

11/03/2011

Ordinance

138-2011

AN ORDINANCE AMENDING ARTICLE 17-7(E)(6) OF THE ZONING ORDINANCE TO ALLOW A THIRD WALL-MOUNTED IDENTIFICATION OR BUSINESS SIGN FOR BUILDINGS WITH TWO STREET FRONTAGES WITHIN A PROFESSIONAL OFFICE PROJECT IN THE PROFESSIONAL OFFICE (P-1) ZONE.

---

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Article 17-7(e)(6) of the Zoning Ordinance to allow a third wall-mounted identification or business sign or buildings with two street frontages within a Professional Office Project in the Professional Office (P-1) zone; and

WHEREAS, the Planning Commission did hold a public hearing on this proposed text amendment on September 22, 2011; and

WHEREAS, the Planning Commission did recommend APPROVAL of this proposed text amendment by a vote of 9-0; 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 by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

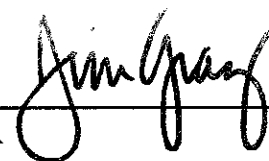
Section 1 — That Article 17-7(e)(6) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to add a subsection to read as follows:

- (d) A third wall-mounted identification or business sign shall be allowed for buildings with two street frontages. Such sign shall be located on a separate wall face of the building not already displaying a wall-mounted sign, not to exceed five percent (5%) of the wall area to which it is attached.

Section 2 — That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 3, 2011

MAYOR



ATTEST:

  
\_\_\_\_\_  
Clerk of Urban County Council

PUBLISHED: November 10, 2011-~~4t~~

X:\Cases\PLANNING\11-LE0001\LEG\00319026.DOC

Date: 10/12/11

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

**IN RE:** **MARC 2011-13: DMK DEVELOPMENT GROUP, LLC** – petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone, for 5.00 net (5.74 gross) acres, for property located at 564 Asbury Lane (a portion of). A conditional use permit has also been requested with this zone change. (Council District 2)

Having considered the above matter on **September 22, 2011**, at a Public Hearing, and having voted **9-0** 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 request is in agreement with the 2007 Comprehensive Plan, for the following reasons:
  - a. The Plan recommends a Low Density Residential future land use, defined as 0-5 dwelling units per net acre, for the subject property. The petitioner has proposed conditional restrictions that would limit the density of residential land use on the property to below the maximum recommended by the Plan.
  - b. The Plan's Goals and Objectives support the petitioner's request in the following ways:
    - i. Goal #8, Objective F encourages the integration of businesses that are compatible with and support residential areas.
    - ii. Goal #13, Objective C identifies the desire to provide housing opportunities to meet the needs of all citizens, including the elderly, in a manner which is affordable and cost effective.
    - iii. Goal #14, Objective A supports integrating a variety of housing types in close proximity.
    - iv. Goal #20, Objective P supports the provision of opportunities to satisfy the community's need for private, nonresidential facilities, such as hospitals; nursing homes; and social service facilities, which serve the public but are privately owned, developed and maintained.
    - v. The proposed development of the subject property supports these goals by providing a nursing home and assisted living facility in an underserved area of the community, as well as creating a new/modern facility to replace an aging facility, serving the needs of Lexington-Fayette County residents, including Medicaid and Medicare patients.
2. The demographics for Lexington-Fayette County demonstrate that there is a compelling need for nursing homes and associated facilities for our aging population. The Kentucky State Data Center has projected that the number of 80-84 and 85+ year olds will more than double from 2010 to 2040. It is expected that the health care requirements for these age groups will also continue to grow proportionally.
3. This recommendation is made subject to approval and certification of **ZDP 2011-70: Newtown Springs (AMD) (Trilogy Lexington Health Campus #3)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the subject property via conditional zoning:**
  - a. No more than twenty-five (25) single family residential dwelling units shall be permitted on the subject property.
  - b. Pole lighting shall be limited to a maximum of 20 feet in height on the subject property, and shall be directed downward and away from any adjoining residential or agricultural use.
  - c. Allowable Conditional Uses (provided the BOA or Planning Commission approves such a use) are to be limited to the following:

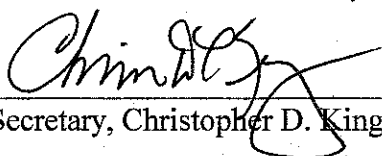
1. Hospitals, nursing homes, rest homes, and orphanages.
2. Assisted living facilities.

These restrictions are appropriate and necessary for the subject property in order to ensure compatible development in agreement with the Comprehensive Plan, and appropriate density protections for the closest single family homes proximate to this location.

Note: The corollary development plan, ZDP 2011-70: Newtown Springs (AMD) (Trilogy Lexington Health Campus #3), was approved by the Planning Commission on September 22, 2011, and certified on October 6, 2011.

Note: The conditional use permit request was approved by the Planning Commission on September 22, 2011.

ATTEST: This 12<sup>th</sup> day of October, 2011.

  
Secretary, Christopher D. King

MIKE CRAVENS  
CHAIR

K.R.S. 100.211(7) requires that the Council take action on this request by December 21, 2011.

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

OBJECTORS

- Joel Corwin, 760 Dawson Springs Way
- Bruce Ely, 1614 Grant Court
- Kimberly Jackson, 573 Hollow Creek Road
- Joshua Samples, 725 Dawson Springs Way

OBJECTIONS

- Believes that the proposed nursing home could have a negative impact on surrounding residents due to increases in traffic, noise, light pollution, and construction nuisances
- Concerned that the proposed nursing home could result in increased stormwater runoff in the Green Acres subdivision
- Concerned that development of the proposed nursing home could result in the completion of Asbury Lane, which could bring increased traffic and crime to the Hollow Creek subdivision
- Concerned about increased traffic in the adjoining residential area due to the proposed nursing home and replacing single family lots with a nursing home

VOTES WERE AS FOLLOWS:

AYES: (9) Beatty, Berkley, Blanton, Brewer, Copeland, Cravens, Owens, Roche-Phillips,  
Wilson

NAYS: (0)

ABSENT: (2) Paulsen, Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of MARC 2011-13 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: DMK Development Group, LLC, 9400 Williamsburg Plaza, Louisville, KY 40222

OWNER: Palumbo Properties, Inc., 1020 West Main Street, Lexington, KY 40508

ATTORNEY: Richard V. Murphy, 250 West Main Street, Suite 2950, Lexington, KY 40507

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

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       | skilled care (nursing) home and assisted living facility with memory care beds | 5.00    | 5.74  |
|          |        |           |  |         |       |
|          |        |           |  |         |       |
|          |        |           |  |         |       |

4. SURROUNDING PROPERTY, ZONING & USE

| Property | Use         | Zoning |
|----------|-------------|--------|
| North    | golf course | A-U    |
| East     | residential | R-1D   |
| South    | residential | R-1D   |
| 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?

☐ YES ☒ NO

b. Have any such dwelling units been present on the subject property in the past 12 months?

☐ YES ☒ 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.

☐ YES ☒ NO  
\_\_\_\_ Units

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

|                       |   |
|-----------------------|---|
| Roads                 | <input checked="" type="checkbox"/> Existing and <input checked="" type="checkbox"/> To be constructed by <input type="checkbox"/> Developer <input checked="" type="checkbox"/> Other LFUCG            |
| Storm Sewers          | <input checked="" type="checkbox"/> Existing <input type="checkbox"/> To be constructed by <input type="checkbox"/> Developer <input type="checkbox"/> Other  |
| Sanitary Sewers       | <input type="checkbox"/> Existing <input checked="" type="checkbox"/> To be constructed by <input type="checkbox"/> Developer <input checked="" type="checkbox"/> Other Property Owner                  |
| Curb/Gutter/Sidewalks | <input checked="" type="checkbox"/> Existing <input type="checkbox"/> To be constructed by <input type="checkbox"/> Developer <input type="checkbox"/> Other  |
| Refuse Collection     | <input checked="" type="checkbox"/> LFUCG <input type="checkbox"/> Other  |
| Utilities             | <input checked="" type="checkbox"/> Electric <input 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.  
See attachment.

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 \_\_\_\_\_.

APPLICANT Richard V. Murphy, atty. for applicant DATE 7/1/11

OWNER \_\_\_\_\_ DATE \_\_\_\_\_

LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_

## **STATEMENT OF JUSTIFICATION**

The Applicant, DMK Development Group, LLC is requesting approval of a zone change from the Single-Family Residential (R-1D) zone to the Planned Neighborhood Residential (R-3) zone for five (5) net acres of land in the Newtown Springs Subdivision. The address of the property is a portion of 564 Asbury Lane. Access is off of Silver Springs Drive. The Applicant is also requesting a conditional use permit for a skilled nursing and assisted living facility for this tract.

The Applicant is an experienced developer of skilled nursing and assisted living facilities in this area of the country. The Applicant, or an affiliate, has purchased the beds from an older nursing home which has gone out of business. There is a great need for modern nursing and assisted living facilities to replace outmoded facilities, and to supply the need for a growing older segment of the population. This facility will have a total of 90 beds. 54 beds will be skilled nursing care, and 36 beds will be assisted living. 12 of the 36 assisted living beds will be dedicated to Alzheimers or memory care.

This tract of land is well-suited for this use. It is bounded on the west by Silver Springs Drive. On the north, it is bounded by the right-of-way for Citation Boulevard, and on the east it is bounded by future right-of-way for Asbury Lane, and a portion of Green Acres Subdivision. The property to the south is undeveloped property in Newtown Springs Subdivision. There is single-family residential in this immediate area.

This skilled nursing and assisted living facility will be a good neighbor for the area. A nursing facility is a low traffic generator and is an unobtrusive use in the neighborhood. In addition to serving patients, it offers employment and volunteer opportunities for residents in the area. The Applicant is supplying more than the required parking.

If the zone change is granted, the Applicant would agree that the underlying density of the use would be limited to that allowed in the low-density category of the Comprehensive Plan.

We feel that this proposal is in agreement with the Comprehensive Plan. The Comprehensive Plan recommends low-density residential uses for the subject property. The Applicant is agreeable to limiting the underlying residential density, if the facility should cease operation, to densities allowed under the low-density category. In addition, the use itself is a low-density, low-intensity use. Traffic generation will approximate that of a single-family residential development. It is a quiet, low impact use which would be an unobtrusive neighbor in this area.

In addition, the proposal is in agreement with the Goals and Objectives of the Comprehensive Plan, especially those objectives calling for mixed-uses in neighborhoods and a variety of living options. People who need nursing and assisted living care can benefit from living in a pleasant neighborhood such as this.



Also, this property is located adjacent to the future right-of-way for Citation Boulevard. This use will buffer the nearby single-family residential from the road. Thus, we feel it is a more appropriate use in this location.

The Applicant is also requesting a conditional use permit for a skilled nursing/assisted living facility, included dedicated memory care beds. As mentioned above, there is a great need for this facility in this area. The beds are available under the Certificate of Need Program.

We are requesting approval of the conditional use permit for the following reasons:


1. A skilled nursing care/assisted living facility with dedicated memory care beds is an allowed conditional use in the R-3 zone.

2. The proposal will not harm the public health, safety or welfare and will not impair the integrity of this zone or adjoining zones because, as mentioned above, the skilled nursing/assisted living facility is needed both in this area of community, and because of demographic changes in the general population. This is a low traffic generating, low impact use. Traffic impact will approximate that of a single-family development.

3. All public facilities are available to the site. All needed utilities are available in his developing subdivision. Sanitary and storm sewers are available and the property will have road access via the existing Silver Springs Drive. Police and fire protection is excellent, as this property is located inside the urban service area of Lexington-Fayette County.

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

Respectfully submitted,

  
RICHARD V. MURPHY  
Attorney for Applicant

# PALUMBO PROPERTIES

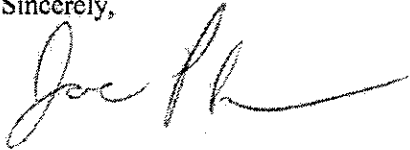
2070 Garden Springs Drive  
Lexington, Kentucky 40504  
859-278-6056

June 29, 2011

To: Lexington Fayette Urban County Government:

**PALUMBO PROPERTIES, INC.**, a Kentucky corporation having an address of 1020 W. Main Street, Lexington, Kentucky 40508, being the owner of approximately 5 acres of usable unimproved land, being a portion of the property commonly known as 564 Asbury Lane, Lexington, Kentucky 40504, having PARID: 381743201 (the "Property"), does hereby give permission to **DMK DEVELOPMENT GROUP, LLC**, a Kentucky Limited Liability Company, to make application to change the zoning on the Property from the current R1D to R3.

