

ORDINANCE NO. 145 -2017

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1D) ZONE TO A PROFESSIONAL OFFICE (P-1) ZONE, FOR 0.46 NET (0.558 GROSS) ACRE, AND FROM A SINGLE FAMILY RESIDENTIAL (R-1D) ZONE TO A HIGH DENSITY APARTMENT (R-4) ZONE FOR 4.76 NET (4.98 GROSS) ACRES, FOR PROPERTY LOCATED AT 3743 RED RIVER ROAD. (AFTON COMMUNITY DEVELOPMENT, LLC (AMD.); COUNCIL DISTRICT 8).

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WHEREAS, at a Public Hearing held on June 22, 2017 and August 24, 2017 a petition for a zoning ordinance map amendment for property located at 3743 Red River Road from a Single Family Residential (R-1D) zone to a Professional Office (P-1) zone for 0.46 net (0.558 gross) acre, and from a Single Family Residential (R1-D) zone to a High Density Apartment (R-4) zone for 4.76 net (4.98 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 10-0; 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 herein by reference.

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

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 3743 Red River Road from a Single Family Residential (R-1D) zone to a Professional Office (P-1) zone for 0.46 net (0.558 gross) acre, and from a Single Family Residential (R1-D) zone to a High Density Apartment (R-4) zone for 4.76 net (4.98 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply for the subject property:

a. **Principal permitted uses Within P-1 zoned area shall be limited to only the following:**

1. Offices for business, professional, governmental, civic, religious and charitable organizations.
2. Schools for academic instruction.
3. Medical and dental offices and clinics.
4. Studios for work or teaching of fine arts.


5. Places of religious assembly and Sunday schools.
  6. Nursing homes, personal care homes, and assisted living facilities.
  7. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
  8. Beauty shops and barber shops, not exceeding 2,000 square feet in floor area, which employ no more than five licensed cosmetologists.
  9. Adult day care centers.
- b. **Accessory Uses within the P-1 zone shall be limited to only the following:**
1. Parking areas or structures.
  2. Non-commercial recreational uses listed in the P-1 zone.
- c. **Conditional Uses within the P-1 zone shall be limited to only the following:**
1. Offices of veterinarians, and animal hospitals (without overnight boarding).
  2. Parking lots and structures.
- d. **Conditional Uses within the R-4 zone shall be limited to only the following:**
1. Permitted conditional uses in the R-1A zone.
  2. Nursing homes, personal care homes, and orphanages.
  3. Assisted living facilities, boarding and lodging houses, and hospitality houses for more than eight (8) persons, provided that no use under this section may be less than 500 feet from another use permitted under this section.
  4. Community centers (without overnight accommodations).
  5. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
  6. Parking lots, as permitted in Article 16-3 of the Zoning Ordinance.
- e. **Other Use Restrictions**
1. The P-1 zoned land shall be limited to a maximum 3,000 square-foot, one-story building. Signage for such building shall be limited to one wall-mounted, non-illuminated sign, and shall be a maximum of ten (10) square feet in size.
  2. The R-4 zoned land shall be limited to a maximum of 60,000 square feet of total floor area.
  3. A landscape buffer of at least fifteen (15) feet in width shall be provided along the southern and eastern property boundaries, with plantings as specified by Article 18-3(a)(1)2 of the Zoning Ordinance, including a 6-foot privacy fence.
  4. Outdoor lighting shall be shielded and directed away from any adjacent residential zone. Lighting attached to a pole or any structure shall be a maximum of twenty (20) feet in height.
  5. No drive-through facilities shall be permitted on the subject property.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2013 Comprehensive Plan, and to protect the adjoining residential land uses from development that is out of character with the existing neighborhood.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: October 12, 2017

  
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MAYOR

ATTEST:   
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

Published: October 19, 2017-1t  
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**LEGAL DESCRIPTION**

3743 Red River Dr

Zone Change from R-1D to R-4

A TRACT OF LAND SITUATED BOUNDED GENERALLY BY RED RIVER DRIVE IN LEXINGTON, FAYETTE COUNTY AND MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

Beginning at a nail with washer set 4149 in the northwest corner of the subject property along the Red River Dr. right-of-way nearest the cul-de-sac the following points along Red River Dr.;

thence N50°59'26" E a distance of 49.25' to a point;

thence S76°20'25" E a distance of 73.21' to a point;

thence S74°54'52" E a distance of 31.97' to a point;

thence with a curve turning to the right with an arc length of 60.19', with a radius of 525.00', with a chord bearing of S71°37'48" E, with a chord length of 60.15';

thence S68°20'45" E a distance of 158.03' to a point; thence turning south from the road into the subject property S21°20'47" W a distance of 67.32' to a point along the split zone line for the following calls along the split zone line;

thence S68°39'13" E a distance of 26.94' to a point;

thence S21°17'37" W a distance of 118.85' to a point;

thence S68°48'39" E a distance of 115.74' to a point in the eastern property line;

thence S22°58'41" W a distance of 250.05' along the eastern property line to an iron pin found;

thence N67°52'20" W a distance of 546.44' along the southern property line to an iron pin found ;

thence N14°41'51" E a distance of 360.20' along the western property line to an iron pin found;

thence S75°14'45" E a distance of 106.34' to a nail washer set 4149;

which is the point of beginning,

having an area of 216788 square feet, 4.98 acres gross and 4.76 acres net

Zone Change from R-1D to P-1

beginning at the split zone change line for the subject property in the center of Red River Drive;

thence S68°20'45" E a distance of 147.42' along Red River Dr to a point;

thence turning perpendicular to the road S21°54'30" W a distance of 25.00'

thence following the eastern property line S22°57'21" W a distance of 120.09' to an iron

pin found 4149;  
thence S22°47'56" W a distance of 40.03' along the eastern property line to a point at  
the split zone line;  
thence the following calls for the interior zone change line:  
N68°48'39" W a distance of 115.74' to a point;  
thence N21°17'37" E a distance of 118.85' to a point;  
thence N68°39'13" W a distance of 26.94' to a point;  
thence N21°20'47" E a distance of 67.32' to a point;  
which is the point of beginning,  
having an area of 23731 square feet, 0.55 acres gross and 0.46 acres net

Property Description prepared by Abbie Jones, PLS dated July 24, 2017

Rec'd by Bm

Date: 9-8-17

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

IN RE: **PLN-MAR-17-00016: AFTON COMMUNITY DEVELOPMENT, LLC (AMD)** – a petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Professional Office (P-1) zone, for 0.46 net (0.558 gross) acres, and from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone for 4.76 net (4.98 gross) acres, for property located at 3743 Red River Road. A conditional use permit and dimensional variances are also requested. (Council District 8)

Having considered the above matter on **June 22, 2017 and August 24, 2017**, at a Public Hearing, and having voted **10-0** 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. A restricted High Density Apartment (R-4) zone and Professional Office (P-1) zone for the subject property is in substantial agreement with the 2013 Comprehensive Plan, and the Armstrong Mill West Small Area Plan, which was adopted by the Planning Commission, for the following reasons:
  - a. The 2013 Comprehensive Plan recommends expanding housing choices to meet the needs of disadvantage and older populations (Theme A, Goal #1c.). The petitioner proposes an elderly housing element to the project, which will meet the needs of older and/or disadvantaged residents of Fayette County.
  - b. The Plan also recommends providing accessible community facilities and services to meet health, safety, and quality of life needs of the community (Theme D, Goal #2). Assisted living facilities to support the aging population; community facilities such as adult day care, child care and community centers; and medical offices are all needed within the community in a broader sense and can be considered necessary to meet the healthcare needs of the citizens of Fayette County.
  - c. The Comprehensive Plan recommends infill, redevelopment, and adaptive reuse that respect the area's context and design features (Theme A, Goal #2). The petitioner intends to adaptively reuse the vacant Blue Grass Baptist School site for a land use that will serve the neighborhood, and encourage aging in place.
  - d. The Armstrong Mill West Small Area Plan recommends improving the quality of life and health for all residents (Goal #5). The petitioner is improving access to very limited medical services by creating an incidental office use that is open to the public, is providing services for all ages by creating a child/adult day care as part of a community center, and is improving access to healthy food through the use of a community garden on-site.
  - e. A restricted P-1 zone can be considered incidental to the primary residential zone for the property. In this way, the proposed medical office will not have a negative impact on the surrounding neighborhood.
2. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property:**
  - a. **Principal Permitted uses Within P-1 zoned area shall be limited to only the following:**
    1. Offices for business, professional, governmental, civic, religious and charitable organizations.
    2. Schools for academic instruction.
    3. Medical and dental offices and clinics.
    4. Studios for work or teaching of fine arts.
    5. Places of religious assembly and Sunday schools.
    6. Nursing homes, personal care homes, and assisted living facilities.

7. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
  8. Beauty shops and barber shops, not exceeding 2,000 square feet in floor area, which employ no more than five licensed cosmetologists.
  9. Adult day care centers.
- b. **Accessory Uses within the P-1 zone shall be limited to only the following:**
1. Parking areas or structures.
  2. Non-commercial recreational uses listed in the P-1 zone.
- c. **Conditional Uses within the P-1 zone shall be limited to only the following:**
1. Offices of veterinarians, and animal hospitals (without overnight boarding).
  2. Parking lots and structures.
- d. **Conditional Uses within the R-4 zone shall be limited to only the following:**
1. Permitted conditional uses in the R-1A zone.
  2. Nursing homes, personal care homes, and orphanages.
  3. Assisted living facilities, boarding and lodging houses, and hospitality houses for more than eight (8) persons, provided that no use under this section may be less than 500 feet from another use permitted under this section.
  4. Community centers (without overnight accommodations).
  5. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
  6. Parking lots, as permitted in Article 16-3 of the Zoning Ordinance.
- e. **Other Use Restrictions:**
1. The P-1 zoned land shall be limited to a maximum 3,000 square-foot, one-story building. Signage for such building shall be limited to one wall-mounted, non-illuminated sign, and shall be a maximum of ten (10) square feet in size.
  2. The R-4 zoned land shall be limited to a maximum of 60,000 square feet of total floor area.
  3. A landscape buffer of at least fifteen (15) feet in width shall be provided along the southern and eastern property boundaries, with plantings as specified by Article 18-3(a)(1)2 of the Zoning Ordinance, including a 6-foot tall privacy fence.
  4. Outdoor lighting shall be shielded and directed away from any adjacent residential zone. Lighting attached to a pole or any structure shall be a maximum of twenty (20) feet in height.
  5. No drive-through facilities shall be permitted on the subject property.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2013 Comprehensive Plan, and to protect the adjoining residential land uses from development that is out of character with the existing neighborhood.

3. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00035: MELODY VILLAGE, UNIT 3-C, BLK C, LOT 12, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 8<sup>th</sup> day of September, 2017.

  
 Secretary, Jim Duncan

WILLIAM WILSON  
 CHAIR

Note: The corollary development plan, PLN-MJDP-17-00035: MELODY VILLAGE, UNIT 3-C, BLK C, LOT 12 was approved by the Planning Commission on August 24, 2017 and certified on September 7, 2017.

Note: A conditional use for a community center; child care and adult day care facility; and assisted living/personal care facility, and dimensional variances were approved to reduce landscape screening requirements in the proposed P-1 portion of the property for this request, by the Planning Commission at this hearing.

K.R.S. 100.211(7) requires that the Council take action on this request by November 22, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Rich Murphy, land surveyor.**

**OBJECTORS**

- None

**OBJECTIONS**

- None

**VOTES WERE AS FOLLOWS:**

AYES: (10) Bell, Berkley, Brewer, Cravens, Forester, Mundy, Owens, Plumlee, Richardson, and Wilson

NAYS: (0)

ABSENT: (1) Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **PLN-MAR-17-00016** carried.

Enclosures: Amended Application  
Plat  
Staff Report  
Applicable excerpts of minutes of above meeting



## MAP AMENDMENT REQUEST (MAR) APPLICATION

### 1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

<b>Applicant:</b> AFTON COMMUNITY DEVELOPMENT LLC, 285 MEDLOCK RD, LEXINGTON, KY 40517
<b>Owner(s):</b> AFTON COMMUNITY DEVELOPMENT LLC, 285 MEDLOCK RD, LEXINGTON KY 40517
<b>Attorney:</b>

### 2. ADDRESS OF APPLICANT'S PROPERTY

3743 RED RIVER DR, LEXINGTON, KY
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### 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing Use	Zoning	Requested Use	Acreage	
				Net	Gross
R-1D	School for Academic	R-4	Senior Housing, Assisted	4.76	4.98
R-1D	Instruction	P-1	Living Facility & Community Center Medical Office	0.46	0.55

### 4. EXISTING CONDITIONS

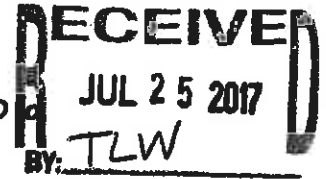
a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> 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.	<input type="checkbox"/> YES <input type="checkbox"/> NO

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

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable



**Amended Justification for Rezoning of former Bluegrass Baptist School from R-1D  
R-4 and P-1 with additional restrictions  
July 24, 2017**



**Amended Application Update for Rezoning:**

The applicant has amended their application to a split zoning to limit the commercial use to as small an area as possible. This change resulted in dimensional variances and conditional use requests.

The applicant agrees to the following restrictions for the P-1 area:

1. Maximum 3000 square foot one-story building
2. 15' undisturbed landscape buffer along property line
3. Signage limited to one location on the face of the building and no larger than 10 square feet, unlit.
4. No drive through
5. Medical office limitations:
  - a. No chronic pain management/treatment
  - b. No narcotics or scheduled drugs except for acute care needs
  - c. No surgical suites
  - d. Radiography limited to xrays /radiographs
  - e. Only board certified family practice or geriatrics or internal medicine or pediatrics or osteopathy, doctors, nurses, or physicians assistants
6. Only the following principal uses shall be acceptable: 2, 4, 7, 9, 10 (except disallowed private clubs), 11, 14, 19, and 21

2. Offices for business, professional, government- tal, civic, social, fraternal, political, religious, and charitable organizations, including, but not limited to, real estate sales offices.

4. Schools for academic instruction.

7. Medical and dental offices, clinics, and laboratories.

9. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.

10. Community centers and private clubs, churches, and Sunday schools. (EXCEPT DISALLOW PRIVATE CLUBS)

11. Hospitals, nursing homes, rest homes and assisted living facilities.

14. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.

19. Beauty shops and barber shops not exceeding

2,000 square feet in floor area,  
which employ not more than five  
licensed cosmetologists,  
with all service provided only by licensed  
cosmetologists and/or barbers.

21. Adult day care centers.

7. Only the following accessory uses shall be acceptable: 1, 2, 3, 5, 6, 7

1. Establishments limited to the filling of prescriptions and retail sale of pharmaceutical and medical supplies.
2. Parking areas or structures.
3. Incidental retail sales or personal services, including facilities for serving food, only for employees, residents or visitors to any permitted use, and having no primary access to the exterior; and limited to a maximum of ten percent (10%) of the gross floor area of the building in which it is located, with no single such use being in excess of 5,000 square feet.
4. Sales offices for the display of merchandise and the acceptance of orders.
5. Swimming pools, tennis courts, putting greens, hiking and bicycling trails, botanical gardens, nature preserves and other similar non-commercial recreational uses.
6. Satellite dish antennas, as further regulated by Article 15-8.
7. One dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be part of the building and located above, to the side, or to the rear of such permitted use.

8. Only the following conditional uses shall be acceptable: 1, 3

1. Offices of veterinarians, animal hospitals.
3. Parking lots and structures.

The applicant agrees to the following restrictions for the R-3 portion of the site:

1. Dedication of the pedestrian easement and paved connection to the park.
2. Dark sky friendly cut-off fixtures to be installed as fixtures are replaced over time.
3. 15' undisturbed buffer around property boundary
4. Restrict building size to maximum of 60,000 square feet for entire property
5. Only the following conditional uses shall be acceptable: 1, 2, 3, 5, 6, 7, 9
  1. The permitted conditional uses in the R-1A zone.
  2. Hospitals, nursing homes, rest homes, and orphanages.
  3. Community centers (such as YMCA, YWCA, etc.)
  5. Kindergartens, nursery schools, and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
  6. Parking, as permitted in Article 16-3.
  7. Satellite dish antenna, subject to the following:
    - a. For townhouse dwellings, as permitted as a conditional use in the R-1T zone.
    - b. For duplex dwellings, as permitted as a conditional use in the R-2 zone.
    - c. For single family dwellings, as permitted as a conditional use in the R-1A zone.
  9. Boarding or lodging houses, assisted living facilities, and hospitality houses for more than eight (8) persons and rehabilitation homes, provided that no use permitted under this section shall be located less than five hundred (500) feet, as measured from the nearest property line, from another use permitted under this section. However, the Board may reduce the 500-foot spacing requirement if it can determine that a reduction will not have an adverse influence on existing or future development of the subject property or its surrounding neighborhood.

The original application acreage changed by a very small amount as we moved from the record survey to the final boundary survey. Also, the existing school building is 1 story on the street side and 2-story on the low side. The number of stories in the past staff report may not have been clear in this regard.

The R-4 is submitted for the majority of the property because it meets the criteria of the open space for our design. The design is very close to meeting the R-3 regulations, but not quite. The R-4 regulation primarily differs from the R-3 regulation in the open space manner. From the list above, the applicant is willing to add many restrictions to the property use and physical layout to more further protect the existing neighborhood from a size or use-inappropriate development now or in the future. It would be possible to go to an R-3 designation if the final phase of apartments were to be ironically 3 story rather than 2 story. Going 3-story would allow for the garden apartments to be in a single building. We believe that the demand exists for garden apartments on a ground level much more so than in a larger dormitory looking building. We further believe the neighbors prefer a 2-story maximum to a 3 story maximum.

The applicant has added the split zoning line and changed the original request from entirely P-1 to primarily R-4 with a small half acre to accommodate the medical office use not permitted as a for-profit entity in any R zone.

Is P-1 really necessary for this Project? YES.

Staff's recommended R3 or R4 with a conditional use permit is not viable because it would only support a Mission Lexington style non-profit clinic not open to the public. Our client's vision is that a doctor would not only provide services to the on-site residents, but that the neighborhood could utilize it as a reasonably priced walk in clinic. This is intended to be a business component-not free. This office would be an employer and we do not expect to have more than 15 persons in the facility at any single point in time. The other features of the property and development plan are acceptable in concept.

A point of clarification about restricted zoning-in many other communities it is the staff that suggest the restrictions. The applicant was under the expectation that those would be given by staff at the hearing. Only when handouts were distributed was this made clear. The applicant has sent draft copies of these restrictions to the staff but due to vacation days and Mr. Sallee's impending transition the applicant received feedback late today. The applicant is open and flexible to changes in the zoning restrictions.

### **Infrastructure and Traffic Concerns**

Adequate infrastructure has been a concern of staff. The public facilities to be used remain in place from the existing school campus. The site has been reviewed by a professional civil engineer, the only license able to determine sizes of adequate infrastructure, and found them adequate for this property. Each of these items is available onsite, at an adequate size line or width.

- Transportation (30' pavement width) (existing sidewalks) (adding connection to park)
- Water (8")
- Sewer (8" VCP)
- Stormwater 18" RCP
- Electric
- Cable

The only specific infrastructure concerns of the planning staff and traffic engineering staff have been transportation so we believe that is the true item of concern.

The applicant has provided a TIS (which was not even required due to the size of the development by the city reviewer Mr. Emmons) and testimony from the applicants' Traffic Engineer, Diane Zimmerman by way of Ms. Jones at the hearings. The TIS provides that the fully built out senior campus will have less traffic than the fully operational school. Questions have been raised about the type of traffic being different. Just as schools have occasional EMS visits, so would this level of senior care. Because this is not a nursing home, we do not anticipate the level of EMS visits suggested. Other vehicular traffic that will be lessened includes less food deliveries because of on-site production greenhouses and on-site laundry facilities.

