

ORDINANCE NO. 195 -2016

AN ORDINANCE CHANGING THE ZONE 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) (PALUMBO PROPERTIES, INC.; COUNCIL DISTRICT 1).

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WHEREAS, at a Public Hearing held on September 22, 2016 a petition for a zoning ordinance map amendment for property located at 564 Asbury Lane (a portion of) from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone for 13.81 net (14.47 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-1; 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 564 Asbury Lane (a portion of) from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone for 13.81 net (14.47 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property 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. Pole lighting shall be limited to 12 feet in height. In addition, ground-level lighting, lighting for pedestrian path and sidewalks and indirect lighting shall be permitted.

Section 3 - 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 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 17, 2016

ATTEST

  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

Published: November 23, 2016-1t  
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MAYOR

  
\_\_\_\_\_  
MAYOR

April 6, 2015

RE: Property Boundary Description for a portion of Newtown Springs subdivision zone change from R-1D to R 3.

Beginning at a point, said point being latitude 212188.93 and longitude 1573115.91, said point also being in the center line of Silver Springs Drive, and the south property line of 1376 Silver Springs Drive; thence with a line S 69 deg 06 min 57sec E for 25.18 feet to a point in the right of way line of Silver Springs Drive; thence with the south property line of 1376 Silver Springs drive S 69 deg 06 min 57 sec E for 564.86 feet to a point; thence with a line S 48 deg 18 min 46 sec W for 673.99 feet to a point; thence with a line S 40 deg 27 min 14 sec E for 129.93 feet to a point; thence with a line S 40 deg 12 min 54 sec W for 591.96 feet to a point; thence with a line S 35 deg 11 min 53 sec W for 143.26 feet to a point; thence with a line N 56 deg 47 min 17 sec W for 580.93 feet to a point; thence with a line N 01 deg 52 min 20 sec E for 34.35 feet to a point; thence with a line N 65 deg 22 min 00 sec E for 173.49 feet to a point; thence with the arc of a curve to the right with a radius of 15.00 feet for 12.62 feet to a point; thence with a line S 24 deg 38 min 00 sec E for 24.75 feet to a point; thence with a line S 25 deg 13 min 23 sec E for 6.69 feet to a point; thence with a line N 64 deg 11 min 14 sec E for 25 feet to a point in the centerline Dawson Springs Way; thence with the centerline of Dawson Springs Way N 25 deg 13 min 23 sec W 6.18 feet to a point; thence with the center line of Dawson Springs Way N 24 deg 38 min 00 sec W for 39.75 feet to a point in the center line of Silver Springs Drive; thence, with the center line of Silver Springs Drive for the next seven calls, N 65 deg 22 min 00 sec E for 136.02 feet to a point; thence with the arc of a curve to the left with a radius of 300 feet for 8.00 feet to a point; thence N 65 deg 22 min 00 sec E for 3.09 feet to a point; thence with the arc of a curve to the left with a radius of 100 feet for 55.39 feet to a point; thence, N 33 deg 37 min 54 sec E for 422.24 feet to a point; thence N 33 deg 37 min 54 sec E for 176.19 feet to a point; thence with the arc of a curve to the left with a radius of 900 feet for 310.06 feet to the point of beginning and containing 14.47 acres.

Rec'd by T. Danik  
Date: 10/13/16

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

**IN RE:** **MARC-2015-7: PALUMBO PROPERTIES, INC. (AMD)** – amended petition for 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). (Council District 1)


Having considered the above matter on **September 22, 2016**, at a Public Hearing, and having voted **9-1** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter 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.
  - 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. 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.

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.

ATTEST: This 12<sup>th</sup> day of October, 2016.

  
Secretary, Jim Duncan

WILLIAM WILSON  
CHAIR

Note: The corollary development plan, ZDP 2015-33: NEWTOWN SPRINGS was approved by the Planning Commission on September 22, 2016 and certified on October 6, 2016.

Note: A conditional use permit (private club) was approved for adjacent property by the Planning Commission at this hearing.

K.R.S. 100.211(7) requires that the Council take action on this request by December 21 2016.