Sincerely,



**ZONE CHANGE DESCRIPTION  
A PORTION OF TRACT 2  
PALUMBO PROPERTIES, INC.  
564 ASBURY LANE  
R-1D TO R-3**

All that tract or parcel of land situated south of Citation Boulevard, east of Silver Springs Drive and west of Van Buren Drive in Lexington, Fayette County, Kentucky, being more fully described and bounded as follows, to wit:

**BEGINNING** at the intersection of the centerlines of Silver Springs Drive and Citation Boulevard (Cab M, SI 726 & 926), said point being the beginning of a curve to the right; thence with said Citation Boulevard centerline for five (5) lines:

- 1) Along said curve having a radius of 1,000.00 feet, an arc distance of 136.81 feet and a chord South 70°19'41" East, 136.71 feet to a point,
- 2) South 66°24'31" East, 242.48 feet to the point of curvature of a curve to the left,
- 3) Along said curve having a radius of 506.50 feet, an arc distance of 98.34 feet and a chord South 71°58'14" East, 98.18 feet to a point,
- 4) South 77°31'57" East, 188.23 feet to the point of curvature of a curve to the right,
- 5) Along said curve having a radius of 493.50 feet, an arc distance of 3.60 feet and a chord South 77°19'26" East, 3.59 feet to the point of intersection with the proposed Asbury Lane centerline;

Thence leaving said Citation Boulevard centerline and with said Asbury Lane centerline for three (3) lines:

- 1) South 12°53'06" West, 51.21 feet to the point of curvature of a curve to the left,
- 2) Along said curve having a radius of 300.00 feet, an arc distance of 140.92 feet and a chord South 00°34'19" East, 139.63 feet to the point of a compound curve to the left,
- 3) Along said compound curve having a radius of 716.20 feet, an arc

distance of 25.82 feet and a chord South 15°03'42" East, 25.81 feet to a point in the line with Green Acres Subdivision, Unit 1E (Cab A, SI 154); Thence leaving said Asbury Lane centerline and with said Green Acres Subdivision, Unit 1E, South 48°18'46" West, 220.82 feet to a point; thence leaving said Green Acres Subdivision, Unit 1E, and through the lands of Palumbo Properties, Inc. (DB 2623, Pg 319, Tract 2), North 69°06'57" West, 590.04 feet to a point in said Silver Springs Drive centerline, at the point of curvature of a curve to the right; thence with said Silver Springs Drive centerline for two (2) lines:

- 1) Along said curve, having a radius of 900.00 feet, an arc distance of 6.10 feet and a chord North 13°41'56" East, 6.10 feet to a point,
- 2) North 13°30'17" East, 370.18 feet to the **POINT OF BEGINNING**, containing a net area of 5.00 acres and a gross area of 5.74 acres.

**NOTE:** This description is adapted from the deed of record in Deed Book 2623, Page 319, Tract 2, and plat of record in Plat Cabinet M, Slide 727. The surveyor of record makes no representation that a field survey was conducted for the purposes of preparing this description.

STATE OF KENTUCKY  
JAMES M.  
CHAMBLISS  
3185  
LICENSED  
PROFESSIONAL  
LAND SURVEYOR

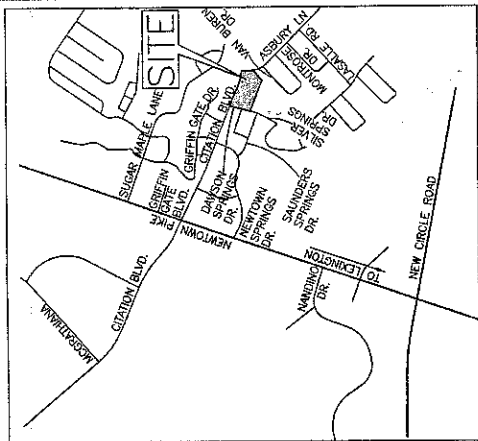
*James M. Chambliss*  
*6/29/11*

564 ASBURY LANE  
PALUMBO PROPERTIES INC. PROPERTY

ZONE CHANGE NOTIFICATION AREA MAP OF



JOB NO.:  
J-699.001



VICINITY MAP

SCALE: 1"=200'  
0 200' 400'

STATE OF KENTUCKY  
JAMES M. CHAMBLISS  
3185  
PROFESSIONAL  
LAND SURVEYOR  
EXPIRATION DATE 07/01/12

ZOMAR 2011

PROPERTY ADDRESS: 564 ASBURY LANE (PORTION OF)

APPLICANT:

DMK DEVELOPMENT GROUP, LLC  
9400 WILLIAMSBURG PLAZA, SUITE 300  
LOUISVILLE, KY. 40222

OWNER:

PALUMBO PROPERTIES, INC  
P.O. BOX 884  
LEXINGTON, KY. 40587

ZONE CHANGE

FROM: SINGLE FAMILY RESIDENTIAL (R-1D) ZONE

REQUESTED:

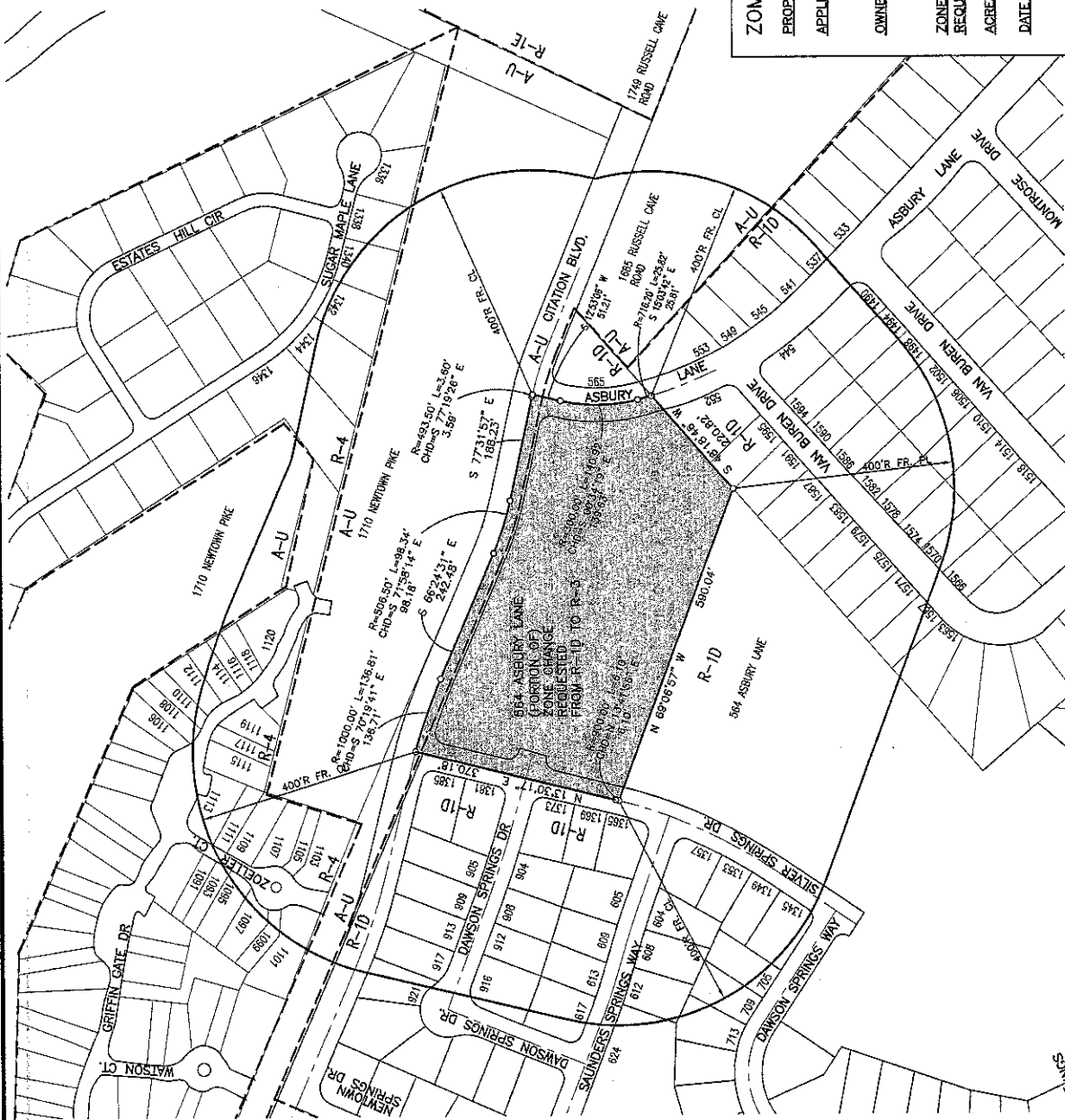
TO: PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE

ACREAGE:

5.00 ACRES NET AND 5.74 ACRES GROSS

DATE FILED:

JULY 1, 2011



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MARC 2011-13: DMK DEVELOPMENT GROUP, LLC

DESCRIPTION

Zone Change: From a Single Family Residential (R-1D) zone  
To a Planned Neighborhood Residential (R-3) zone

Acreage: 5.00 net (5.74 gross) acres

Location: 564 Asbury Lane (a portion of)

EXISTING ZONING & LAND USE

| Properties         | Zoning     | Existing Land Use                  |
|--------------------|------------|------------------------------------|
| Subject Properties | R-1D       | Vacant                             |
| To North           | A-U & R-4  | Golf Course & Residential          |
| To East            | A-U & R-1D | Single-Family Residential & Vacant |
| To South           | R-1D       | Single-Family Residential & Vacant |
| To West            | R-1D       | Single-Family Residential          |

URBAN SERVICES REPORT

Roads – The subject property is bounded to the west by Silver Springs Drive, a local street in the Newtown Springs development. In addition, the right-of-way for two planned streets borders the property to the north (extension of Citation Boulevard) and east (Asbury Lane) of this location. Within the immediate area, Citation Boulevard has been constructed for a distance of about 1,500 feet east of Newtown Pike (KY 922), at which point the right-of-way is available and has been graded in preparation of the roadway extending as a collector street to Russell Cave Road (KY 353). The Citation Boulevard corridor extends westward between Newtown Pike and Jaggie Fox Way, west of Georgetown Road (US 25). A corridor has been identified, and the roadway is planned to continue further west through the Masterson Station area, crossing Leestown Road (US 421) and connecting to Alexandria Drive. Access points along the extension of Citation Boulevard have already been identified on roadway plans, including intersections at Newtown Springs Drive, Silver Springs Drive, and Asbury Lane. The subject property's only available access is via Silver Springs Drive until the LFUCG constructs Citation Boulevard or makes further agreements to allow others to construct the roadway.

Curb/Gutter/Sidewalks – Silver Springs Drive was constructed with curb and gutter; however, the public sidewalks have yet to be built at this location. The petitioner will be expected to construct such improvements. The Citation Boulevard and Asbury Lane rights-of-way are currently devoid of any such improvements; however, they are expected to be built as part of the construction of these roadways in the future.

Storm Sewers – The subject property is located within the Cane Run watershed. Storm sewer facilities exist within the developed portion of the Newtown Springs subdivision, but have yet to be constructed on the subject property. The property is also located within the Royal Spring Wellhead Protection Area, which is the ground water source for the City of Georgetown. There are no known flooding problems on the subject property or in the general vicinity. All stormwater management and improvement on the property shall be constructed in accordance with the adopted Division of Engineering Stormwater Manual.

Sanitary Sewers – The subject property is located within the Cane Run sewershed. Once infrastructure is constructed on-site, the property will be served by the Town Branch Wastewater Treatment Plant, located about 3 miles to the southwest of the site. Any sanitary sewer improvements on this property will need to be approved by the Division of Engineering and constructed in accordance with the adopted Engineering Manuals.

Refuse – The Urban County Government currently serves this area with collection on Thursdays. Additional private waste removal services will likely be necessary for the proposed nursing home and assisted living facility.

Police – The nearest police station is the West Sector Roll Call Center, located on Old Frankfort Pike, just inside New Circle Road, approximately 4½ miles southwest of the subject property.

Fire/Ambulance – The nearest fire station (#10) is located approximately 2 miles southwest of this location on Finney Drive, near the New Circle Road and Georgetown Road interchange.

Utilities – All utilities, including gas, electric, water, phone, and cable television, exist in the immediate area and can be extended to serve the subject property. Street lights in the Newtown Springs subdivision have not been installed along the public streets to-date. They are typically located near the time the subdivision infrastructure is completed.

### **LAND USE PLAN AND PROPOSED USE**

The 2007 Comprehensive Plan (Sector 7) recommends Low Density Residential (LD) future land use for the subject property, which is defined as 0-5 dwelling units per net acre. The petitioner proposes the rezoning in order to construct a nursing home and assisted living facility, with a total of 90 beds and associated off-street parking.

