efforts.**

### F. DETAILS OF VARIANCE REQUESTED

This variance requested is from 48 feet to 56 feet, in order to \_\_\_\_\_  
 increase the the maximum height of the mixed use buildings.

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\_\_\_\_\_

### G. FINDINGS AND JUSTIFICATION FOR VARIANCE (Please feel free to use an attachment, if necessary.)

In order to grant a variance, the Board must find that the granting of the variance:

- 1) will not adversely affect the public health, safety or welfare;
- 2) will not alter the character of the general vicinity;
- 3) will not cause a hazard or a nuisance to the public; and
- 4) will not allow an unreasonable circumvention of the requirements of the zoning regulations.

The answers to these questions will help the Board in their deliberation and, therefore, should be thorough yet concise.

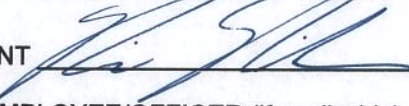
1. Why will the granting of this variance not negatively affect the public health, safety or welfare, not alter the character of the general vicinity, and not cause a hazard or nuisance to the public?
See Attached



2. How will granting this variance not allow an unreasonable circumvention of the requirements of the Zoning Ordinance?
See Attached
3. What are the special circumstances which apply to this property and which do not generally apply to land in the general vicinity or in the same zone?
See Attached
4. How would strict application of the Zoning Ordinance deprive you (the applicant) of a reasonable use of your land, or create an unnecessary hardship upon you?
See Attached
5. How are the circumstances of this requested variance not the result of your own actions since the adoption of the zoning regulation (from which you now seek relief)?
See Attached

**H. APPLICANT CERTIFICATION**

I do hereby certify that to the best of my knowledge and belief, the information supplied with this application is true and accurate. I further certify that if I am not the current owner of this property, that I have obtained written permission from the current property owner, and that it has been submitted as part of this application.

SIGNATURE OF APPLICANT  DATE 7/7/14  
SIGNATURE OF LFUCG EMPLOYEE/OFFICER (if applicable) \_\_\_\_\_



**STOLL  
KEENON  
OGDEN**  
P L L C

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SUITE 2100  
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MAIN: (859) 231-3000  
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**WILLIAM M. LEAR, JR**  
DIRECT DIAL: (859) 231-3011  
DIRECT FAX: (859) 246-3611  
william.lear@skofirm.com

July 7, 2014

Lexington Fayette Urban County Planning Commission  
Lexington-Fayette Urban County Government  
101 East Vine Street  
Lexington, KY 40507

Re: Zone Map Amendment, Text Amendment, and Variance Applications –  
2500 Polo Club Boulevard.

Dear Members of the Planning Commission:

The applicant, A & M Hamburg, LLC (“A & M Hamburg”), requests a zoning map amendment for the a portion of the property located at 3500 Polo Club Boulevard from Transition Area (TA/EAR-3) to Community Center (CC) for 14.82 net acres (16.49 gross), a text amendment to the Community Center zone and a variance to allow: (1) construction of a Cabela's store; (2) the shifting of residential development from an area adjacent to Interstate 75 to a wooded interior area away from the interstate; and (3) construction of small shops and civic buildings consistent with anticipated uses in both the CC and TA zones.

The proposed zone change will facilitate the opening in Fayette County of one of the country's most desired retailers. Cabela's has only two stores in Kentucky and has selected the subject property as its priority location for the only store it plans to establish in this part of the state. The proposed text amendment, a copy of which is attached hereto as Exhibit A, is necessary in order to allow a building the size of Cabela's that is not dedicated to grocery store uses to be located in this Community Center. The variance is necessary to allow construction of a mid-rise residential structure above office or retail space of sufficient height to provide an appropriate amount of residential dwelling units within the confines of this CC zone, as expanded.

The rationale for these proposed actions is as follows:

1. As currently configured, the TA zone is located between a CC zone, occupied by Costco and planned for additional small retail uses and the Economic Development (ED) zone immediately to the north. This juxtaposition resulted from moving the CC and TA zones from east of Polo Club Boulevard to the area between Polo Club Boulevard and I-75. This created the anomalous situation of a TA/EAR-3 zone between CC and ED zones, a condition not anticipated by the Comprehensive Plan and not proposed for any other location in any of the Expansion



Areas. As its name implies, the TA zone is intended as a transition area between more intense and less intense zones--in the Expansion Area it is always proposed to be located between a Community Center zone and a residential zone. In this case, that land-use relationship no longer exists.