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

**OBJECTORS**

**OBJECTIONS**

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>▪ Virgil Jones, 729 Dawson Springs Way, was present on behalf of the Newtown Springs and Hollow Creek residents</li> <li>▪ James Lile, 1345 Silver Springs Drive</li> <li>▪ Joe Reister, 608 Saunders Spring Way</li> </ul> | <ul style="list-style-type: none"> <li>▪ Shared signed petitions from the residents; opposed to any apartment complex in this area.</li> <li>▪ Increased traffic and speeding in the area.</li> <li>▪ Increased traffic and safety hazards for the children.</li> </ul> |
|--|---|

**VOTES WERE AS FOLLOWS:**

- AYES: (9) Berkley, Brewer, Cravens, Drake, Mundy, Owens, Richardson, Smith, and Wilson
- NAYS: (1) Plumlee
- ABSENT: (1) Penn
- ABSTAINED: (0)
- DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of MARC 2015-7 carried.

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



# GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

## 1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT:	Palumbo Properties, Inc., P.O. Box 884, Lexington, KY 40588
OWNER:	Palumbo Properties, Inc., P.O. Box 884, Lexington, KY 40588
ATTORNEY:	Richard V. Murphy, Murphy & Clendenen, PLLC, 250 West Main Street, Suite 2510, Lexington, Kentucky 40507

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

564 Asbury Lane (remnant on Silver Springs Drive)

## 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed—same format.)

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1D	Vacant	R-3	Multi-family residential	13.81	14.47

## 4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Assisted living facility	R-3
East	Residential	R-1D
South	Private park	A-U
West	Residential	R-1D

## 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 checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input checked="" 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 in...  in agreement with the Comp. Plan  more appropriate than the existing zoning  due to unanticipated changes.

## 8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

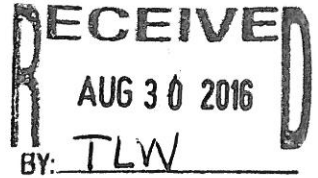
I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am  OWNER or  HOLDER of an agreement to purchase this property since 2006.

APPLICANT Richard V. Murphy DATE 4/6/15  
 OWNER attor for applicant and owner DATE \_\_\_\_\_  
 LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_









## **Amended Statement of Justification**

The applicant, Palumbo Properties, Inc., is requesting a zone change from the single-family residential (R-1D) zone to the planned neighborhood residential (R-3) zone for 13.81 net acres located at the rear of Newtown Springs Subdivision. (The property has a street address of 564 Asbury Lane; however, it actually has no frontage or connection to Asbury Lane. The frontage is on Silver Springs Drive).

We are also requesting a conditional use permit for a private club with outdoor recreational facilities for the fitness area, swimming pool, and other facilities which may include a playground and picnic area. Although this is classified as a private club under the zoning ordinance, it will be open to residents of the neighboring area.

This zone change was originally filed last year, but it was postponed in order to allow for the completion of the Winburn-Russell Cave Small Area Plan. As a result, our development plan has been amended. We are pleased to present you a plan which is in agreement with the Winburn-Russell Cave Small Area Plan. The applicant has retained Sherman Carter Barnhart Architects and Eagle Engineering to design the project; pursuant to the Small Area Plan, their design is being reviewed by the LFUCG Design Planner.

The proposed zone change is in agreement with the Winburn-Russell Cave Small Area Plan, which is an element of the community's adopted Comprehensive Plan.

There are seven guiding principles of the Small Area Plan. Principle 1 is to increase connectivity by improving and expanding the street network to be safe and designed for all modes of transportation. The subject property is key to increasing connectivity in the area. As called for in the Small Area Plan, our plan shows Hollow Creek Road extending to Silver Springs Drive. This will be connected in Phase 2 of the Small Area Plan, after Citation Boulevard is built. In addition, we show the connection of Silver Spring Drive to Shadybrook Park, on the Lexmark property. This will permit access to the park, if it should be acquired at some time by the local government.

The second principle is to increase equity for neighborhood residents by providing improved access to jobs, community resources, education, recreation and entertainment and other services. As mentioned above, the connections made by this development will facilitate the improved access. Recreational facilities will be available to existing residents.

The third principle is to promote strategies to increase homeownership opportunities and to improve existing housing conditions. The proposed development is an apartment community which will be rented. Currently, Newtown Springs Subdivision includes single-family detached residences and attached townhouse units. The proposed apartment community will improve existing housing conditions by supplying a market rate apartment option for the area.



Principle 4 is to optimize the use of land to promote mixed housing types and options to accommodate diverse needs and affordability levels. As mentioned above, this proposal supplies a market-based rental option for the area. It is estimated that the monthly rent for these units will be approximately \$1,300.00 per month. It will supply a housing option which is not currently available in the area.

