

ORDINANCE 004-2020

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP FOR THE CITY OF NICHOLASVILLE FROM A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1B (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 32.79 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 18.51 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1D (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 49.03 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 25.27 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.74 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.44 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 1.27 ACRES OF PROPERTY AND A-1 (COUNTY) TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY .01 ACRES OF PROPERTY PERTAINING TO THE PROPERTIES LOCATED AT 140 LONE OAK DRIVE (PVA PARCEL #045-00-00-096.00) AND 44 LONE OAK DRIVE (PVA PARCEL #045-00-00-097.00), NICHOLASVILLE, KENTUCKY. THIS ORDINANCE INCLUDES FINDINGS OF FACT AND THE VOLUNTARY CONDITIONS OFFERED BY THE APPLICANT.

WHEREAS, the Nicholasville Planning Commission held a public hearing on February 24, 2020, concerning an application for amendment of the Official Zoning Map for the City of Nicholasville for approximately 130.06 acres of property located at 140 LONE OAK DRIVE (PVA PARCEL #045-00-00-096.00) AND 44 LONE OAK DRIVE (PVA PARCEL #045-00-00-097.00), NICHOLASVILLE, KENTUCKY. (collectively, the "Property");

WHEREAS, the Nicholasville Planning Commission recommended to disapprove said zone change application;

WHEREAS, the City Commission of the City of Nicholasville has reviewed the record made before the Nicholasville Planning Commission and has determined from that evidence adjudicative facts which differ from those found by the Nicholasville Planning Commission;

NOW THEREFORE BE IT ORDAINED by the City Commission of the City of Nicholasville as follows:

RECEIVED AND FILED
DATE September 4, 2020

MICHAEL G. ADAMS
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Kandice Adkins

Based upon evidence and testimony presented at the public hearing before the Nicholasville Planning Commission, the existing zones surrounding the subject property, the existing housing alternatives available to the residents of Nicholasville, the past experiences of the City with residential and non-residential development within city limits, and the findings, goals and objectives expressed in the text of the current Comprehensive Plan, the City Commission of the City of Nicholasville hereby finds as follows:

1. The requested R-1B, R-1C, R-1D and R-3 zone changes agree with the 2017 Joint Comprehensive Plan. The request is consistent with the Statement of Goals and Objectives ("SGO"), II. Residential Development ("II"), Goal A of the Plan which reads: "Encourage balanced mix of housing opportunities and efficient use of residential land . . ." The zones requested for the proposed project are R-1B, R-1C, R-1D and R-3 and is a development located on a defunct golf course.
2. 1.83 acres of the Property, located at its southeast corner and already occupied by a clubhouse, pool and parking lots, is a proposed commercial area (B-1) to permit continued business use of the existing facilities that have existed for approximately 50 years.
3. This is an "in-fill" project. The Property (130.06 acres) is bounded on three sides(north, east and south) by residential subdivisions (The Paddock, Lone Oak Subdivision and Hawthorne Subdivision)and on its smallest side (west) by agricultural property which is buffered from the subject by a stream and a flood plain area ("Property"). The requested rezoning of 97% of the Property to a variety of residential uses is compatible and consistent with the area surrounding it. Per the Official Zoning Map, the surrounding area contains the following zones: R-1 (which equates to the current R-1D zoning per the current Zoning Ordinance), R-3, R-1F, B-2, R-1D, R-1T and R-2.
4. The requested zone change will supply land to accommodate the housing needs of the City, which is a stated objective in the Comprehensive Plan. (p. 13 of the Comprehensive Plan).
5. The proposed zone change is also consistent with the recognition by the Plan of a "high [population] growth trajectory for the foreseeable future" that will continue in Nicholasville, resulting "in accelerating requirements for housing..." (Plan at p. 29.) Further, the Plan points out that "If density levels were to remain unchanged (as currently exist), it would be necessary to increase the size of the city [Nicholasville] by over 4,000 acres by 2030..." Given this forecast, the rezoning of the Property is needed to accommodate such growth.

6. Since the current Comprehensive Plan was adopted in 2017, the City of Nicholasville has only annexed 465 acres or 12% of the projected need. The breakdown of this 465 acres is 79 acres of commercial property, 159 acres of industrial and 227 acres of residential. The City needs 3,535 acres or 88% more acreage to meet the projected need by 2030 or within the next 11 years. The proposed project will add 316 dwelling units located on 130.06 acres to the City of Nicholasville.
7. The Plan further provides at page 29: "If Nicholasville wants to accommodate the significant projected population growth, especially in terms of housing, some combination of two tools -- annexation of additional unincorporated land and increased residential density within city limits -- will likely be necessary in the coming years." The proposed project, if annexed, will add approximately 126 acres to the city limits and it includes R-3 zoning for 124 units.
8. The rezoning of the Property fulfils SGO, II, Goal A, Objective 5 which mandates: "Ensure that adequate land is available to accommodate the housing needs of the entire Jessamine County community." Currently, there are approximately 149 building lots available for immediate construction within the core city limits of Nicholasville. Since 2015, building permits issued have averaged approximately 191 annually. Based on these numbers, there are not enough residential building lots in the City's inventory to satisfy demand.
9. Because the Property is virtually surrounded by residential neighborhoods in the Nicholasville city limits and is well within the Nicholasville Urban Service Boundary and all utilities (water, sewer, electrical power and gas) are located nearby or on the Property and can be easily extended and upsized, the requested rezoning satisfies the requirement of SGO, IV. Infrastructure and Community Facilities ("IV") Goal B in that it is an "efficient expansion of existing infrastructure and community facilities to meet current and future needs" and satisfies the requirement of Goal B, Objective 7 in that the proposed project is development that is contiguous to an existing residential area.
10. The development of this Property from a golf course to a residential use is considered an "in-fill" project and is therefore favored under planning principles and under SGO, II, Goal A, Objective 3.
11. The proposed development includes single-family homes and condominiums with a commercial section nearby which meets SGO, II, Goal A, Objectives 2 and 9 in that this project will be a "mixed-density and mixed-use neighborhood" that is to

be encouraged. The proposed project has four (4) levels of residential zones and combines residential and commercial zoning.