Traffic Calming was mentioned earlier in the process with staff and with the neighborhood. We shared with the neighborhood at the very beginning that traffic calming must meet traffic engineering requirements (ie no stop signs for calming, must have neighbor approval for installation of facilities, etc). These standards were illuminating for the neighbors in that the increased noise level and reduced EMS response time added by speed humps or tables are undesirable. Knowing that information, there were no volunteers interested in having a speed table or hump in front of their property present at the neighborhood meeting. An additional concern was that of snow plows with speed tables.

The city staff concerns for speed calming have come primarily from the short term section of the planning department and not the long term planning or traffic engineering staff. Our applicant is planning a phased installation of facilities. As such we do not expect the technical warrants for speed calming to be met (if at all) until the final phase of development. The applicant is willing to have DP notes or zoning restrictions addressing potential traffic calming requirements in future phases of build out, as long as they are based upon engineering warrants and the regular traffic calming regulations.

To summarize our concerns about traffic and transportation:

1. These are perceived problems or fears with no engineering support.
2. This project will have less impact than the school it is replacing, even at full build out.
3. The MPO group has found this project does not even meet thresholds for requiring a TIS (meaning another part of city staff does not find this project to be harmful).

**Annotated Responses to previous staff recommendation:**

- **#1** We believe the entire Armstong Mill SAP points to wanting more housing types, medical close by, and more grocery options. The report also shows the past neighborhood dislike of certain rental housing situations as did our recent neighborhood meeting. Residents want a very small doctor's office close by. We would have been glad to include a small grocery as similar to Wheeler's carrying milk but gave up on that idea at the request of planning staff. There is clear consensus that the project type is perfectly fine and the development plan is approvable. The only major disagreement is exactly what zoning classification and restriction makes this project possible.
- **#1a** This project will restrict development to compliance with this development plan.
- **#1b** This project supports redevelopment and infill that is acceptable because it uses primarily existing facilities and maintains the same curb appearance as it has had for 30 years. Also, the adjacent ag zoning is a city park. Protecting the zoning of park land and having adjacent properties fully utilize the park go hand in hand.
- **#1c** This existing complex can and should be considered an existing non-residential development node as it has been functioning as a church school for 30 years. It has been the focal point of the community for this long time and our vision is to continue that focal point.
- **#1d** This project will provide the easement necessary and helpful for connection to the park. Having 24-7 site management next to the park is highly valued by the neighbors and is a free benefit to the city-the SAP shows concern about another park being considered unsafe. The seniors and childcare are all expected to utilize the park daily (which is more often than a regular user). The planned community gardening spaces and greenhouses pay homage to the ag land adjacent (which is a park not a farm).
- **#1e** This existing complex can and should be considered an existing non-residential development node as it has been functioning as a church school for 30 years.
- **#2** This site will have less traffic, noise and light pollution than the previous church school use. The existing tree perimeter buffer will remain and be supplemented. We have committed to using quieter HVAC than the current systems which are quite loud, at the suggestion of the neighbors. We are glad to commit to dark sky friendly exterior cut-off fixtures. Elder care communities are known to be quiet neighbors.
- **#3** There are three ways this former church school property can move forward:
  - Re-use existing buildings
  - Tear down and build houses/apartments
  - Sit vacant until one of those happens. The neighborhood wants very badly for this to not happen.
- We commit to addressing any concerns within a period of 24hours.

### **Planning Commission Items**

#### **Recap:**

This rezoning is in support of the redevelopment and adaptive re-use of the existing church school, which will cease operations at the end of this year due to bankruptcy. This is a substantial economic change in the neighborhood. However, this developer has chosen to work with the school and to adaptively re-use the facility in a way that honors their past good works. The developers have owned the property since the late fall and have allowed the school to finish out the school year rent-free. After a few months of getting the right professionals together, a plan was carefully composed and the name Afton Gardens was chosen.

As a first step, the developer met with the city twice to tweak their intended elder care project. Next, they planned an additional on-site neighborhood meeting with yard signs and letters hand delivered to residents. Attendance sign-in and meeting minutes are also included with this rezoning packet. As the neighborhood was in support of this elder care project, this rezoning is submitted to move the project along. The attached meeting minutes go into greater detail as to the vision and programming of the assisted living facility, community center, child/elder day care, medical office space, gardens, and senior apartments.

The existing perimeter tree buffer is to remain, and the playgrounds will be open to the community during unused hours as has been the custom with the school. A sidewalk connection and related pedestrian easement to the park are shown on the proposed site plan. The developer is glad to restrict the lighting to be Dark Sky friendly or cut-off type fixtures. We expect that 2 detention areas will be required due to keeping the large building and bucking grades (and we understand that costs us more money).

- 1) P-1 is the more appropriate zoning for the medical office portion, as compared to the staff-suggested R-3 or R-4 for the following reasons:
  - a) The site has historically provided neighborhood employment, which is desired by the neighborhood.
  - b) R-3 is a close but not fully adequate zone as the medical office space would not be acceptable as a business entity leasing from a business entity. Even though the rates for the clinic are to be reasonable, they will not be subsidized.
  - c) The single medical office, being of a small size and non-chain proprietorship, is unlikely to cause increased traffic. In fact, including a small medical office would likely keep traffic low, since much of the clientele is likely to come from on-site and within the neighborhood. This clinic is envisioned to be a walk-in type of general practice. This is a trip-reduction type of use, not a type of use that draws clients from across town through the neighborhood. The applicant hopes that staff will better understand the project. project we are proposing and along with the many restrictions, will come to see that this
  - d) This is a complimentary use to the campus-styled residential development, which is another way of saying Group Residential Project. The developer expects between 50-75% of the medical clients to be from within the complex and the rest from within the neighborhood.
  - e) The medical office as a walk in clinic and support to other parts of the project is absolutely critical because it is a part of the business model financially and philosophically.

- f) **Precedent is also in favor of limited P-1 zoning within a 2 mile radius of this property. A similar project was recently approved by the Planning Commission this general area.**
  - g) **The applicant is agreeable to a long list of restrictions to maintain the small footprint nature of this part of the development.**
- 2) **Project agrees with Comp Plan in Goal #1, A, B, C and D.**
- a) **“Pursue incentives and regulatory approaches that encourage creativity and sustainability in housing development” – This project creatively re-develops an existing school and church into something new for middle income persons at various life stages. This project has Redevelopment Opportunities of the Comp Plan on page 72 by reusing the existing school and gym facilities for assisted living and day care. This element also agrees with the Infill Strategy of the Comp Plan on page 99 and the**
  - b) **The residential project is the very definition of Group Residential Projects within the Zoning Ordinance. That portion of the project is under 5 acres. (A public hearing is still required for the zoning however.)**
  - c) **“Plan for housing that addresses the market needs for all of Lexington-Fayette County’s residents, including, but not limited to, mixed-use and housing near employment and commercial areas.” – This project will provide middle-income rental units for different life stages near housing units where someone could be close to an aging parent. An integrated medical office is a necessary part of providing this type of care. By having varied housing choices, this project meets the Comp Plan as described on page 40.**
  - d) **“Plan for safe, affordable, and accessible housing to meet the needs of older and/or disadvantaged residents.” – This project directly addresses this need in middle-income elderly housing for assisted living and apartments as well as day care. The family-minded perspective of the facility will be far better than other institutional facilities without being a high priced option many cannot afford. This project also agrees with the Affordable Child Care of the Comp Plan on page 65 for the day care portion of this project.**
  - e) **“Create and implement housing incentives that strengthen the opportunity for economic development, new business, and jobs, including, but not limited to higher density and housing affordability.” – This project will create jobs where some have been lost by the closing of the church and school. By maintaining a neighborhood employer, there will continue to be an anchor for economic stability in the neighborhood. Project agrees with the Local Assets for Job Creation of the Comp Plan on page 61 and Adaptive Reuse, and Live where you work of the Comp Plan on page 74, 97.**
- 3) **The Armstong Mill West Small Area Plan coordinates with the vision of this project in the following ways and on the pages listed:**
- a) **Pg 12: “Lastly, the baby boomer generation (ages 50 to 69) also remains a large population and would prefer to age in place.” This development provides precisely this goal.**
  - b) **Pg 14 “There are very few resources and services such as grocery stores and medical offices in close proximity to neighbors”. Our project includes the medical office. We removed the grocery component we desired in our early meetings with the city. It is**



interesting that small grocery stores are highly desired by everyone but considered mini-marts in the existing code, which are unacceptable to most zones. The graph on this page shows that most residents own one vehicle, which highlights the importance of having a in-neighborhood medical office as a walkable option for medical care.

- c) Pg 30-31 Shows the need for low to middle income housing mix. This is a middle to low income development
- d) Pg 32 "Nearly 28 percent of the current population is 65 or older almost 10 percent live alone), and in the next decade another 10 percent of the population will turn 65. Over half (54 percent) of the population has a disability, with seniors accounting for a large portion. Both an aging and disabled population present issues of accessibility, as many units may not have the facilities to accommodate their mobility needs." This directly speaks to the need for this development.
- e) Pg 47 Suggests that we should celebrate assets, which In this case is the church school (Rather than tear down and build all new R3 R4)
- f) Pg 49 Poor access to healthcare, which will be provided by the medical office.
- g) Pg 50 Need healthcare/medical, community garden, community garden, and desire to reduce crime around the park. Our project includes all of these items, especially by having 24/7 employment with eyes on the ground in the neighborhood.
- h) Pg 53 84% of respondents travel 1-10 miles for healthcare (including basic)
- i) Pg 54 Summary is completely in line with our vision:
  - A safe, modernized, progressive neighborhood that presents attractive opportunities for businesses and families to grow and flourish and instill community pride.*
  - A more walkable neighborhood that is safe by design with interconnected parks and green areas.*
  - Our neighborhood will be easy and safe to travel by car, bike and foot. It will be well connected, well lit and safe at night, well-kept with quiet and friendly neighbors. The neighborhood will have safe activities for kids and teens. It will be green and visually appealing, convenient for shopping, medical services and healthy food.*

The developer has done many things that are above and beyond the city's arduous requirements to prove this project is good for the community. Furthermore, the developer's team has met with staff many times to try to come to agreement for the many unique parts of this project. The development team has convinced the actual neighbors and looks forward to showing the same to those who will vote on this case.