### **CASE REVIEW**

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone for 5.0 acres of property on a portion of property located at 564 Asbury Lane.

The subject property is located on the south side of the planned extension of Citation Boulevard, approximately one-half mile east of Newtown Pike. The site is located within the boundary of the 80-acre Newtown Springs development, which is generally located on the southeast corner of the intersection of Citation Boulevard and Newtown Pike. The subject property is bounded on three sides by single-family residential zoning, and on the fourth side by agricultural zoning for the Griffin Gate golf course. The Green Acres subdivision is located to the southwest (accessed via Russell Cave Road), the Newtown Springs subdivision is located to the west and southwest, and the remainder of the parcel not proposed for rezoning lies to the south. Also in the vicinity are the Newtown Springs commercial area (undeveloped) and the Griffin Gate Center and Office Park. This subject parcel is currently vacant.

The petitioner proposes to construct a 90-bed skilled nursing and assisted living facility, with associated off-street parking. The facility plans to utilize 12 of the beds for a memory care unit for Alzheimer's patients, 24 beds for general assisted living, and the remaining 54 beds for skilled nursing care. The facility is planned to be accessed from Silver Springs Drive, directly across from Dawson Springs Way. A conditional use permit for the nursing home and assisted living facility is also being requested by the petitioner in association with the zone change.

The 2007 Comprehensive Plan recommends a Low Density Residential (LD) land use for the subject property, defined as 0-5 dwelling units per net acre, which is consistent with the current zoning of the property. The Plan recommends the same of the Green Acres subdivision and about 37 additional acres of the Newtown Springs subdivision. The remainder of Newtown Springs, closer to Newtown Pike, is recommended for a mixture of land uses – Medium Density Residential, Professional Services, Retail Trade and Personal Services, and Highway Commercial. The subject property has been the subject of several zone change requests in the past, finally gaining approval in 2001 following a change to the Comprehensive Plan's Land Use Element.

It is possible that the proposed Planned Neighborhood Residential (R-3) zoning could accommodate the density range recommended by the Comprehensive Plan; that is, a maximum of 25 residential dwelling units for the subject property, in a number of different configurations, including single-family, duplexes, and townhouse dwelling units. The R-3 zone has been utilized in many areas of the community to accomplish a mixture of residential uses and density within a single development; although, without a conditional zoning and/or development plan restriction, the R-3 zone could also allow a greater number of dwelling units. As the petitioner is not proposing low density residential development in the proposed development of the subject property, the zone change request is not in exact agreement with the 2007 Comprehensive Plan. It should be noted that the petitioner has offered to restrict the property via conditional zoning restrictions to a maximum residential density as would be permitted under the Plan's Low Density Residential land use recommendation.

In considering the requested rezoning, there have not been any unanticipated changes in the immediate area of a social, physical or economic nature that have significantly changed the immediate area since the 2007 Comprehensive Plan was adopted. Further, providing a wide range of residential uses within a neighborhood is considered a positive attribute, and most neighborhoods in Lexington-Fayette County do not have such a range as recommended by the Goals and Objectives of the Comprehensive Plan. Having a nursing home and assisted living facility within the neighborhood allows for the possibility that residents could remain in the same area, while receiving additional care or necessary services as they age.

This zone change request is the third request in as many years to accommodate new construction or expansion of existing nursing homes in our community, the other two cases involving property on Versailles Road (MARC 2009-10: Homestead Nursing Home), and on Belleau Wood Drive (MARC 2010-5: Sayre Christian Village). In addition, there have been several development plans approved by the Planning Commission that did not require rezoning to accommodate the increasing demand, and possible low supply of these facilities in Lexington-Fayette County. In reviewing the previous two rezoning applications, the staff considered several goals and objectives of the 2007 Comprehensive Plan, the surrounding land use recommendations, the location of the facility and a need for elderly

care services in making favorable recommendations to the Planning Commission. However, in both of those cases, demolition of existing residential units was being proposed. In this case, the petitioner is proposing to construct a new facility on vacant land.

The petitioner contends that their request for R-3 zoning for the subject property is appropriate for several reasons. First, the 2007 Comprehensive Plan identifies several basic land use principles, one of which is to "transition effectively between different intensities of adjacent land uses." The nursing home and assisted living facility would be an appropriate and compatible step-down or transitional land use between the collector road and the proposed single-family residential subdivision. The most recent preliminary subdivision plan depicted single-family homes backing to the extension of Citation Boulevard, actually creating a less desirable face to the corridor than the proposed facility would present.

Also, the petitioner contends that a nursing home and assisted living facility is itself a low-intensity, low-impact use that would be an unobtrusive neighbor in the area and would generate approximately the same traffic as single-family residential development. In fact, the staff has evaluated that assertion, and finds that a nursing home and assisted living facility would generate only 20 trips during the PM peak hour, whereas the single-family development (if limited to a maximum density of 25 units) would generate 25 trips during the PM peak hour. The petitioner also indicates a need for a nursing home and assisted living facility in this area of the community, as it is underserved in terms of these proposed services.

Lastly, the petitioner contends that the requested zone change is supported by several of the 2007 Comprehensive Plan Goals and Objectives. Specifically, they cite Goal #20, Objectives F and P; Goal #8, Objective F; Goal #13, Objective C; and Goal #14, Objective A. The aging population in Lexington-Fayette County has a clear need for more modern nursing homes and associated facilities (consistent with Goal #20, Objective P). The Kentucky State Data Center has projected that our two oldest age cohorts (80-84 years old and 85+ years old) will more than double from 2010 to 2040, it is expected that the health care requirements for these age groups will continue to grow proportionally. The petitioner has purchased skilled nursing beds from a facility on Waller Avenue that closed several years ago. This was necessary because the state of Kentucky has a moratorium in place until June 2012 and will not issue any new certificates of need (CONs) for skilled nursing care beds. The proposed nursing home and assisted living facility will be located along a collector street, at the edge of a developing neighborhood, and it will allow a business use that can be compatible with the residential area (supportive of Goal #8, Objective F).

The staff agrees with the petitioner that the proposed R-3 zoning can be supported by the Comprehensive Plan and is appropriate at this location, if restricted via the use of conditional zoning. Should the conditional use permit not be granted, or later surrendered, density restrictions are necessary for the subject property.

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

1. The request is in agreement with the 2007 Comprehensive Plan, for the following reasons:
  - a. The Plan recommends a Low Density Residential future land use, defined as 0-5 dwelling units per net acre, for the subject property. The petitioner has proposed conditional restrictions that would limit the density of residential land use on the property to below the maximum recommended by the Plan.
  - b. The Plan's Goals and Objectives support the petitioner's request in the following ways:
    - i. Goal #8, Objective F encourages the integration of businesses that are compatible with and support residential areas.
    - ii. Goal #13, Objective C identifies the desire to provide housing opportunities to meet the needs of all citizens, including the elderly, in a manner which is affordable and cost effective.
    - iii. Goal #14, Objective A supports integrating a variety of housing types in close proximity.
    - iv. Goal #20, Objective P supports the provision of opportunities to satisfy the community's need for private, nonresidential facilities, such as hospitals; nursing homes; and social service facilities, which serve the public but are privately owned, developed and maintained.
    - v. The proposed development of the subject property supports these goals by providing a nursing home and assisted living facility in an underserved area of the community, as well as creating a new/modern facility to replace an aging facility, serving the needs of Lexington-Fayette County residents, including Medicaid and Medicare patients.
2. The demographics for Lexington-Fayette County demonstrate that there is a compelling need for nursing homes and associated facilities for our aging population. The Kentucky State Data Center has projected that the number of 80-84 and 85+ year olds will more than double from 2010 to 2040. It is expected that the health care requirements for these age groups will also continue to grow proportionally.



3. This recommendation is made subject to approval and certification of ZDP 2011-70: Newtown Springs (AMD) (Trilogy Lexington Health Campus #3), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the subject property via conditional zoning:
  - a. No more than twenty-five (25) residential dwelling units shall be permitted on the subject property.
  - b. Pole lighting shall be limited to a maximum of 20 feet in height on the subject property, and shall be directed downward and away from any adjoining residential or agricultural use.
  - c. Allowable Conditional Uses (provided the BOA or Planning Commission approves such a use) are to be limited to the following:
    1. Hospitals, nursing homes, rest homes, and orphanages.
    2. Assisted living facilities.

These restrictions are appropriate and necessary for the subject property in order to ensure compatible development in agreement with the Comprehensive Plan, and appropriate density protections for the closest single family homes proximate to this location.

TLW/BJR/WLS

8/4/2011

Planning Services\Staff Reports\MAR\2011\MARC2011-13.doc

1. **DMK DEVELOPMENT GROUP, LLC, ZONING MAP AMENDMENT & NEWTOWN SPRINGS (TRILOGY LEXINGTON HEALTH CAMPUS #3) ZONING DEVELOPMENT PLAN**

- a. MARC 2011-13: DMK DEVELOPMENT GROUP, LLC (9/28/11)\* - petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone, for 5.00 net (5.74 gross) acres, for property located at 564 Asbury Lane (a portion of). A conditional use permit has also been requested with this zone change.

**LAND USE PLAN AND PROPOSED USE**

The 2007 Comprehensive Plan (Sector 7) recommends Low Density Residential (LD) future land use for the subject property, which is defined as 0-5 dwelling units per net acre. The petitioner proposes the rezoning in order to construct a nursing home and assisted living facility, with a total of 90 beds and associated off-street parking.

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

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

1. The request is in agreement with the 2007 Comprehensive Plan, for the following reasons:
  - a. The Plan recommends a Low Density Residential future land use, defined as 0-5 dwelling units per net acre, for the subject property. The petitioner has proposed conditional zoning restrictions that would limit the density of residential land use on the property to below the maximum recommended by the Plan.
  - b. The Plan's Goals and Objectives support the petitioner's request in the following ways:
    - i. Goal #8, Objective F encourages the integration of businesses that are compatible with and support residential areas.
    - ii. Goal #13, Objective C identifies the desire to provide housing opportunities to meet the needs of all citizens, including the elderly, in a manner which is affordable and cost effective.
    - iii. Goal #14, Objective A supports integrating a variety of housing types in close proximity.
    - iv. Goal #20, Objective P supports the provision of opportunities to satisfy the community's need for private, nonresidential facilities, such as hospitals; nursing homes; and social service facilities, which serve the public but are privately owned, developed and maintained.
    - v. The proposed development of the subject property supports these goals by providing a nursing home and assisted living facility in an underserved area of the community, as well as creating a new/modern facility to replace an aging facility, serving the needs of Lexington-Fayette County residents, including Medicaid and Medicare patients.
2. The demographics for Lexington-Fayette County demonstrate that there is a compelling need for nursing homes and associated facilities for our aging population. The Kentucky State Data Center has projected that the number of 80-84 and 85+ year olds will more than double from 2010 to 2040. It is expected that the health care requirements for these age groups will also continue to grow proportionally.
3. This recommendation is made subject to approval and certification of ZDP 2011-70: Newtown Springs (AMD) (Trilogy Lexington Health Campus #3), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the subject property via conditional zoning:
  - a. No more than twenty-five (25) residential dwelling units shall be permitted on the subject property.
  - b. Pole lighting shall be limited to a maximum of 20 feet in height on the subject property, and shall be directed downward and away from any adjoining residential or agricultural use.
  - c. Allowable Conditional Uses (provided the BOA or Planning Commission approves such a use) are to be limited to the following:
    1. Hospitals, nursing homes, rest homes, and orphanages.
    2. Assisted living facilities.

These restrictions are appropriate and necessary for the subject property in order to ensure compatible development in agreement with the Comprehensive Plan, and appropriate density protections for the closest single family homes proximate to this location.

b. **REQUESTED CONDITIONAL USE**

1. Assisted Living Facility and Nursing Home

**The Zoning Committee Recommended: Postponement**, for the reasons provided by staff.

**The Staff Recommended: Postponement**, for the following reasons:

- a. While some necessary public services and facilities are available to the subject property, such as police and fire protection and sewer infrastructure, not all necessary public facilities are available and adequate for the proposed use. Specifically, there are no collector streets in place to permit ambulances and employees to travel to this site

---

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

- without having to traverse local streets designed primarily to provide access to single family homes.
- b. This request is premature until Citation Boulevard connects with Silver Springs Drive, which then would provide a direct route for emergency and employee vehicles to access this location without impacting the existing local streets on a daily basis.
  - c. ZDP 2011-70: NEWTOWN SPRINGS (AMD) (TRILOGY LEXINGTON HEALTH CAMPUS #3) (9/28/11)\* - located at 564 Asbury Lane. (Strand Associates, Inc.)

Note: The purpose of this amendment is to establish an assisted living facility and a nursing home on the property.

