

#### 4. JASON L. JUSTICE ZONING MAP AMENDMENT & ASHFORD OAKS VILLAGE (MEADOW OAKS) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00037; JASON L. JUSTICE (11/30/17)\*- petition for a zone map amendment from an Expansion Area Residential (EAR-2) zone to a Community Center (CC) zone, for 4.92 net (5.13 gross) acres, for property located at 6800 Man o' War Blvd (a portion of). A conditional use permit and a variance are also requested.

##### COMPREHENSIVE PLAN AND PROPOSED USE

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

The subject property is located within the Expansion Area, more specifically Subarea 2a. The Expansion Area Master Plan recommends Expansion Area Residential 2 future land use for the subject property.

The petitioner proposes a retirement community development, with services and amenities, on approximately 37 acres of land, including a mixed-use area, independent living units (townhouses, villas and cottages of varying sizes), and an assisted living facility with 120 beds. The petitioner is requesting that five acres of the property be developed in a Community Center (CC) zone to provide services within the community, like restaurants, barber and beauty shops, retail sales establishments and medical offices. A total of 260 dwelling units are proposed within the boundary of the corollary development plan, for an overall density of 7.02 dwelling units per gross acre. A conditional use and variance are also requested in association with the zone change application.

The Zoning Committee Recommended: Approval.

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

1. The requested Community Center (CC) zone is in agreement with the 2013 Comprehensive Plan, and in substantial agreement with the more detailed recommendations of the 1996 Expansion Area Master Plan (EAMP), for the following reasons:
  - a. The 2013 Comprehensive Plan recommends providing well designed neighborhood and communities, and the petitioner is expanding mixed-use development options and providing a continuum of housing options for seniors, all connected for various modes of transportation (Theme A, Goal #3).
  - b. The Plan further recommends providing accessible community facilities and services to meet the health, safety and quality of life need for the community, and the petitioner is assisted living and healthcare) (Theme D, Goal #2).
  - c. The proposed CC zone and its corollary development plan are in compliance with the principles of the EAMP, by successfully accomplishing the concept of organizing a mixed-use area around a public space (cemetery), and creating a main street entrance for the development.
  - d. The proposed density within the CC zone of 4.29 dwelling unit per gross acre (22 units) falls within the existing allowed density of 3-6 dwelling units per gross acre in an EAR-2 zone (14-29 dwelling units for 5.13 gross acres); therefore, no residential density will be lost through the amendment.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17- 00099: Meadow Oaks (Ashford Oaks Village)(Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of Planning Commission Approval.

##### b. REQUESTED CONDITIONAL USE

1. Assisted living facility in an Expansion Area Residential (EAR-2) zone.

##### c. REQUESTED VARIANCE

1. To increase the maximum allowable height of the building from 35 feet to 48 feet.

The Zoning Committee recommended: Approval per the staff recommendations.

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

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The Expansion Area Master Plan recommends a variety of housing types, as does the 2013 Comprehensive Plan. What is proposed for the property is a variety of housing types as well as a variety of uses (including the assisted living facility), designed to create a cohesive retirement development for senior citizens with a sense of community, also recommended by the two Plans.
- b. As this is in the Expansion Area, if not already available, necessary public services and facilities such as fire and police protection, and sanitary and storm sewers, will be made available and adequate to serve the subject property.

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**The Staff Recommends: Approval of the variance to increase the maximum allowable height of the building from 35 feet to 48 feet,** for the following reasons:

- a. Granting the requested variance will not adversely affect the public health, safety or welfare, nor will it alter the character of the general vicinity. The proposed building will be only 13 feet taller than the limitation of the EAR-2 zone but will be at the same height allowed in the CC zone, which is 48 feet. At the proposed height, the assisted living facility will create a visual anchor for the development and will provide a balance to the streetscape as it applies to the property and the general area.
- b. The special circumstance that serves to justify the variance is that this is a healthcare facility, which has greater floor-to-floor requirements for its mechanical and electrical systems. It will be a 3-story, 120-bed facility, and the increased height is necessary to accommodate its design.
- c. Strict application of the Zoning Ordinance would either restrict the building to two stories or would disallow construction in keeping with AIA guidelines for construction of healthcare facilities.

**These recommendations of approval are made subject to the following conditions:**

1. Should the portion of the subject property be rezoned to CC as proposed, the entirety of the property shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
  2. All necessary permits, including a Zoning Compliance Permit, Building and Paving permits, Land Disturbance permit and a Certificate of Occupancy, shall be obtained from the Divisions of Planning, Building Inspection and Engineering prior to any construction, and prior to occupancy of any of the buildings on the property.
  3. The parking lot and driveway shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
  4. The final design of the parking lot, access drive and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
  5. Any outdoor pole lighting for the parking lot shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing adjoining or nearby properties. Such lighting shall have a maximum height of twenty-five feet.
  6. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
  7. A note shall be placed on the Zoning Development Plan indicating the conditional use and variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
- d. **PLN-MJDP-17-00099: ASHFORD OAKS VILLAGE (MEADOW OAKS) (11/30/17)\* - located at 6800 Man o' War Boulevard (Barrett Partners)**

**The Subdivision Committee Recommended: Postponement,** there were some questions regarding whether or not the plan is in compliance with the open space, density and Community Center zone requirements.