**Board of Adjustment and Landscaping Committee Items**

Conditional Use#1 personal care/assisted living facility greater than 8 persons

The facility will operate as following:

- Personal care home as defined by Certificate of Need
- No kitchenettes, 3 meals per day provided
- Rooms have bath and bedroom
- There is a med tech who administers medication. That is only difference with assisted living.

Conditional Use #2 community center

The existing gym will function as a community center. Activities for the day care program and the neighborhood will take place in this space.

Conditional Use#3 child/adult day care center greater than 4 children

The applicant desires to do a mix adult-child day care program centered around gardening. This program would start in existing space inside the large school building and move to the gym as it outgrows the allocated existing classroom spaces. The size requested is smaller than what the full usage of the gym building would potentially permit. We want to keep the sizes manageable but viable.

Dimensional Variance:

Eliminate internal zone to zone Landscape buffer and instead have a more dense perimeter buffer the existing neighborhood. We believe having a larger exterior property buffer is more important and desirable than internal buffering for a split zone property. The developer is agreeable to an dimensionally described (ie 5' or 7' or such) buffer extension but would prefer that it be addressed graphically on the Development Plan (on a map) to be more clear.

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Utilities:

Existing on-site and in right of way utilities include water, sewer, storm, power, and cable. These utilities have adequate capacity as-is for the existing church and school property. Detention will be required in 2 pieces because of both project phasing and existing site topography. We wish it was possible in one area because it would be cheaper, however, these are two real world restrictions. The short term planning staff has had more concern over these issues than the utility company representatives, Water Quality, or Engineering staff, who actually approve these design features.

Site features:

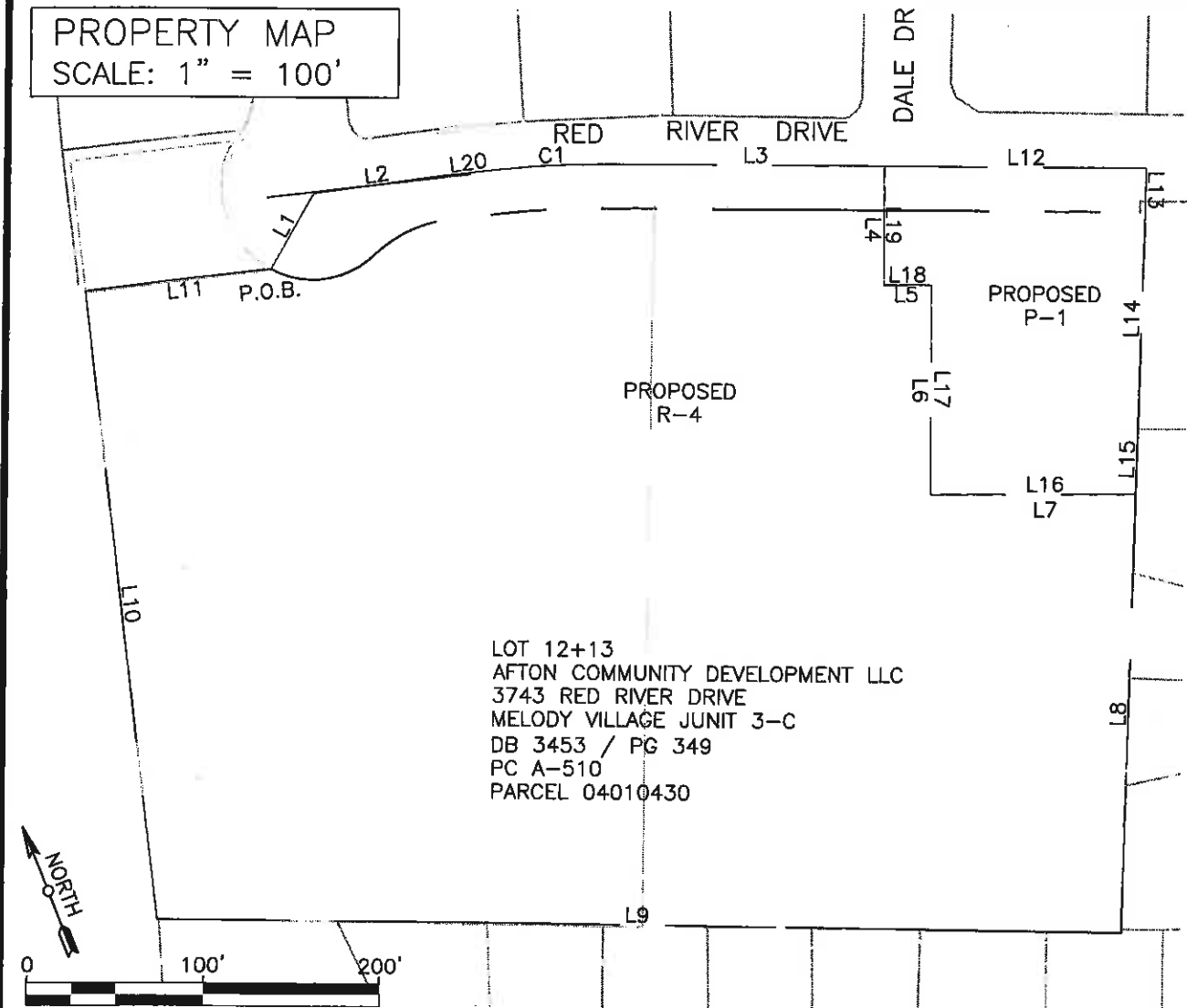
There are no environmentally sensitive or geologically sensitive areas on the property. We are maintaining existing large perimeter tree buffers with the park and residential. The existing character of the land for the past nearly 40 years has been a church school property with a gym. The character of the site would remain very similar to it's historic use. The 2 large vacant lawns on the property are proposed to have scale appropriate infill.

**Justification:**

We request these items because the granting of the variance will not adversely affect the public health for reasons:

- 1) special circumstances-the existing gym building and internal parking lot are the proposed boundaries for the split zoning. It is difficult and perhaps not useful to screen part of an internal parking lot from another aisle. It is more beneficial to have larger site perimeter buffers than internal zone to zone landscape buffers in these two areas. the additional landscape buffer on the site perimeter property more than makes up for the reduction of the one parking lot island and inability to screen zone to zone within the center of the property due to the split zone line going through a parking lot and along an existing building. Having extra landscaping on the property perimeter is more useful to the single family neighborhood.
- 2) Special circumstances-the re-use of the existing school building for assisted living/personal care and the gym/existing school building for child/adult day care are a unique feature of this proposed development. By having existing buildings that we propose to be re-used, on a considerably large piece of property, the facilities are size appropriate for more than 8 beds or 4 children. The site has historically accommodated more than 200 children and up to 30 staff through a previous conditional use permit for the church school. The purpose of this entire development is to re-use existing structures rather than tearing them all down to create a large amount of singlefamily dwellings. This re-use and additional housing types are supported by the small area plan and land use regulations. The maximum capacities requested on the face of the Development Plan are very reasonable for the sizes of the existing buildings.
- 3) Special circumstances- No hazard or nuisance will be created by having a child/adult care center of combined use up to 100 capacity or an assisted/personal care facility of up to 40 bedrooms and additional apartments. This will remain less than nuisance than a 250 person capacity school plus staff for noise and has the benefit of being staffed 24-7 rather than just during school hours. Elderly residents are known to be very low-key, quiet neighbors. These specific C.O. capacity restrictions we propose are shown on the DP.
- 4) No hazards will be created by having an elderly campus larger than 8 units. Adequate staffing and meeting of all required life safety codes and healthcare regulations will be followed completely. A security system will also be a part of the development.

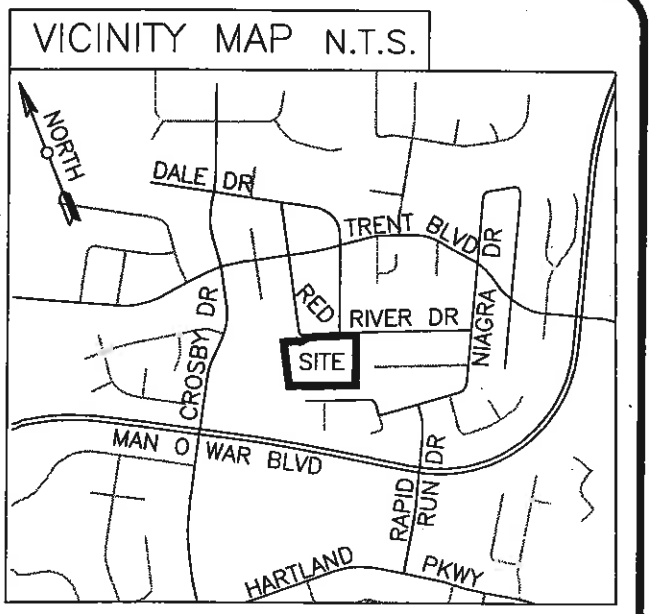
PROPERTY MAP  
SCALE: 1" = 100'



