

3. **ANDERSON CAMPUS RENTAL PROPERTIES ZONING MAP AMENDMENT & LYNN GROVE ADDITION ZONING DEVELOPMENT PLAN**

- a. MAR 2013-20: ANDERSON CAMPUS RENTAL PROPERTIES (AMD) (2/2/14)* - amended petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 1.168 net (1.488 gross) acres, at 164-200 Simpson Avenue (even only); 1103-1109 Fern Avenue (odd only); and 1106 & 1108 Stillwell Avenue.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 4) recommends Medium Density Residential (MD) future land use for the 17 parcels that comprise the property. The applicant proposes redeveloping the subject property with two apartment buildings for a total of 39 dwelling units, with 51 bedrooms, and associated off-street parking.

The Zoning Committee Recommended: Approval, for the reason provided by staff.

The Staff Recommends: Approval, for the following reason:

1. The requested High Density Apartment (R-4) zoning for the subject property is not in agreement with the 2007 Comprehensive Plan's recommendation for Medium Density Residential land use, defined as 5-10 dwelling units per net acre. However, two recent zone change requests (in 2012 and 2013) have been granted in the immediate area that have resulted in a major change of a physical and economic nature, altering the basic character of the area. These two zone changes were not anticipated by the 2007 Comprehensive Plan. The rezoning of nearby properties to the R-1T and R-4 zones has increased the permitted density of land use in this area over that recommended by the Plan.
 2. This recommendation is made subject to approval and certification of ZDP 2013-103: Lynn Grove Addition prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2013-103: LYNN GROVE ADDITION (2/2/14)* - 164-200 Simpson Avenue (even only); 1103-1109 Fern Avenue (odd only); and 1106 & 1108 Stillwell Avenue. **(Barrett Partners)**

The Subdivision Committee Recommended: Postponement. There were concerns about the plan meeting the requirements for the requested R-4 zone.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-4; 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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Addition of metes and bounds description.
8. Denote construction access location.
9. Addition of tree inventory.
10. Denote building heights in feet.
11. Denote reciprocal parking and access.
12. Relocate dumpsters closer to main building (on the same lot).
13. Denote adjoining zone information (R-1D).
14. Denote that compliance with Article 15-7(a) requirements shall be demonstrated at the time of the Final Development Plan.
15. Discuss need for storm drainage and detention.
16. Discuss improvements to street frontages.
17. Discuss need for sidewalks from building to Simpson Avenue right-of-way.
18. Discuss landscape buffer adjacent to single family lots.
19. Discuss 5' landscape buffer for Building #2 and possible variance.
20. Discuss proposed parking in the side yard and possible variance.
21. Discuss useable open space.

Zoning Presentation: Ms. Wade presented the zoning report, briefly orienting the Commission to the location of the subject property. She said that the existing zoning in the area surrounding the property is a mixture of R-1D to the north-west, southwest, and southeast; and R-4 to the northeast. Other zoning in the vicinity includes B-4 toward South Broadway, and B-6P and B-3 toward Virginia Avenue. She said that the subject property is comprised of 16 parcels, noting that the petitioner removed one small parcel from the original request. The petitioner is proposing to develop the site with an apartment building situated close to Simpson Avenue; provide parking to the rear, accessed from Fern Avenue.

* - Denotes date by which Commission must either approve or disapprove request.

Ms. Wade displayed a 2013 aerial photograph of the subject property, noting that, at that time, there were still single family residences located on the subject property; the site has since been cleared. She also noted the location of the nearby University Village apartment development, as well as the existing single family residences on Burley and American Avenues. She displayed the following additional photographs: 1) a view from Stillwell Avenue toward the railroad tracks and University of Kentucky campus; 2) a view from the same vantage point looking down Stillwell Avenue toward Simpson Avenue; 3) a view from the corner of Simpson and Stillwell Avenues, noting the on-street parking that is typical of several of the apartment developments in the area; 4) a view from the intersection of Simpson and Fern Avenues westward; 5) a view up Fern Avenue toward Burley Avenue; 6) a view across the subject property toward Stillwell Avenue, noting the approximately 12-foot grade change on the property.