2. Expanding the CC zone will still allow for the mix of uses anticipated in both the CC and TA zones, including retail, office, civic and residential uses.

3. Shifting of the residential uses from a location adjacent to the Interstate to a more interior location adjacent to a wooded ravine will create a more appropriate environment for residential development. In addition, allowing the construction of a mid-rise residential-over-retail development will add a higher density of residential units in an area where the added height will have no negative impact on any other nearby development.

4. The proposed zone change is consistent with and supported by the following "General Land-Use Considerations for the Urban Service Area" as adopted by the Planning Commission on April 29, 2014:

"1. The change will address a community need such as ... significant employment opportunities or housing needs. . . . 2. The proposed land use enhances, and is compatible with, adjacent land uses. . . . 7. The land use will not impair existing environmental conditions of the site. . . . 8. The existing utility and transportation networks will accommodate the new land use. . . . 10. The land use will attract or retain a skilled work force and/or further economic prosperity. . . . 11. The proposed use or development will provide for mix of housing types, residential densities and/or land uses."

5. With the development of the Costco project, this community center already has in place a grocery store, an electronics store, hardware store, a pet store, a liquor store, and other small retail shops--albeit within the confines of a single facility. That is the concept upon which the text amendment to allow the Costco in the CC zone at this location was approved. The proposed development will allow hunting, fishing, hiking, camping, and recreation shops, again under one roof in the form of Cabela's. It will also allow for residential uses, a church site, small shops and one or more restaurants in the CC zone, all of which fulfill the intent of that zone.

6. The text amendment is tailored so as to recognize that in the existing CC language, it is permissible to have both a store such as Costco and a grocery store of 50,000 square feet in size. As proposed, the text amendment would still allow only two larger stores in a CC zone which meets certain qualifications (it must contain at least 30 contiguous acres and have frontage on an interstate interchange). The proposed amendment recognizes that once a grocery component of sufficient size has been established in one building, it makes no sense to have a second large building housing a grocery store. Thus, the new text would provide for a second significant building **not** housing a grocery store in it the event that the first building contains a grocery section of at least 30,000 square feet.



7. A & M Hamburg is also requesting a variance to increase the maximum building height found in Zoning Ordinance § 23A-9(g) from 48 feet to 56 feet. The granting of the requested variance will not adversely affect the public health, safety or welfare; nor alter the essential character of the general vicinity. This variance allows for the construction of 4 stories of residential above the ground floor office or retail space, with a parking level underneath. In order to meet the required 40% of aggregated floor area devoted to residential use, a fourth story of residential units is required. The variance allows for the required residential component to be achieved while furthering the intent of the Community Center zone to emphasize a mixture of uses.


The location of the mixed-use building is in and of itself a special circumstance that does not apply to the land in the area. The building is proposed in an area of the property with a severe slope. While the slope allows for the below ground parking, it does create a need for a slightly taller building to achieve the goal of mixed use. This variance is not an unreasonable circumvention of the zoning ordinance as the building will be overlooking the stream and wooded area existing on the property. This wooded ravine provides a significant buffer so the proposed height will not impact on the adjacent Economic Development zoned land. Finally, strict application of the height requirement would preclude A & M from utilizing the steep-sloped portion of the property for a mixed-use building that adds to commingling of uses encouraged in the community center zone which creates an unnecessary hardship on the applicant.

For the foregoing reasons, the proposed zone change, text amendment, and variance are in substantial compliance with the Comprehensive Plan and in furtherance of its guiding principles. The existing TA/EAR-3 zone is also inappropriate and the expansion of the CC zone is appropriate as a transition area between the ED and CC zoned properties is not necessary as explained above.

The proposed development will provide a significant benefit to the immediate area and the entire community and will do so in a manner that complies with both the letter and the spirit of the Comprehensive Plan and Community Center zone. The applicant, therefore, respectfully submits that the land use actions described above are entirely appropriate and should be approved.

Sincerely,

Stoll Keenon Ogden PLLC

By:   
\_\_\_\_\_  
William M. Lear, Jr.  
COUNSEL FOR A & M Hamburg, LLC

WML:lc  
Enclosure

The following legal description is intended for zoning purposes only and should not be used for transfer or conveyance purposes. This description represents information attained by Plat of record, and in no way implies an actual or representation of such.

