

1. **AFTON COMMUNITY DEVELOPMENT, LLC ZONING MAP AMENDMENT & MELODY VILLAGE, UNIT 3-C, BLK C, LOT 12 ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-17-00016: AFTON COMMUNITY DEVELOPMENT, LLC (7/2/17)\***- petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Professional Office (P-1) zone, for 5.26 net (5.58 gross) acres, for property located at 3743 Red River Road.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The 2015 Armstrong Mill Road West Small Area Plan (AMWSAP) is a plan for the revitalization of the 1900<sup>±</sup> acre area that establishes six goals for the area. The goals focus on improving safety; improving connectivity; promoting livable neighborhoods with housing choices (while maintaining the neighborhood form) and promoting green infrastructure; improving the quality of life and health including access to affordable and healthy food; and enhancing the sense of place by creating community spaces that foster social interaction and a sense of identity.

The petitioner proposes a Professional Office (P-1) zone for the subject property in order to adaptively re-use the existing two structures for an assisted living facility, medical offices, adult and child care center, and a community center. New structures are proposed for medical offices and senior housing on the site.

**The Zoning Committee Recommended: Referral.**

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

1. The applicant has not provided a justification that addresses the 2015 Armstrong Mill West Small Area Plan, which is now an adopted amendment of the 2013 Comprehensive Plan. Until further assessment has been provided by the petitioner, the staff considers the current justification for this application to be incomplete.
  2. As proposed, re-zoning this location to a P-1 zone may significantly impact the nearby neighborhood with the potential for increased traffic, noise and light pollution - especially for those properties on Red River Drive and those immediately adjoining the subject property. For these reasons, it is inappropriate.
  3. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013, or since the Armstrong Mill West Small Area Plan was adopted in 2015, that would support the requested P-1 zoning for the subject property.
  4. Until an assessment of the Small Area Plan is completed by the applicant, the existing Single Family Residential (R-1D) zone remains appropriate for the subject property because it is compatible with the neighborhood and can more fully support the 2013 Comprehensive Plan goals and policies.
- b. **PLN-MJDP-17-00035: MELODY VILLAGE, UNIT 3-C, BLK C, LOT 12 (7/2/17)\*** - located at 3743 Red River Drive.  
(Abbie Jones Consulting)

**The Subdivision Committee Recommended: Postponement.** There were some questions regarding the lack of site statistical information, building dimensions, tree inventory information and the inability to verify off-street parking compliance.

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

1. Provided the Urban County Council rezones the property P-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Clarify parking generator for proposed uses and provide required and proposed parking in site statistics.
6. Increase font size for owner/Planning Commission certifications
7. Resolve difference between P-1 FAR and lot coverage limitations, given two-story development proposed.
8. Provide type (size range & species) of existing trees on site.
9. Clarify walkways and walls in front yard for existing site conditions.
10. Discuss the need for an interior site pedestrian system for internal circulation.
11. Discuss plan status (final vs. preliminary).
12. Discuss proposed underground detention.

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

Staff Zoning Presentation – Ms. Wade distributed a handout, including the supplemental staff report and staff exhibit items, to the Planning Commission. She said that there was one letter sent to the staff in opposition, as they were asking that certain uses be restricted if this zone change is approved. She proceeded to present and summarize the staff report and recommendations for this zone change, and displayed several photographs of the subject properties and aerial photographs of the general area. She said that the subject property is currently known as the Blue Grass Baptist School, which has its building located in the center of the property, surrounded by parking and open space. The applicant is proposing to reuse the existing buildings because the school is closing. She said that applicant is asking to use the property as an assisted living facility in the main building; along with a child care, adult day care and a community center in the gymnasium. She said the applicant would also like to add two additional uses on the property, which would be senior apartments and a stand-alone medical office.

Ms. Wade said the applicant contends that their application is in agreement with the 2013 Comprehensive Plan. She said the applicant originally submitted a justification that didn't address the Armstrong Mill West Small Area Plan, adopted by the Commission for this area. Since then, the applicant had submitted a revised justification. Upon review, the staff doesn't believe that this request is in agreement with the 2013 Comprehensive Plan or the Armstrong Mill West Small Area Plan.