1. Provided the Urban County Council rezones the property CC; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote location of garage on all residential building.
8. Correct north arrow.
9. Addition of adjacent property information (N-392 on Bobwhite Trail).
10. Denote number and location of residential units in CC area.
11. Denote the approval of the conditional use in the EAR-2 zone.
12. Reduce density to comply with Article 23A-6(f) of the Zoning Ordinance for EAR-2 zone.
13. Denote front yard orientation of buildings in the EAR-2 zone.
14. Addition of any existing and proposed easements.
15. Discuss parking spaces on private streets.
16. Discuss compliance with front yard garage setback of 25' per Article 23A-2(f) (i)(2) of the Zoning Ordinance.
17. Discuss orientation and landscaping adjacent to Man o' War Boulevard.
18. Discuss compliance with Article 23A-9(k)2 of the Zoning Ordinance as to the timing of the residential component.
19. Discuss amenity conflicts with existing pond (at the clubhouse and pool).
20. Discuss pedestrian access to CC area along the main streets to be 6' in width.
21. Discuss intent to subdivide property.
22. Discuss pedestrian access to EAR-2 area north of CC area.
23. Discuss improvements to Man o' War Boulevard.

**Staff Zoning Presentation** – Ms. Wade stated that this hearing was to be a full hearing, but the applicant spoke with the citizens who were present and their concerns were addressed. She presented and summarized the staff report and recommendations for the zone change. She displayed aerial photographs of the subject property and general area. She said the farm was a community center zone that was rezoned in 2001 and a portion has been developed. She said that at this time the applicant is

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proposing to build a retirement community development, which would include mixed use, restaurant, retail, and dwelling units, such as an assisted living facility, townhouses, villas and cottages within a five-acre site.

Ms. Wade referenced the 2013 Comprehensive Plan and the 1996 Expansion Area Master Plan and stated that the recommendation for this site was for residential use with 14 to 29 dwelling units. She said that the applicant is proposing 22 dwelling units. She said the applicant is organizing the CC zone around a central location, which is desired in the 1996 Expansion Area Master Plan. She said the applicant believes their justification meets the 2013 Comprehensive Plan Goals and Objectives, which the staff agreed. She said the staff and the Zoning Commission both recommended approval of this zone change.

**Development Plan Presentation** – Ms. Gallt presented a rendering of the preliminary development plan, and she handed out an updated staff report to the Commission with revised conditions, as follows:

**The Staff Recommends: Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property CC; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. ~~Denote location of garage on all residential building.~~
8. ~~Correct north arrow.~~
9. ~~Addition of adjacent property information (N 302 on Bobwhite Trail).~~
10. ~~Denote number and location of residential units in CC area.~~
6. 44. Denote the approval of the conditional use in the EAR-2 zone.
12. ~~Reduce density to comply with Article 23A-6(f) of the Zoning Ordinance for EAR-2 zone.~~
13. ~~Denote front yard orientation of buildings in the EAR-2 zone.~~
7. 14. Addition of any existing and proposed easements.
8. 15. Discuss parking spaces on private streets.
16. ~~Discuss compliance with front yard garage setback of 25' per Article 23A-2(f) (i)(2) of the Zoning Ordinance.~~
9. 47. ~~Discuss Denote building front orientation and landscaping adjacent to Man o' War Boulevard.~~
10. 48. Discuss Resolve compliance with Article 23A-9(k)2 of the Zoning Ordinance as to the timing of the residential component at time of final development plan.
11. 49. ~~Discuss amenity conflicts with~~ Denote boardwalk location along existing pond (at the clubhouse and pool).
12. 20. ~~Discuss Denote~~ pedestrian access to CC area along Feliciana Lane, main entrance roadway and CC area roadway ~~the main streets~~ to be 6' in width.
13. 24. Discuss intent to subdivide property.
14. 22. ~~Discuss Label~~ pedestrian access to EAR-2 area north of CC area.
15. 23. Discuss improvements to Man o' War Boulevard and denote cross-section (G-G).
16. Discuss collector street cross-section for main entrance roadway and Feliciana Lane, including intersection spacing.

Ms. Gallt pointed out the access to the subject property and the CC area, townhomes and cottages and the assisted living facility on the development plan. She said that there are a few standard conditions on the plan, including to denote the conditional use, and several others. She said that pedestrian access needs to be 6' in width along the primary street, and that it would be inappropriate to discuss possible improvements on Man o' War Blvd.

