

**2. ANDERSON COMMUNITIES ZONING MAP AMENDMENT & PAPPERT PROPERTY (AMD) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-18-00024: ANDERSON COMMUNITIES (12/30/18)\*- an amended petition for a zone map amendment from a restricted Planned Neighborhood Residential (R-3) zone to an unrestricted Planned Neighborhood Residential (R-3) zone, for 28.44 net (29.74 gross) acres, and from a restricted Planned Neighborhood Residential (R-3) zone to a High Density Apartment (R-4) zone, for 9.3 net (12.81 gross) acres, for property located at 2811 Spurr Road.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 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 Plan's 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. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes rezoning a portion of the subject property to a High Density Apartment (R-4) zone to allow for the construction of three elderly apartment buildings. Additionally, the applicant proposes to remove the conditional zoning on the remaining portion of the subject property to allow for the construction of the apartment buildings, while also allowing for a higher density and mixture of housing options. The proposed zone change would include the development of 364 total units at a density of 9.64 units per acre.

The Zoning Committee Recommended: Approval to the full Commission.

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

1. The requested High Density Apartment (R-4) and Planned Neighborhood Residential (R-3) zones are in agreement with the 2013 Comprehensive Plan and the adopted Goals and Objectives of the 2018 Comprehensive Plan, for the following reasons:
    - a. Both the R-3 and R-4 zones allows for a mix of housing types and densities within the broader neighborhood (Theme A, Goal #1). The petitioner proposes a higher density development with direct access to open space.
    - b. The Comprehensive Plan allows for the supporting infill and redevelopment (Theme A, Goal #1.b. and Goal #2), while increasing the density of the development, which will help to uphold the Urban Service Area concept (Theme E, Goal #1). The overall residential density is increasing to 9.64 dwelling units per acre.
    - c. The proposal also maximizes development on vacant land within the Urban Service Area and promotes the use of underutilized or vacant land in a way that enhances the existing urban form (Theme E, Goal #1.a and 1.b). The subject property has remained vacant, yet rezoned to an urban zone, for more than a decade.
  2. The removal of the conditional zoning restrictions on the property is appropriate, for the following reasons:
    - a. There have been significant changes of an economic, physical and social nature within the area surrounding the subject property that have substantially altered the character of the area, resulting in the restrictions becoming inappropriate.
    - b. New development has occurred in this area, and Spurr Road has become more urbanized; thus, making removal of the 50-foot setback appropriate. In addition, the petitioner plans to front dwelling units to Spurr Road, creating an improved street orientation and aesthetic.
    - c. Per Article 19-7(g)(4)(c) – Vegetative Buffer, the applicant must locate their development in areas outside of the creek and alluvial areas.
    - d. The additional density proposed on the site is located along the collector street system and with direct access to available open spaces in the immediate vicinity.
  3. This recommendation is made subject to the approval and certification of PLN-MJDP-18-00083: Pappert Property (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-18-00083: PAPPERT PROPERTY (AMD) (12/30/18)\* - located at 2811 SPURR ROAD (A PORTION OF), LEXINGTON, KY.  
Project Contact: EA Partners

**Note:** The purpose of this amendment is to rezone a portion of the property.

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

1. Provided the Urban County Council rezones the property to R-4 and remove conditional zoning; 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.

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4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote existing and/or proposed easements.
8. Provided the Planning Commission grants a waiver to Articles 6-8(b) & 6-8(f).
9. Provided the Planning Commission grants a waiver to Article 6-8 and Exhibit 6-1.
10. Discuss single family lot orientation to the greenspace area.
11. Discuss proposed street intersection at townhouses.
12. Discuss access to the townhouse area.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the zone change. He displayed photographs of the subject properties and aerial photographs of the general area. He said the applicant is seeking to change the zone of a portion and to remove the conditional zoning restrictions on the remaining portion of the subject property. He said that the applicant is proposing three elderly apartment buildings to be constructed, and to construct a mixture of townhomes and single family residences, which would be a total of 564 units and at a density of 9.64 units per acre. He said that the subject property was rezoned in 2006 for 128 single family residential dwelling units, which were concentrated on the west side of the property, away from the railroad and the creek. This rezoning included conditional zoning restrictions regarding density, setbacks, and environmental conservation.