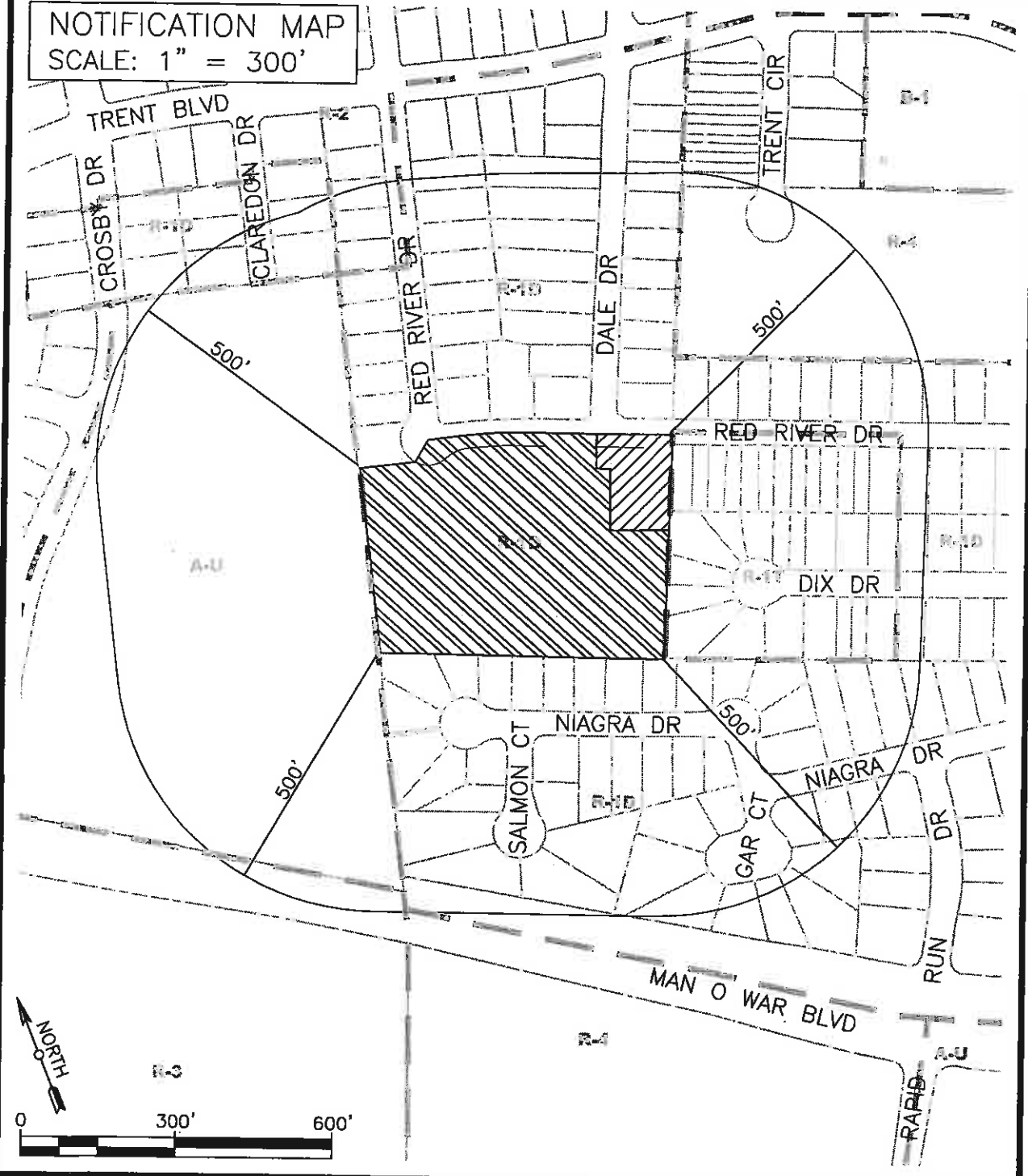
LOT 12+13  
AFTON COMMUNITY DEVELOPMENT LLC  
3743 RED RIVER DRIVE  
MELODY VILLAGE JUNIT 3-C  
DB 3453 / PG 349  
PC A-510  
PARCEL 04010430

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	525.00'	60.19'	60.15'	S 71°37'48" E	6°34'06"

LINE	BEARING	DISTANCE
L1	N 50°59'26" E	49.25'
L2	S 76°20'25" E	73.21'
L3	S 68°20'45" E	158.03'
L4	S 21°20'47" W	67.32'
L5	S 68°39'13" E	26.94'
L6	S 21°17'37" W	118.85'
L7	S 68°48'39" E	115.74'
L8	S 22°58'41" W	250.05'
L9	N 67°52'20" W	546.44'
L10	N 14°41'51" E	360.20'
L11	S 75°14'45" E	106.34'
L12	S 68°20'45" E	147.42'
L13	S 21°54'30" W	25.00'
L14	S 22°57'21" W	120.09'
L15	S 22°48'06" W	40.03'
L16	N 68°48'39" W	115.74'
L17	N 21°17'37" E	118.85'
L18	N 68°39'13" W	26.94'
L19	N 21°20'47" E	67.32'
L20	S 74°54'52" E	31.97'



NOTIFICATION MAP  
SCALE: 1" = 300'



ADDRESS	3743 RED RIVER DR	FROM	TO	NET AC	GROSS AC
		R-1D	R-4		
DATE FILED	APRIL 3, 2017				
DATE REVISED	JULY 25, 2017				

LEGEND:

- SUBJECT PROPERTY
- PROPERTY EXTENTS
- EXISTING ZONE LINE
- PROPOSED ZONE LINE
- PROPOSED ZONE CHANGES
- R-1D TO R-4
- R-1D TO P-1



ABBIE JONES CONSULTING  
1022 FONTAINE RD.  
LEXINGTON, KY 40502  
859.559.3443  
www.abbie-jones.com

PROJECT SCALE DATE  
2017-020 AS SHOWN 04/03/17

PROPERTY INFORMATION MAP

LOCATED AT:  
3743 RED RIVER DRIVE  
LEXINGTON, KY 40517  
FAYETTE COUNTY

OWNER/APPLICANT:  
AFTON COMMUNITY DEVELOPMENT, LLC  
285 MEDLOCK RD  
LEXINGTON, KY 40517

**STAFF REPORT ON AN AMENDED PETITION FOR ZONE MAP AMENDMENT**

**PLN-MAR-17-00016: AFTON COMMUNITY DEVELOPMENT, LLC (AMD)**

**DESCRIPTION**

<b>Zone Change:</b>	<b><u>REQUEST</u></b>		<b><u>ACREAGE</u></b>	
	<b><u>FROM</u></b>	<b><u>TO</u></b>	<b><u>NET</u></b>	<b><u>GROSS</u></b>
	R-1D	R-4	4.76	4.98
	R-1D	P-1	0.46	0.55
		<b>TOTAL</b>	5.22	5.53

**Location:** 3743 Red River Drive

**EXISTING ZONING & LAND USE**

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1D	Private School
To North	R-1D	Single-Family Residential
To East	R-1T	Two-Family Residential
To South	R-1D	Single-Family Residential
To West	A-U	River Hill Public Park

**URBAN SERVICES REPORT**

Roads – Red River Drive is a local loop street that provides access and lot frontage to the subject property, and to a number of family dwellings. It intersects with Trent Boulevard to the north and Niagara Drive to the east of the subject property. Trent Boulevard, which is the nearest collector street to this location, extends from Kenesaw Drive in the Hartland area, continues to the west across Man o’ War Boulevard and terminates at Appian Way, just east of Tates Creek Road. Access to the property is not proposed to be modified and no road improvements are proposed to adaptively re-use the existing structures.

Curb/Gutter/Sidewalks – All urban road improvements have been made on Red River Drive, which is primarily a residential street.

Storm Sewers – The subject property is located within the West Hickman Creek watershed. No stormwater facilities appear to have been required or constructed when the site was originally approved for a school in the 1970s. Stormwater improvements were non-existent for most developments until the 1980s. Stormwater detention may be necessary at the time the subject site is further intensified. All storm sewer and/or detention facilities must be designed and constructed in compliance with the Engineering Storm Water Manual.

Sanitary Sewers – The subject property is in the West Hickman sewershed, which is served by the West Hickman Wastewater Treatment Plant. The Capacity Assurance Program (CAP) will need to verify available sanitary sewer capacity for the proposed intensification of the land use on this site.

Refuse – The Urban County Government serves this portion of the Urban Service Area with collection on Fridays. Commercial developments sometimes contract with private waste haulers for more frequent service.

Police – The nearest police station is located a little less than one mile to the north, at the East Sector Roll Call Center (Police Sector 3) on Centre Parkway.

Fire/Ambulance – The nearest fire station to the subject property is Station #22, located approximately ¾ mile to the southwest on Clearwater Way, near its intersection with Saron Drive.

Utilities – Natural gas, telephone service, electric, street lights, water, and cable television are all available to serve the subject property.

## **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± 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 now proposes a mixture of High Density Apartment (R-4) and Professional Office (P-1) zoning 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. A conditional use and dimensional variances are also requested in association with this zone change application.

## **CASE REVIEW**

The applicant has amended their application after a lengthy Planning Commission public hearing was held on June 22, 2017. At that time, the Planning Commission heard presentations from the staff and the petitioner, and comments from the public. The Planning Commission suggested to the petitioner that they seriously consider the staff position and the possibility of amending the requested zone change. The petitioner requested a continuance of the public hearing to August 24<sup>th</sup> in order to follow the Commission's advice and meet all necessary notice requirements. The petitioner now wishes to rezone the subject property from a Single Family Residential (R-1D) zone to a combination of a High Density Apartment (R-4) zone and a Professional Office (P-1) zone, for approximately five acres of property located at 3743 Red River Drive.

Additionally, the petitioner is requesting a conditional use permit for an assisted living facility, a community center, and a child care and adult day care center within the residential portion of the property, as well as two landscape variances for the subject property. These requests are covered by a separate staff report.

The subject property is located on the south side of Red River Drive, in the 90-degree bend in that roadway, between Trent Boulevard and Niagara Drive. The subject property is located inside of Man o' War Boulevard, east of its intersection with Crosby Drive. The site is located in the River Park neighborhood, and was included in the 2015 *Armstrong Mill West Small Area Plan*, which is now an adopted amendment to the 2013 Comprehensive Plan that makes additional recommendations for this vicinity of the Urban Service Area.

The subject property is the current location of the Blue Grass Baptist School, which is a private school for academic instruction. The petitioner proposes to re-purpose the existing structures for an assisted living facility, medical offices, adult and child care centers, and a community center. New structures are proposed for medical offices and senior housing on the site. The petitioner proposes 40 rooms in the assisted living facility, 27 senior apartments, childcare for 30 children, and senior care for 70 adults. In total, the structures would total over 56,000 square feet in floor area.