12. The proposed development is consistent with SGO I, Economic and Commercial Development, Goal C, Objective 5 which mandates the development of policies that combine residential and commercial uses within a single development plan.
13. The existing A-1 (County and City) zoning is inappropriate and the proposed R-1B, R-1C, R-1D, R-3 and B-1 zones are appropriate. The A-1 zone is inappropriate because the Property is surrounded by residential properties making it impractical to farm and without this impediment, it would still not be economically feasible to farm the Property.
14. The use of the Property as a golf course has proved to be inappropriate because it is economically unsustainable to operate due to market conditions. The golf course currently operated on the Property has lost money for 7 years out of the last 8 and it lost money in 2019.
15. The R-1B, R-1C, R-1D and R-3 zones are appropriate because of the surrounding residential properties and these zones will allow the applicant to build the size and type of single family homes that are predominate in the area and that are in demand.
16. The existing clubhouse, pool and parking lots located on the 3.18 acre portion of the Property are appropriate for commercial zoning (B-1) due to their existence and operation as a commercial use for almost 50 years.
17. A major economic change has occurred within the area of the Property which was not anticipated by the current Comprehensive Plan and which has substantially altered the basic character of the area in that there has been an oversupply of golf courses constructed in the market coupled with a downturn in the number of individuals playing golf and an increased competition for entertainment dollars. This combination of increased competition and financial demands, has forced Lone Oak golf course to close along with a number of other courses in Central Kentucky (Andover, Old Silo, Duckers, Stoner Creek and Plantation).
18. As substantiated by the testimony of William Berkley and based on the population growth projections contained in the recently adopted 2017 Comprehensive Plan, there is a compelling need in the market place for this zone change in that it will provide needed housing for the anticipated growth.

19. The density of the proposed development (2.43 homes per acre) is less than the density of the adjoining Lone Oak Subdivision which is 2.72 homes per acre.
20. Although there is only one access into and out of the Property, the installation of a boulevard type entrance and the median on a portion of Street "B" will guard against blockages.
21. The Traffic Impact Study submitted by the applicant demonstrates that the Level of Service at the KY 29 and Etter Drive intersections will remain at reasonable standards after the proposed improvements are made.
22. The standard minimum road width to accommodate the additional traffic generated by the proposed development is 16 feet. Lone Oak Drive is 27 feet wide and Club Lane is 26 feet wide, both substantially exceeding the minimum standard.
23. All of the sewer trunk lines that will receive the effluent produced by the proposed development have or will have more than adequate capacity.
24. The applicant will be required by planning and zoning regulations to control the peak flow rate of storm water from the Property after development such that it will not be greater than the current flow rate from the golf course prior to development.

From the foregoing findings of fact, it is hereby concluded that the map amendment is in agreement with the goals and objectives stated in the text of the adopted Comprehensive Plan; that the existing zoning classification of A-1 (County) Agricultural District is inappropriate and that the requested zone classification of R-1B, R-1C, R-1D, R-3, and B-1 is appropriate; there has been a major economic change within the area involved which was not anticipated in the Comprehensive Plan and which substantially altered the basic character of such area.

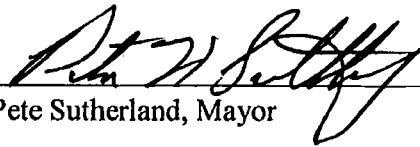
The Nicholasville Zoning Enforcement Officer is hereby directed to change the Official Zoning Map of the City of Nicholasville to be consistent with the above findings and conclusions of the City Commission.

The Voluntary Conditions (with Exhibits) offered by the applicant are accepted and made a part of this zone map amendment.

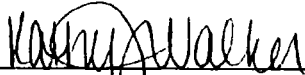
This Ordinance shall take effect upon adoption, execution and publication.

FIRST READING (INTRODUCTION): March 9, 2020

SECOND READING AND ADOPTION: May 18, 2020


Pete Sutherland, Mayor

Attest:


Kathy Walker, City Clerk

NOTICE OF ENACTMENT OF ORDINANCE

Notice is hereby given that the Nicholasville City Commission on May 18, 2020 enacted an ordinance, the full text of which is available for inspection in the office of the City Clerk, 517 North Main Street, Nicholasville, KY. The ordinance by title and summary: **ORDINANCE 004-2020: AN ORDINANCE AMENDING**

THE OFFICIAL ZONING MAP FOR THE CITY OF NICHOLASVILLE FROM A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1B (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 32.79 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 18.51 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1D (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 49.03 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 25.27 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.74 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.44 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 1.27 ACRES OF PROPERTY AND A-1 (COUNTY) TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY .01 ACRES OF PROPERTY PERTAINING TO

THE PROPERTIES LOCATED AT 140 LONE OAK DRIVE (PVA PARCEL #045-00-00-096.00) AND 44 LONE OAK DRIVE (PVA PARCEL #045-00-00-097.00), NICHOLASVILLE, KENTUCKY. (This Ordinance amends the official zoning map for the City of Nicholasville from A-1 (County) Agriculture District to R-1B (City) Single Family Residential District for approximately 32.79 acres of property; A-1 (County) Agriculture District to R-1C (City) Single Family Residential District for approximately 18.51 acres of property; A-1 (County) Agriculture District to R-1D (City) Single Family Residential District for approximately 49.03 acres of property; A-1 (County) Agriculture District TO R-3 (City) Multi-Family Residential District for approximately 25.27 acres of property; A-1 (City) Agriculture District to B-1 (City) Central Business District for approximately 1.74 acres of property; A-1 (County) Agriculture District to B-1 (City) Central Business District for approximately 1.44 acres of property; A-1 (City) Agriculture District to R-1C (City) Single Family Residential District for approximately 1.27 acres of property and A-1 (County) TO R-3 (City) Multi-Family Residential District for approximately .01 acres of property, pertaining to the properties located at 140 Lone Oak Drive (PVA Parcel #045-00-00-096.00) and 44 Lone Oak Drive (PVA Parcel #045-00-00-097.00), Nicholasville, Kentucky. This Ordinance includes Findings of Fact and the Voluntary Conditions offered by the applicant.)

Kathy Walker, City Clerk
May 28, 2020

**ORDINANCE 004-2020
SUMMARY**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP FOR THE CITY OF NICHOLASVILLE FROM A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1B (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 32.79 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 18.51 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1D (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 49.03 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 25.27 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.74 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.44 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 1.27 ACRES OF PROPERTY AND A-1 (COUNTY) TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY .01 ACRES OF PROPERTY PERTAINING TO THE PROPERTIES LOCATED AT 140 LONE OAK DRIVE (PVA PARCEL #045-00-00-096.00) AND 44 LONE OAK DRIVE (PVA PARCEL #045-00-00-097.00), NICHOLASVILLE, KENTUCKY. THIS ORDINANCE INCLUDES FINDINGS OF FACT AND THE VOLUNTARY CONDITIONS OFFERED BY THE APPLICANT.

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Publisher's Certificate of Publication

STATE OF KENTUCKY

Mike Caldwell, being duly sworn, on oath says he is and during all times herein stated has been an employee of The Bluegrass Newsmedia, publisher and printer of the Winchester Sun and the Jessamine Journal.

(the "Newspaper"), has full knowledge of the facts herein stated as follows:

1. The Newspaper printed the copy of the matter attached hereto (the "Notice") was copied from the columns of the Newspaper and was printed and published in the English language on the following days and dates:

05/22/20, 05/23/20, 05/24/20, 05/25/20, 05/26/20, 05/27/20, 05/28/20

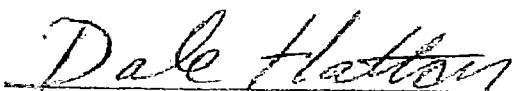
2. The sum charged by the Newspaper for said publication is the actual lowest classified rate paid by commercial customer for an advertisement of similar size and frequency in the same newspaper in which the Notice was published.