Mr. Baillie said that the applicant indicated in their justification that the previously applied conditional zoning is now inappropriate for this site and that there have been significant changes of an economic, physical and social nature within the area, not anticipated when the conditional zoning was imposed, and that these changes have substantially altered the character of the area, resulting in the restrictions becoming inappropriate or improper. He said that the 50-foot building setback was to preserve the rural character of Spurr Road and as new development has occurred in this area, Spurr Road has become more urbanized and the roadway is now proposed to be improved to urban standards. He added that subsequent neighboring subdivisions have been constructed and proposed without observing a 50-foot setback.

Mr. Baillie said that in terms of the 16.4 acres of wooded land determined to be environmentally sensitive, the applicant suggests that the area has been more precisely studied since its designation. He said that the applicant will seek to locate their proposed development in areas outside of the vegetative buffer associated with the creek and alluvial areas, which will allow for the majority of protected land to remain as open space. He said that there have also been changes to the LFUCG Zoning Ordinance, as well as the Stormwater Manual, that further protects environmentally sensitive areas, and the vegetative buffer zone. He added that this buffer allows for the protection of the environmentally sensitive areas that were the concern of the Planning Commission when the conditional zoning restriction was put into place.

Mr. Baillie said that the petitioner opines that both the zone change to R-4 and the removal of conditional zoning is consistent with the 2013 Comprehensive Plan and the adopted Goals and Objectives of the 2018 Comprehensive Plan by maintaining the Urban Service Boundary, while increasing the density of housing. The petitioner indicates that the rezoning of the site will accommodate the demand for housing in Lexington by prioritizing higher-density, adding a mixture of housing types, and supports infill and redevelopment throughout the Urban Service Area. Additionally, the applicant opines that this proposal also maximizes development on vacant land within the Urban Service Area and promotes use of underutilized land. The staff concurs with these elements of the applicant's justification and supports the requested rezoning for the subject site.

Development Plan Presentation – Mr. Martin presented a rendering of the revised preliminary development plan associated with the zone change and he distributed an updated staff report to the Commission with revised conditions, as follows:

1. Provided the Urban County Council rezones the property to R-4 and remove conditional zoning; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote existing and/or proposed easements.
8. Provided the Planning Commission grants a waiver to Articles 6-8(b) & 6-8(f).
9. Provided the Planning Commission grants a waiver to Article 6-8 and Exhibit 6-1.
- ~~10. Discuss single family lot orientation to the greenspace area.~~
- ~~11. Discuss proposed street intersection at townhouses.~~
- ~~12. Discuss access to the townhouse area.~~

Mr. Martin said that this is combination plan, a preliminary development plan and a preliminary subdivision plan. He said that there are three, five-story buildings, with a total of 210 units, and 163 parking spaces, which will be the elderly apartment buildings. He said that there is proposed an emergency access off of Spurr Road. He added that there are 130 single family lots and

25 townhouses also being proposed. He said that there was concern with the street pattern being proposed. He pointed out the access off of Sandersville Road, which will be a collector street. He said that this revised plan added medians that prevent conflicts and direct traffic near the entrance at to Spurr Road. He said the applicant is proposing that all of the single family lots be rear loaded, with all vehicular access at the rear of the units. He also pointed out the greenway and environmentally sensitive area, as well as the temporary pump station that will go offline as the sanitary sewers in this area are improved.

Mr. Martin said that there are two waivers associated with this proposal, which are connected to the design of the development. He said that one of the waivers is asking to waive the geometric requirements of the streets, which will affect the right-of-way. He said that the applicant is proposing to maintain the required pavement width. He said that a portion of the right-of-way will be in the easement, allowing the homes to be closer to the street, because the setback will be off of the right-of-way. He said that the second waiver request is for the right-of-way of the collector street. He added that the Division of Traffic of Engineering was concerned with the first waiver, because of the operational issues of the easement. He said that there is another waiver for terminating a public street into a private access easement. He said that it will not be gated and will allow public safety vehicles full access. He said that the staff is recommending approval of this plan and the associated waivers, along with a condition, which states the easement language shall be developed with the approval of the Division of Law.

Commission Question – Mr. Penn asked Mr. Martin if the streets are 31 feet wide. Mr. Martin said that the streets are 31 feet from curb to curb, as required.