The site has been the location of the Blue Grass Baptist School since the early 1970s, at which point a school for academic instruction was a principal permitted use in the single family residential zones. This

location has been in a R-1D zone since 1969. The 1983 Zoning Ordinance rewrite moved schools for academic instruction to a conditional use in these zones, so in 1984 when the school opted to construct a separate gymnasium, they were required to seek Board of Adjustment approval (C-84-62: Blue Grass Baptist School). After more than 40 years in operation, the Blue Grass Baptist School is completing its last year of instruction in 2017. They sold the property in November to the petitioner, but continued until the end of the school year.

The petitioner continues to opine that the proposed zoning is in agreement with the 2013 Comprehensive Plan and the Armstrong Mill West Small Area Plan. This redevelopment proposal is one that the petitioner believes will benefit the surrounding neighborhood by providing necessary services, creating jobs (replacing the loss of the school's employment), and providing safe, affordable, and accessible housing to meet the needs of older and/or disadvantaged residents. The petitioner has minimized the area of P-1 zoning to include only the stand-alone medical office and its associated off-street parking, which is less than ½ acre. This significant reduction in the size of the P-1 zoning, along with substantial conditional zoning restrictions, addressed most of the staff's concerns, and prompted a new recommendation.

In evaluating the amended zone change request, the staff can now agree with the applicant that the proposed R-4 and P-1 zones are in agreement with the 2013 Comprehensive Plan and the more recent Armstrong Mill West Small Area Plan. The Comprehensive Plan and SAP do offer statements that substantially support the project. The 2013 Comprehensive Plan recommends expanding housing choices to meet the needs of disadvantage and older populations (Theme A, Goal #1c.); and providing accessible community facilities and services to meet health, safety, and quality of life needs of the community (Theme D, Goal #2). The land uses proposed - elderly housing and assisted living facilities to support the aging population; community facilities such as adult day care, child care and community centers; and medical offices - are all needed within the community in a broader sense and can be considered necessary to meet the healthcare needs of the citizens of Fayette County. Additionally, adaptive re-use is a positive aspect of this redevelopment proposal, as it typically results in a more sustainable development pattern (Theme A, Goal #2). The proposed rezoning will allow for a higher density of infill development, should the site ever be redeveloped in its entirety, which is supported by Theme E, Goal #1b.

In terms of the SAP, the proposed development is supported by Goal #5: Improve quality of life and health for all residents. The petitioner is improving access to very limited medical services by creating an incidental office use that is open to the public, is providing services for all ages by creating a child/adult day care as part of a community center, and is improving access to healthy food through the use of a community garden on-site.

In addition, the petitioner has offered several conditional zoning restrictions to limit the negative impacts of the proposed change of use on the adjoining and nearby residential uses. The conditional zoning restrictions recommended by the staff incorporate many of those offered by the petitioner; however, the staff cannot support allowing the following uses: community centers as a principal permitted use, rehabilitation homes, hospitals, accessory pharmacy (filling of prescriptions and retail sales of pharmaceutical and medical supplies), and the accessory retail sales or personal services.

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

1. A restricted High Density Apartment (R-4) zone and Professional Office (P-1) zone for the subject property is in substantial agreement with the 2013 Comprehensive Plan, and the Armstrong Mill West Small Area Plan, which was adopted by the Planning Commission, for the following reasons:
  - a. The 2013 Comprehensive Plan recommends expanding housing choices to meet the needs of disadvantage and older populations (Theme A, Goal #1c.). The petitioner proposes an elderly housing element to the project, which will meet the needs of older and/or disadvantaged residents of Fayette County.

- b. The Plan also recommends providing accessible community facilities and services to meet health, safety, and quality of life needs of the community (Theme D, Goal #2). Assisted living facilities to support the aging population; community facilities such as adult day care, child care and community centers; and medical offices are all needed within the community in a broader sense and can be considered necessary to meet the healthcare needs of the citizens of Fayette County.
  - c. The Comprehensive Plan recommends infill, redevelopment, and adaptive reuse that respect the area's context and design features (Theme A, Goal #2). The petitioner intends to adaptively reuse the vacant Blue Grass Baptist School site for a land use that will serve the neighborhood, and encourage aging in place.
  - d. The Armstrong Mill West Small Area Plan recommends improving the quality of life and health for all residents (Goal #5). The petitioner is improving access to very limited medical services by creating an incidental office use that is open to the public, is providing services for all ages by creating a child/adult day care as part of a community center, and is improving access to healthy food through the use of a community garden on-site.
  - e. A restricted P-1 zone can be considered incidental to the primary residential zone for the property. In this way, the proposed medical office will not have a negative impact on the surrounding neighborhood.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property:
- a. **Principal Permitted uses Within P-1 zoned area shall be limited to only the following:**
    - 1. Offices for business, professional, governmental, civic, religious and charitable organizations.
    - 2. Schools for academic instruction.
    - 3. Medical and dental offices and clinics.
    - 4. Studios for work or teaching of fine arts.
    - 5. Places of religious assembly and Sunday schools.
    - 6. Nursing homes, personal care homes, and assisted living facilities.
    - 7. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
    - 8. Beauty shops and barber shops, not exceeding 2,000 square feet in floor area, which employ no more than five licensed cosmetologists.
    - 9. Adult day care centers.
  - b. **Accessory Uses within the P-1 zone shall be limited to only the following:**
    - 1. Parking areas or structures.
    - 2. Non-commercial recreational uses listed in the P-1 zone.
  - c. **Conditional Uses within the P-1 zone shall be limited to only the following:**
    - 1. Offices of veterinarians, and animal hospitals (without overnight boarding).
    - 2. Parking lots and structures.
  - d. **Conditional Uses within the R-4 zone shall be limited to only the following:**
    - 1. Permitted conditional uses in the R-1A zone.
    - 2. Nursing homes, personal care homes, and orphanages.
    - 3. Assisted living facilities, boarding and lodging houses, and hospitality houses for more than eight (8) persons, provided that no use under this section may be less than 500 feet from another use permitted under this section.
    - 4. Community centers (without overnight accommodations).
    - 5. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
    - 6. Parking lots, as permitted in Article 16-3 of the Zoning Ordinance.



e. **Other Use Restrictions:**

1. The P-1 zoned land shall be limited to a maximum 3,000 square-foot, one-story building. Signage for such building shall be limited to one wall-mounted, non-illuminated sign, and shall be a maximum of ten (10) square feet in size.
2. The R-4 zoned land shall be limited to a maximum of 60,000 square feet of total floor area.
3. A landscape buffer of at least fifteen (15) feet in width shall be provided along the southern and eastern property boundaries, with plantings as specified by Article 18-3(a)(1)2 of the Zoning Ordinance, including a 6-foot tall privacy fence.
4. Outdoor lighting shall be shielded and directed away from any adjacent residential zone. Lighting attached to a pole or any structure shall be a maximum of twenty (20) feet in height.
5. No drive-through facilities shall be permitted on the subject property.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2013 Comprehensive Plan, and to protect the adjoining residential land uses from development that is out of character with the existing neighborhood.

TLW/WLS/dw

5/3/2017, 8/2/2017 amd

Planning Services\Staff Reports\MAR Amended\2017\PLN-MAR-17-00016 amd.doc

**STAFF REPORT FOR CONDITIONAL USES & VARIANCES REQUESTED FROM  
PLANNING COMMISSION**

**PLN-MAR-17-00016 (AMD): AFTON COMMUNITY DEVELOPMENT, LLC**

**REQUESTED CONDITIONAL USES**

1. Community center
2. Child care and adult day care facility
3. Assisted living/personal care facility

**REQUESTED VARIANCES**

1. Eliminate zone-to-zone landscape screening requirements internal to site
2. Elimination of one interior landscape island of 700 square feet from the vehicular use area (VUA) in the proposed P-1 portion of the property

**ZONING ORDINANCE**

Article 6-4(c) states: "The Planning Commission may hear and act upon requested conditional uses and variances associated with a zone change. If the Planning Commission should choose to hear a conditional use or variance request, the Planning Commission shall have all of the powers and responsibilities of the Board of Adjustment, as defined in Articles 7-6(a) and 7-6(b) of the Zoning Ordinance. All conditional use and variance applications shall be acted upon by the Planning Commission within ninety (90) days of the application, unless postponed further by the applicant."

Article 8-13(d)(1) [per 8-12(d)(3)] lists community centers as a conditional use in the R-4 (High Density Apartment) zone.

Article 8-13(d)(1) [per 8-12(d)5] allows a kindergarten, nursery school or child care facility for four or more children as a conditional use in the R-4 zone.

Article 8-13(d)(1) [per 8-12(d)(9)] provides for assisted living facilities in the R-4 zone as a conditional use.

Article 16-2(c) requires that any off-street parking area having more than 1,800 square feet of area and/or one that is used by five (5) or more vehicles shall be landscaped and screened as required by Article 18: Landscape and Land Use Buffers.

Article 18-3(a)(1)(2) states that, whenever any office or business zone (other than P-2) adjoins any residential zone, a minimum 15-foot buffer area adjacent to all common boundaries behind the building line (except for street frontage) is required. This buffer area, which shall contain one tree per 40 feet of linear boundary (or fraction thereof) from either Group A or Group B of the LFUCG Planting Manual, plus a double row of 6-foot high hedge or a 6-foot high fence, wall or earth mound. It further states that the 15-foot buffer may be reduced to five feet when used in conjunction with a 6-foot high wall or fence.

Article 18-3(b) states: "Any open vehicular use area (excluding loading, unloading, and storage areas in an industrial [I-1 or I-2] zone or warehouse business [B-4] zone) containing 6,000 or more sq. ft. of area, or twenty (20) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to 6,000 or more square feet of area, or twenty or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion."

Article 18-3(b)(1) states: "For each one hundred (100) square feet, or fraction thereof, of vehicular use area, five (5) square feet of landscaped area shall be provided in all zones except the P-2 zone. In the P-2 zone, ten (10) square feet of landscaped area shall be required for each one hundred (100) square feet of vehicular use area.

### **CASE REVIEW**

This 5.2-acre property, which is located on the south side of Red River Drive between Trent Boulevard and Niagara Drive, is the subject of a zone change request to P-1 (Professional Office for approximately ½ acre) and R-4 (High Density Apartment for a little less than five acres) to allow for a variety of uses. Originally the entire property was proposed for P-1 zoning with the same uses; however, at the strong urging of staff, and after a recommendation of disapproval of that zone change request, the majority of the property is now proposed to be re-zoned to R-4. Accompanying this zone change is a request for three conditional uses: a community center, a child care/adult day care facility, and a 40-room assisted living/personal care facility. New buildings are proposed for the site to accommodate other uses, but the three conditional uses will occupy the two existing buildings on the site.