Ms. Wade stated, for the record, that the 2013 Comprehensive Plan and the Armstrong Mill West Small Area Plan both offer many statements supporting elderly housing, child care, medical offices, and other services in our community but without a land use map, the 2013 Comprehensive Plan doesn't designate an appropriate location for those specific land uses. She said that the project that is being proposed, with assisted living, child care, adult day care, community center, senior apartments and medical offices, are recommended for our community. However, the staff doesn't believe that the P-1 zone at this location is recommended by the 2013 Comprehensive Plan. She said the 2013 Comprehensive Plan encourages considerations of how proposals relate to existing development and their vicinity, protecting neighborhoods and placemaking, and making sure neighborhoods and residential uses. Infill, redevelopment, and adaptive reuse must be respectful of an area's context and design features. She also stated that this proposed zoning category is not compatible with the recommendation for enhancing our neighborhood nodes and commercial focal points, since its location is internal to this neighborhood. The staff is also concerned because the proposed P-1 zone doesn't allow elderly housing or any housing to be located on the first floor of a building.

Ms. Wade referred to the Goals and Objectives of the Armstrong Mill West Small Area Plan, regarding livable neighborhoods, maintaining the character of the neighborhood; improving our quality of life and health; promoting peaceful, safe, livable neighborhoods; improving circulation; and improving safety in the neighborhood. She said the Armstrong Mill West Small Area Plan indicates for enhancement of the existing commercial areas and not for new commercial areas to be created.

Ms. Wade said the applicant is asking for a professional office zone and not a residential zone to meet the housing recommendation of the 2013 Comprehensive Plan, which seems inconsistent. She said the proposed zone has a Floor Area Ratio that is twice the amount permitted in the R-4 zone, which would permit 300,000 square feet, here. The applicant is proposing an unrestricted P-1 zone, claiming that there isn't any impact to their proposal. She said the applicant hasn't been willing to amend their application or take the advice of the staff before bringing this application forward to the Commission. She said the staff is recommending disapproval of this zone change.

Commission Question – Mr. Owens asked if any of the proposed uses could be available through conditional uses if the subject property remained in an R-1D zone. Ms. Wade replied that it would not in the R-1D zone, but it could in the R-3 or R-4 zones, with the approval from the Board of Adjustment.

Development Plan Presentation – Mr. Martin presented a rendering of this development plan, which was displayed, and he also handed out an updated staff report to the Commission with revised conditions, as follows:

Should this plan not be postponed further, the Staff Recommends: Approval, with the following conditions:

1. Provided the Urban County Council rezones the property P-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Clarify parking generator for proposed legal P-1 uses and provide both required and proposed parking numbers in site statistics.
6. Increase font size for owner/Planning Commission certifications.
7. Resolve difference between P-1 FAR and lot coverage limitations, given two-story development proposed.
8. ~~Provide type (size range & species) of existing trees on site.~~
9. ~~Clarify walkways and walls in front yard for existing site conditions.~~
10. ~~Discuss the need for an interior site pedestrian system for internal circulation.~~
8. 44. ~~Discuss~~ Alter the plan status (final vs. to be for a preliminary) development plan, and reflect in title.

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9. 12.—Discuss Clearly delineate all the area(s) proposed for underground detention.
10. Remove the "elderly housing" dwelling units from plan and designate them as "assisted living" units, and alter all site statistics accordingly.
11. Correct site statistics for square footages based upon proposed buildings.

Mr. Martin identified the existing structure on the site and the proposed new building locations. He said there are discrepancies with the math shown for the square footage on the development plan. He said one of the main issues with the Development Plan, as Ms. Wade also noted, is that housing is not allowed on the first floor of the building in a P-1 zone. He also said that that main building has its noted use as an "assisted living facility or elderly housing".

Mr. Martin said the staff is still recommending postponement of this development plan. He said this plan could meet the requirements of the P-1 zone, except the applicant is proposing elderly housing, which is not allowed in the proposed zone. However, if the applicant was proposing all assisted living on the subject property, it would be a permitted use in the P-1 zone.

Mr. Martin said that this plan has been presented to the staff consistently as a Final Development Plan, but there is only a two week turn around for this plan to be certified, if the Planning Commission does approve it. He also stated that a Final Development Plan has a much higher level of review than a Preliminary Development Plan.

Mr. Martin said that if the Planning Commission does approve this plan, the label "elderly housing" must be removed; the plan should be changed to a Preliminary Development Plan, the applicant must delineate the underground detention areas; and also correct their site statistics.

Commission Question – Mr. Cravens asked if the revised staff report is incorrect because it states that the staff is recommending approval. Mr. Martin replied that the subdivision committee recommended postponement of this plan, and staff is recommending approval subject to the changes listed on the revised staff report.