Ms. Wade said that the 2007 Comprehensive Plan had a Medium Density land use recommendation for the subject properties. She noted that the staff reviewed the 2007 Comprehensive Plan, rather than the 2013 Comprehensive Plan, for this request because it was filed before the 2013 Plan was adopted. The Plan's Medium Density recommendation is for 5 – 10 dwelling units per acre. The petitioner is proposing 40 units for the subject property, with 56 bedrooms, for a density of over 34 dwelling units per acre. Ms. Wade said that the staff, in reviewing this request, considered that there have been two unanticipated zone changes in the area that significantly changed the planned residential density: a townhouse development and rezoning along Burley Avenue; and a subsequent zone change at the corner of Prospect and Simpson Avenues. The staff believes that those zone changes justify this proposed rezoning, since they were unanticipated by the 2007 Plan.

Ms. Wade stated that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the preliminary development plan associated with this rezoning request, noting that the staff had distributed copies of the revised conditions now proposed for it prior to the start of the hearing.

Referring to a rendered copy of the development plan, Mr. Martin indicated the location of the proposed apartment building, which is depicted as being oriented toward Simpson Avenue with a 20' setback. He said that the cross-sections along each street frontage depict the street widening and improvements that will be completed by the developer. The petitioner is proposing 60 parking spaces, with access from Fern Avenue. This revised plan depicts the proposed dumpster location in a more interior portion of the subject property, instead of the location nearer the single family residences that was indicated on the previous version of the plan. Mr. Martin said that the center portion of the apartment building is proposed to be four stories in height, with three-story sections to either side.

Mr. Martin stated, with regard to the revised conditions for approval, that the staff is requesting that the petitioner denote compliance with the open space requirements on the plan. He noted that this is a preliminary development plan, so the Commission will have the opportunity to review the Final Development Plan at some point in the future, should the rezoning be granted.

Mr. Martin said that the staff is recommending approval of this plan, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property R-4; 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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. ~~Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.~~
7. ~~Addition of metes and bounds description.~~
8. ~~Denote construction access location.~~
9. ~~Addition of tree inventory.~~
10. ~~Denote building heights in feet.~~
11. ~~Denote reciprocal parking and access.~~
12. ~~Relocate dumpsters closer to main building (on the same lot).~~
13. ~~Denote adjoining zone information (R-1D).~~
14. ~~Denote that compliance with Article 15-7(a) requirements shall be demonstrated at the time of the Final Development Plan.~~
- 6.15. Discuss Denote area set aside for need for storm drainage and proposed detention.
16. ~~Discuss improvements to street frontages.~~
17. ~~Discuss need for sidewalks from building to Simpson Avenue right of way.~~
18. ~~Discuss landscape buffer adjacent to single family lots.~~

* - Denotes date by which Commission must either approve or disapprove request.

- ~~19. Discuss 5' landscape buffer for Building #2 and possible variance.~~
- ~~20. Discuss proposed parking in the side yard and possible variance.~~
- 7.24. Discuss useable Denote compliance with open space in the side street side yard per the Zoning Ordinance.

Mr. Martin stated that condition #6 had been satisfied, and it could now be deleted.

Commission Questions: Mr. Owens asked if the staff was recommending that the petitioner denote compliance with the open space requirements by delineating that space with a fence or shrubs. Mr. Martin answered that a development is required to delineate private open space, in order for it to be of benefit to the residents.

Ms. Plumlee stated that the area surrounding the subject property appears to be congested, and asked if underground detention would be more appropriate at this location than an above-ground basin. Mr. Martin responded that the detention area depicted on the plan is to be an underground vault.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He said that the proposed development is not typical of the existing new development in this area, most of which consists of either single-family detached units or apartments with four bedrooms and four bathrooms. That is the type of accommodation preferred by undergraduate students at the University of Kentucky, and there are many such developments in the South Broadway/Angliana Avenue/Simpson Avenue area. The petitioner is limiting the proposed development to 40 units, with 56 bedrooms, and 57 parking spaces.

Mr. Murphy said that there has been a great deal of debate about whether the Simpson/Burley/American Avenue area should continue to be developed to appeal to UK students, but the reality is that that type of development is prevalent. He noted that, of the residential lots within the petitioner's required 500' notification area, fewer than 20% are owner-occupied. He surmised that the majority of the non-owner-occupied units currently serve as student housing. The petitioner contends that the units in the proposed development will be more economically sustainable in the long term, because the target residents will be professionals who work at the UK Medical Center, rather than undergraduate students.