Principle 5 is to ensure infill development is well-designed and sensitive to existing neighborhoods or surrounding areas. This development is being professionally designed by leading architectural and engineering firms in Lexington, and is being reviewed for compliance with design guidelines by the Urban County Government's design planner.

The sixth guiding principle is to improve existing parks to be attractive, accessible and safe for all users. The Small Area Plan does not propose this property to be used as a park, but it does propose the connection to nearby Shadybrook Park, which is being supplied on this plan.

The seventh and final guiding principle is to improve public safety by increasing community policing, improving park facilities and programming, and access into the neighborhoods for better fire and emergency services. This proposal provides connectivity which will improve access into the neighborhood, and it supplies connection to potential future park lands.

Market-rate housing will also strengthen the proposed commercial areas in Newtown Springs.

The proposal also meets the Small Area Plan goal to "promote peaceful, safe and livable neighborhoods with equitable and affordable housing choices." The market-rate development will expand housing choices in the area. It meets Objective 4, to expand affordable and quality rental opportunities through preservation of existing rental units and development of new units. As stated at Page 76 of the Small Area Plan: "With focused reinvestment and land reuse efforts in the Winburn and Russell Cave neighborhoods, vacant and underutilized land be transformed." Also on Page 74: "R-3 zoning is encouraged to give flexibility and variety of housing types and to maintain a scale which is comparable to the existing neighborhood fabric.

The Winburn-Russell Cave Small Area Plan also introduces a new element in neighborhood zoning, design guidelines. Our architects and engineers from Sherman Carter Barnhart Architects and Eagle Engineering have met with Planning staff in order to assure that the proposal complies with the residential design guidelines of the Small Area Plan. The development has been designed to include buildings of varying sizes and heights. Two-story buildings are predominant along the road frontages. There are a few three-story buildings included. The number of units included in each building is varied, so as to vary the mass of the buildings. Large flat walls are avoided. Gable elements and building setbacks are varied. Individual entries and ground floor entries to many units are provided. Sidewalks are included

internally to provide pedestrian accessibility. Interior lighting will be designed to prevent most light from leaving the site. The buildings will be oriented to the street.

The proposal also agrees with the 2013 Comprehensive Plan for the reasons stated in the original application.

In addition, we are asking for a conditional use permit for a private club including outdoor recreational facilities. The private club will be located across Silver Spring Drive from the development. Because it is on a separate tract, a conditional use permit will be needed.

The club will not only be for the benefit of the residents of the new development; membership will also be open to residents of the neighboring areas. Locating this facility on the west side of Silver Spring Drive will accomplish two objectives: first, it will create a transition between the R-3 zoning to the east and the R-1D zoning to the west; second, it will make the facility more inviting to existing neighbors. It will include a swimming pool, work-out facilities, indoor and outdoor social areas, and outdoor play and picnic areas. It will supply needed recreational and social benefits to residents of the single-family, townhouse and multi-family units in the area.

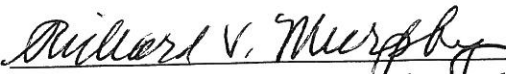
Thus, we are requesting approval of the private club including outdoor recreational facilities for the following reasons:

1. A private club and outdoor recreational facility are conditional uses in the single-family residential (R-1D) zone. The subject property is located in the R-1D zone, on the west side of Silver Spring Drive.

2. Construction of a private club with outdoor recreational facilities will not harm the public health, safety or welfare and will not impair the integrity and character of this zone or adjoining zones because the use will provide social and recreational amenities to people who reside in the single-family, townhouses and apartment units in the area. Although the facility will be built in conjunction with the proposed apartment community, membership will not be limited to those residents. Memberships will be available to people in the nearby residential area. Although parking is provided, we anticipate that the great majority of users will walk to the site. Sidewalks will provide good pedestrian accessibility.

3. All public facilities which are needed are already available and adequate at the site. Silver Spring Drive will be constructed by the developer. The sanitary sewer and all public utilities will be provided to the location. Fire and police protection are excellent, as this property is located in within the Urban Service Area of Lexington-Fayette County.

Thank you for your consideration of this zone change and conditional use request.

  
Richard V. Murphy, Attorney for Applicant,  
Palumbo Properties, Inc.

Amended Statement of Justification 8-29-16.docx



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

- 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.

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



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



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.