The subject property is within a much larger area that was studied for a small area plan in 2013. The resulting plan with recommendations was adopted as the *2015 Armstrong Mill Road West Small Area Plan* (AMWSAP) and contains several goals that focus on improving the neighborhoods making up the Armstrong Mill Road area. Two of the issues identified in the Small Area Plan are programming/activities for children and housing availability, affordability and accessibility for all demographics. Three of the resulting goals that were adopted by the Planning Commission as part of the Small Area Plan are: promoting livable neighborhoods with housing choices for all ages (while maintaining the neighborhood form); improving the quality of life and health; and enhancing the sense of place by creating community spaces that foster social interaction and a sense of identity. The conditional uses proposed for the site address issues identified in the study and are appropriate to and fit within these three particular goals.

This property was formerly the location of the Blue Grass Baptist School, a private school for academic instruction. The school no longer occupies the site; and the applicant for this zone change proposes to re-purpose the property with the requested uses, in addition to multi-family apartments for senior citizens and a medical facility, both of which will occupy newly constructed buildings. Provided the property is re-zoned as proposed, the medical facility and its associated parking will be located in the P-1 portion of the property, where such a facility is principally permitted; and the senior apartments, along with greenhouses and gardens (principally permitted as well, although the greenhouses and gardens are accessory uses), will be located in the R-4 portion of the property. The greenhouses and gardens will be used in conjunction with the adult/child day care facility as a joint learning/interaction activity. The community center, child/adult day care facility and assisted living facility will also be located within the R-4 area; and as conditional uses in that zone, they must be acted on by either the Planning Commission (with this zone change application) or later by the Board of Adjustment as a separate application.

Two variances have also been requested with this zone change request. The first is to eliminate the zone-to-zone screening between the P-1 zone and the R-4 zone, but only as it relates to the interior of the property. Generally, when a commercial zone adjoins a residential zone, there is a 15-foot landscape buffer area required between the zones. The 15-foot buffer can be reduced to five feet if a 6-foot fence, wall or earth mound is provided in conjunction with the plant material required by Article 18 of the Zoning Ordinance. More often than not, this situation occurs along a property line, where it is logical to require buffering. Occasionally, however, a zone line will be interior to a property, where it would be either illogical or impossible to provide the buffer. In this case, the P-1/R-4 zone line falls within the parking lot for the proposed medical facility and extends between one of the existing buildings (to be used for the community center and child/adult day care facility) and that parking lot. While it might be possible to provide some screening between the parking lot and the building, a 15-foot (or even a 5-foot) buffer would serve no purpose and would severely limit the functionality of the site. Additional perimeter landscaping will be provided along the property line, between the proposed P-1 zone and the existing R-1T zone to the east where the perimeter zone-to-zone screening is required, and where it will serve a functional purpose.

It was stated by the applicant that the additional landscaping along that property line is more critical than would be landscaping interior to the property between the proposed parking lot and the existing building. The staff cannot disagree with that assessment, as there are existing residences that adjoin the subject property in that location. The Zoning Ordinance requires that the landscape buffer along the eastern property line be at least 15 feet in width, unless a privacy fence or wall is implemented in conjunction with the trees that are proposed. In that case, it can be reduced to five feet; however, the applicant has offered to maintain a 15-foot buffer as part of the preliminary development plan and as a conditional zoning restriction.

The second variance is a request to eliminate one interior landscape island (700 square feet) within the vehicular use area in the P-1 portion of the property. The medical building that is proposed will contain 3,000 square feet, which requires 15 parking spaces (1 space for each 200 square feet of floor area). In order to provide all of the required 15 spaces on the P-1 portion of the property; and in order to re-zone as little as possible to P-1, responding to concerns previously expressed by the staff, eliminating the one required landscape island is necessary. Not requiring that 700 square feet of landscaping will have no negative and little overall effect to the development of this portion of the property, as the entire parking area in front of the proposed medical building will have two other, larger landscaped islands, each containing two trees.

Although it would be desirable for all of the parking areas on the site to be landscaped, it is only the parking area in front of the medical building that requires landscaping because it is the only new parking that is proposed. The other two areas that contain the majority of the parking are existing and may have been put in place prior to current requirements.

The *2015 Armstrong Mill West Small Area Plan* advocates providing housing for a diverse population, services for the elderly, and facilities to accommodate activities for children and youth, all of which will be accommodated with what is proposed for the property. The staff believes that granting approval of the requested conditional uses is appropriate and should not negatively affect the subject property or other properties in the general vicinity. A school was previously located on the property, and traffic from the proposed conditional uses should not be much (if any) more than was experienced with the school.

Granting the requested variances will allow a more cohesive development and will allow the entirety of the parking required for the proposed medical building to be located within the P-1 zoned portion of the property, while keeping the P-1 zoning at a minimum. The two requested variances should have little to no negative effect on the development of the property and, in fact, will allow a more cohesive development. Additional screening along the eastern property line is proposed and is appropriate for this development in order to provide reasonable protection for the adjoining residential properties to the east of the site.

The requested variances are logical, will likely improve the overall development of the property, and can therefore be supported by the staff. The Landscape Review Committee reviewed the variances at their regularly scheduled meeting on August 15 and agreed with the staff's assessment that the variances are justifiable and will allow a more cohesive development. After a brief discussion, they made a recommendation of approval of the applicant's request. There were no conditions attached to their recommendation, as the applicant has stated that additional perimeter screening will be provided.

**The Staff Recommends: Approval of the requested conditional uses**, for the following reasons:

- a. Granting the requested conditional uses should not adversely affect the subject or surrounding properties. The uses proposed are, in general, advocated by the Armstrong Mill West Small Area Plan, and will coincide with and help to facilitate the adopted goals of the Plan. Additionally, the property was previously occupied by a school for academic instruction. Traffic from the proposed three conditional uses, even with the other uses proposed, should not be much (if any) more than was experienced when it was used as a school.
- b. All necessary public services and facilities are available to and either are or will be adequate to serve the subject property, in part because the two existing buildings will be adaptively re-used as part of the proposed redevelopment of the property.

The Staff Recommends: **Approval of the requested landscape variances**, for the following reasons:

- a. Granting the requested variances will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public. Granting the variances will help to maintain a cohesive redevelopment of the property and will allow the proposed P-1 zoning to remain minimal with regard to the overall size of the property, thereby helping to maintain the existing character of the area.
- b. Granting the requested variances will not result in an unreasonable circumvention of the Zoning Ordinance. The subject property has historically been used as a school for academic instruction and is being redeveloped to generally correspond to the *2015 Armstrong Mill West Small Area Plan* recommendations. The two requested variances work together to provide as efficient and safe of a parking layout as possible. Additional landscaping will be provided by the developer along the eastern property line to take the place of what would otherwise be required by Article 18 for interior landscaping.
- c. One special circumstance that applies to this site that does not generally apply to land in the general vicinity is its former use as a school in the middle of a residential neighborhood. Although new buildings are proposed, the presence and layout of the existing buildings and parking will facilitate the redevelopment/adaptive reuse of the property, which is encouraged by the Comprehensive Plan.
- d. Strict application of the requirements of the Zoning Ordinance would prevent the most efficient layout of the parking area. Additionally, it might necessitate an increase in the amount of P-1 zoning on the property. The variances are requested in order to keep the required number of parking spaces for the medical building proposed for this project on the P-1 portion of the property.
- e. Although the circumstances surrounding the requested variance are associated with the proposed zone change, the variances are requested in an effort to accomplish an efficient design of the off-street parking area. Landscaping will be placed in a more appropriate location on the property to provide screening for residential properties.

This recommendation of approval is made subject to the following conditions:

1. Should the subject property be rezoned to R-4 and P-1, it shall be developed according to the approved Development Plan, or as further amended by the Planning Commission. A minimum 15-foot landscape buffer, as required by Article 18 of the Zoning Ordinance, shall be implemented along the eastern property line where it adjoins residential properties/zoning.
2. All necessary permits, including a Zoning Compliance Permit, Building and Paving permits and a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the facilities.
3. Provided the landscape variances for the elimination of the interior zone-to-zone screening and the elimination of the 700 square-foot landscape island are granted, the new 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. 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.
6. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
7. The final Landscaping Plan, submitted to the Division of Building Inspection for review, shall also be submitted to the Division of Planning to be placed in the appropriate file(s).

BJR/TLW

8/6/2017 (revised 8/21/2017)

PLN-MAR-17-00016(Amd)CU&VAR.doc

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

\* **Note:** The Planning Commission continued this item at the June 22, 2017 meeting.

- a. **PLN-MAR-17-00016; AFTON COMMUNITY DEVELOPMENT, LLC (AMD) (8/24/17)\***- an amended petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Professional Office (P-1) zone, for 0.46 net (0.558 gross) acres, and from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone for 4.76 net (4.98 gross) acres, for property located at 3743 Red River Road. A conditional use permit and dimensional variances 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 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 now proposes a mixture of High Density Apartment (R-4) and Professional Office (P-1) zoning 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. A conditional use and dimensional variances are also requested in association with this zone change application.

The Zoning Committee made no recommendation.

