

**1. THE FAIRWAYS AT ANDOVER, LLC, ZONING MAP AMENDMENT & THE FAIRWAYS OF ANDOVER ZONING DEVELOPMENT PLAN**

- a. MAR 2012-8: THE FAIRWAYS AT ANDOVER, LLC (6/30/12)\* - petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 18.23 net and gross acres, for property located at 3435 McFarland Lane.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 9) recommends Low Density Residential (LD) future land use for the subject property. The Plan also recommends a collector street connection between Kavanaugh Lane and Autumn Ridge Drive. The petitioner proposes to develop 110 single family residential lots on the subject property, which would yield a density of 6.03 dwelling units per acre.

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

The Staff Recommends: Approval, for the following reason:

1. A restricted Planned Neighborhood Residential (R-3) zone can be found to be in agreement with the 2007 Comprehensive Plan, for the following reasons:
  - a. The 2007 Comprehensive Plan recommends Low Density Residential (LD) future land use for the subject property, defined as 0-5 dwelling units per net acre or 0-4 dwelling units per gross acre. With 18.23 acres of property (net and gross), the Comprehensive Plan recommends a maximum of 91 dwelling units at this location.
  - b. R-3 zoning with a conditional zoning restriction to limit the type of housing to single family residential would be most compatible with adjacent neighborhoods.
  - c. If restricted via conditional zoning to 91 dwelling units, an R-3 zone would be completely in agreement with the Comprehensive Plan's land use recommendation for Low Density Residential land use.
  - d. The proposal provides for the collector street system to connect via the intersection of Kavanaugh Lane and Autumn ridge Drive on the subject property, as recommended by the Land Use Element of the 2007 Plan.
2. This recommendation is made subject to approval and certification of ZDP 2012-30: The Fairways of Andover prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the subject property via conditional zoning:
  - a. A maximum of ninety-one (91) residential dwelling units shall be permitted on the subject property.
  - b. The subject property shall be limited to detached single family residential use, allowable accessory uses and conditional uses approved by the Board of Adjustment.

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 adjacent single family residential neighborhoods.

- b. ZDP 2012-30: THE FAIRWAYS OF ANDOVER (6/30/12)\* - located at 3435 McFarland Lane.  
(EA Partners)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Denote construction entrance location.
9. Addition of tree inventory information (% canopy).
10. Revise notes #4 & 10.
11. Discuss proposed homeowner's association area and lotting.
12. Discuss the proposed Lawson Lane termination.

Zoning Presentation: Ms. Wade presented the staff report on this rezoning request, briefly orienting the Commission to the location of the subject property on McFarland Lane. She noted that McFarland Lane is a substandard public street, which now serves only the subject property. That roadway is approximately 12 feet wide, and has an access to Todds Road between Man O' War Boulevard and the Interstate 75 overpass. In addition to the lack of improvements on McFarland Lane, visibility at its intersection with Todds Road is poor, so it is proposed to be closed as part of the development of the subject property. The property is served by four other public streets: Lawson Lane; Kave-

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

naugh Lane; Marco Lane; and Autumn Ridge Drive. Each of these streets stubs into the subject property, although it has had a McFarland Lane address for decades. The subject property is the last remaining undeveloped agricultural tract in this vicinity. Ms. Wade stated that all of the zoning and development in the vicinity of the subject property is residential. The Andover Golf Club and Andover Forest subdivision are located to the west; the Brighton East and Scully properties are to the southwest; and the Autumn Ridge subdivision is located to the northwest. All of these properties are currently developed for single-family residential use, but they feature a mix of residential zoning, including R-1D, R-1E, and R-3.