**Zone Change from EAR-3, TA to CC  
for  
2500 Polo Club Boulevard (A Portion Of)  
Lexington, Ky. 40509**

Beginning at a point in the centerline of Polo Club Boulevard approximately 1,300 feet West from the centerline intersection of Polo Club Boulevard and Man O' War Boulevard, said point being the point of beginning;

Thence **S 46°52'45" W 70.00'** to a point in the West right-of-way line of Polo Club Boulevard;

Thence **S 46°52'45" W 879.00'**;

Thence **N 77°17'39" W 289.98'** to a point in the common property line of 2000 Polo Club Boulevard and 2500 Polo Club Boulevard;

Thence with said property line, **N 12°42'24" E 17.22'**;

Thence **N 01°56'45" E 531.86'**;

Thence **N 29°14'23" E 564.61'**;

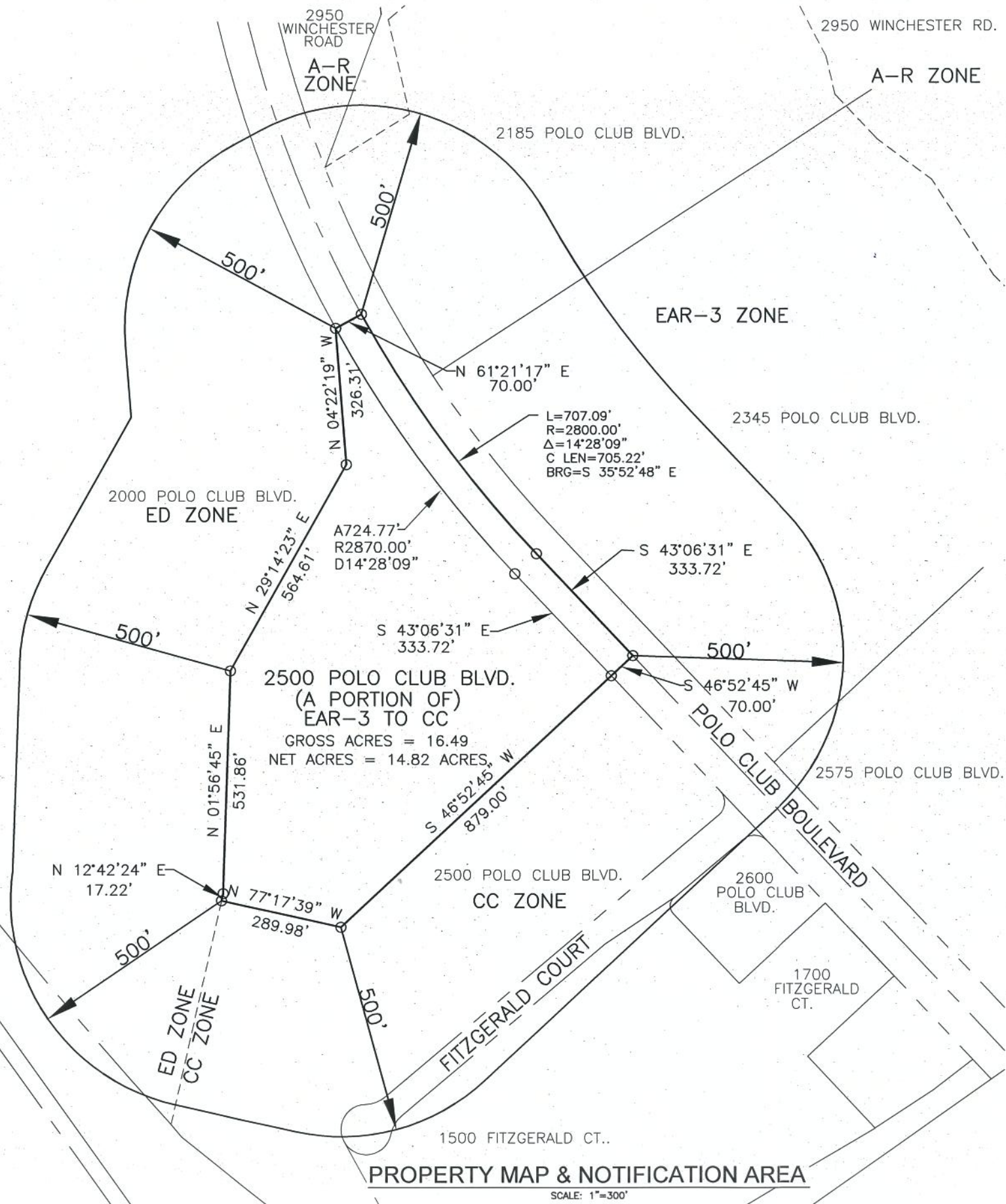
Thence **N 04°22'19" W 326.31'** to a point in the West right-of-way line of Polo Club Boulevard;