3. There are no agreements between the Newspaper, publisher, manager or printer and the officer or attorney charged with the duty of placing the attached legal advertising notice whereby any advantage, gain or profit accrued to said officer or attorney



Mike Caldwell, publisher

Subscribed and sworn to before me this
28th Day of May, 2020



Dale Hatton
605969
Commission Expires 8-2-2022

Account # 102321
Ad # 1050532

CITY OF NICHOLASVILLE
P.O. BOX 450
NICHOLASVILLE KY 40340

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Kathy Walker, City Clerk
May 28, 2020

AGREED CONDITIONS TO ZONE CHANGE OFFERED BY APPLICANT

1. MANDATORY HOA MEMBERSHIP FOR EVERY HOMEOWNER
2. HOA, NOT CITY, WILL MAINTAIN OPEN/COMMON AREAS
3. RENTAL OF 4-PLEX CONDOS PROHIBITED
4. 2-CAR GARAGES FOR ALL HOMES (SFH AND 4-PLEXES CONDOS)
5. EXTERIOR CONSTRUCTION OF ALL HOMES REQUIRES MASONRY PRODUCTS
(i.e., brick, stone, Hardie board like products, etc.)
VINYL PRODUCTS PERMITTED IN TRIM AREAS ONLY
6. 4-PLEX CONDO MINIMUM SQUARE FOOTAGE – 1,700 S.F. TO 1,900 S.F.
EXCLUDES GARAGES
7. R-1D SINGLE-FAMILY HOME MINIMUM SQUARE FOOTAGE MINIMUM:
ONE-STORY 1,700 S.F. (EXCLUDES GARAGES)
TWO-STORY 2,500 S.F. (EXCLUDES GARAGES)
8. R-1B and R-1C SINGLE –FAMILY HOME SQUARE FOOTAGE MINIMUM:
ONE-STORY 2,000 S.F. (EXCLUDES GARAGES)
TWO-STORY 2,500 S.F. (EXCLUDES GARAGES)

9. EXTEND CLUB LANE TO INTERSECT WITH COURCHELLE DRIVE AND CONNECT TO ETTER DRIVE AND THE US 27 BYASS (SEE EXHIBIT "A" ATTACHED)

10. CONSTRUCT BOULEVARD ENTRANCE AT ENTRY INTO PROJECT FROM LONE OAK DRIVE (SEE EXHIBIT "B" ATTACHED)

11. ADD LEFT TURN LANE AT KY 29 AND LONE OAK DRIVE INTERSECTION (SEE EXHIBIT "C" ATTACHED)

12. ADD DIVIDED ROADWAY DESIGN (MEDIAN) ON INTERIOR "STREET B" AS SHOWN ON EXHIBIT "D" ATTACHED.

EXHIBIT



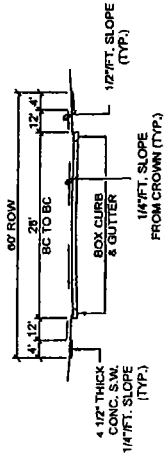
GRAPHIC SCALE



EX. A



LOCATION SCHEMATIC
SCALE 1" = 100'



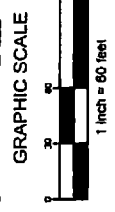
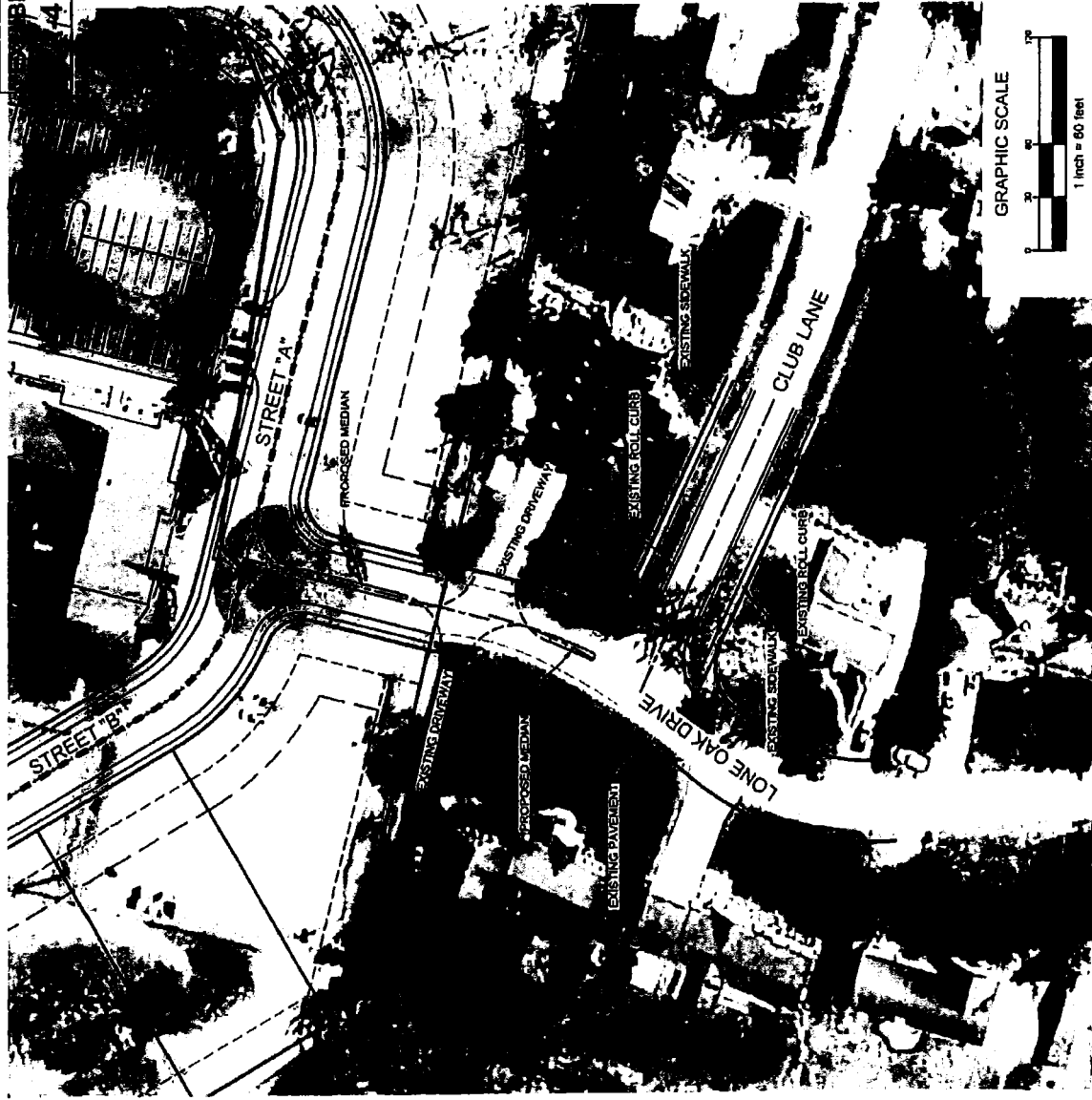
CLUB LANE EXTENSION
(AS PER P.C. 1: SL 95)
N.T.S.