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

1. A restricted High Density Apartment (R-4) zone and Professional Office (P-1) zone for the subject property is in substantial agreement with the 2013 Comprehensive Plan, and the Armstrong Mill West Small Area Plan, which was adopted by the Planning Commission, for the following reasons:
  - a. The 2013 Comprehensive Plan recommends expanding housing choices to meet the needs of disadvantage and older populations (Theme A, Goal #1c.). The petitioner proposes an elderly housing element to the project, which will meet the needs of older and/or disadvantaged residents of Fayette County.
  - b. The Plan also recommends providing accessible community facilities and services to meet health, safety, and quality of life needs of the community (Theme D, Goal #2). Assisted living facilities to support the aging population; community facilities such as adult day care, child care and community centers; and medical offices are all needed within the community in a broader sense and can be considered necessary to meet the healthcare needs of the citizens of Fayette County.
  - c. The Comprehensive Plan recommends infill, redevelopment, and adaptive reuse that respect the area's context and design features (Theme A, Goal #2). The petitioner intends to adaptively reuse the vacant Blue Grass Baptist School site for a land use that will serve the neighborhood, and encourage aging in place.
  - d. The Armstrong Mill West Small Area Plan recommends improving the quality of life and health for all residents (Goal #5). The petitioner is improving access to very limited medical services by creating an incidental office use that is open to the public, is providing services for all ages by creating a child/adult day care as part of a community center, and is improving access to healthy food through the use of a community garden on-site.
  - e. A restricted P-1 zone can be considered incidental to the primary residential zone for the property. In this way, the proposed medical office will not have a negative impact on the surrounding neighborhood.
2. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property:**
  - a. **Principal Permitted uses Within P-1 zoned area shall be limited to only the following:**
    1. Offices for business, professional, governmental, civic, religious and charitable organizations.
    2. Schools for academic instruction.
    3. Medical and dental offices and clinics.
    4. Studios for work or teaching of fine arts.
    5. Places of religious assembly and Sunday schools.
    6. Nursing homes, personal care homes, and assisted living facilities.
    7. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.

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8. Beauty shops and barber shops, not exceeding 2,000 square feet in floor area, which employ no more than five licensed cosmetologists.
  9. Adult day care centers.
- b. **Accessory Uses within the P-1 zone shall be limited to only the following:**
1. Parking areas or structures.
  2. Non-commercial recreational uses listed in the P-1 zone.
- c. **Conditional Uses within the P-1 zone shall be limited to only the following:**
1. Offices of veterinarians, and animal hospitals (without overnight boarding).
  2. Parking lots and structures.
- d. **Conditional Uses within the R-4 zone shall be limited to only the following:**
1. Permitted conditional uses in the R-1A zone.
  2. Nursing homes, personal care homes, and orphanages.
  3. Assisted living facilities, boarding and lodging houses, and hospitality houses for more than eight (8) persons, provided that no use under this section may be less than 500 feet from another use permitted under this section.
  4. Community centers (without overnight accommodations).
  5. Kindergartens, nursery schools or child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain twenty-five (25) square feet per child.
  6. Parking lots, as permitted in Article 16-3 of the Zoning Ordinance.
- e. **Other Use Restrictions:**
1. The P-1 zoned land shall be limited to a maximum 3,000 square-foot, one-story building. Signage for such building shall be limited to one wall-mounted, non-illuminated sign, and shall be a maximum of ten (10) square feet in size.
  2. The R-4 zoned land shall be limited to a maximum of 60,000 square feet of total floor area.
  3. A landscape buffer of at least fifteen (15) feet in width shall be provided along the southern and eastern property boundaries, with plantings as specified by Article 18-3(a)(1)2 of the Zoning Ordinance, including a 6-foot tall privacy fence.
  4. Outdoor lighting shall be shielded and directed away from any adjacent residential zone. Lighting attached to a pole or any structure shall be a maximum of twenty (20) feet in height.
  5. No drive-through facilities shall be permitted on the subject property.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2013 Comprehensive Plan, and to protect the adjoining residential land uses from development that is out of character with the existing neighborhood.

- b. **REQUESTED CONDITIONAL USE**
1. Community center
  2. Child care and adult day care facility
  3. Assisted living/personal care facility
- c. **REQUESTED VARIANCES**
1. Eliminate zone-to-zone landscape screening requirements internal to site
  2. Elimination of one interior landscape island of 700 square feet from the vehicular use area (VUA) in the proposed P-1 portion of the property

The Zoning Committee made no recommendation.

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

- a. Granting the requested conditional uses should not adversely affect the subject or surrounding properties. The uses proposed are, in general, advocated by the Armstrong Mill West Small Area Plan, and will coincide with and help to facilitate the adopted goals of the Plan. Additionally, the property was previously occupied by a school for academic instruction. Traffic from the proposed three conditional uses, even with the other uses proposed, should not be much (if any) more than was experienced when it was used as a school.
- b. All necessary public services and facilities are available to and either are or will be adequate to serve the subject property, in part because the two existing buildings will be adaptively re-used as part of the proposed redevelopment of the property.

The Staff Recommends: Postponement of the requested landscape variances, for the following reason:

- a. The Landscape Review Committee has not had an opportunity to review the requested variances. The next scheduled meeting is on August 15; and if a quorum is present, a recommendation on the requested landscape variances will likely

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

be made. Although the staff sees the requested variances as logical and justified, until that meeting occurs, it is best to defer a substantive recommendation.

This recommendation of Approval is made subject to the following conditions:

1. Should the subject property be rezoned to R-4 and P-1, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission. A minimum 15-foot landscape buffer, as required by Article 18 of the Zoning Ordinance, shall be implemented along the eastern property line where it adjoins residential properties/zoning.
2. All necessary permits, including a Zoning Compliance Permit, Building and Paving permits and a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the new facilities.
3. Provided the landscape variances for the elimination of the interior zone-to-zone screening and the elimination of the 700 square-foot landscape island are granted, the new 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. 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.

- d. PLN-MJDP-17-00035: MELODY VILLAGE, UNIT 3-C, BLK C, LOT 12 (8/24/17)\* - 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.

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. Alter the plan status to be for a preliminary development plan, and reflect in title.
9. 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.

Staff Zoning Presentation – Ms. Wade said that this is a continuation of hearing that was previously held on June 22, 2017. She said that the applicant had amended their original application to request a split zone for the property, which is primarily High-Density Apartment (R-4 zone) and Professional Office (P-1 zone). She said that the applicant did not make very many changes to their development plan, but with their zone change they did now need to apply for a conditional use and two variances.

Ms. Wade said the staff agreed that because the amended proposal significantly reduced the P-1 zone, that it is now in agreement with the 2013 Comprehensive Plan and the Armstrong Mill Road West Small Area Plan. She said the applicant offered conditional zoning restrictions for both portions of properties. She said that staff did incorporate a majority of what the applicant offered but the staff couldn't support allowing the community centers as a principal permitted use, rehabilitation homes, hospitals, or accessory pharmacies and the accessory retail sales or personal services.

Ms. Wade said the staff is recommending approval and believes the amended application complies with the 2013 Comprehensive Plan and the Armstrong Mill Road West Small Area Plan.

Commission Question – Mr. Owens asked how the conditional uses within the P-1 zone are limited to offices of veterinarians and animal hospitals fits in. Ms. Wade replied that the applicant wants a medical office but under the available uses in the P-1 zone, they believed that the use could be feasible in a small building (3,000 square feet).

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

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

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



1. Provided the Urban County Council rezones the property P-1 and R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. 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/~~Correct Planning Commission certifications.
7. ~~Resolve difference between P-1 FAR and lot coverage limitations, given two-story development proposed.~~
8. ~~Alter the plan status to be for a preliminary development plan, and reflect in title.~~
9. ~~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.~~
7. 44. Correct site statistics for square footages based upon proposed buildings.
8. Provided the Planning Commission grants the requested variance to Art. 18 of the Zoning Ordinance.
9. Denote conditional use per Planning Commission approval on the plan.
10. Denote conditional zoning restrictions on the plan.

Mr. Martin pointed out the access off of Red River Drive, the existing school and the gymnasium, the proposed professional office and senior apartments. He said the applicant will be utilizing the existing drive and parking. He said the applicant is proposing approximately 55,000+ square feet of development on the property.

Mr. Martin said there are standard conditions on the plan, and reconciling the exact square footage shown in the buildings and in their site statistics. He said for the variance requested, the applicant needs to denote the conditional uses and the conditional zoning restrictions on the plan. He said the Subdivision Committee didn't review this revision, but the staff is recommending approval.

Requested Conditional Use and Variances - Mr. Martin presented the staff report and the staff's recommendations for the requested conditional use permits for a community center, child care and adult care facility, and assisted living/personal care facility for the portion of the property that is being requested for change to the R-4 zone. He said that these types of uses meet several goals from the Armstrong Mill Road West Small Area Plan, including the provision of a range of housing for different age groups and demographic characteristics. He said these uses will improve the quality of life and health by having the elderly and young people together creating a sense of community in a neighborhood setting.

Mr. Martin also addressed the two landscape variances the applicant is requesting, which relate to the P-1 zone and the R-4 zone. The first is to eliminate the zone-to-zone screening between the two zones, and the second is to eliminate the interior landscape island which is required within the parking area of the P-1 zone. He said that the Landscape Review Committee agreed with staff to recommended approval of these variances.

Applicant Presentation - Rich Murphy, representing the petitioner. He said the applicant is in agreement with the staff's recommendations and is available for questions.

Commission Question - Ms. Plumlee asked the applicant if there will be a duplication of services with the development being built on nearby Trent Village, which is an over 55 year old community. Mr. Bryan Hubbard replied that the Trent Village is serving more of the special needs population and not specifically elderly. He said there may be some overlap, but not any duplication.

Citizen Comment - There were no citizens present to speak to this application.

Zoning Action - A motion was made by Ms. Richardson, seconded by Mr. Owens, and carried 10-0 (Penn absent) to approve PLN-MAR-17-00016: AFTON COMMUNITY DEVELOPMENT, LLC (AMD), including conditional zoning restrictions, for the reasons provided by the staff.

Development Plan Action - A motion was made by Ms. Richardson, seconded by Mr. Owens, and carried 10-0 (Penn absent) to approve PLN-MJDP-17-00035: MELODY VILLAGE, UNIT 3-C, BLK C, LOT 12, with the revised conditions provided by the staff.

Conditional Use - A motion was made by Ms. Richardson, seconded by Mr. Owens, carried 10-0 (Penn absent) to approve the conditional use of the community center, child care and adult care facility, and assisted living facility, as recommended by the staff.

Requested Variance Action - A motion was made by Ms. Richardson, seconded by Mr. Owens, carried 10-0 (Penn absent) to approve the requested variances, for the reasons provided by the staff.

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).