

AN ORDINANCE MODIFYING A CONDITIONAL ZONING RESTRICTION TO INCREASE ALLOWABLE SQUARE FOOTAGE FROM 60,000 TO 80,000 SQUARE FEET FOR 5.124 NET (5.510 GROSS) ACRES, FOR PROPERTY LOCATED AT 3743 RED RIVER DRIVE (3743 FREEDOM, LLC; COUNCIL DISTRICT 8).

WHEREAS, at a Public Hearing held on June 27, 2024, a petition for a zoning ordinance map amendment for property located at 3743 Red River Drive to modify the conditional zoning restriction to increase square footage from 60,000 to 80,000, for 5.124 net (5.510 gross) acres, was presented to the Urban County Planning Commission, said Commission recommending approval of the zone change by a vote of 11-0; 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 modification in the conditional zoning restrictions for property located at 3743 Red River Drive to modify the conditional zoning restriction to increase allowable square footage from 60,000 to 80,000 square feet, for 5.124 net (5.510 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 to modify the conditional zoning restrictions is made subject to the following:

1. Under the provisions of Article 6-7 of the Zoning Ordinance, the following amended use restrictions shall apply:
 - A. Principal Permitted uses within the P-1 zoned 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

CERTIFICATE

I do hereby certify that the title to this enactment contains an accurate synopsis of the contents thereof and may be used to satisfy the receding and publication requirements of the law.


DEPARTMENT OF LAW

- 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 Ususes 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 80,000 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 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.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2045 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:

August 29, 2024



MAYOR

ATTEST:



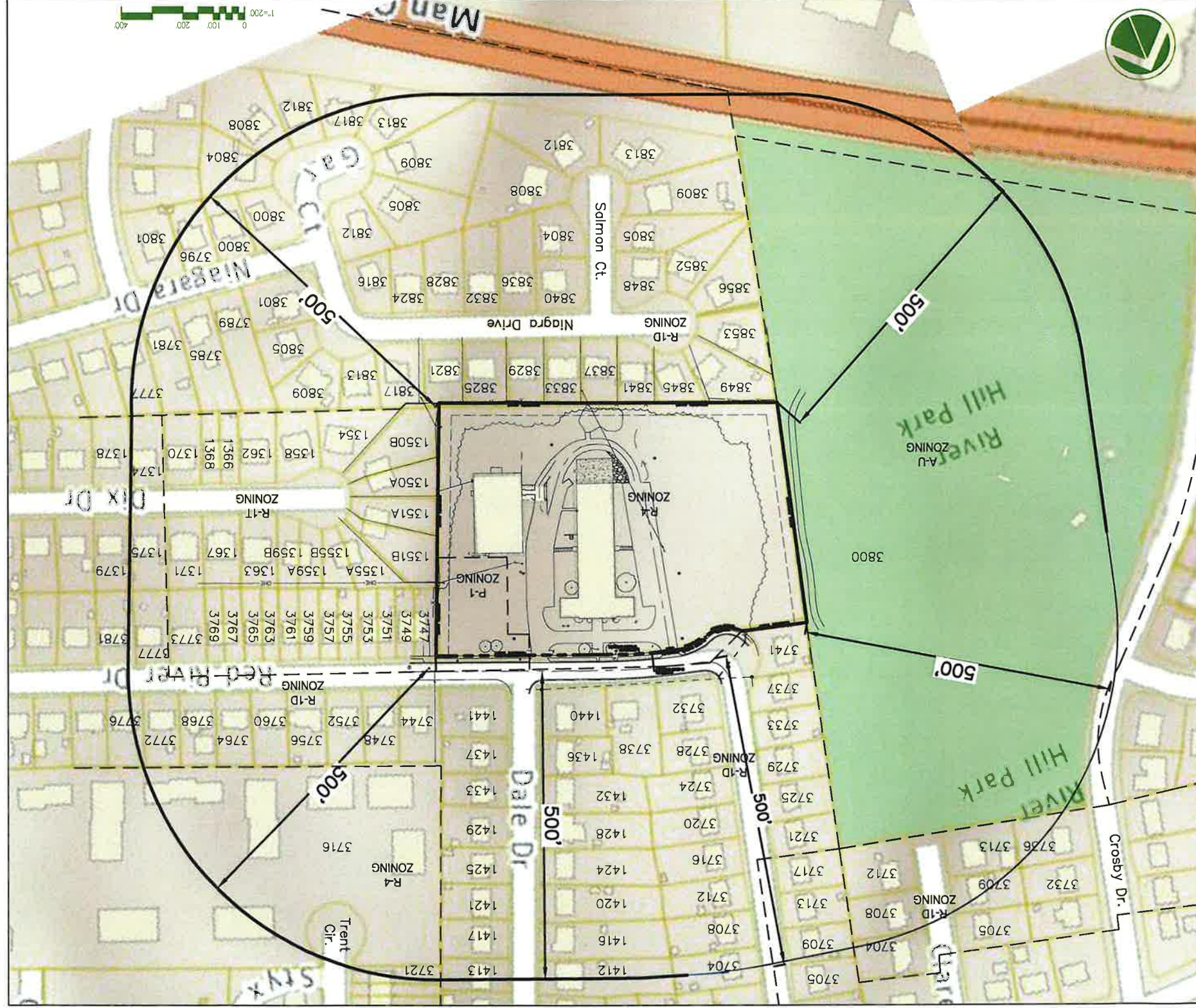
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: Sept. 6, 2024- 1t
0771-24:TWJ.4875-2401-4551, v. 1