Mr. Murphy stated that the last two Comprehensive Plans have advocated greater density, especially near employment centers. He said that the University of Kentucky is likely the largest, densest employment center in Lexington-Fayette County. UK employees who choose to reside in the proposed development would be able to walk to work, and would not need to rely on cars or bicycles to reach their jobs. Mr. Murphy said that, currently, there is great demand for undergraduate housing in the vicinity of the subject property. The petitioner, however, believes that the supply and demand for student housing will reach an equilibrium point at some point in the future, at which point the proposed development will still be economically viable, since it will not cater primarily to students.

With regard to the proposed development plan for the property, Mr. Murphy said that the petitioner is proposing to construct the building close to and oriented toward Simpson Avenue and the nearby Campus Downs and University Village developments, with the parking behind the building, according to defined infill principles. The density proposed is just over 34 units per acre; the University Village density is 42.5 units per acre, and Campus Downs is approximately 43 units per acre. Mr. Murphy explained that, since the subject property is comprised of 16 lots, it could be developed with 16 four-bedroom single family residences, resulting in 64 bedrooms on the property. The proposed development has fewer bedrooms and less density than the petitioner could develop on the property by-right, without a zone change. Mr. Murphy said that the petitioner is proposing to construct just two access points to the neighborhood street system, rather than the 16 accesses that would be allowable if the property was developed with detached residences. The proposed R-4 zone also has a higher parking requirement than the single family or townhouse zones, which should provide more than adequate parking for the proposed development, eliminating some of the off-street parking in the area.

Mr. Murphy stated that there is a significant grade change on the subject property, which causes stormwater runoff to flow toward Simpson Avenue. The petitioner is proposing to construct underground stormwater detention facilities, as well as sidewalk, curb, and gutter improvements.

Mr. Murphy concluded by noting that the proposed development will be centrally managed along with the University Village development, including a review of the property every day. He noted that many of the existing single-family residences in the neighborhood are absentee-owned, making it difficult to resolve any problems that might occur there.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Ginny Daley, 136 Burley Avenue, displayed an aerial photograph of the subject property and surrounding neighborhood, noting the properties that are owned by the petitioner where demolitions have occurred within the last three years, and where demolitions are likely to occur in the near future. She said that she does not agree with the petitioner's contention that most of those houses were unlivable; most were in livable condition, and many were occupied by renters. Some of those rental properties were overseen by outside landlords, and some were owned by the petitioner. Ms. Daley stated that, because the petitioner typically demolishes the houses prior to filing a rezoning request, the Planning Commission does not see the information on the rezoning application that denotes the number of

people who were displaced. She added that many of those tenants who were displaced were low-income.

Ms. Daley displayed a parcel map of the neighborhood, noting the "cascade" of redevelopment that has occurred over the last few years. She said that it began when a property owner other than the petitioner developed townhouses on Burley Avenue near its intersection with South Broadway. The petitioner then used that impending development to leverage a zone change in order to construct townhouses on the other end of Burley Avenue near the railroad tracks. The Planning Commission recommended approval of that request, against the staff's recommendation and the Comprehensive Plan. That rezoning has since been used as a precedent for other rezoning requests. Ms. Daley stated that, since the last rezoning was so controversial, she and her neighbors requested a public hearing before the Urban County Council. The hearing was scheduled, but the developer neglected to post a required sign, and the zone change was approved by rule of law when it was determined that there was no time left to reschedule the hearing. Ms. Daley said that she and her neighbors felt that "their voices and appeal process were stymied in a lynch-pin decision." She stated that, following that rezoning, the Planning Commission and Council approved another zone change for property owned by the petitioner, who has not yet filed a Final Development Plan for the property.

Ms. Daley said that, at the Zoning Committee meeting three weeks ago, a committee member asked why one of the properties had been removed from the rezoning request. She added that Mr. Murphy responded that that property, along with other adjacent properties, was intended to serve as a southern boundary for the proposed development. While that meeting was occurring, the petitioner was sending letters offering to buy properties along Burley Avenue. The area residents believe that they have not been made sufficiently aware of the petitioner's "big picture plan" for their neighborhood. Ms. Daley noted that she would be attending a meeting immediately following this hearing, to learn about another new development proposed in the block adjacent to the subject property.