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 sewer information, 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 protection plan/tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Denote tree protection areas and revise tree canopy statistics (existing and proposed).
10. Addition of building dimensions.
11. Addition of floor area statistics.
12. Denote canopy and building heights.
13. Discuss plan status.
14. Discuss right-of-way closure or the need for a waiver.
15. Discuss timing of the construction of needed public facilities.

Zoning Presentation: Ms. Wade presented the zoning report, briefly orienting the Commission to the location of the subject property at 564 Asbury Lane, in the vicinity of the intersection of Newtown Pike and Citation Boulevard. She noted that Citation Boulevard currently ends approximately halfway between Newtown Pike and the subject property. The Newtown Springs development was rezoned in 2001 for mixed-use with B-6P and B-1 zoning along Newtown Pike; P-1 and R-3 zoning in the middle of the property; and single-family residential zoning in the rear portion, which includes the subject property. Referring to the rendered development plan, Ms. Wade noted that several single-family lots have been created in the Newtown Springs development, but the area proposed for rezoning has not been subdivided into individual lots at this time. Also in the general vicinity of the subject property are the Green Acres subdivision, to the southeast; Griffin Gate development, including the golf course, to the north; and a large parcel, which is still zoned A-U and is owned by the University of Kentucky, to the east. Between Russell Cave Road and Newtown Pike, Citation Boulevard is constructed for approximately 600-700 feet. It is planned to continue from its current terminus at Newtown Springs Drive to Russell Cave Road, with the intersection located near the new Northside Library. Some portion of the necessary right-of-way for that extension of Citation Boulevard has already been dedicated.

Ms. Wade stated that the petitioner is proposing to rezone the subject property in order to develop a nursing home and assisted living facility. There are 90 beds proposed for the property, 54 of which would be used as nursing home beds. Of the remaining 36 beds, 12 would serve as a memory care unit; the other 24 would be used for general assisted living purposes. Nursing homes are considered conditional uses in the R-3 zone, but are not permitted in Single-Family Residential zones, which was the reason for the petitioner's rezoning request. Ms. Wade noted that the petitioner had also requested a conditional use, which would be addressed in a separate staff report.

Ms. Wade stated that the subject property is currently vacant, and has been since it was rezoned in 2001. There are some existing local streets that stub into the property, including Dawson Springs Way directly to the west; Asbury Lane, on the east side; and Silver Springs Drive, also to the west. Displaying several photographs of the subject property and surrounding area, Ms. Wade noted that Citation Boulevard does not continue along the entire frontage of the property.

Ms. Wade said that the 2007 Comprehensive Plan recommends Low Density Residential development, or between 0 – 5 dwelling units per net acre, for the subject property, which is in agreement with the existing Single Family Residential zoning. At the recommended density, the subject property could accommodate up to 25 dwelling units. Ms. Wade explained that single family residential units could be constructed in the proposed R-3 zone; but, since the petitioner is not proposing a single family development for the subject property, the staff considered the appropriateness of the proposed zoning, rather than its agreement with the Comprehensive Plan recommendation. The petitioner is proposing conditional zoning restrictions that could limit the density allowed on the property; and the

---

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

staff is recommending some additional restrictions, to which they believe that the petitioner is agreeable. The staff also considered whether there had been any unanticipated changes in the vicinity of the subject property since the 2007 Comprehensive Plan, and they determined that there had been no such changes during that time. Ms. Wade stated that, as part of their determination of the appropriateness of this rezoning request, the staff also considered the Goals and Objectives of the Comprehensive Plan. The staff believes that Goals 8, 13, 14, and 20, which relate to encouraging compatible businesses near residential areas; identifying the need to provide housing opportunities to all citizens; supporting a variety of types of housing in close proximity to each other; and satisfying the community's need for private, non-residential uses such as nursing homes, could all be found to be in support of this proposal. Ms. Wade stated that the staff is recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Referring to the revised staff recommendation, copies of which had been distributed to the Commission members, Ms. Wade said that it included a small change to what the staff had recommended at the Zoning Committee meeting in August. The staff is now proposing to add a few words to limit any future single family development of the subject property to 25 units or less, in accordance with the Comprehensive Plan recommendation. The staff is also recommending a restriction on lighting on the subject property, and the limitation of the possible conditional uses on the subject property to hospitals; nursing homes; rest homes; orphanages; and assisted living facilities. Ms. Wade noted that the petitioner had expressed some concern about the Zoning Ordinance definition of "assisted living facilities," which they maintain might restrict residents of those facilities to certain age groups. The staff believes that the proposed changes to the conditional zoning restrictions should address those concerns.

Commission Questions: Ms. Roche-Phillips asked, if the subject property was currently zoned R-3, the petitioner would simply need to appeal to the Board of Adjustment for a conditional use permit for the proposed nursing home, or if other site considerations would apply. Ms. Wade answered that the petitioner would be able to go to the Board of Adjustment and request that use without any other considerations.

Mr. Owens asked what effect the proposed development would have on the existing street system in the vicinity of the subject property, should it be developed as proposed. Ms. Wade responded that she believed that the petitioner was working with the engineers who designed the adjoining residential neighborhood, and that those engineers had drafted some changes to the area that would remove the five acres of the subject property, while still allowing the local street system to function. She noted that the staff had not received those changes, and would not expect to until the proposed rezoning was approved. Mr. Owens asked if the staff had an exhibit depicting the street layout originally proposed on the subject property. Ms. Wade answered that she did not, but she believed that Mr. Taylor might be able to display the layout along with the proposed development plan. She noted that the subject property was depicted on a preliminary subdivision plan with 21 single family lots.

With regard to Ms. Roche-Phillips' and Mr. Owens' questions, Ms. Wade displayed a rendered subdivision plan for the subject property, noting for the Commission the areas that had already been platted, and those that had not. She explained that the staff had referred to that subdivision plan and counted the number of lots proposed on the subject five-acre parcel, which was 21. The street configuration as depicted on that plan would not work if the subject property was developed as proposed, but a looping configuration could be a logical change.

Development Plan Presentation: Mr. Taylor presented the corollary zoning development plan, noting that the petitioner proposes to construct a 53,000 square-foot nursing home and assisted living facility. The development plan depicts 91 parking spaces, which would exceed the Zoning Ordinance requirement of 86 spaces. Access to the property is proposed at the intersection of Silver Springs Drive and Dawson Springs Drive.

Mr. Taylor stated that the Subdivision Committee recommended approval of this development plan, subject to the 15 conditions as listed on the agenda. The petitioner submitted a revised plan the day prior to this hearing, in order to address some of those conditions; they were able to satisfy #10-12, which could now be deleted. With regard to condition #13, Mr. Taylor said that this plan was submitted as a final development plan, which, upon its approval and certification, would permit the petitioner to pull building permits. Most zoning development plans are submitted as preliminary plans, with a final version submitted later in the process, once zoning is approved by the Council. The staff left this as a discussion item due to the large amount of work remaining on the plan, which could be difficult to complete in the two-week period following the Planning Commission hearing in which the plan must be certified. Mr. Taylor explained that the petitioner could opt to submit this plan as a preliminary, and that they would need to notify the Planning Commission at some point prior to the making of a motion on this item if they chose to do so.

Mr. Taylor said that condition #14 refers to the need for right-of-way closure or a waiver for the petitioner's proposed access point to Dawson Springs Way, which is already dedicated right-of-way. On the previous plan, the proposed street connection to Silver Springs Drive included an apron, which is typical when the street is expected to continue at some point in the future. Under the Subdivision Regulations, however, that would be considered an improper street termination, since it would not end in either a cul-de-sac or a connection with another street. The petitioner is requesting a waiver of the Subdivision Regulations in order to terminate that street into the subject property. Mr. Taylor noted that such a waiver was granted recently in the Sharkey Property development, at the end of Louie

---

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

Place, into the apartment complex. He referred the Commission to the waiver report, which was distributed to the Commission members prior to the start of the hearing. The petitioner is requesting a waiver in order to construct that termination of Dawson Springs Way approximately 50 feet from the centerline of Silver Springs Drive, and to have that termination become a private, at-grade entrance to the proposed nursing home facility. The petitioner is requesting that waiver based on hardship due to the site's already constructed and dedicated apron, which constitutes a man-made, physical condition. According to the Subdivision Regulations, demonstrated hardship is one of the requirements that must be met in order to grant a waiver. Mr. Taylor stated that the staff was in agreement that construction of a flat crossing would constitute a hardship, and that they had determined that the termination of Dawson Springs Way at the intersection of Silver Springs Drive would not negatively impact public health and safety. The staff recommended approval of the requested waiver, for the following reasons:

1. The proposed street design is not inconsistent with the basic intent of the Land Subdivision Regulations.
2. Not granting the waiver would constitute a hardship for the applicant based on the proposed development of the subject site. Otherwise, the construction of a short section of public road would be required of this applicant without the waiver.

This recommendation is made subject to the following additional requirement:

- a. Denote the physical features to be constructed to demonstrate the public/private pavement transition on the Zoning Development Plan.

Mr. Taylor stated that, in other locations, public/private pavement transition has been denoted using stamped pavement and signage to indicate the end of the public right-of-way, which serves to assist those who are performing maintenance.

With regard to condition #15, Mr. Taylor said that, in light of the petitioner's application for a conditional use permit for a nursing home, the staff had concerns about the adequacy of the necessary public facilities on the subject property, including the construction of Citation Boulevard.

Waiver Report: Mr. Martin stated that the petitioner had filed a request for a waiver of Article 4-7(d)(9) of the Subdivision Regulations. He displayed a rendered copy of the approved development plan for the subject property, which highlighted the roadway system that is currently approved and built in the vicinity of the subject property. The Asbury Lane connection, which remains to be built, was subject to a three-party agreement that requires the Urban County Government to construct Citation Boulevard, as well as Asbury Lane.

Mr. Martin said that, when the conditional use permit application was filed in conjunction with this request for rezoning, the staff was concerned about the adequacy of the street system. The staff determined that the best resolution for that situation was to provide additional access through the existing Citation Boulevard right-of-way. The petitioner's response was to propose to build a 22' half-section of Citation Boulevard, including curb, gutter, and sidewalk, from Citation Boulevard's current termination at Newtown Springs Drive (approximately 650') to its intersection with Silver Springs Drive. There was a brief discussion about the possible construction of a private driveway, but that option would have presented even more concerns for all the parties involved.

Mr. Martin explained that, typically, street infrastructure is approved, constructed, and dedicated. Once that process is complete, a warranty surety is posted and held for one year. At the end of that time, the final course of asphalt is placed, and the surety is released. The petitioner has requested a waiver in order to be relieved of posting that warranty surety, because they are proposing to construct the entire half-section, including the final course of asphalt.

Mr. Martin said that, in reviewing this waiver request with the Division of Engineering, the staff had several concerns. The staff believed that the petitioner should construct a shoulder on the north side of the half-section for vehicular safety. In addition, the staff was concerned about the transition from the existing Citation Boulevard right-of-way, which is very large with multiple lanes, to a collector status. The staff is recommending, therefore, that the petitioner construct the appropriate physical features, subject to the approval of the Divisions of Engineering and Traffic Engineering, in order to make a safe transition in that area. Mr. Martin stated that the staff is also requesting that the petitioner move the proposed construction entrance from the main entrance area at the end of Dawson Springs Way to Citation Boulevard, in order to prevent construction traffic from traveling through the residential area. The staff is recommending that the construction entrance be removed upon the Division of Engineering's approval of the final course of asphalt, and that no Certificate of Occupancy should be issued for the site until that condition is fulfilled.

Mr. Martin stated that the staff is recommending approval of this waiver request, for the following reasons:

1. Not granting the waiver would constitute an exceptional hardship for the applicant based on the existing street infrastructure currently serving the area and the development.
2. The construction of the half-section of Citation Boulevard would increase the level of public infrastructure available in this area, thus meeting the basic intent of the Land Subdivision Regulations.

---

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

This recommendation is made subject to the following additional requirements:

- a. Denote: The specific physical features to transition the new half-section to the existing section of Citation Boulevard shall be determined on the Improvement Plans, subject to the approval of the Divisions of Engineering and Traffic Engineering.
- b. Denote that a shoulder along the northern boundary of the proposed half-section shall be provided to the approval of the Divisions of Engineering and Traffic Engineering.
- c. Denote that the construction entrance to the site shall be provided from existing Citation Boulevard right-of-way to the east of the Silver Springs intersection.
- d. Denote: No occupancy permit shall be issued until the final course of pavement on the proposed half-section of Citation Boulevard is approved and accepted by the Division of Engineering and until the construction entrance is removed to the approval of the Division of Engineering.

