

1. **PALUMBO PROPERTIES, INC (AMD.) ZONING MAP AMENDMENT & NEWTOWN SPRINGS ZONING DEVELOPMENT PLAN**

- a. MARC 2015-7: PALUMBO PROPERTIES, INC. (AMD) – a zone map amendment from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone, for 13.81 net (14.47 gross) acres, for property located at 564 Asbury Lane (a portion of). A conditional use is also requested.

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.

In addition to the Comprehensive Plan mission statement, the Goals and Objectives of the Plan also encourage growing successful neighborhoods (Theme A), which includes the following elements or characteristics: inviting landscape; variety of housing choices; abundant private and public open space; neighborhood focal points; and quality connections with parks, schools and stores.

The subject property is located within the boundary of the recently adopted Winburn & Russell Cave Neighborhoods Small Area Plan (WRCN SAP), which is generally south of Interstate 75, west of Newtown Pike, north of New Circle Road and east of Russell Cave Road. The Plan identifies seven guiding principles for the area that should be further considered by the Planning Commission.

The petitioner proposes this rezoning in order to construct an apartment complex for 252 dwelling units, with 504 bedrooms, a neighborhood swimming pool and clubhouse (part of a corollary conditional use request), and associated off-street parking.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval,** for the following reasons:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, and the adopted 2016 Winburn and Russell Cave Neighborhoods Small Area Plan (WRCN SAP), for the following reasons:
 - a. The 2013 Comprehensive Plan's Goals and Objectives encourage expanded housing choices (Theme A, Goal #1); support opportunities for infill, redevelopment and adaptive reuse that respect an area's context and design features (Theme A, Goal #2a.); encourage the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1b. and #3); encourage providing for well-designed neighborhoods (Theme A, Goal #3); and support preserving urban neighborhoods (Theme D, Goal #3c.).
 - b. The requested zone change and proposed development will utilize vacant land inside the Urban Service Area, expand housing choices within the immediate area and provide a development pattern that respects the adjacent single-family residential neighborhoods by limiting the scale and mass of the buildings.
 - c. The Winburn & Russell Cave Neighborhoods Small Area Plan (SAP) identifies seven guiding planning principles to increase transportation connectivity; increase equity for residents; promote strategies to increase home ownership and improve housing conditions; optimize the use of land to promote mixed housing types; ensure infill is well designed and sensitive to existing neighborhoods; and improve public safety.
 - d. The petitioner's proposal addresses necessary transportation connections to adjoining properties, offers market-rate multi-family dwelling units, and meets many of the design guidelines that ensure such infill is sensitive to the surrounding neighborhoods.
 - e. As part of the SAP planning process, a set of design standards was developed for multi-family developments that provide a framework for evaluating the proposed development. The site planning guidelines have been met, and based on preliminary design work, many of the open space, landscaping, and architectural design guidelines will also be met.

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- f. Adherence to the design standards should ensure a context sensitive development and therefore, agreement with many of the goals established in the 2013 Comprehensive Plan and principles of the Winburn & Russell Cave Neighborhood Small Area Plan.
2. This recommendation is made subject to approval and certification of ZDP 2015-33: Newtown Springs, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following land use restriction shall apply via conditional zoning:
 - a. A twenty foot (20') tree preservation area (TPA) and landscape buffer shall be established along the eastern property boundary. This buffer shall contain trees and shrubs as required by Article 18 of the Zoning Ordinance. Existing trees over 4" caliper in size shall be maintained within the TPA and buffer. Only diseased, dead and/or dying trees may be removed, and only with the Urban Forester's approval.
 - b. No pole lighting may be installed on the subject property; however, ground-level lighting, lighting for pedestrian paths and sidewalks and indirect lighting shall be permitted.

These restrictions are necessary and appropriate for the subject property to ensure greater compliance with the specific Winburn & Russell Cave Neighborhoods Small Area Plan recommendations, and to better protect the surrounding neighborhoods.

b. REQUESTED CONDITIONAL USE

A private club with outdoor recreational facilities, and accessory off-street parking (in an R-1D zone).

The Staff Recommends: Approval of the requested conditional use, for the following reasons:

- a. Granting the requested conditional use will not harm the public health, safety or welfare, and should not adversely affect the character of the subject or surrounding properties. The proposed use will augment the residential neighborhood, because the use will provide social and recreational amenities to people who currently reside, or will reside in this area.
- b. All necessary public services and facilities are available and adequate to the subject site, provided Silver Spring Drive is completed as planned within the development. Sidewalks exist to the site, and will be augmented as development continues in Newtown Springs, and membership in this facility will not be limited to those residents. Sanitary sewer, storm water basins, fire & police protecting and all public utilities are provided in this portion of the Urban Services Area.

This recommendation of approval is made subject to the following conditions:

1. The subject property shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
 2. The proposed use shall be operated in accordance with the submitted justification by the applicant.
 3. All necessary permits, including a Zoning Compliance Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy of this private club.
 4. The Fayette County Health Department shall inspect and approve the pool and facility (kitchen, etc.) prior to the initial operation of the facility.
 5. Off-street parking shall be provided on the approved development plan at a ratio at or exceeding one (1) space per four (4) members of this private club.
- c. ZDP 2015-33: NEWTOWN SPRINGS (11/28/16)*- located at 564 Asbury Lane.
(Eagle Engineering)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Correct notes #4, #7 and #9.
8. Denote the height of building(s) in feet.
9. Clarify square footage of all buildings relative to the lot coverage and floor area ratio.
10. Clarify proposed open space site statistic.
11. Clarify existing and proposed landscaping (and tree preservation) adjacent to single family zone.