LINE LEGEND

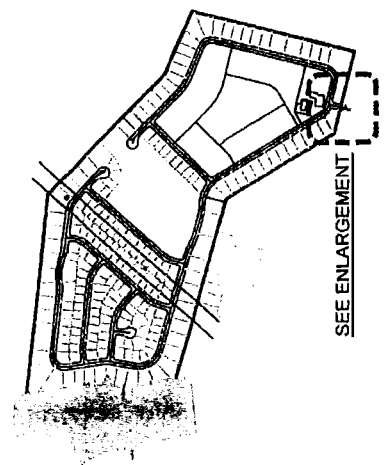
- CENTERLINE
- CURB LINE
- PAVEMENT
- SIDEWALK
- TURNING RADIUS

EXHIBIT - CLUB LANE EXTENSION
THE ENCLAVE

EXHIBIT
44

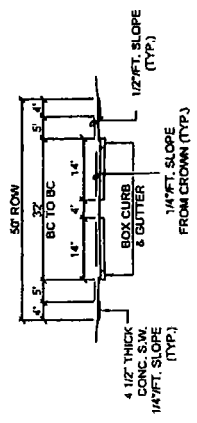


EX.B

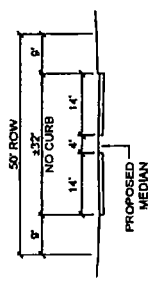


SEE ENLARGEMENT

LOCATION SCHEMATIC
SCALE 1" = 100'



PROPOSED LONE OAK DRIVE EXTENSION
N.T.S.



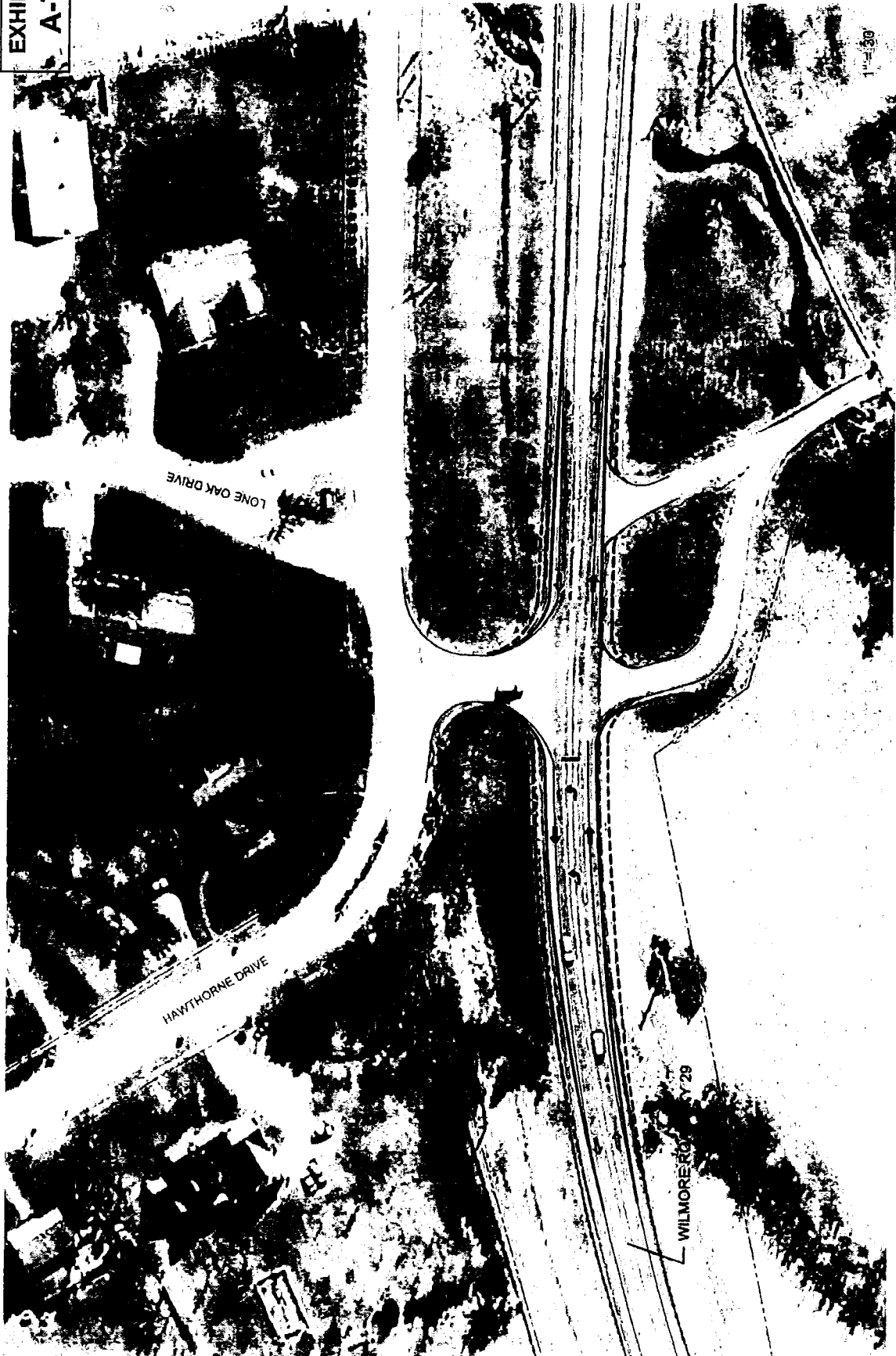
EXISTING LONE OAK DRIVE
N.T.S.

LINE LEGEND

- CENTERLINE
- CURB LINE
- PAVEMENT
- SIDEWALK
- TURNING RADIUS

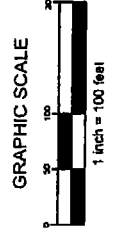
EXHIBIT - LONE OAK DRIVE
THE ENCLAVE

EXHIBIT
A-7

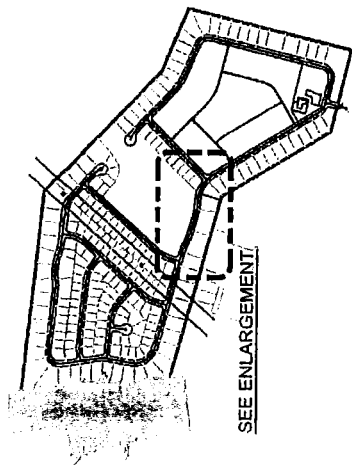


EX.C

**EXHIBIT
A-6**

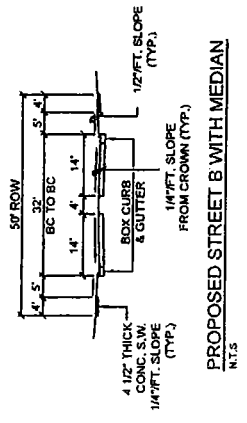


EX. D



SEE ENLARGEMENT

LOCATION SCHEMATIC
SCALE 1" = 100'



PROPOSED STREET B WITH MEDIAN
N.T.S.