Conditional Use Presentation: Mr. Sallee presented the staff's report on the requested conditional use, referring to copies of the staff report, which had been distributed to the Commission members prior to the start of today's hearing, along with a supplemental report. He noted that the staff had originally recommended postponement of the conditional use portion of this request at the August Zoning Committee meeting, which is reflected on the agenda for this meeting.

Mr. Sallee stated that the petitioner proposes to construct a one-story building, 53,000 square feet in size, in order to accommodate a facility with a nursing home component, skilled nursing care, and an Alzheimer's memory unit. The petitioner is also proposing 91 parking spaces on the five-acre site. Mr. Sallee indicated that the petitioner provides adult day care and long-term care services as well, which may be accessory to their use of the property under this conditional use. In their original report, the staff opined that a nursing home would ordinarily be well-located on a collector street; however, the collector street system and sidewalk system in the area are not complete to the site. In addition, the collector street is located about 600 feet to the west of this site. In the time that this request has been postponed, the petitioner has been discussing the available options with the Division of Engineering to extend Citation Boulevard to the intersection at Silver Springs Drive. Now that a solution is being proposed, the staff's original finding that not all of the necessary public facilities are in place for this conditional use is no longer applicable, at least at the time of occupancy of the facility, which led to the staff's revised staff report. Since the existing sidewalk and street system are now proposed to extend to Silver Springs Drive, the staff is now recommending approval of the requested conditional use permit for a nursing home and assisted living facility, for the following reasons:

- a. If limited in scope, the proposed nursing home and assisted living facilities at this location should not adversely affect the subject or surrounding properties. This type of facility does not generally generate high volumes of traffic, other than brief periods involving employees on shift changes, and there is no other aspect of the proposed use (such as noise) that is anticipated to be disturbing to the surrounding neighborhoods. There will be a well landscaped site and parking lot, with a clearly defined entrance to the subject property. Also, the one-story-building proposed will not loom over the other existing residential homes in this immediate area.
- b. Since direct access is now proposed to the property via an extension of Citation Boulevard and the pedestrian sidewalk on the southern edge of that roadway, all necessary public services and facilities would be available and adequate for the proposed conditional use at the time of its occupancy.

Mr. Sallee noted that the word "direct" in finding "b" should be deleted.

This recommendation is made subject to the following conditions:

1. Provided the Urban County Council rezones the subject property R-3; otherwise, any Planning Commission action of approval is null and void.
2. Should the subject property be re-zoned to R-3 by the Council, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Commission.
3. All necessary permits shall be obtained from the Division of Building Inspection prior to any construction, and prior to occupancy of the new facilities.
4. The parking lot and driveways shall be paved, with spaces delineated, and landscaped in accordance with Articles 16 and 18 of the Zoning Ordinance.
5. The final design of the parking lots, access drives and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
6. Any outdoor pole lighting provided for the parking lots on the subject property shall be of a shoebox (or similar) design, so that light is shielded and directed downward to avoid disturbing adjoining or nearby properties.
7. Storm water management shall be implemented for the subject property in compliance with the requirements of the adopted Engineering Manuals, and subject to acceptance by the Division of Engineering.
8. Vehicular access to the subject site is to be provided within the right-of-way of Citation Boulevard as far east as Silver Springs Drive, prior to issuance of an occupancy permit for the nursing home and assisted living facility.
9. A continuous sidewalk shall be constructed to the western right-of-way of Silver Springs Drive, prior to occupancy of the nursing home and assisted living facility.

---

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

Mr. Sallee stated that conditions #8 and 9 were somewhat unusual, and were drafted with this particular site in mind.

Commission Questions: Ms. Roche-Phillips asked Mr. Sallee to denote the location of the sidewalk to which condition #9 refers. Using the zoning map, Mr. Sallee noted the location of that sidewalk, as well as the point to which the staff is requesting that it be continued. He added that the construction of that portion would result in a continuous sidewalk from Newtown Pike to the subject property. Ms. Roche-Phillips asked if the sidewalk would be constructed on Silver Springs Drive or Newtown Pike. Mr. Sallee answered that it would be constructed along the petitioner's frontage on Silver Springs Drive, and along the half-section proposed on the southern side of Citation Boulevard. Ms. Roche-Phillips asked if that should be the east side of Silver Springs Drive. Mr. Sallee responded that the condition was such that either side of Silver Springs Drive would be correct, since the sidewalk on one side is already part of the previously approved development plan.

Ms. Copeland asked if the new portion of Citation Boulevard would be a completed roadway, or a "construction road." Mr. Sallee answered that the proposal, as the staff understands it, would be to construct a complete road, as a half-section of a collector, which is ordinarily 40 feet wide. It would have at least two lanes of pavement, so that two independent movements would be possible; a curb and gutter; a utility strip; and a sidewalk on the southern half. The northern half of the road would still be as it is today, under the LFUCG purview for construction at a future time. Ms. Copeland asked if it was typical to have a private entity construct their own portion of a road. Mr. Sallee answered that it does not happen very often in an existing right-of-way. He noted, however, that there was not another roadway that has had this type of mutual agreement for its construction in Fayette County. There are no other roads in the county where multiple parties are responsible for constructing different parts of a collector street. Typically, collector streets are constructed by developers as the nearby properties are developed. Mr. Sallee stated that, since the 1980s, that has not been the plan for Citation Boulevard, however.

Mr. Owens asked, with regard to Ms. Roche-Phillips's question about the sidewalk on Silver Springs Drive, if Mr. Sallee had indicated that the sidewalk would just come up to the point of the subject property along the western side of the street. Mr. Sallee concurred.

Ms. Beatty asked if there was a potential date set for the completion of Citation Boulevard. Mr. Sallee answered that there was not for Citation Boulevard, although some other projects have projected completion dates.

Petitioner Presentation: Dick Murphy, attorney, was present representing the petitioner. He distributed an exhibit packet to the Commission members, to which he would refer throughout his presentation.

Mr. Murphy stated that the petitioner, DMK Development Group, works in partnership with Trilogy Health Services to construct nursing home facilities, which are then operated by Trilogy. He explained that Trilogy currently operates 64 locations in Kentucky, Illinois, Indiana, Ohio, and Michigan, from their headquarters in Louisville. There are 6,100 total beds in those facilities. Trilogy specializes in small to medium-sized facilities, with an average size of less than 100 beds. The company has an extensive base of experience and a proven track record for operating successful nursing home facilities in this part of the country.

With regard to their Lexington facilities, Mr. Murphy noted that Trilogy had purchased the bed allotment from the Kenton Healthcare Center on Waller Avenue, which went out of business some time ago, but they did not purchase the existing building. The petitioner believes that there is a great need for nursing home facilities in Lexington: 10 years ago, there were 1,400 certified beds in Fayette County; today, there are 1,032 beds, which reflects a 26% decrease. In that same period, the population of Kentucky has increased 10%, and the aging Baby Boomers will increase the need for care facilities for the elderly even further. The petitioner believes that the northern portion of Lexington is particularly underserved by these facilities. Referring to his exhibit packet, Mr. Murphy displayed a map of all of the nursing home locations in Lexington, noting that the majority are located in the southern portion of the county. There are no nursing homes located to the north of Versailles Road, and the only one located north of Main Street is Richmond Place, which is in the far eastern portion of the county. Many of the facilities that have recently closed in Fayette County were forced to do so due to the age of the buildings and the antiquated facilities in which they were located. Often in such a case, the only option is to construct a new facility to meet current standards. The design of the building includes an interior courtyard with large windows, so that each room will receive adequate natural light. Mr. Murphy noted that the petitioner intends to "split up" the bed allotment that they purchased from the Kenton Healthcare Center into three locations: one in Hamburg, which has been approved; one on the subject property, should it be approved; and they are currently searching for an appropriate third location. The new facility on the subject property is proposed to include 54 skilled nursing beds and 36 assisted living beds, with 12 of those being dedicated to Alzheimer's or memory care.

With regard to the recommendations of the 2007 Comprehensive Plan, Mr. Murphy reiterated that the staff had found the proposed rezoning to be in agreement with the land use recommendation of Low Density Residential use, which would allow up to 25 single family dwelling units, for the subject property. He said that it can be difficult to determine equivalency between nursing home beds and single family dwelling bedrooms, but noted that those 25 units could contain between 75 and 100 bedrooms, while the proposed nursing home would have 90 beds. The petitioner believes,

---

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

however, that peak traffic usage for the proposed facility will be roughly equal to that of the recommended number of single family residences. The petitioner does not want the proposed nursing home to be viewed as a "Trojan horse" use that would be quickly closed down in order to construct 90 apartment units. They are in agreement with the staff's proposed conditional zoning restrictions, which would require that, if for some reason the nursing home is rendered inoperable, the petitioner would only be permitted to construct the 25 dwelling units that are recommended by the Comprehensive Plan. Mr. Murphy stated, with regard to the Comprehensive Plan's statements about the need for Lexington to appeal to young professionals, that the petitioner believes that it is important to apply equal focus on the quality of life for all citizens, including the elderly. He noted the following Goals and Objectives, which the petitioner believes are particularly applicable to this rezoning request:

**Goal 20** – Provide and maintain a range of community facilities and services.

**Objective F** - Increase the level of human and social services provided to those citizens who are in need.

**Objective P** – Provide adequate opportunities for private nonresidential facilities to satisfy needs, including schools, parks and recreational facilities, hospitals, nursing homes...

**Goal 13** – Provide housing opportunities to meet the needs of all citizens.

**Objective B** – Support Fair Housing principles and practices.

**Objective C** – Provide for a wide range of lifestyles and economic opportunities for all residents, including the elderly, and do so in a manner which is affordable and cost effective.

Mr. Murphy stated that the conditional use and waiver reports placed a great deal of emphasis on traffic issues that might arise based on the proposed use of the subject property as a nursing home, although the peak-hour traffic generation should be similar to that of a single family neighborhood. Since the shift changes at the nursing home facility would be at the off-peak hours of 3:30 p.m., 11:00 p.m., and 7:00 a.m., the nursing home should actually contribute very little to the peak-hour traffic issues in the area. With regard to concerns about ambulance runs to the nursing home, Mr. Murphy said that he had asked the Trilogy representatives to provide some data about ambulance runs to their other existing facilities. He discovered that the Trilogy facilities average three ambulance runs per week, most of which are private transport runs, which take residents to medical appointments via a private ambulance company, rather than the local municipal service. When those services pick up a private transport patient from a nursing home, they do not use lights or sirens; they obey all traffic controls; and they do not speed, so their impact on the surrounding residents should be minimal. Trilogy facilities average one emergency run approximately every 20 days, which equates to approximately 18 a year, and in many cases, the municipal ambulance services do not use lights or sirens in residential areas. Captain Bowen informed Mr. Murphy that, although the decision is left to the individual ambulance driver, ambulances in Fayette County typically do not use lights or sirens in residential areas. Mr. Murphy stated that he had had a fire at his residence recently, and 16 emergency vehicles responded with lights and sirens within a one-hour period. He noted that it would take the proposed nursing home facility a whole year to have as many emergency runs as he had at his home in one evening, and that such responses occur in all residential areas.

With regard to the concerns about the completion of Citation Boulevard, Mr. Murphy said that that situation was unique. He explained that, approximately 40 years ago, a decision was made to require developers to dedicate portions of Man O' War Boulevard. There was a court decision on the matter, and the courts determined that, since Man O' War Boulevard would be a community-wide facility, it was inappropriate to require developers to dedicate the right-of-way; rather, it must be purchased by the government entity that intended to operate it. In the case of Citation Boulevard, which was intended to be the "northern Man O' War Boulevard," a settlement was reached five years ago, after 30 years of negotiations, to resolve who would be responsible for the construction of the roadway. Under that agreement, the developers of Newtown Springs and Griffin Gate, and the owners of the golf course, were required to donate the entire Citation Boulevard right-of-way to LFUCG, and the developer of Newtown Springs constructed the right-of-way from Newtown Pike to Newtown Springs. LFUCG was required to construct Citation Boulevard from Newtown Springs to the edge of the subject property. That construction has not yet been completed, and, under the agreement, there was no time limit placed on when LFUCG must construct their portion of the roadway. There was also a provision, however, that LFUCG could not use the fact that that portion of Citation Boulevard was not complete as a reason to prevent the development of the rest of Newtown Springs subdivision. The petitioner contends that, since there should be no appreciable difference in the traffic impact between the allowable 25 single family residences and the proposed nursing home use, it would be inappropriate to use that reason as a basis on which to disapprove this request.