Ms. Wade said that the petitioner is now proposing 91 single-family residential lots for the subject property, as well as the connection of Autumn Ridge Drive and Kavanaugh Lane, which would complete the connector street system in this portion of the Urban Service Area. Ms. Wade displayed several photographs of the subject property, noting the location of the large stormwater detention basin located to the north.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Low Density Residential development for the subject property, defined as 0 – 5 dwelling units per net acre or 0 – 4 per gross acre. The Comprehensive Plan also recommends the completion of the connector street system via the connection of Kavanaugh Lane and Autumn Ridge Drive. The petitioner originally proposed to construct 110 dwelling units on the subject property, which was not in agreement with the residential density recommended by the 2007 Comprehensive Plan. However, since the Subdivision and Zoning Committees met three weeks ago, the petitioner has revised their development plan, and the 91 dwelling units currently proposed falls within the Plan's land use and density recommendations. The staff and Zoning Committee have recommended approval of this rezoning request, with the conditional zoning restrictions as listed in the staff report and on the agenda. The staff believes that limiting the density on the subject property via conditional zoning restrictions will help to further the recommendations of the Comprehensive Plan, and will ensure that the proposed development will be in keeping with the existing residential neighborhoods in the area.

**Development Plan Presentation:** Mr. Taylor presented the corollary zoning development plan, noting for the Commission the location of the four streets that stub into the subject property. He stated that the development plan depicts 91 single-family lots, with two HOA areas, one of which is proposed for stormwater management. The Subdivision Committee recommended approval of this plan, subject to the conditions as listed on the agenda. Since the submission of this revised development plan, which reduces the number of lots proposed from 110 to 91, the staff has prepared a revised recommendation, copies of which were distributed to the Commission members. Mr. Taylor stated that the staff is now recommending approval of this plan, as follows:

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote construction entrance location.
8. Addition of tree inventory information (% canopy).
9. Revise notes #4 & 10.
10. **Denote:** The location and width of the golf course access easement will be resolved at the time of the Preliminary Subdivision Plan.
11. **Denote:** The proposed Lawson Lane termination and any necessary waivers of the Land Subdivision Regulations will be resolved at the time of the Preliminary Subdivision Plan.

Mr. Taylor said that the first six conditions recommended refer to typical sign-offs. Condition #7 requires that the petitioner denote the construction entrance location on the plan. The petitioner is proposing two construction entrances, off of Kavanaugh Lane and Autumn Ridge Drive. Condition #8 requires that the petitioner provide tree canopy information, while #9 refers to two development plan notes that require revision.

Mr. Taylor stated that the petitioner's revised plan depicts a 10' pedestrian/golf cart access from the end of Autumn Ridge Drive to serve the Andover golf course. He noted that the staff has some concerns about the width and location of that proposed access, which is the basis for the addition of condition #10. The staff is comfortable with the provision of a golf cart access, but they want to ensure that the access is in the most appropriate location. The Planning Commission will also have the opportunity to review that access when the petitioner files a Preliminary Subdivision Plan for the subject property.

With regard to condition #11, Mr. Taylor explained that, from the time this plan was initially filed, the staff has had concerns about the proposed termination of Lawson Lane with a cul-de-sac. The staff expressed some desire to have Lawson Lane terminate at an intersection with either Kavanaugh Lane or Autumn Ridge Drive. The lots that are

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currently proposed in that location with the cul-de-sac would be double frontage lots, and would, therefore, require a waiver of the Land Subdivision Regulations at the time of the Preliminary Subdivision Plan. Should the petitioner elect to terminate Lawson Lane into Kavenaugh Lane with a T-intersection, the lots near the corner would no longer have double frontage, and the need for a waiver could be reduced or eliminated. The staff is recommending the addition of condition #11 to require that these issues be resolved on the Preliminary Subdivision Plan.

Petitioner Presentation: Bruce Simpson, attorney, was present representing the petitioner. He distributed an exhibit booklet to each of the Commission members, noting that he would refer to it throughout his presentation.

Mr. Simpson stated that there are not many properties in Fayette County that remain in an A-U zone. Although the subject property was zoned A-U in 1969, when a comprehensive rezoning was completed for the entire county, it has been recommended for development in every Comprehensive Plan since that time. The property has been in the possession of its current owners, who still reside there, since 1961. A significant amount of residential development has taken place in the vicinity of the subject property since then; it is now completely surrounded by neighborhoods, with four existing stub streets into it.