LINE LEGEND

- CENTERLINE
- CURB LINE
- PAVEMENT
- SIDEWALK
- TURNING RADIUS

**EXHIBIT - PROPOSED MEDIAN - STREET B
THE ENCLAVE**

The City of
Nicholasville
Planning Commission

DATE: March 9, 2020

MEMO TO: NICHOLASVILLE BOARD OF COMMISSION

FROM: C. DEAN ANNESS, PLANNING DIRECTOR/ADMINISTRATIVE OFFICER

SUBJECT: Tall Oak, LLC, 1151 Jessamine Station Road, Nicholasville, Kentucky 40356, has filed an application for a Zone Map Amendment from A-1 (County) Agriculture District to R-1B (City) Single Family Residential District for approximately 32.79 acres of property; A-1 (County) Agriculture District to R-1C (City) Single Family Residential District for approximately 18.51 acres of property; A-1 (County) Agriculture District to R-1D (City) Single Family Residential District for approximately 49.03 acres of property; A-1 (County) Agriculture District to R-3 (City) Multi-Family Residential District for approximately 25.27 acres of property; A-1 (City) Agriculture District to B-1 (City) Central Business District for approximately 1.74 acres of property; A-1 (County) Agriculture District to B-1 (City) Central Business District for approximately 1.44 acres of property; A-1 (City) Agriculture District to R-1C (City) Single Family Residential District for approximately 1.27 acres of property and A-1 (County) Agriculture District to R-3 (City) Multi-Family Residential District for approximately .01 acres of property, pertaining to the properties located at 140 Lone Oak Drive (PVA Parcel #045-00-00-096.00) and 44 Lone Oak Drive (PVA Parcel #045-00-00-097.00), Nicholasville, Kentucky 40356.

The following information has been included concerning this Zone Map Amendment (Zone Change):

- a) The recommendation from the Nicholasville Planning Commission to disapprove this zone change request, pages 1.
- b) A copy of the Justifications "Findings of Fact" for Requested Zone Map Amendment submitted by Attorney Bruce Smith, pages 2 – 5.
- c) A copy of the Voluntary Conditions submitted by Attorney Bruce Smith, pages 6 – 7.
- d) A copy of the Findings of Fact in opposition of the Zone Map Amendment Request, submitted by Attorney Bruce Simpson, pages 8 – 10.
- e) Final Development Plan, The Enclave, 140 & 44 Lone Oak Road, PVA Parcel #045-00-00-096.00, & PVA Parcel #045-00-00-097.00, Nicholasville, Kentucky 40356, Exhibit "A."
- f) A copy of the transcript from the Public Hearing held on February 24, 2020 at 7:00 P.M. in the Jessamine County Circuit Courtroom, on the 2nd floor of the Jessamine County Court House, located at 101 North Main Street, Nicholasville, Kentucky concerning this zone map amendment request will be included on the flash drive.

If you have any questions concerning this material please contact me.

517 North Main Street
Nicholasville, Kentucky 40356

859 885.9385 phone
859 881.5263 fax
www.nicholasville.org

MARCH 9, 2020

A RECOMMENDATION TO: THE NICHOLASVILLE BOARD OF COMMISSION

SUBJECT: TALL OAK, LLC, 1151 JESSAMINE STATION ROAD, NICHOLASVILLE, KY 40356, FILED AN APPLICATION FOR A ZONE MAP AMENDMENT FROM A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1B (CITY) FOR APPROXIMATELY 32.79 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 18.51 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-1D (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 49.03 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 25.27 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.74 ACRES OF PROPERTY; A-1 (COUNTY) AGRICULTURE DISTRICT TO B-1 (CITY) CENTRAL BUSINESS DISTRICT FOR APPROXIMATELY 1.44 ACRES OF PROPERTY; A-1 (CITY) AGRICULTURE DISTRICT TO R-1C (CITY) SINGLE FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY 1.27 ACRES OF PROPERTY AND A-1 (COUNTY) AGRICULTURE DISTRICT TO R-3 (CITY) MULTI-FAMILY RESIDENTIAL DISTRICT FOR APPROXIMATELY .01 ACRES OF PROPERTY PERTAINING TO THE PROPERTIES LOCATED AT 140 LONE OAK DRIVE (PVA PARCEL #045-00-00-096.00) AND 44 LONE OAK DRIVE (PVA PARCEL #045-00-00-097.00), NICHOLASVILLE, KENTUCKY 40356.

The Nicholasville Planning Commission, after having properly advertised, held a Public Hearing on February 24, 2020 at 7:00 P.M. in the Jessamine County Circuit Courtroom, on the second floor of the Jessamine County Court House, located at 101 North Main Street, Nicholasville, Kentucky.

Mr. Royse made a motion to disapprove the zone change application based on his comments in the record on the initial motion to approve, including inconsistency with the comprehensive plan in terms of proposed density and recommended land uses in the surrounding areas, concerns about pending sewer capacity issues that are presently unresolved, as well as the submissions of evidence and the proposed findings submitted by opponents' counsel.

The motion was seconded by Ms. Mason and passed 6-5.

All those property owners whose names were submitted by the applicant were notified by certified mail of this zone change request.

PLEASE NOTE THAT KRS 100.211 REQUIRES THAT THE CITY COMMISSION TAKE FINAL ACTION ON THIS ZONE CHANGE WITHIN SIXTY (60) DAYS OF THE DATE OF RECEIPT OF THE ADMINISTRATIVELY COMPLETE PROPOSED AMENDMENT.