Mr. Murphy noted that, also based on that negotiated agreement, the petitioner should not be legally obligated to construct any portion of Citation Boulevard. Nevertheless, since the staff believed it was important to locate the proposed nursing home on a collector street, the petitioner has agreed to provide 650' of the connection between Newtown Springs and the subject property. The petitioner met with the Division of Traffic Engineering, and they were offered two possible options to construct that portion of the roadway: 1) construct a fully built half-section of roadway, which would allow two-way traffic, have a full sub-base and surface, and meet public street standards; or 2) build a

---

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



private driveway over that section, maintain it themselves, then remove it at such time as LFUCG was prepared to construct their portion of Citation Boulevard. Mr. Murphy said that, although it would be more expensive for the petitioner to construct a complete half-section, they wanted to provide an attractive gateway into the facility, and they are not permitted under their financing agreement to have open-ended responsibility for off-site public improvements. Therefore, the petitioner is requesting to construct the public street, which will provide a substantial cost saving to LFUCG. They are requesting, however, a waiver of the bond and surety for the final course of asphalt, so that they can completely construct that portion of Citation Boulevard. Mr. Murphy noted that, should that waiver request not be approved, the petitioner will pursue their other option and construct a private driveway across the Citation Boulevard right-of-way to their property. He said that, if the petitioner's other waiver request is denied, the petitioner will be forced to remove the already constructed apron and replace it at their cost, which would not be environmentally friendly or cost-effective.

In conclusion, Mr. Murphy stated that the proposed nursing home is expected to create approximately 90 health care jobs. The petitioner believes that the creation of those jobs is important for the Lexington area, but the need for nursing homes is much more critical. The petitioner has a great deal of experience and intends to exceed the requirements in order to construct the facility to the highest possible quality. Mr. Murphy said that the petitioner is in agreement with all of the staff's recommendations, and he requested approval.

Commission Questions: Mr. Owens asked, with regard to Mr. Murphy's statement that the petitioner would not need to make any utility cuts along the Citation Boulevard right-of-way, if utilities already exist in that area. Mr. Murphy answered that, since the subject property was planned as a residential development, utilities do exist in the area. He noted that those facilities might not extend to the property line at this time, but the petitioner will ensure that they are all in place and adequate for the proposed nursing home use. Sara Tuttle, Strand Associates, Inc., added that Griffin Gate, to the north of the subject property, is fully developed with all utilities in place. Citation Boulevard is situated along a ridge, and the sewer system for that area flows from the south; a detention basin is in place for the storm sewers; and water service will be extended to the property through the Newtown Springs subdivision. Ms. Tuttle added that Kentucky Utilities has a duct bank along a portion of the southern right-of-way of Citation Boulevard, which stops at Newtown Center Drive. In the future, that may be extended parallel to the right-of-way, but, at this point the petitioner should only have to provide for drainage from the northern side of the road, and there is already a pipe in place for that purpose.

Mr. Wilson asked, with regard to Mr. Murphy's map depicting the locations of all of the nursing homes in Fayette County, if Trilogy currently manages any of those facilities. Mr. Murphy answered that they do not; they are getting underway with construction of the Hamburg facility at this time.

Mr. Wilson stated that he did not have a problem with the proposed solution for extending Citation Boulevard, but he was concerned about Newtown Pike, since it is very heavily traveled during peak hours. He noted that traffic backs up so severely during those times that he was unsure how an ambulance would be able to make it through to the proposed nursing home in an emergency. Mr. Murphy responded that he understood Mr. Wilson's concerns, and reiterated that the intersection of Newtown Pike and Citation Boulevard is fully signalized. He noted that, however the subject property may be developed, that concern would still exist. Based on the statistics provided by Trilogy about the low number of ambulance runs to their facilities, it might actually be more of a concern if the subject property was developed with 25 single family houses, just as it is a concern for the densely populated Griffin Gate community. Mr. Murphy stated that one of the functions of the Urban Service Area is to concentrate the population inside that area, which can lead to traffic backups all over the city. The fire stations, however, are situated to provide adequate coverage for the entirety of the Urban Service Area, so the petitioner does not believe that that should be a concern for the proposed nursing home.

Ms. Copeland asked if Trilogy was a national firm; and, if so, where their headquarters were located, and from where their payroll checks would be issued. She also asked if a patient or family member needing a refund would have to work with an out-of-state office. Ross Oberhausen, Trilogy Health Services, answered that the company was based in Louisville, and currently operates in Illinois, Indiana, Kentucky, Ohio, and Michigan. He noted that there would be a business office on site for anyone who had issues that required that type of resolution. Ms. Copeland asked if the company would be paying payroll tax in Fayette County. Mr. Oberhausen responded that the 90 full-time employees proposed for the site would be paying Fayette County payroll taxes.

Ms. Copeland stated that she was concerned about delivery trucks, hearses, and all of other unusual traffic associated with the proposed nursing home traveling through the adjacent residential subdivision. She added that she was also concerned about the driveway layout on the proposed development plan, in that it parallels Citation Boulevard. She asked if the petitioner had worked with the Division of Traffic Engineering to develop a front door entrance and back door service entrance, in lieu of the driveway. If the petitioner provided a visitor entrance in the front, they could then use a service entrance in the rear for employee parking, delivery trucks, ambulances, etc.. Until Citation Boulevard is fully developed, the main driveway would exist in the right-of-way for that roadway; then, upon completion of Citation Boulevard, the petitioner could "open up" their rear parking lot/service area. Ms. Tuttle answered that there are two significant entrances proposed to the facility—one in the front, for visitors and some employees, and another in the rear for both visitors and employees. The development plan also includes a "service corridor," and the petitioner is currently studying truck radii to ensure that trucks will be able to use that area for deliveries. Ms. Tuttle noted that there had been

---

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

a considerable amount of discussion about a possible connection to Asbury Lane at such time as it is constructed; but the only connection proposed at this time is a sidewalk, which was added at the request of the staff. She said that, if Ms. Copeland was referring to a future direct connection to Citation Boulevard, she believed that there was a note on the development plan that limits the number of driveway openings to Citation Boulevard. The functional classification of Citation transitions from an arterial, which would not have driveways, at Newtown Pike, to a collector functioning as an arterial adjacent to the subject property. The petitioner was unsure, therefore, that a direct connection to Citation Boulevard would be appropriate. They did, however, agree to continue Citation Boulevard to the subject property in order to keep traffic to the nursing home off the local residential streets. Ms. Copeland stated that, within the last few months, the Planning Commission had approved a driveway entrance from the area of the Red Cross office to Citation Boulevard. Ms. Tuttle answered that the primary concern with a direct access to Citation Boulevard would be the ownership of the roadway, since it would exist as a private driveway in the public right-of-way. She added that the petitioner might be able to construct such an entrance further along that right-of-way, but it would require the construction of another 400' or 500' of Citation Boulevard. Ms. Copeland stated that, since the petitioner was proposing to construct a half-section of Citation Boulevard from Newtown Pike to Silver Springs Drive, ending at their construction entrance, they should be able to add a 10' private driveway within the right-of-way that would provide access to a large rear parking lot. Then, once Citation Boulevard is completed, the parking lot would empty directly onto Citation. Ms. Tuttle stated that the petitioner might consider such an option when Citation Boulevard is completed. Ms. Copeland said that, since the petitioner proposes to use a construction entrance to access the rear parking lot, they should be willing to maintain that entrance as a means to keep traffic off the neighborhood streets. Ms. Tuttle stated that the petitioner would not object to that proposal, but the staff has requested that the construction entrance be closed upon completion of construction. Ms. Copeland opined that there was a great deal of work still to be done, and that this plan should be approved only as a preliminary plan. She said that she did not believe that the petitioner should be allowed to construct a long expanse of driveway paralleling Citation Boulevard. Using Mayfair Manor as an example, Ms. Copeland explained that that facility has front access from one street, and rear access from another, which works very well for nursing homes. She added that such a driveway configuration could also allow the petitioner to locate their building closer to Citation Boulevard. The neighborhood, she said, would benefit from such a configuration, since they would be spared the heavy traffic cutting through the local streets. Ms. Tuttle stated that the purpose of constructing a half-section of Citation Boulevard is to allow all of the nursing home traffic to use that roadway. In order to exit the property other than to Citation, traffic would have to travel a long distance through the local streets to reach the nearest signalized intersection.

Citizen Objection: Joel Corwin, 760 Dawson Springs Way, circulated to the Commission members a petition from residents of the Newtown Springs development who are opposed to the proposed rezoning. Mr. Corwin stated that he believes that the Planning Commission is seeing the "ground level" view of the proposed development, as provided by the petitioner, but he would like for them to get an idea of the "helicopter view."

Mr. Corwin explained that Rosenstein Development bought the entire Newtown Springs property in order to develop it strictly for residential uses at a certain density. Following that purchase, they attempted to increase the density, which eventually ended in a court decision. The result of that decision was a compromise: the developer would construct only single family homes in the area that is now the Newtown Springs subdivision, but would be able to construct multi-family residences nearer to Newtown Pike. The property was eventually sold to Beazer Homes, and then to Palumbo Properties. As Palumbo Properties was in the process of constructing the single family residences, the economy took its downturn, and home sales slowed. The neighborhood began to fall into disrepair, and Palumbo Properties took the opportunity to sell some of the property by changing the agreed-upon density to something higher.

Mr. Corwin stated that, throughout the process, the residents of the Newtown Springs subdivision were not informed of any of the plans for the adjoining vacant property. They purchased their homes with the assurance that the development would include only single family residences, their properties would maintain their value, and they would be able to enjoy living in a quiet neighborhood. Mr. Corwin said that he and his neighbors believed that it was inappropriate for the developer to turn a profit "on the backs of the single family residents" by selling the subject property to be used as a nursing home. They are also concerned that the subject property will be used for something other than a nursing home, despite the assurances otherwise from the petitioner. He displayed several photographs of the subject property, noting that the area was not being maintained properly; that the developers were not using silt fences appropriately; storm water drains have been backing up; and that some illegal dumping was taking place on the property, which might merit notifying the Environmental Protection Agency.

Mr. Corwin stated that the current property owner will be the only one to benefit from the sale of the subject property for use as a nursing home. The property was last sold in February of 2006, for more than \$2,000,000.00; but by 2007 the fair cash value of the property, as recorded by the Property Valuation Authority, had dropped more than 50%.

Mr. Corwin said that traffic through the residential area was the greatest concern for the Newtown Springs residents, but that the issue "had not even remotely been addressed." The residents have been concerned about traffic in their area for years, and they believe that the construction traffic on the subject property will also bring not only heavy trucks, but a great deal of mud into the area. Mr. Corwin asked that the Planning Commission consider how they would feel if the

---

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

nursing home was proposed for their neighborhood. He suggested that the petitioner consider buying a piece of property nearer Newtown Pike in the Newtown Springs development, or across Newtown Pike on the Coldstream campus.

Mr. Corwin displayed a copy of the deed restrictions associated with his property, noting that only single family residences were permitted. The residents of the Newtown Springs neighborhood believe that it would be unfair and fraudulent for the petitioner to be allowed to construct a nursing home under those deed restrictions.

Bruce Ely, 1614 Grant Court, stated that he had seen the legal advertisement of this public hearing in the *Herald-Leader* on September 13<sup>th</sup>, which was when he first learned of it. The following day, he approached most of the other residents on Grant Court and Asbury Lane, and 90% of them were opposed to it. At the time of the construction of the Newtown Springs development, residents in the Green Acres and Hollow Creek neighborhoods were informed that some of the storm water runoff from that new development would affect their properties. Mr. Ely stated that he and his neighbors believed that the proposed development would result in increased traffic, noise, and other problems for their neighborhood, and that the petitioner was only concerned about making money, not the effect on the nearby residents. He opined that, if the Planning Commission members learned that such a development was proposed in their neighborhoods, they would be opposed, as well. Mr. Ely noted that he had to take off work to attend this meeting, and requested that the Planning Commission members disapprove this rezoning request.

Commission Question: Ms. Copeland asked Mr. Ely to denote which areas would be impacted by storm water runoff from the subject property. Mr. Ely indicated the area around Asbury Lane, noting that, if that road is connected, it would result in a great deal of cut-through traffic through his neighborhood. With regard to Ms. Copeland's question, he explained that, at the time of the rezoning of the Newtown Springs property, Green Acres residents were informed by engineers that the storm water runoff from that development would flow to their neighborhood. Mr. Ely noted that several houses in that area have been purchased by LFUCG for flood mitigation.

Staff Comment: Ms. Wade circulated to the Commission members an opposition letter from Joshua and Susan Samples, 725 Dawson Springs Way, which had been submitted to the staff.

Kimberly Jackson, 573 Hollow Creek Road, stated that her street backs up to the Newtown Springs development. She stated that LFUCG had bought several houses in her area, and had torn some of them down, as part of a flood mitigation project. In addition, LFUCG was also in the process of purchasing an easement to accommodate an existing creek, which has caused storm water problems in the area for many years.