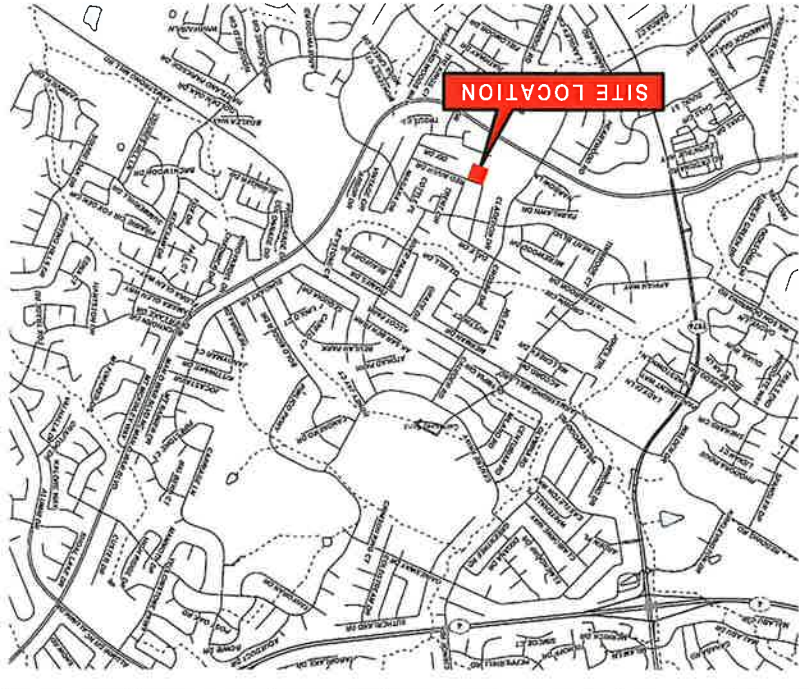


Title: FREEDOM SENIOR APARTMENTS			
Property Address: 3743 Red River Drive, Lexington KY 40517	Applicant Name/Address:	Owner Name/Address: 3743 Freedom LLC	4511 Bardstown Road, Louisville KY 40218
Prepared By: QK4			
From	To	Net	Gross
R-4	Modify CZ	4.728	4.988
P-1	Modify CZ	0.396	0.522
TOTAL		5.124	5.510