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12. Discuss adequacy and the need for improvements to Citation Boulevard.
13. Discuss possible trail linage per the Greenway Plan.
14. Discuss compliance with the Winburn/Russell Cave Road Small Area Plan, and its multi-family design criteria.
15. Discuss note #20.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change. She stated that the staff has received 11 letter of correspondence related to this zone change and they date back from last year when this case was originally filed to the most current, which was from last week.

Ms. Wade summarized the staff report and recommendations of the proposed zone change. She said that the staff also recommended two conditional zoning restrictions; one of them is to maintain a 20' buffer along the eastern property line; and the other restriction is no pole lighting on the subject property. She said that the petitioner has an alternative suggestion to present to allow for some pole lighting on the subject site.

Commission Comments – There were questions in regard to the height of the apartment buildings and their location on the subject property.

Development Plan Presentation - Mr. Martin presented the staff report on the development plan and said that the staff was concerned with note #20, about the future Hollow Creek Road connection. The staff would prefer that Hollow Creek Road be built at the time of the final development plan and be barricaded until Citation Blvd is completed to Russell Cave Road.

Commission Comments – There were questions, as well as discussion, in regard to the change in the number of dwellings units.

Conditional Use – Mr. Sallee presented the staff report on the conditional use requested for this development and discussed the five recommended conditions that the staff has recommended.

Traffic Impact Study – Mr. Emmons presented the MPO's report on the Traffic Study, prepared by Integrated Engineering, for this development and said that the consultant's recommendation showed little deviation in the levels of service with or without the proposed development and said that the existing infrastructure can sustain the traffic. He said that the staff recommends taking pedestrian and bicycling movement into consideration with the vehicular traffic control device that is chosen at Hollow Creek Road.

Petitioner Presentation – Dick Murphy, Murphy & Clendenen, PLLC, was present representing the petitioner and said that he believes the applicant is in agreement with the staff's recommendations. He said that he has proposed revisions for the conditional zoning restrictions for 3b. The petitioner would like to propose to allow pole lighting at pedestrian scale, which is 12' in height, or less. The petitioner's request was displayed on the overhead projector. Tom Smith, Sherman, Carter, Barnhart Architects, presented the architectural concerns and design guidelines of the proposed development. Joe Palumbo, president of Palumbo Properties; Bill McAlpen, Eagle Engineering; Eddie Mesta, Integrated Engineering; and Charles Hite, Murphy & Clendenen, PLLC, were also present.

Commission Comments – There were questions regarding the type of lighting requested for the subject property.

The following citizens were present in favor of this case:

Ms. Shelia Coles, 649 Hollow Creek Road, said that she is for the development but concerned about Hollow Creek Road being opened for connecting traffic.

Lewis Brown, President of Green Acres/Hollow Creek/Breckenridge Neighborhood Association, said that the association would like to have Hollow Creek Road opened, but they could wait until Citation Blvd. is complete.

The following citizens were present in opposition to this case:

Virgil Jones, 729 Dawson Springs Way, said that he had petitions signed from Newtown Springs and Hollow Creek residents.

James Lile, 1345 Silver Springs Drive, said that he doesn't want the increased traffic and the speeding cars in this area.

Joe Reister, 608 Saunders Spring Way, said that he concerned with the increased traffic and safety issues.

Petitioner Rebuttal – Mr. Murphy said that the connection of Hollow Creek Road has been a concern of theirs from the beginning. He said that speeding should not be an issue on Hollow Creek Road, which will be a T-intersection with Silver Springs Drive and there will be a stop sign there.

Citizen Rebuttal – Mr. Lile said that he doesn't believe that anyone will pay a quarter million dollars for a home, and choose to live directly across the street from townhomes and apartment buildings.

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Mr. Jones said that the proposed clubhouse/pool will be for private membership and if the neighbors are not interested in joining, how will this clubhouse/pool be funded.

Staff Rebuttal – Ms. Wade said that the Small Area Plan focused on access and connection of the adjoining the subdivision and to improve existing housing conditions. Mr. Sallee said that the staff doesn't have any objections to adopting the revisions to the conditional zoning or for the conditional use.

Commission Comments – There were questions regarding the pole lighting being limited to 12' in height and the density of the buildings. There was also discussion about growth and development in this area.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, and carried 9-1(Plumlee opposed, Penn absent) to approve MARC 2015-7: PALUMBO PROPERTIES, INC. (AMD), for the reasons provided by the staff and to amend conditional zoning restriction 3.b. to:

Pole lighting shall be limited to 12 feet in height. In addition, ground-level lighting, lighting for pedestrian paths and sidewalks and indirect lighting shall be permitted.

Conditional Use Action – A motion was made by Mr. Cravens, seconded by Ms. Richardson, carried 9-1(Plumlee opposed, Penn absent) to approve the private club, for the reasons provided by the staff and to amend condition 5. to:

Off-street parking shall be provided on the approved development plan for members of the club who do not reside in the apartment development at a ratio at or exceeding one (1) per four (4) members of the private club who do not reside in the apartment development.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, carried 9-1(Plumlee opposed, Penn absent) ZDP 2015-33: NEWTOWN SPRINGS, for the reasons provided by the staff and to amend the following conditions: to remove condition number 11 and 12 and change number 13, 14 15 to "Resolve" at the final development plan.

- ~~11. Clarify existing and proposed landscaping (and tree preservation) adjacent to single family zone.~~
- ~~12. Discuss adequacy and the need for improvements to Citation Boulevard.~~
11. Resolve possible trail linage per the Greenway Plan.
12. Resolve compliance with the Winburn/Russell Cave Road Small Area Plan, and its multi-family design criteria.
13. Resolve note #20.