**JUSTIFICATIONS
(FINDINGS OF FACT)
TALL OAK, LLC ZONE CHANGE
THE ENCLAVE**

A-1 (County) to R-1B (32.79 Acres); A-1 (County) to R-1C (18.51 Acres); A-1 (County) to R-1D (49.03 Acres); A-1 (County) to R-3 (25.27 Acres); A-1 (City) to B-1 (1.74 Acres); A-1 (County) to B-1 (1.44 Acres); A-1 (City) to R-1C (1.27 Acres); and A-1 (City) to R-3 (.01 Acres)

1. This is an “in-fill” project. The Property (130.06 acres) is bounded on three sides (north, east and south) by residential subdivisions (The Paddock, Lone Oak Subdivision and Hawthorne Subdivision) and on its smallest side (west) by agricultural property which is buffered from the subject by a stream and a flood plain area (“Property”). The requested rezoning of 97% of the Property to a variety of residential uses is compatible and consistent with the area surrounding it. Per the Official Zoning Map, the surrounding area contains the following zones: R-1 (which equates to the current R-1D zoning per the current Zoning Ordinance), R-3, R-1F, B-2, R-1D, R-1T and R-2.
2. 1.83 acres of the Property, located at its southeast corner and already occupied by a clubhouse, pool and parking lots, is a proposed commercial area (B-1) to permit continued business use of the existing facilities that have existed for approximately 50 years.
3. The requested R-1B, R-1C, R-1D and R-3 zone changes agree with the 2017 Joint Comprehensive Plan (“Plan”).
 - a. The request is consistent with the Statement of Goals and Objectives (“SGO”), II. Residential Development (“II”), Goal A of the Plan which reads: “Encourage balanced mix of housing opportunities and efficient use of residential land...” The zones requested for the proposed project are R-1B, R-1C, R-1D and R-3 and is a development located on a defunct golf course.
 - b. The proposed zone change is also consistent with the recognition by the Plan of a “high [population] growth trajectory for the foreseeable future” that will continue in Nicholasville, resulting “in accelerating requirements for housing...” (Plan at p. 29.) Further, the Plan points out that “If density levels were to remain unchanged (as currently exist), it would be necessary to increase the size of the city [Nicholasville] by over 4,000 acres by 2030...” Given this forecast, the rezoning of the Property is needed to accommodate such growth.

Since the current Comprehensive Plan was adopted in 2017, the City of Nicholasville has only annexed 465 acres or 12% of the projected need. The breakdown of this 465

acres is 79 acres of commercial property, 159 acres of industrial and 227 acres of residential. The City needs 3,535 acres or 88% more acreage to meet the projected need by 2030 or within the next 11 years. The proposed project will add 316 dwelling units located on 130.06 acres to the City of Nicholasville.

- c. The Plan further provides at page 29: "If Nicholasville wants to accommodate the significant projected population growth, especially in terms of housing, some combination of two tools -- annexation of additional unincorporated land and increased residential density within city limits -- will likely be necessary in the coming years." The proposed project, if annexed, will add approximately 126 acres to the city limits and it includes R-3 zoning for 124 units.
- d. The rezoning of the Property fulfils SGO, II, Goal A, Objective 5 which mandates: "Ensure that adequate land is available to accommodate the housing needs of the entire Jessamine County community." Currently, there are approximately 149 building lots available for immediate construction within the core city limits of Nicholasville. Since 2015, building permits issued have averaged approximately 191 annually. Based on these numbers, there are not enough residential building lots in the City's inventory to satisfy demand.
- e. Because the Property is virtually surrounded by residential neighborhoods in the Nicholasville city limits and is well within the Nicholasville Urban Service Boundary and all utilities (water, sewer, electrical power and gas) are located nearby or on the Property and can be easily extended and upsized, the requested rezoning satisfies the requirement of SGO, IV. Infrastructure and Community Facilities ("IV") Goal B in that it is an "efficient expansion of existing infrastructure and community facilities to meet current and future needs" and satisfies the requirement of Goal B, Objective 7 in that the proposed project is development that is contiguous to an existing residential area.
- f. The development of this Property from a golf course to a residential use is considered an "in-fill" project and is therefore favored under planning principles and under SGO, II, Goal A, Objective 3.
- g. The proposed development includes single-family homes and condominiums with a commercial section nearby which meets SGO, II, Goal A, Objectives 2 and 9 in that this project will be a "mixed-density and mixed-use neighborhood" that is to be encouraged. The proposed project has four (4) levels of residential zones and combines residential and commercial zoning.
- h. The proposed development is consistent with SGO I. Economic and Commercial Development, Goal C, Objective 5 which mandates the development of policies that combine residential and commercial uses within a single development plan.

The existing A-1 (County and City) zoning is inappropriate and the proposed R-1B, R-1C, R-1D, R-3 and B-1 zones are appropriate.

- a. The A-1 zone is inappropriate because the Property is surrounded by residential properties making it impractical to farm and without this impediment, it would still not be economically feasible to farm the Property.
 - b. The use of the Property as a golf course has proved to be inappropriate because it is economically unsustainable to operate due to market conditions. The golf course currently operated on the Property has lost money for 7 years out of the last 8 and it lost money in 2019.
 - c. The R-1B, R-1C, R-1D and R-3 zones are appropriate because of the surrounding residential properties and these zones will allow the applicant to build the size and type of single family homes that are predominate in the area and that are in demand.
 - d. The existing clubhouse, pool and parking lots located on the 3.85 acre portion of the Property are appropriate for commercial zoning (B-1) due to their existence and operation as a commercial use for almost 50 years.
4. An economic change has occurred within the area of the Property which was not anticipated by the current Comprehensive Plan and which has substantially altered the character of the area in that there has been an oversupply of golf courses constructed in the market coupled with a downturn in the number of individuals playing golf and an increased competition for entertainment dollars. This combination of increased competition and financial demands, has forced Lone Oak golf course to close along with a number of other courses in Central Kentucky (Andover, Old Silo, Duckers, Stoner Creek and Plantation).
 5. As substantiated by the testimony of William Berkley and based on the population growth projections contained in the recently adopted 2017 Comprehensive Plan, there is a compelling need in the market place for this zone change in that it will provide needed housing for the anticipated growth.
 6. The density of the proposed development (2.43 homes per acre) is less than the density of the adjoining Lone Oak Subdivision which is 2.72 homes per acre.
 7. Although there is only one access into and out of the Property, the installation of a boulevard type entrance and the median on a portion of Street "B" will guard against blockages.
 8. The Traffic Impact Study submitted by the applicant demonstrates that the Level of Service at the KY 29 and Etter Drive intersections will remain at reasonable standards after the proposed improvements are made.

9. The standard minimum road width to accommodate the additional traffic generated by the proposed development is 16 feet. Lone Oak Drive is 27 feet wide and Club Lane is 26 feet wide, both substantially exceeding the minimum standard.
10. All of the sewer trunk lines that will receive the effluent produced by the proposed development have or will have more than adequate capacity.
11. The applicant will be required by planning and zoning regulations to control the peak flow rate of storm water from the Property after development such that it will not be greater than the current flow rate from the golf course prior to development.