Mr. Berkley asked if would be possible to make the Floor Area Ratio a conditional zoning restriction. Mr. Martin said that the applicant must meet the requirement of the proposed zone, which is a legal requirement. Mr. Berkley said that staff report states the proposed site will have the possibility of a 1.3 Floor Area Ratio. Mr. Martin said that it's possible with a redevelopment of the site. Mr. Berkley then asked what the minimum Floor Area Ratio is that is required in the proposed zone. Mr. Martin replied that there isn't a minimum, and the staff recommends less than the maximum. Mr. Berkley asked if that could be limited. Mr. Martin said that it could be restricted through conditional zoning.

Applicant Presentation – Bryan Hubbard, the applicant, was present. He gave a brief personal story of assisted living facilities. He said that he would like to provide a living environment for the elderly with dignity and prolongs the functionality of their lives. He, and his partner, Chuck Luttrell, met with the Blue Grass Baptist School to discuss their intent for the property. He said that they all agreed that the optimal use for this property was one that carries on the humanitarian mission that was originally associated with the school's foundation.

Mr. Hubbard said their intent is to open an adult medical daycare facility, which will be operated out of the gymnasium and it will be multi-purposed with a child care center. He said that based on a unique human development model, which established that early childhood, together with the elderly population, under the same roof, in an integrated social program, these uses thrive better together than separately. He also said that he wishes to be a good neighbor with the community, by allowing them to utilize their space, on off hours, for meetings, receptions, etc.

Mr. Hubbard said the second phase of this development would involve assisted living/personal care, which will be housed in the current main school building. There will also be community gardens and greenhouses on-site for vegetable gardens. He said they also would like to have a medical office, which will be available to their participants and local residents. He said this medical office will be staffed with a nurse practitioner or physician assistant, with a specialty in geriatric care, will provide walk-in clinical services to any member of the community at an inexpensive rate.

Abbie Jones, engineer, was also present with the petitioner. She said that they have worked diligently with the staff and have tried to come to an agreement about the medical office space. She said that R-3 and R-4 zones do permit a non-profit medical office but they are proposing more of a business office, which could be independent, which is not permitted in either of those zones.

Ms. Jones said that they met with the neighbors and they are excited about the proposed project. She said the medical office idea was well received by the community. She said that two members of the community are present in the audience in favor of this proposal.

Ms. Jones said that a traffic study is not required because of the volume. She also consulted the MPO staff and was told that it wasn't required. She went above and beyond and conducted a traffic study, which was submitted. She said that the result of the study showed that there will be less traffic, with this proposed project compared to the school, which is a difference of opin-

ion than the staff had. She also said that they held a neighborhood meeting and the R-3 or R-4 zones were not popular with the neighbors. She said that the community will support a zone that has a development plan restriction, which is being proposed.

Ms. Jones stated that they had met with staff twice prior to submitting this application and they were not informed of the Small Area Plan, and they were disappointed that they submitted an incomplete application. She said that she had learned of this at the Subdivision Committee meeting, on May 4, 2017. She said that since this is an existing facility, the adequate infrastructure, the water, sewer, storm, electric, and gas are currently present at this property. She said that she believes that the staff's concern is about the road capacity for their uses. She said that this property has functioned as a non-residential use for over 30 years. The system has functioned for a church school and she believed that they are proposing something very similar to that, which will generate slightly less traffic. She is glad to have additional restrictions added as part of this rezoning. They have asked the staff if there are specific recommendations they would like for this and there was no response. She said the applicant is willing to restrict the Floor Area Ratio to the values on their development plan, adding five percent for final design. She said they are also willing to restrict the property to have dark sky friendly exterior lighting, as the lighting is replaced, and to restrict the property to have a fifteen foot undisturbed buffer along the side property lines.

She said the reason why they are proposing the P-1 zone is because it is the only zone that includes the medical component and justifications have been submitted that could be used if approval is chosen by the Commission at this meeting. She said that they are very interested in the Planning Commission's thoughts on this development.

Citizens Comment - Paula Waldrop, 1441 Dale Dr., said that she appreciates the thought and the vision of the proposed project. She said that the majority of the public that was present at the neighborhood meeting were interested in the project, they were sad to see the school no longer there and that they will be hesitant to see any change.

Commission Comments & Questions - Mr. Berkley asked the staff if there was a discussion with the applicant to restrict the Floor Area Ratio restrictions. Ms. Wade replied that this is the first time she has seen these proposed conditional zoning restrictions. Mr. Berkley asked if this addresses the main concern that the staff has with the request. Ms. Wade said there are also conditional use concerns. Mr. Berkley said that if the elderly housing is changed to assisted living, the only problem remaining will be the medical office. Ms. Wade said that issue wasn't addressed by the applicant. She said that in her experience a property has never been restricted by Floor Area Ratio restrictions, but total square footage has been restricted. Mr. Sallee said that the number of units is more commonly restricted and with assisted living facilities. However, some of the units are dwelling units and some are not, which makes that approach difficult.