Ms. Jackson said that there was a great deal of crime in her neighborhood, which could be exacerbated by the connection of Asbury Lane, since it could provide a quick means of escape to Newtown Pike for criminals who victimize residents of Hollow Creek Drive, which currently terminates in a stub. Hollow Creek residents were also concerned about the possibility of increased cut-through traffic if Citation Boulevard and Asbury Lane are both connected to Russell Cave Road. She asked that the petitioner be required to find some solutions other than connecting those roadways.

Ms. Jackson stated that she agreed that the north side of Lexington needed a nursing home, but she believed that there was an even greater need for a hospital. She added, however, that the north side residents were used to their neighborhoods and the services available there, and they would prefer that they remained that way. They believe that the petitioner has not sufficiently considered the results of the proposed nursing home on their subdivisions, where residents are feeling even more insecure as a result of having lost their designated neighborhood police representative.

Commission Question: Ms. Roche-Phillips asked Ms. Jackson to denote on the map the location of the properties that had been condemned for flooding mitigation. Ms. Jackson used the rendered zoning map to indicate the location of the creek, which flows through the park, under Hollow Creek Road, and across the back of Grant Drive. She explained that several homes on Grant Drive and Astaire Drive, which back up to the Lexmark property, were purchased by LFUCG for flood mitigation.

Joshua Samples, 725 Dawson Springs Way, stated that he worked as a roadway designer for the Kentucky Department of Transportation, so he was somewhat familiar with roadway construction projects such as the continuation of Citation Boulevard. He noted that, unless it was specified prior to the construction of Citation Boulevard, the construction traffic is not required to use an alternate access to the property. In addition, the facility has egress to Dawson Springs Way, which was not intended to handle a large volume of construction traffic. Mr. Samples opined that, once the petitioner's portion of Citation Boulevard is constructed, most of the traffic from the nursing home would use that access, because it would be more convenient, but he was concerned about the construction traffic traveling through his residential street. He also noted that outbound traffic traveling north on Newtown Pike to the proposed nursing home would most likely use Newtown Springs Drive, rather than Citation Boulevard, because it would provide the first available access to the facility.

With regard to the traffic information presented by Mr. Murphy, Mr. Samples noted that the peak hour numbers might be accurate; the total traffic for the day, however, would likely be much heavier than projected by the petitioner. He said that the road construction in the single family portion of the Newtown Springs subdivision could possibly handle the projected

---

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

extra traffic from the nursing home facility; but he did not believe that it would hold up under heavy truck traffic during the construction phase, and he was concerned about who would be responsible for those repairs, particularly since the final course of asphalt was never applied to those roadways.

Commission Question: Ms. Roche-Phillips stated that she was aware of a right-turn lane at the intersection of Newtown Pike and Citation Boulevard, and asked if there was also a turn lane at the Newtown Springs intersection. Mr. Samples answered that there was a right-turn lane at that intersection, but it was not as long as the one at Citation Boulevard.

Dorothy Haskins, 495 Asbury Lane, stated that she was concerned about construction and delivery truck traffic using Asbury Lane to access the subject property. She said that the construction blasting for the new Eastern State Hospital on the University of Kentucky Coldstream campus has caused damage to some of the homes in her neighborhood, and she believed that someone should be held responsible for the repairs to those homes.

Ms. Haskins stated that she would like to know if Asbury Lane would be connected, which would cause a great deal of additional traffic on her street. She added that she did not learn of this public hearing until September 20<sup>th</sup>, when a neighbor asked her to look up the legal advertisement in the newspaper. After she learned about the proposed hearing, she asked each of her neighbors on Asbury Lane if they had been made aware of it, and only one resident indicated that she had. Ms. Haskins said that she believed that all of the nearby residents should have been notified of today's hearing, and that she and her neighbors were not in support of this request for rezoning.

Petitioner Rebuttal: Mr. Murphy stated, with regard to the concerns about increased traffic in the Green Acres neighborhood, particularly on Asbury Lane, that this plan is not intended to build the remaining section of Asbury Lane. The petitioner was required to display the proposed layout of that connection on their plan, but they will not be constructing it. To get from the proposed parking lot for the nursing home to Asbury Lane would entail approximately a four-mile drive, even though the "missing" piece of the connection would be only approximately 50 feet in length. There is a plan to connect Asbury Lane at some point, but the rezoning request before the Planning Commission has nothing to do with that issue. Mr. Murphy advised the concerned citizens to contact their Councilmember and advise them of the issues that have been raised at this hearing. He said that the proposed development would not result in any traffic, construction or otherwise, on Asbury Lane or in the Green Acres subdivision, because there is no direct connection whatsoever between that area and the subject property.

With regard to the concerns mentioned about storm water runoff, Mr. Murphy said that the subject property is a significant distance away from the Green Acres subdivision, and the petitioner will be required to install the proper mitigation controls to prevent storm water from impacting other properties. He added that the residents' concerns were certainly valid, but they had no bearing on the request before the Commission today.

Mr. Murphy said, with regard to the Newtown Springs residents' apprehension about construction traffic in their neighborhood, that, under the conditions the staff has proposed and to which the petitioner has agreed, all construction traffic must use the designated entrance on the Citation Boulevard right-of-way. None of the construction traffic will be using the neighborhood streets; although, if the property was developed with 25 single family homes, all of that construction traffic would be using the local streets. Prior to the issuance of a Certificate of Occupancy for the proposed nursing home, the petitioner must have their half-section of Citation Boulevard, with the final course of asphalt, completed, and the construction entrance must be removed. Mr. Murphy noted that the nursing home is proposed to be only one story in height, which would be lower than many of the residences in the Newtown Springs neighborhood, and it should not have a significant impact on the residents there.

With regard to the neighbors' concerns about the lack of appropriate maintenance of the vacant property in the area, Mr. Murphy stated that the petitioner understands and sympathizes with them, but the petitioner was not affiliated with the current owner of that property. The petitioner was not involved in allowing the property to fall into disrepair; in fact, they believe that the construction of the proposed nursing home will help to clean up and enhance the area.

Mr. Murphy stated that, although the residents are also concerned about the possible uses that might be permitted under the proposed R-3 zoning, the petitioner has agreed to the conditional zoning restrictions proposed by the staff that would prohibit those uses. A zone change hearing before the Planning Commission, and approval of the Urban County Council, would be required in order to alter those restrictions. Mr. Murphy reiterated that, should the nursing home not be developed as proposed, the petitioner would not be able to construct apartments, townhouses, a halfway house, or a treatment center on the subject property, should the proposed conditional zoning restrictions be approved.

With regard to the necessary sewer infrastructure on the subject property, Mr. Murphy stated that those requirements were enforced as part of the permitting process. The petitioner cannot obtain a Certificate of Occupancy for the property unless the sanitary sewer, storm water, utilities, and all other sign-off requirements are completed.

In conclusion, Mr. Murphy stated that the petitioner believes that the proposed nursing home will be beneficial to the north end of Lexington, and will be a good neighbor to the adjoining residents.

---

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

Citizen Rebuttal: Mr. Corwin stated, with regard to Mr. Murphy's rebuttal comments, that he did not believe that the proposed nursing home would result in less construction disturbance to the adjoining residents than the 25 single family homes that could be built in the existing R-1D zone. He said that, given the currently depressed state of the national economy, he did not believe that 25 homes would be built on the property in his lifetime, since they would be unlikely to sell.

Mr. Corwin stated that the petitioner had not addressed the ongoing issues on the subject property that might require the attention of the Environmental Protection Agency, and he believed that that agency should be consulted to review the proposal for the nursing home and investigate the illegal dumping there. He said that many of his neighbors had contacted the current owner of the property with regard to refusing dump truck drivers who seek to dump unknown substances there.

Mr. Corwin reiterated that the Newtown Springs residents were unanimously opposed to the proposed nursing home development, and that they would prefer that, if the property must be developed, it should be for single family residences only. He also opined that the proposed nursing home would not fit in with the existing single family residential development, and that a more appropriate location might be in the Coldstream development, or in some other part of Lexington.

Staff Rebuttal: Ms. Wade stated that Mr. Murphy's rebuttal had seemed to indicate that the petitioner would be comfortable with limiting the allowable uses on the subject property to single family residential, should the property not be developed as a nursing home, although that was not included in the staff's proposed conditional zoning restrictions. She stated that the Planning Commission could add that restriction if they so chose. Ms. Wade displayed a proposed amendment to item a. of the conditional zoning restrictions to read:

- "a. As a principal use, no more than twenty-five (25) single family residential dwelling units shall be developed on the subject property."

With regard to storm water detention for the Newtown Springs subdivision, Ms. Wade used the rendered development plan to indicate the location of the existing detention basin to the south and west of the subject property, to which runoff from the property should drain. That drainage would be away from the Green Acres subdivision, and into the Cane Run watershed.

Ms. Wade stated, with regard to the citizens' concerns about notice of this request to the residents in the Asbury Lane area, that, although the subject property has an Asbury Lane address, it is actually a remnant property. Using the rendered zoning map, Ms. Wade indicated the locations of the 69 properties that fell within the required 400' notice area for the proposed rezoning. She said that additional notice was provided into the Griffin Gate subdivision, due to the agricultural zoning of the golf course, for a total of 118 letters sent. Of those notices sent, 31 were to property owners in the Green Acres subdivision. The Green Acres-Breckinridge-Hollow Creek Neighborhood Association also received notice of this request.

Commission Questions: Ms. Copeland asked, with regard to Ms. Wade's rebuttal comments, in which direction Cane Run Creek flows, and if that was away from the Green Acres subdivision. Ms. Wade answered that it does flow away from the Green Acres subdivision toward the Coldstream property. Ms. Copeland asked if the Green Acres subdivision currently had a detention basin. Ms. Wade responded that that subdivision was constructed prior to the requirement of detention basins.

Ms. Beatty asked Ms. Wade to provide an explanation with regard to the notification of property owners in the Griffin Gate subdivision. Ms. Wade answered that the Griffin Gate golf course was zoned A-U; anytime a rezoning was proposed adjacent to an agricultural zone, additional supplemental notice was required to extend two properties further than the required 400' notification area. She noted that some of the residences in the Griffin Gate subdivision fell within the 400' notification area, and that their neighborhood association had also been notified. Ms. Beatty asked if any property owners in the Green Acres subdivision, or their neighborhood association, had been notified. Ms. Wade answered that the combined Green Acres-Hollow Creek-Breckinridge Neighborhood Association was notified, as well as the properties that fell within the 400' notification area.

Mr. Owens asked the staff of the Division of Traffic Engineering whether it would be more appropriate for the proposed nursing home to have access directly to Citation Boulevard, or to Silver Springs Way as proposed by the petitioner. Mr. Gallimore answered that the optimum location would be on Citation Boulevard, approximately halfway along the frontage of the subject property. Based on the proposed layout, however, Mr. Gallimore said that it appeared that the petitioner intended to use the Silver Springs Way access point as a permanent main entrance, which could conflict with the proposed drop-off point. Mr. Owens asked if it would be possible to provide direct access to Citation Boulevard. Mr. Gallimore answered that it would be possible, but he was unsure whether the petitioner would want to incur the additional expense of adding an access directly to Citation Boulevard, when the petitioner's proposed use does not

---

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

typically require a high-visibility location. Mr. Owens stated that he believed that a single access point directly to Citation Boulevard would be more appropriate for the proposed nursing home.

Mr. Brewer stated that it was his understanding that direct access to Citation Boulevard might be prohibited. Mr. Gallimore responded that there had been some differences of opinion with regard to whether or not a direct access to Citation Boulevard was permitted. He noted, however, that the Commission had recently approved a direct access to Citation Boulevard, in an undesirable location, which did not meet with an existing median cut, and that he had been opposed to that request. Mr. Gallimore noted that there are existing direct accesses to Citation Boulevard, and that, if access points are going to be permitted, it would be better to plan them prior to the construction of the median. He added that it would be considerably more expensive to extend the half-section of Citation Boulevard, which the petitioner has agreed to construct, further along the frontage of the subject property. Mr. Brewer asked if it would be permitted to construct a direct access to Citation Boulevard, at the location that Mr. Gallimore had described as optimum. Mr. Gallimore responded that, to the best of his knowledge, Citation Boulevard did not have any specific access limitations. Ms. Wade added that the staff had been unable to find any such restrictions, as well.

Ms. Copeland asked if the petitioner could construct a temporary road to their proposed entrance to Citation Boulevard over the property line, since the right-of-way was owned by LFUCG. Mr. Gallimore answered that it was his understanding that the construction access would be located on Citation Boulevard. Ms. Wade added that the petitioner was not currently proposing any access to Citation Boulevard. Ms. Copeland said that the petitioner initially believed such an access was not permitted, but they had just learned that such an access would be possible. Mr. Gallimore responded that such an access had always been an option, but that the petitioner preferred to develop the property as indicated on the current development plan.