Thence **N 61°21'17" E 70.00'**, to a point along the centerline of Polo Club Boulevard;

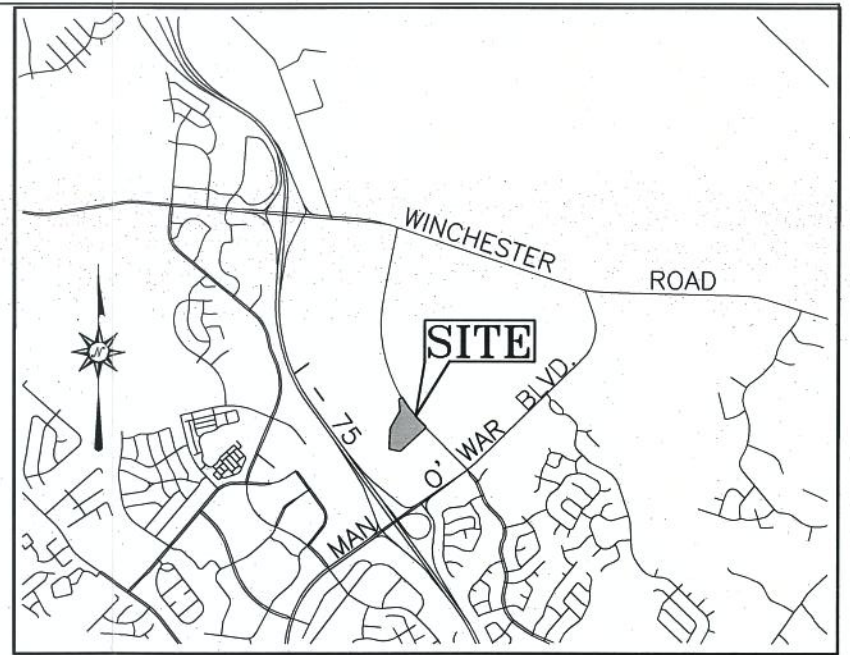
Thence along the centerline of Polo Club Boulevard for two calls with an arc described as **Length of curve = 707.09'**, **Radius = 2,800.00'**, **Delta = 14°28'09"**, **Chord Length= 705.22'**, **Chord Bearing S 35°52'48" E**;

Thence **S 43°06'31" E 333.72'**, to the point of beginning containing 14.82 net acres and 16.49 acres.

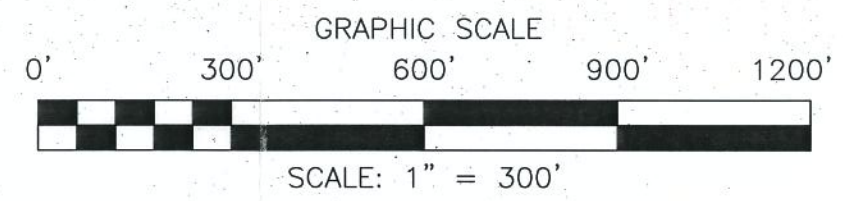




**PROPERTY MAP & NOTIFICATION AREA**  
SCALE: 1"=300'



**VICINITY MAP**  
NTS



ZOMAR:	TITLE: 2500 POLO CLUB BLVD			
PROPERTY ADDRESS:	FROM	TO	GROSS	NET
2500 POLO CLUB BLVD (A PORTION OF)	EAR-3, TA	CC	16.49	14.82
APPLICANT NAME / ADDRESS:				
A & M HAMBURG, LLC				
2517 SIR BARTON WAY, STE. 210				
LEXINGTON, KENTUCKY 40509				
OWNER: A & M HAMBURG, LLC				
PREPARED BY: VISION ENGINEERING, LLC				
DATE FILED OR AMENDED: JULY 7, 2014		TOTAL	16.49	14.82