Ms. Daley asked the Planning Commission to disapprove this request, since the area residents have received no information from the petitioner about the proposed development, or the scope of his interests in the neighborhood. She does not agree with the staff's contention that the previous zone change resulted in a change of a physical, social, or economic nature, since the properties that were rezoned are still vacant. In addition, she believes that the surrounding area lacks sufficient infrastructure to support the proposed development, and that it would be more appropriate for the Commission to consider all of the development in the area holistically, rather than parcel-by-parcel. Ms. Daley said that her neighborhood is in constant chaos, and she and her neighbors "have no guarantee about the future" of their property. She asked that the Commission members consider whether they would want to live in the neighborhood under those circumstances.

Ms. Daley stated that she believes that the proposed development "goes against the very nature and the letter of the law of the Comprehensive Plan." She said that growing successful neighborhoods is Theme 1 of the 2013 Comprehensive Plan, and informs the spirit of the whole document. Ms. Daley believes that the density of the proposed development, along with the other student housing developments in the area, is being squeezed into an area without sufficient infrastructure to support it, and is creating a "student ghetto" in the neighborhood, with "high transiency, trash, illegal parking, and excessive noise." Ms. Daley said that she believes that the proposed density is inappropriate for the neighborhood, and it creates a horrible place to live. In addition, the proposed development does not respect the existing area's context and design. She asked that the Planning Commission intercede in the process, in order to develop a holistic plan for the area, before the value of a longstanding historic neighborhood is completely eroded.

Petitioner Rebuttal: Mr. Murphy stated that he respected Ms. Daley's comments, but noted that, although the petitioner had sent out more than 100 notification letters, there were no other objectors present. With regard to Ms. Daley's remarks about the displacement of existing residents, he said that only one of the 16 parcels requested for rezoning had been occupied by a resident owner, who is now deceased. Many of the structures had existing code violations, and the petitioner did not feel they were safe for occupancy.

With regard to Ms. Daley's comments about the density of the proposed development, Mr. Murphy noted that it is lower than the 16 single family residences that could be developed on the property today without a zone change. He acknowledged that the neighborhood has changed drastically in the last 10 to 15 years, because "UK has moved west." The petitioner contends that the proposed development is just another step in that process, and it will be in character with the other new development in the area.

Mr. Murphy stated that the petitioner's property that was rezoned in 2013 has not yet developed, because it hinges upon the pedestrian connection across the railroad. In order to construct that connection, the petitioner has to coordinate with the University of Kentucky, the utility companies, and the railroad, which can be a lengthy process.

Mr. Murphy said that the petitioner believed it would be better to combine the 16 parcels that make up the subject property into a cohesive development, rather than develop them separately, in a piecemeal fashion. He said that piecemeal development often results in a "hodgepodge" of structures. The petitioner contends that the proposed development meets established infill principles, and believes that it will be one of the best developments in the neighborhood.

* - Denotes date by which Commission must either approve or disapprove request.

With regard to the meeting Ms. Daley referenced in her comments about another new development in the area, Mr. Murphy said that the petitioner does not own that property, and is actually as curious about the proposal as the area residents. He stated that that additional new development further illustrates the changing nature of the neighborhood. He reiterated that the petitioner is in agreement with the staff's recommendations, and requested approval.

Staff Rebuttal: Ms. Wade stated, with regard to Mr. Murphy's comments about density, that the staff calculates the density of the property based on the number of dwelling units, rather than the number of bedrooms provided. She said that the number of bedrooms is a factor in terms of parking calculations, but is not a factor in the density. The petitioner is proposing 40 dwelling units, for a density of 34 units per acre. Ms. Wade added that, if the petitioner was proposing a townhouse development with 20 townhouses, regardless of the number of bedrooms, the density would be approximately 16 units per acre.

Citizen Rebuttal: Ms. Daley stated that, before the structures on the subject property were demolished, there were six houses there. She added that the property was subdivided into 16 parcels following the demolition of the six homes.

Commission Discussion: Mr. Owens stated that, while he did agree that the area is in transition, he believes that the area's redevelopment will continue.

Ms. Plumlee stated that she believed that Ms. Daley's presentation was very well done, and she thanked her for her input at this hearing.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-1 (Plumlee opposed; Cravens and Penn absent) to approve MAR 2013-20, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-1 (Plumlee opposed; Cravens and Penn absent) to approve ZDP 2013-103, subject to the conditions as listed in the revised staff recommendation, deleting condition #6.