Mr. Penn said that the location of zoning needs to be addressed before the development plan is finalized. He said that he is going to focus on the reasons the staff have presented of why this isn't the appropriate location for a P-1 zone or the appropriate use of the P-1 zone at this particular site. If the zone change doesn't get approved, the development plan won't mean anything.

Mr. Owens commended the applicant for trying to make this zone change work. However, he said that he is concerned with the location of the P-1 zone in the neighborhood. He said the applicant stated that the traffic would be less than it was with the school, until another P-1 development moves into the area, and asked if the applicant would be willing to continue this zone change to consider a split zone to let both of the proposed uses work.

Ms. Abbie Jones said that the applicant would be agreeable to a split zone; creating a smaller P-1 portion. She also said that they agree to change the label to say "assisted living."

Ms. Plumlee also said that she commends the applicant. However, the approval of this zone change will be contradicting the Small Area Plan.

Mr. Cravens said he is concerned about the many items that still need to be worked out and the Planning Commission doesn't have the time to do it at this public hearing. He asked the staff if it is possible to continue this case. Ms. Tracy Jones replied that at this point, because the case has already been heard, a continuance would be the proper way to go. Mr. Sallee added that the date by which the Planning Commission needs to consider this case by, is July 2, 2017, and to extend the time beyond that date will require the concurrence of the applicant.

Mr. Cravens asked if the applicant wishes to split the zones on this zone change, would that require another application. Ms. Wade said that the applicant would need to amend the current application, which includes a filing fee and new notifications to be mailed to the neighbors. Ms. Abbie Jones replied that the applicant would be agreeable to the continuance and the changes the Planning Commission have suggested. She then asked who has read the entire Small Area Plan, and said that her understanding of it is that it promotes elderly housing and medical space nearby, with grocery stores and reasonable restrictions on rental housing. She believed that this application meets many of those goals in their uses. She asked the Planning Commission for suggestions of how to get through the impasse about the medical office space.

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**Staff Rebuttal** - Ms. Wade said it's inappropriate for the applicant to come to the Planning Commission's public hearing and take their temperature on the proposal and ask for postponement or continuance to amend their application. She said the applicant's justification stopped at page 54 of the Small Area Plan, and she believes the recommendations were not read, and Ms. Jones is presenting only what the neighbors would like in the Small Area Plan.

**Discussion** - Mr. Penn said that he also was very concerned about the process of this hearing. He said that this is not the process that the Planning Commission normally sees. He said that when an impasse is reached with the staff, and then presented to the Planning Commission for assistance, that puts the Planning Commission in a tough situation. He said that he believes the applicant took a chance for the Planning Commission to vote this case down so that they could get assistance to figure out this impasse.

Mr. Wilson agreed with Mr. Penn's comments and said this is not the Planning Commission's function. He said that this could be a good project, but when the staff gives the applicant direction and it is not agreed upon by the applicant, it isn't the Planning Commission's function to "fix it."

**Zoning Action** - A motion was made by Mr. Berkley, seconded by Mr. Cravens to continue PLN-MAR-17-00016: AFTON COMMUNITY DEVELOPMENT, LLC.

Ms. Tracy Jones said that if a continuance is being recommended, the applicant needs to get on the record that they are agreeable to it. Ms. Abbie Jones stated that they agree to the continuance until July 27, 2017.

**Amended Action** - A motion was made by Mr. Berkley, seconded by Mr. Cravens to continue PLN-MAR-17-00016: AFTON COMMUNITY DEVELOPMENT, LLC. to the July 27, 2017 Planning Commission meeting.

**Discussion of Motion** - Mr. Owens said that he doesn't believe that a continuance is the best thing to do at this time. He said that he thinks the applicant should withdraw this application and re-apply with a split zone requested for this location.

Ms. Tracy Jones said that a continuance is applicable if it is amended, which may require new notices to be mailed out to the neighbors and is required to be sent 21 days prior to the meeting. She believes the applicant may need more time to do so and suggested to continue to the August 24, 2017 Planning Commission meeting.

Ms. Abbie Jones said the applicant would need to send new notice letters to the neighbors and stated if the amended process could be continued until the Commission's August meeting.

**Amended Action** - A motion was amended by Mr. Berkley, seconded by Mr. Cravens, to continue PLN-MAR-17-00016: AFTON COMMUNITY DEVELOPMENT, LLC. to the August 24, 2017 Planning Commission meeting.

The motion carried 8-0 (Brewer and Drake absent).