Mr. Owens asked if the petitioner would be agreeable to provide access to Citation Boulevard, at such time as that roadway was fully constructed, and to close the access to Silver Springs Way. He noted that he had serious concerns about allowing the proposed nursing home to access an existing residential street. Mr. Murphy answered that there were no other structures currently located on Silver Springs Way, since it was a stub street into the Citation Boulevard right-of-way, so the traffic from the proposed permanent entrance to the nursing home should not affect any of the adjoining residents. He added that all of the construction traffic would access the subject property directly from Citation Boulevard. The petitioner has already agreed to construct a half-section of Citation Boulevard, and was concerned about the viability of the project should they be required to extend that half-section to a new primary entrance point. Mr. Murphy stated that it might be possible to construct a second access point to Citation Boulevard once that roadway was completed. He said that he understood Mr. Owens's concerns, but the petitioner had already agreed to a great deal of off-site improvements, and they did not believe that they should be required to provide additional access to the proposed nursing home since it will have adequate access to a collector street. Mr. Owens said that he was concerned about a business use such as the proposed nursing home having access solely to a residential street. Referring to Mr. Murphy's map of the existing nursing homes in Lexington, Mr. Owens said that he did not believe that any of them had access to a residential street. He added that he was concerned that drivers exiting the proposed nursing home would bypass Citation Boulevard completely, and simply use the residential streets to access Newtown Pike. If the primary access for the nursing home was to Citation Boulevard, more drivers might be likely to use that roadway to travel to Newtown Pike. Mr. Owens stated that he was not asking the petitioner to construct another section of Citation Boulevard; he was, however asking if the petitioner would be agreeable to providing access to Citation Boulevard, and closing the Silver Springs Way access point, at such time as Citation Boulevard is fully constructed.

With regard to Mr. Owens's concern about nursing homes accessing residential streets, Ms. Blanton stated that the Planning Commission had recently approved several changes to the existing Sayre Christian Village nursing home, and she asked the staff to compare the construction, employee traffic, and neighborhood streets at that location to the subject property. Ms. Wade responded that both of the properties were situated in single family residential areas on collector streets. She said that, at Sayre Christian Village and at Homestead, where the Planning Commission also recently approved an expansion, demolition of single family homes was required in order to complete the construction, unlike the subject property, which is currently vacant. Ms. Wade noted that the staff had proposed similar use restrictions via conditional zoning, for both properties. With regard to employee access, she said that both of the employee accesses to the Sayre Christian Village facility were located on local residential streets; that facility did not have direct access to a collector street until the zone change was approved.

Ms. Roche-Phillips asked Ms. Wade to note the existing and proposed land uses surrounding the subject property. She said that she was concerned about the appropriateness of locating the proposed nursing home in a residential area, since it is a residential use, but very different from the single family homes that are already located there. Ms. Wade answered that there were currently a few homes on Dawson Springs Way, and some on Silver Springs Drive, but the five lots directly across from the proposed nursing home were currently vacant. Along the proposed Citation Boulevard right-of-way to Russell Cave Road, the large vacant tract was zoned A-U and owned by the University of Kentucky. That tract is proposed to be bisected by the construction of Citation Boulevard; to the north, it would be recommended for Medium Density Residential land use, or between five and 10 dwelling units per acre, and on the south, it would be recommended for Low Density Residential land use, or 0 to five dwelling units per acre. Land uses along Russell Cave Road include an existing large church, the new public library structure, and the vacated public library. Ms. Wade stated

---

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



that, on Newtown Pike and Citation Boulevard, there was an existing commercial development to the north; and Coldstream to the west, including the new Eastern State Hospital, which was currently under construction. Ms. Roche-Phillips asked Ms. Wade to note the land use recommendation for the jigsaw-shaped parcel to the north of the subject property. Ms. Wade answered that the rear portion of that parcel was the continuation of the existing Johnson Property subdivision, which was zoned R-1E for single family residential development, and recommended for Medium Density Residential land use. Ms. Roche-Phillips asked what the minimum lot size would be for a property zoned R-1E. Ms. Wade responded that the minimum lot size for an R-1E property was 4,000 square feet, and noted that there was also a maximum lot size of 7,500 square feet.

With regard to Mr. Owens's most recent question, Mr. Murphy answered that he had conferred with the petitioner, and they would be agreeable to constructing an entrance to Citation Boulevard at the time of its construction, provided that LFUCG will install a curb cut. He added that the two lots located nearest to the proposed Silver Springs Drive access point were currently vacant, so anyone buying a home there would be well aware of the nursing home entrance. Mr. Owens asked if the petitioner would also be agreeable to closing the Silver Springs Drive access once the Citation Boulevard access was constructed. Mr. Murphy responded that the petitioner would not be agreeable to closing the Silver Springs Drive access, as they believed that it was important to maintain it.

Citizen Rebuttal: Mr. Corwin stated that there was no way to tell when Citation Boulevard would be constructed; and, until that time, all of the traffic from the proposed nursing home would be using the residential streets. He opined that the UK Coldstream property would be a much more appropriate location for the proposed nursing home, since the infrastructure was already in place, and there were no residents on the property to be disturbed by traffic, noise, light pollution, etc.

Mr. Murphy added that the petitioner would also agree to require their employees to use the Citation Boulevard access point once it was constructed, since they could control the route they would use to and from the facility.

Ms. Beatty asked Mr. Murphy to clarify when the petitioner would be willing to construct the access point to Citation Boulevard. Mr. Murphy answered that the petitioner had agreed to construct the access point when Citation Boulevard was constructed, but noted that he could not specify a time limit on when that would be, since LFUCG does not have a timeline for that project. Mr. Cravens asked when the petitioner had agreed to build the half-section of Citation Boulevard to access the subject property. Mr. Murphy responded that that half-section had to be completed prior to the issuance of the Certificate of Occupancy for the property.

Commission Comments: Mr. Cravens stated that the hearing would be officially closed, and he opened the floor for Commission comments.

Ms. Copeland stated that she understood the neighbors' concerns, but she believed that this project needed to go forward, albeit as a preliminary development plan, rather than a final. She said that that would give the petitioner, the staff, and the Planning Commission an opportunity to resolve some of the issues on the plan, without delaying the proposed rezoning.

Ms. Blanton stated that the petitioner had conceded to add an access to the property on Citation Boulevard, and she asked Ms. Copeland what she believed still needed to be resolved. Ms. Copeland responded that, since the changes that the petitioner had agreed to today had not been included on the plan, she was concerned that they might move forward as a final development plan without making those changes. She added that, if this was a preliminary development plan, it could provide an opportunity to develop a better design for the access, since the petitioner was now aware that there were no restrictions on access to Citation Boulevard. Ms. Copeland said that she did not believe that those issues should stop the proposed rezoning from going forward, but she did not believe that this plan should be approved as a final development plan. She also opined that future iterations of the plan could take into account some of the neighbors' concerns, such as drainage and lighting for the subject property.

Ms. Blanton stated that the staff had proposed conditions for approval of the development plan that took into consideration outdoor lighting and storm water drainage, so she did not understand what Ms. Copeland hoped to accomplish by making this a preliminary development plan. Ms. Copeland answered that, since Ms. Blanton did not serve on the Subdivision Committee, she was unaware that those types of concerns were typically addressed at their meetings. Following the Subdivision Committee meeting, the staff would work further with the petitioner to resolve the issues with the plan, then it would be presented at a full Planning Commission as a final development plan.

Mr. Cravens stated that, although this plan did not have the full construction elements on it, it could meet the criteria for a final development plan. He noted that typically, with a zone change request, the petitioner would not go to the expense to present a full, final plan to the Commission until the rezoning was approved. Mr. Cravens asked the staff for clarification with regard to the plan status. Ms. Wade responded that the petitioner's deadline to change the status of the plan from final to preliminary was today, at this hearing. She added that she had not heard Mr. Murphy indicate that the petitioner was interested in making such a change.

---

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

Petitioner Representation: Mr. Murphy stated that the petitioner believed that the plan met the criteria for final development plan status, but that they would leave the final decision up to the Commission, and change the plan to preliminary if the Commission so chose.

Mr. Brewer stated that it was troubling to him to have so many nearby residents speak in opposition to what appeared to be a good project. He said that he understood and appreciated the residents' concerns, but he believed that the proposed conditional zoning restrictions should address those areas of concern. Mr. Brewer opined, with regard to Mr. Corwin's comments about the lack of maintenance of the subject property and its possible use for dumping, that that situation would be much less desirable to him as a neighbor than the proposed nursing home.

Mr. Wilson said that he was always conflicted when faced with organized neighborhood opposition for a project, but he believed that the proposed nursing home would be a good project, since the north side of Lexington often gets "shortchanged" with regard to the provision of services. He noted that, while he believed that the proposed rezoning should go forward, it was disturbing to him to listen to the residents' concerns, particularly about storm water and safety. Mr. Wilson stated that he was aware that issues that are not directly related to a zone change often come to the forefront as part of the public hearing process, and he would like to see those concerns addressed; but he was comfortable that the proposed nursing home would be a positive development for the north side of Lexington.

Ms. Roche-Phillips stated that she had fewer concerns about the proposed rezoning than about the approval of the requested conditional use permit for a nursing home, because she was unsure that the subject property was suitable for a non-traditional residential use, particularly given the residential land use recommendations along the proposed extension of Citation Boulevard. She added that she would be more than willing to support the proposed nursing home if it was not going to be located on the portion of the Newtown Springs development nearest the existing single family residences. She said that she would support the requested rezoning in order to allow more density and smaller lot sizes, in keeping with the existing residential development, but she did not believe that the subject property was appropriate for the proposed nursing home.

Mr. Owens said that he, too, understood the neighbors' concerns, but he believed that the property would be developed at some point in time, and any type of development would create noise, dust, and construction traffic. He stated that he lived on the north side of Lexington, and he opined that the proposed nursing home would be a benefit to the area, although he, too, would prefer that it be located nearer to Newtown Pike. Mr. Owens stated that he was in favor of voting for approval of the requested zone change, if a condition could be added to the development plan to require that an access to Citation Boulevard would be constructed and used once Citation is completed.

Mr. Cravens stated that there were several nursing homes located within residential neighborhoods in Lexington, including Sayre Christian Village, Tanbark, and Mayfair, all of which have access to local collector streets. He noted that the petitioner had agreed to construct, at their own expense, an additional 600' of Citation Boulevard to be used not only by traffic to and from the proposed nursing home, but by the Newtown Springs residents as well, and that the facility would further benefit the community by the addition of 90 jobs. Mr. Cravens noted that the petitioner has a great deal of experience managing nursing homes, and that he believed that they would adequately manage the traffic to and from the nursing home in order to minimize the impact on the surrounding neighborhood. He added that the proposed nursing home might be less troublesome to the neighbors than the 25 single family residences that would be permitted under the current R-1D zoning.

Zoning Action: A motion was made by Ms. Beatty, seconded by Mr. Wilson, and carried 9-0 (Paulsen and Penn absent) to approve MARC 2011-13, for the reasons provided by staff, including the conditional zoning restrictions as amended by staff.

Commission Question: Ms. Beatty stated that she supported changing the development plan status to preliminary, and asked if her motion on the zone change request had affected the development plan conditions. Mr. Cravens answered that it did not, and noted that she could add that as a condition for approval of the zoning development plan.

Conditional Use Action: A motion was made by Ms. Beatty, seconded by Mr. Owens, and carried 8-1 (Roche-Phillips opposed; Paulsen and Penn absent) to approve the requested conditional use permit, for the reasons provided by staff, and subject to the nine conditions as listed in the staff report.

Waiver Request Action: A motion was made by Mr. Owens, seconded by Ms. Blanton, and carried 9-0 (Paulsen and Penn absent) to approve the requested waivers to Article 6-8(b) and Article 4-7(d)(9) of the Subdivision Regulations, for the reasons provided by staff, and subject to the conditions as listed in the staff reports.

Development Plan Motion: A motion was made by Mr. Owens and seconded by Mr. Wilson to approve ZDP 2011-70, subject to the first 12 conditions as listed on the agenda; deleting conditions #14 and 15; and changing #13 to change the plan status to preliminary.

---

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



Legal Comment: Ms. Boland asked if Mr. Owens had intended to address the issue of adding access to Citation Boulevard.

Amendment to Motion: Mr. Owens amended his motion to add a new condition to require access to the subject property once Citation Boulevard is built. Mr. Wilson was in agreement with Mr. Owens's amendment to the motion.

Development Plan Action: Mr. Owens's motion carried 9-0 (Paulsen and Penn absent).

---

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