AGREED CONDITIONS TO ZONE CHANGE OFFERED BY APPLICANT

1. MANDATORY HOA MEMBERSHIP FOR EVERY HOMEOWNER

2. HOA, NOT CITY, WILL MAINTAIN OPEN/COMMON AREAS

3. RENTAL OF 4-PLEX CONDOS PROHIBITED

4. 2-CAR GARAGES FOR ALL HOMES (SFH AND 4-PLEXES CONDOS)

5. EXTERIOR CONSTRUCTION OF ALL HOMES REQUIRES MASONRY PRODUCTS
(i.e., brick, stone, Hardie board like products, etc.)
VINYL PRODUCTS PERMITTED IN TRIM AREAS ONLY

6. 4-PLEX CONDO MINIMUM SQUARE FOOTAGE – 1,700 S.F. TO 1,900 S.F.
EXCLUDES GARAGES

7. R-1D SINGLE-FAMILY HOME MINIMUM SQUARE FOOTAGE MINIMUM:
ONE-STORY 1,700 S.F. (EXCLUDES GARAGES)
TWO-STORY 2,500 S.F. (EXCLUDES GARAGES)

8. R-1B and R-1C SINGLE –FAMILY HOME SQUARE FOOTAGE MINIMUM:
ONE-STORY 2,000 S.F. (EXCLUDES GARAGES)
TWO-STORY 2,500 S.F. (EXCLUDES GARAGES)

9. EXTEND CLUB LANE TO INTERSECT WITH COURCELLE DRIVE AND CONNECT TO ETTER DRIVE AND THE US 27 BYASS (SEE EXHIBIT "A" ATTACHED)

10. CONSTRUCT BOULEVARD ENTRANCE AT ENTRY INTO PROJECT FROM LONE OAK DRIVE (SEE EXHIBIT "B" ATTACHED)

11. ADD LEFT TURN LANE AT KY 29 AND LONE OAK DRIVE INTERSECTION (SEE EXHIBIT "C" ATTACHED)

12. ADD DIVIDED ROADWAY DESIGN (MEDIAN) ON INTERIOR "STREET B" AS SHOWN ON EXHIBIT "D" ATTACHED.

NICHOLASVILLE PLANNING COMMISSION

February 24, 2020

Re: Zone Map Amendment Application of Tall Oak, LLC

MOTION TO DISAPPROVE TALL OAK, LLC ZONE MAP AMENDMENT REQUEST

I move to disapprove the Tall Oak, LLC zone map amendment request based on the following Findings of Fact:

1. The 2017 Comprehensive Plan recommends public/semipublic/institutional land uses for the subject property which has been used as a golf course for approximately 50 years. During the 2017 Comprehensive Plan update process there was never any mention made of developing the Lone Oak Golf Course into 316 residential units. If the golf course is going to cease to exist as a golf course the applicant/owner should seek an amendment to the Comprehensive Plan first. This is an important document which guides the future development of Nicholasville. This amendment process will provide the entire community, the Planning Commission and its staff the opportunity to study the most appropriate development options for the subject property and make any changes to the recommendations for its future use. The process for amending the Comprehensive Plan in a combined Annexation and Zone Map Amendment request is specifically set out in KRS 100.209.

2. The subject property consists of 130 acres and is surrounded on three (3) sides by very low-density single-family homes and a low density working general agricultural farm. The applicant seeks to develop the golf course at nearly twice the density of the adjacent neighborhoods. Such an increase in density is out of character with these neighborhoods which were developed after the golf course was built. The golf course is also subject to periodic flooding during various rainfall events. This has had an adverse impact on nearby neighborhoods. The applicant did not sufficiently address how the millions of gallons of additional stormwater runoff which would be generated from this new development would be appropriately managed so as not to harm the homes in the surrounding neighborhood.

3. The proposed development has only one way in and one way out for 316 homes from Club Lane, which, itself is a substandard street based on current standards. This single access point is in violation of the applicable fire safety standards which require, at a minimum, 2 full service access points which can sustain fire and emergency vehicles.

4. The proposed development would generate approximately 3,100 new vehicle trips per day, if not more, depending on the future commercial use of the former clubhouse, parking and swimming pool areas (a little more than 3 acres). These new vehicle trips would have to travel on existing substandard streets, to-wit: Lone Oak Drive (27 feet wide) and Club Lane (26 feet wide) to access Ky. 29 and the US 27 Bypass, respectively. Lone Oak Drive will be one of the principal access routes to and from this development. Lone Oak Drive has no sidewalks and the residents have been forced to use the street for years when walking in their neighborhood. Less than a year ago, a Lone Oak Drive resident was seriously injured while walking on the street. Lone Oak Drive is 2,400 feet in length from the subject property to Ky Highway 29. The applicant also proposes to tear down an existing home on Courchelle Drive in order to construct an extension of Club Lane to Etter Drive. This will result in a radical change in the character of the existing neighborhood and will result in a new street being installed between two existing homes on Courchelle Drive.

5. The intersections of Ky. 29 and Lone Oak Drive and Etter Drive and the US 27 Bypass have higher rates of accidents than the State average. 3,100 more vehicle trips per day to these intersections increases the likelihood of further accidents until significant improvements to these intersections are made.

6. The evidence was substantial that Nicholasville's waste water treatment plan is over capacity. There have been many instances in which property owners in the surrounding Lone Oak neighborhood have experienced raw sewage spewing out from manhole covers following various rainfall events. This raw sewage flows into a tributary of Jessamine Creek for which 34 homes in the Loan Oak neighborhood directly adjoin. The repeated flow of raw sewage in close proximity to nearby homes exposes homeowners and their children to unnecessary public health risks. The problems associated with the wastewater treatment facility should be fixed before the subject property is approved for more intense development.

7. In light of the Findings set out in paragraphs 1-6 above, the Planning Commission finds that the existing low intensity zoning for the subject property is appropriate and the proposed more intense zoning is inappropriate

8. Likewise, the proposed zone map amendment request is not in compliance with the 2017 Comprehensive Plan which designates the subject property for Public/Semi Public/Institutional uses. The applicant's proposal is simply too intense and incompatible with the surrounding neighborhoods and its location within the heart of an older low-density residential neighborhood. The applicant's proposal is inconsistent with the provisions of Goal II RESIDENTIAL DEVELOPMENT, Goal A, p.12-13, which provides that land use policies should be developed to ensure compatibility between housing types of differing densities and which also preserve and protect existing housing stock throughout the County.

The 2017 Comprehensive Plan, pursuant to Goal III. TRANSPORTATION, Goal. B., p. 13-14, also provides that development should be designed so that future transportation routes should be protective of the public's health, safety and welfare. Locating a higher intensity development

consisting of 316 new residential units in the center of an existing, older established neighborhood served by substandard streets with no sidewalk on Lone Oak Drive for 2,400 feet is not the type of safe, well-designed access envisioned by the 2017 Comprehensive Plan.

9. There have been no major changes of an economic, physical or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area. The applicant's contention that there have been major economic changes because the Lone Oak Golf Course ceased its operations does not thereby require that it be rezoned to whatever zone or zones the applicant seeks. Additionally, the applicant has failed to demonstrate how the mere cessation of operations of a golf course has "substantially altered the basic character of the area." There has been no alteration of the character of the neighborhood, much less a substantial one. The golf course, for all outward appearances still looks like a golf course.