**Requested Conditional Use and Variance** – Mr. Martin presented the staff report and the staff's recommendations for the requested conditional use and the variance for the subject property. He said that this is an assisted living facility and transitional elderly living development, which requires a conditional use in the Expansion Area Residential (EAR-2) zone. He said the applicant is proposing a three-story building with 120 beds, and 116 parking spaces. He said that the applicant is requesting a height variance in order for to meet the requirements in the industry; they need higher ceilings for their electrical and mechanical systems. He said that staff is recommending approval for both the conditional use and the variance.

**Traffic Impact Study** - Jimmy Emmons presented the MPO staff report on the submitted Traffic Impact Study for this zone change. He displayed the state's functional classification of the streets in the area. He said the Kentucky Transportation Cabinet has plans to widen Winchester Road and Man o' War Blvd.

Mr. Emmons said the staff's primary concern was the main street from Man o' War Blvd. to Feliciana Lane that serves the assisted living facility is being proposed as a local street and the staff believes that with the intensification of the land use in the area, that it will produce collector level traffic on that street. He said that entrance improvements are needed for the access onto Man o' War Blvd. He said the loop street within the CC zone has one intersection that is too close to Man o' War Blvd to meet the

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subdivision regulations and the staff believes that will be unsafe for an intersection. He said that Scott Thompson, Bicycle/Pedestrian Coordinator, recommended round-a-bouts in the area for safer pedestrian and cyclist environments. He said that at the time of the final development plan, the main entrance road at Feliciana Lane will be required to coordinate with District 7, Traffic Engineering and the Bicycle/Pedestrian Coordinator to create a roadway that will pay specific attention to mobility and safety for all users of this road.

Mr. Emmons said that conditions #15 and 16 could be changed as follows:

15. 23. Discuss Denote improvements to Man o' War Boulevard and denote cross-section (G-G).
16. Discuss Denote collector street cross-section for main entrance roadway and Feliciana Lane, including intersection spacing.

Applicant Presentation – Darby Turner, attorney, was present representing the petitioner. He said that the concern with the sidewalk along Man o' War Blvd. there is no requirement of sidewalks between I-75 and Winchester Road. With regard to condition #13 about the applicant's intent to subdivide the property; he said that this development will be condominium style and that there won't be any subdivision of units.

Commission Questions – Mr. Penn complimented the applicant for proposing the CC in this area.

Mr. Martin said the staff recommended that all of the "Discussion" items to state "Denote, the condition, shall be resolved at the final development plan stage."

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Forester and Richardson absent) to approve PLN-MAR-17-00037: JASON L. JUSTICE, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Forester and Richardson absent) to approve PLN-MJDP-17-00099: ASHFORD OAKS VILLAGE (MEADOW OAKS), with the revised conditions provided by the staff and revising condition numbers 8, 13, 15, and 16 to read as follows:

The Staff Recommends: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property CC; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
- ~~7. Denote location of garage on all residential building.~~
- ~~8. Correct north arrow.~~
- ~~9. Addition of adjacent property information (N-302 on Bobwhite Trail).~~
- ~~10. Denote number and location of residential units in CC area.~~
6. 44. Denote the approval of the conditional use in the EAR-2 zone.
- ~~42. Reduce density to comply with Article 23A-6(f) of the Zoning Ordinance for EAR-2 zone.~~
- ~~13. Denote front yard orientation of buildings in the EAR-2 zone.~~
- ~~7. 14. Addition of any existing and proposed easements.~~
- ~~8. 15. Denote Discuss~~ parking spaces on private streets shall be resolved at the final development plan stage.
- ~~16. Discuss compliance with front yard garage setback of 25' per Article 23A-2(f)(1)(2) of the Zoning Ordinance.~~
- ~~9. 17. Discuss Denote building front~~ orientation and landscaping adjacent to Man o' War Boulevard.
10. 48. Discuss Resolve compliance with Article 23A-9(k)2 of the Zoning Ordinance as to the timing of the residential component at time of final development plan.
11. 49. Discuss amenity conflicts with Denote boardwalk location along existing pond (at the clubhouse and pool).
12. 20. Discuss Denote pedestrian access to CC area along Feliciana Lane, main entrance roadway and CC area roadway the main streets to be 6' in width.
13. 24. Denote Discuss intent to subdivide property shall be resolved at the final development plan stage.
14. 22. Discuss Label pedestrian access to EAR-2 area north of CC area.
15. 23. Denote Discuss improvements to Man o' War Boulevard and denote cross-section (G-G) shall be resolved at the final development plan stage.
16. Denote Discuss collector street cross-section for main entrance roadway and Feliciana Lane, including intersection spacing shall be resolved at the final development plan stage.

Requested Conditional Use and Variance Action – A motion was made by Mr. Cravens, seconded by Mr. Brewer, carried 9-0 (Forester and Richardson absent) to approve the requested conditional use and variance, for the reasons provided by the staff.