Mr. Simpson said that there are some challenges involved in the development of the subject property, since existing residents in the surrounding neighborhoods might have become accustomed to the stub streets and lack of through traffic. The petitioner has significant experience in the Lexington area, including several neighborhoods in the vicinity of the subject property, and they are mindful of the neighbors' concerns. In order to mitigate those concerns, the petitioner went door-to-door in the surrounding subdivisions to inform the residents of their proposal for the subject property. The petitioner has also met with all of the surrounding neighborhood associations, as well as holding a meeting for more than 440 households who received the required notification of this rezoning request. At that meeting, the petitioner informed the residents of their original proposal to construct 110 residential lots. However, after learning of the neighbors' concerns about the proposed density, the petitioner revised the plan to include 91 dwelling units.

Mr. Simpson stated that the petitioner knew that nearby residents would be concerned about property values, as well as density, so they did a great deal of research about the price, size, and appearance of every residence within 1,000 feet of the subject property. They then used that information to determine that homes in the proposed development should be priced between \$200,000 and \$300,000 in order to be compatible with the surrounding neighborhoods. Since most of the surrounding communities are deed-restricted, the petitioner researched all of the restrictions for the Autumn Ridge, Brighton East, and Banbury Hunt neighborhoods, and they intend to implement deed restrictions that match or exceed those in order to satisfy residents' concerns that the homes in the proposed development will be similar to their own in price and quality. Mr. Simpson stated that the petitioner has forged an agreement with the Brighton East Homeowners Association, a representative of which intends to speak in favor of this request during the public comment portion of this hearing. He said that, after the petitioner revised the development plan, they held another meeting with the surrounding 400+ residents.

Mr. Simpson stated that, although he believes that the petitioner has made the best possible effort to communicate with the neighbors of the subject property, there are still some who are opposed to this request. He explained that, if this rezoning request is approved by the Planning Commission, there will still be a required review process for the subdivision and development plans, which will include all of the necessary sign-offs prior to any grading or construction. Of particular concern to area residents is the retention basin near the subject property, which serves to retain stormwater for several subdivisions and functions as an amenity for the Autumn Ridge neighborhood. Over the years, the existing basin has become filled with silt, which causes algae growth and makes the pond not as attractive as it once was. Mr. Simpson stated that there are several large stormwater conduits from neighboring developments which feed directly into the pond and the drainage easement that leads to it. The petitioner, however, is proposing an alternative solution for stormwater management on the subject property, which has been reviewed by the staff of the Division of Engineering. Mr. Simpson said that the petitioner is willing to address those issues at this hearing, although it would be more appropriate as part of the Preliminary Subdivision Plan process.

Referring to his exhibit book, Mr. Simpson noted that the photographs therein depict: several types of houses built by the petitioner on St. Andrews Walk; various houses in the vicinity of the subject property; an aerial view of the surrounding Banbury Hunt, Autumn Ridge, and Brighton East neighborhoods, noting the density of each development and the density of the proposed development, which will be comparable; an aerial view of the stormwater discharge points around the subject property, which are not muffled or diffused prior to reaching the existing retention pond; the stormwater drainage easement from the subject property toward the retention basin, noting that the existing point discharges were never "challenged" since the subject property is the last in the vicinity to be developed; and several stormwater pipes, noting the presence of silt, which was not required to be managed. Mr. Simpson said that the petitioner engaged EA Partners to review the stormwater discharge on the subject property and create a system to minimize the impact discharge on properties above and below the discharge point. He explained that there is a designated FEMA floodplain area on the property, although the area does not hold standing water; it runs only when stormwater flows from upstream. The petitioner has undertaken a series of initiatives, resulting in the issuance of a Conditional Letter of Map Revision (CLOMR) from FEMA. Once the proposed development is completely through the

rezoning process, the petitioner intends to file for a Letter of Map Amendment (LOMA) from FEMA as well. The petitioner contends that not only will the proposed development not exacerbate any existing runoff problems, it could improve the stormwater management situation for the entire area.

Commission Questions: Ms. Copeland asked Mr. Simpson where the retention pond is located. Using the rendered zoning map, Mr. Simpson indicated the location of the pond. Al Gross, EA Partners, also noted the location of the pond; the flow path that leads from the subject property to the pond; the other five or six discharge points around it; and the FEMA designated floodplain. He said that the request for a CLOMR has been reviewed by FEMA, the Kentucky Division of Water, and the Corps of Engineers, and they have granted approval to reconstruct the drainway and remove the Flood Hazard Area. Ms. Copeland asked if the water would travel under the homes in the proposed development. Mr. Gross answered that the water would travel under the proposed street system. He noted that many of the areas originally designated as floodplains when FEMA first began mapping flood hazards in the 1970s have since been developed, and have been found not to have flooding problems at all.