Finally, there are also a number of residential developments which have been approved which will meet the immediate future residential needs of persons who wish to live in the city of Nicholasville. Brannon Crossing is still being developed for residential purposes as are other residential developments within and outside the City limits. Moreover, the 2017 Comprehensive Plan provides an alternate land use for the subject property should the golf course cease its operations. These alternative uses include public, semipublic and institutional type uses.

INDEX TO EXHIBITS
TALL OAK, LLC

September 23, 2019 NPC Meeting

1. Intent to Annex for Lone Oak Development
2. Application for Zone Change – September 23, 2019 NPC Meeting
3. September 23, 2019 NPC Roll Call
4. Approved September 23, 2019 signed off by the Chairman
5. Petitioners Exhibits (109 pages) which will include information and slide numbers:
 - Traffic Impact Study – 1-25
 - Pictures of proposed homes (inside & outside views) – 27-44
 - Statistical Data – 45-46
 - Restrictive Covenants - 47
 - KY29 Widening - 48
 - Lone Oak Drive extension into the subject property - 49
 - Higher Density Development: Myth & Fact – 50-87
 - Justifications submitted by Attorney Bruce Smith – 88-90
 - Market Analysis prepared by Bluegrass Valuation Group LLC – 91-109
6. Final Development Plan submitted for the September 23, 2019 meeting
7. Final Development Plan Display Drawing
8. Site Statistics for the Lone Oak Development
9. Respondents Exhibits (815 pages) which will include information and their slide numbers:
 - KRS 100.209 Amendment of comprehensive plan prior to Annexation permitted – 2
 - Lone Oak Existing Features – 3
 - Lone Oak Proposed Development Density (323 units) – 4
 - National Fire Protection Association (NFPA) Standard for Fire Protection Infrastructure for land development in Wildland, Rural and Suburban areas – 5-6
 - Adjoining subdivisions information pertaining to the number of lots, the acreage and the density numbers –7
 - Existing street widths and traffic routes for new development – 8
 - Lone Oak drainage pattern – 9
 - Increase in water run-off table – 10
 - Letter and feedback from the Environmental and Public Protection Cabinet addressed to the Utility Director Tom Calkins –11-17
 - Letter from the Energy and Environmental Cabinet addressed to Mr. Gary Goldey, Public Works Director –18
 - Letters from the Energy and Environment Cabinet addressed to Mayor Pete Sutherland – 19-20 & 22
 - Minutes from the pre-planning meeting with the City of Nicholasville dated 10/23/18 –21
 - KRS 100.213 Findings necessary for proposed map amendment –23
 - Findings of Fact submitted by Attorney Bruce Simpson showing why the zone change should be disapproved –24-25
 - Traffic Impact Study –26-56
 - Incident Description Reports –57-815

10. Kentucky Standards of Safety submitted by the opposing counsel and the Engineer Josh Cecil
11. Fire Codes and Standards submitted by the opposing counsel and the Engineer Josh Cecil
12. Staff Comments from the September 23, 2019 pertaining to the Tall Oak, LLC zone change request.
13. End of September Planning Commission Meeting, there was a vote roll call done for adjoining the meeting and to re-gavel hearing at the next meeting which the next step would be public comments followed by Mr. Smith's rebuttal.
14. Volume I of the Tall Oak, LLC transcript

October 28, 2019 Nicholasville Planning Commission Meeting

15. October 28, 2019 Roll Call
16. October Application and misc. for the record pertaining to Tall Oak, LLC
17. Jessamine Journal email for the Tall Oak Ad Proof
18. Email correspondence with Attorney Bruce Smith pertaining to the October fees
19. Email correspondence with Banks Engineering pertaining to the adjoiners
20. Receipt for the fees received for October meeting
21. Jessamine Journal Ad for October meeting
22. Approved October 28, 2019 minutes signed off by the Chairman
23. Public input which will include NPD post discussing the hit and run of a pedestrian;
24. Pictures of children and parked cars in the Lone Oak Subdivision area;
25. Public input of pictures showing standing rain water in the yards
26. Letter and four exhibits submitted for the record by Mr. James Heidinger, 118 Fairway Drive, discussing the Nicholasville WWTP.
27. Josh Cecil's density calculations which show the errors brought up by Attorney Bruce Smith in his rebuttal comments.
28. Staff Comments from the October 28, 2019 pertaining to the Tall Oak, LLC zone change request.
29. Justifications submitted by Attorney Bruce Smith for the October record
30. Motion made to conclude the hearing without further remarks and leave open for Planning Commission discussion (motion passed 10-0).
31. Motion made to disapprove the application for the zone change request
32. Volume II of II of the Tall Oak Transcript

February 24, 2020 Nicholasville Planning Commission Meeting

Exhibits submitted by the Applicant Tall Oak, LLC:

33. Zoning Layout with Colors – Exhibit A-1
34. Updated Colored Neighborhood Plan with Median – Exhibit A-2
35. Neighborhood Park Concept – Exhibit A-3
36. Lone Oak Drive Extension into the subject property & Club Lane Extension into Courchelle Drive – Exhibits A-4 & A-5
37. Proposed Median – Street B – Exhibit A-6
38. KY 29 Widening – Exhibit A-7
39. Traffic Impact Study – Exhibit A-8

40. Petitioners Exhibits (28 pages) which will include information and slide numbers:

- Statistical Data – 1-2
- Agreed Conditions to zone change offered by the applicant – 3-4
- Article in the Herald Leader dated October 17, 2019 discussing Lexington golf courses cutting losses – 5-6
- Agreed Order between the Energy and Environmental Cabinet and the City of Nicholasville – 7-28

41. Respondents Exhibits (62 pages) which will include the index to these exhibits on slide 2

42. Traffic Study submitted by the Respondents

43. Lone Oak Power Point Presentation submitted by the Respondents

44. Lone Oak Storm Water Impact Video submitted by the Respondents

45. A copy of the transcript from the Public Hearing held on February 24, 2020 at 7:00 P.M. in the Jessamine County Circuit Courtroom, on the 2nd floor of the Jessamine County Court House, located at 101 North Main Street, Nicholasville, Kentucky concerning this zone map amendment request

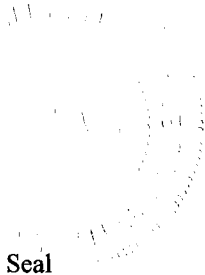


CERTIFICATION OF ORDINANCE

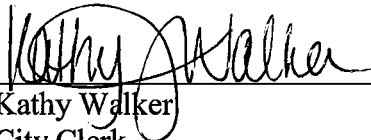
ORDINANCE 004-2020

I, Kathy Walker, certify I am the duly qualified City Clerk of the City of Nicholasville, Kentucky and the foregoing thirty (30) pages of Ordinance 004-2020 in addition to a CD with supplemental documents is a true, correct and complete copy duly adopted by the City Commission at a duly convened meeting held on May 18, 2020 all as appears in the official records of said city.

WITNESS, my hand and the Seal of the City of Nicholasville, this 2nd day of September, 2020.



Seal



Kathy Walker
City Clerk