Applicant Presentation – Mr. Dick Murphy, attorney representing the petitioner, said that the applicant is in agreement with the staff's recommendations and conditions. He said that they agree with the 2013 Comprehensive Plan and the 2018 Comprehensive Plan's Goals and Objectives by increasing density, utilizing overlooked parcels, encouraging pedestrian friendly communities, and preserving the Urban Service Boundary. He displayed the development plan that was presented at the Subdivision Committee meeting on December 6, which depicted the intersection at Spurr Road. He then displayed the revised development plan with the new median, the new location of the parking area, the open space, and the pedestrian access.

Mr. Murphy then displayed an aerial of Townley Center, which is similar to this development, with the exception of wider streets in this subdivision; they will be an additional five feet wide. He said that the waiver request will allow the houses to be closer to the sidewalk. He added that the streets will be dominated by houses and porches, which he believes is what the 2018 Comprehensive Plan recommends. The driveways will be located in the rear with an access street so that pedestrians can walk safely along the street. He said that there will be a combined utility and street tree easement. He added that they have agreed to work out the language for the easement, as required by the government.

Mr. Murphy said that they had met with the neighbors and he was informed that there was a graveyard located on the subject property. He said that they were unaware of that and that the two previous plans, from 2006 and 2017, also didn't depict a graveyard. He said that the property will be checked for such and if there is, there are Zoning Ordinance provisions that will need to be followed. He said that they were concerned with traffic running through the development and the narrow streets and medians are traffic calming features. He added that locating houses closer to the streets is also a traffic calming feature.

Commission Questions – Mr. Owens said that most of the single family lots are similar in size with the exception of a few. He asked how much variation will there be with these units. Mr. Dennis Anderson said that the lot sizes are 26-36 feet. He added that there are three different floor plans and three different elevations, which is the same model that was built in Townley Center. The units will be approximately 1,350 square feet.

Ms. Plumlee asked where the utilities will be located. Mr. Murphy said that they will be underground, between the curb and sidewalk.

Citizen Comment – Karen Winn, 2965 Spurr Road, is concerned about fencing along the agricultural boundary on the west side of this development. She said that there is a historical cemetery on this property, which is comprised of six stones dating back to 1814. She is also concerned about improvements being made to Spurr Road, which is currently very narrow.

Angel Reed, 3009 Laguna Court, is concerned about the increased traffic on Sandersville Road and the cut through traffic in their neighborhood. She also said that Spurr Road will need to be improved. Lastly, she stated she is also concerned about the increase of students in the schools.

Tiffany Roland, 3108 Movado Court, said that she is also concerned with the school size and the safety of children. She also said that she believes the infrastructure of the street will need to be increased.

Applicant Rebuttal – Mr. Murphy addressed Ms. Winn's concern regarding the fencing along the agricultural zones. He stated they will meet the requirements of the Subdivision Regulations and that fencing will be addressed on the final development plan or the subdivision plat. He said that there is a provision that will need to be addressed with Ms. Winn regarding the types of fence. He said that the cemetery will be researched since it was not on any of the previous plans and there are ordinances that

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will need to be complied with and this will also be on the final development plan. He said that there was some discussion regarding Spurr Road at the Subdivision Committee meeting. He added that they will construct a 1/2 urban section on their portion, which includes curb, gutter, and sidewalks along Spurr Road. He said that the connection onto Sandersville Road is also a requirement and they will be in compliance, including traffic calming. He said that in regards to the increase of students in the school system, that impact should be minimum, because the majority of these units are elderly housing.

Citizen Rebuttal – There was no rebuttal at this time.

Staff Rebuttal - There was no rebuttal at this time.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Forester, and carried 11-0 to approve PLN-MAR-18-00024: ANDERSON COMMUNITIES, for the reasons provided by the staff.

Development Plan Action – A motion was made Mr. Berkley, seconded by Mr. Forester, and carried 11-0 to approve PLN-MJDP-18-00083: PAPPERT PROPERTY (AMD), with the revised conditions provided by the staff.

Waivers Action – A motion was made Mr. Berkley, seconded by Mr. Forester, and carried 11-0 to approve the waivers associated with the development plan, for the reasons provided by the staff with the addition of the recommendation made with the easement language being sufficient to provide the government full ability to meet all operational and maintenance requirement on the public streets.