With regard to Ms. Copeland's question, Mr. Simpson referred to his exhibit booklet, noting that it includes the petitioner's proposed plan for best management of the stormwater on the subject property. He added that he could also provide copies of the FEMA study, as well as the CLOMR approval letter, if the Commission members so chose.

Ms. Copeland asked how the petitioner will move the stormwater from the street system to the new retention basin. Mr. Gross responded that there will be a system of pipes, curb box inlets, and yard inlets designed to catch stormwater. Each of those lines will be piped independently to a line that will ultimately form the drainage release for the entire area, past Andover Country Club to the reservoir. Ms. Copeland asked if the necessary easements would be included on the Preliminary Subdivision Plan. Mr. Gross answered that some of the easements are shown on the Zoning Development Plan, depicting where the pipe network will exist.

Ms. Beatty asked if the petitioner has been made aware of any existing flooding problems in the vicinity of the subject property. Mr. Simpson stated that some of the residents who live near the pond were present to speak about their concerns about existing flooding. He added that some residents actually use the stormwater easements for plantings or other features, even though there are prohibitions against constructing structures in those areas. The petitioner intends to mitigate to the fullest extent possible the impact of the proposed development on the drainage system in the area.

Mr. Cravens asked when the petitioner should receive the approval from FEMA to remove the floodplain area from the maps. Mr. Gross answered that the CLOMR allows the work to be done during the construction on the site. After the site is constructed, the mechanism will be in place to allow the filing of the LOMR, which will be reviewed by FEMA and its consultants to ensure that the petitioner complied with the CLOMR. Upon approval of the LOMR, the floodplain will be removed from the FEMA maps.

Citizen Support: Steve Milner, attorney, was present representing the Brighton East Homeowners Association and several homeowners on Lawson Lane. He said that the petitioner has proposed a written agreement between the Brighton East HOA and the petitioner, which has not yet been signed since the HOA board has not had an opportunity to meet and discuss it. However, the HOA is in general agreement with the document, the proposed rezoning, and the development plan. Mr. Milner stated that the Brighton East residents are concerned about the impact of the proposed development on their property values, and they support the proposed 50' minimum lot width and the minimum lot square footage as a means to protect their investments in their homes. The Brighton East residents have been concerned about the closure of McFarland Lane, as it is substandard and has insufficient sight distance at Todds Road. Mr. Milner added that several members of the Brighton East HOA are present at this hearing, should the Commission wish to hear their statements.

Warren Snyder, 3500 Indian Summer Trail, stated that he recognizes that the subject property will inevitably develop, and he appreciates the petitioner's commitment to making the proposed development comparable to the existing homes in the area. He is concerned, however, about stormwater runoff, since his property is located at the confluence of four sources of water. There is a concrete plume and riprap channel at the rear of his property, with a two-foot opening that routes all of the water from the subject property to the drainage ditch. Mr. Snyder said that he is impressed with the number of improvements that were made to the revised development plan over what was originally proposed, including the addition of a dissipation zone for the runoff, but he believes that the Commission should not underestimate the sensitivity of the houses located immediately downstream from the subject property. Under the current system, during a heavy rain event, stormwater can flow well outside of the drainage easement into Mr. Snyder's back yard. He said that the 120' section of riprap located behind his house is the only dissipation area between the subject property and the retention basin. He has maintained the riprap channel for nearly 20 years, in order to prevent the trash and debris that collects there from washing into the basin; but it is difficult when there is no means to slow the water after it leaves his property. Mr. Snyder stated that he sometimes feels like he is on an island, with water coming at his property from all four directions. He asked that the Planning Commission please be sensitive to these concerns when making their recommendation on this proposed rezoning.

Citizen Opposition: Norm Johnson, 1125 Chetford Drive, stated that he does not believe that the proposed development is in agreement with the recommendations of the Comprehensive Plan. He said that he paid a \$40,000 - \$50,000 premium for his golf course lot in Andover Forest, and he believes that the smaller lots in the proposed development will ruin his view. The properties on St. Andrews Walk, which were also developed by the petitioner, have all of the air conditioning units located in the rear of the lot. If the proposed homes are similarly developed, Mr. Johnson's view will consist of the back sides of the houses, decks, and air conditioners. He added, with regard to Mr. Simpson's assertion that the petitioner had researched lot sizes in the area, that he does not believe that they considered the homes in Andover Forest in that calculation. The surrounding neighborhoods are mostly zoned R-1, and Mr. Johnson said that the proposed development should be consistent with that zoning. Mr. Johnson stated that he knew that the subject property would eventually be developed, but he did not expect it to be with 50x100' lots, and he asked that the Planning Commission take his concerns into consideration.

Commission Questions: Ms. Copeland asked Mr. Johnson to point out the location of his home on the aerial map. Mr. Johnson did so, using the large aerial map (petitioner's exhibit). He noted that his property adjoins the subject property across the golf course.

Ms. Roche-Phillips asked how long Mr. Johnson has lived on his property. He answered that he has lived there for eight years.

Petitioner Rebuttal: Mr. Simpson stated that Mr. Johnson lives across the golf course fairway, in the Andover Forest neighborhood.

With regard to Mr. Snyder's comments, Mr. Simpson said that he has a legitimate concern. That is why the petitioner has committed to performing a stormwater study and preparing a best management plan for the subject property. Mr. Simpson stated that it would be more appropriate to address the stormwater issues fully at the time of the Preliminary Subdivision Plan for the property, since it will be more apparent on that plan if the petitioner is fully complying with the requirements of the Engineering Manuals, Zoning Ordinance, and Subdivision Regulations. He noted that the petitioner should also know at that point whether FEMA intends to approve their final proposal for the floodplain area, and whether the Division of Engineering has granted their approval as well.

Mr. Simpson stated that the petitioner contends that their efforts to work with the surrounding neighborhoods have been effective, since only two residents voiced concerns at this hearing. He said, with regard to Mr. Johnson's comments, that not everyone can live in a neighborhood like Andover Forest; however, Brighton East, Banbury Hunt, and Autumn Ridge are also nice neighborhoods, and the petitioner has agreed that the proposed development will be compatible with them. Mr. Simpson concluded by requesting the Commission's approval of their applications.

Staff Rebuttal: Ms. Wade stated, with regard to Mr. Johnson's comments, that the petitioner is proposing R-3 zoning for the subject property. The R-3 zone permits single-family dwelling units, and the petitioner is proposing to restrict development on the property to such via conditional zoning restrictions. Ms. Wade said that many zones can implement the Comprehensive Plan recommendation for Low Density Residential development, but the R-3 zone is often used because it permits a great deal of flexibility with regard to side yard setbacks and lot frontage.

Citizen Rebuttal: No citizen rebuttal comments were presented at this time.

Commission Discussion: Ms. Beatty stated that she would be interested in hearing the detailed information from the petitioner's engineer about how stormwater would be managed on the subject property, but asked if it would be more appropriate to address those issues at the time of the Preliminary Subdivision Plan. Mr. Owens replied that it would be more appropriate to consider that information at the time of the Preliminary Subdivision Plan, which will also be presented to the Subdivision Committee following its filing.

Ms. Roche-Phillips said that she shares Ms. Beatty's concerns. She stated that she is reluctant to approve a residential development in a floodplain area, but she is aware that those issues are not germane to the requested rezoning. Ms. Roche-Phillips added that she believed that the subject property can be developed with R-3 zoning, particularly with the petitioner's proposed conditional zoning restrictions. She said that she would make a motion for approval of this request, trusting that the aforementioned concerns will be reviewed and addressed with the filing of the Preliminary Subdivision Plan for the property.

Zoning Action: A motion was made by Ms. Roche-Phillips, seconded by Ms. Beatty, and carried 8-0 (Blanton, Penn, and Plumlee absent) to approve MAR 2012-8, for the reasons provided by staff, including the proposed conditional zoning restrictions.

Development Plan Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Cravens, and carried 8-0 (Blanton, Penn, and Plumlee absent) to approve ZDP 2012-30, subject to the 11 conditions as listed in the revised staff recommendation.