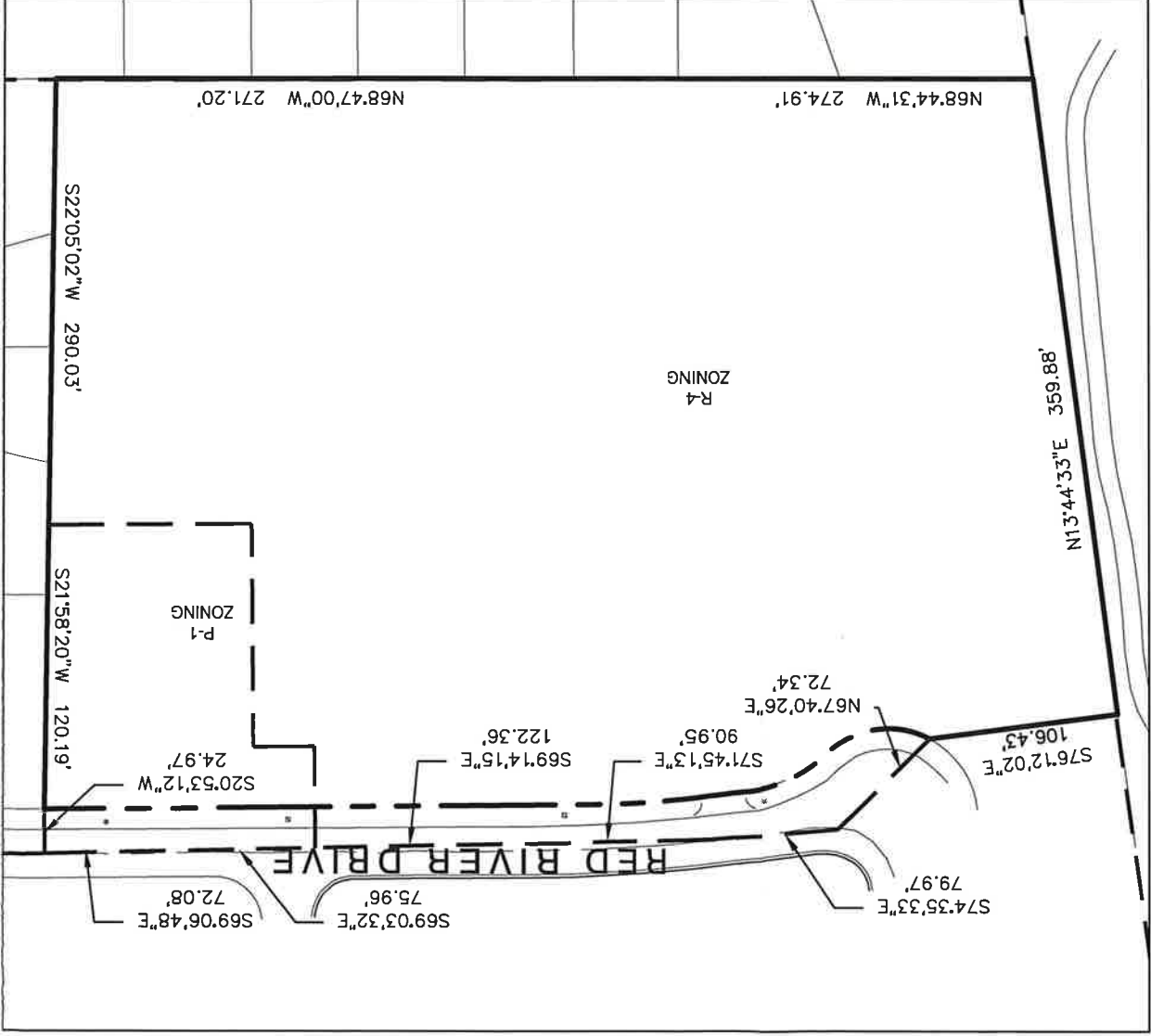
Notification Map



Vicinity Map



Property Map



Rec'd by _____

Date: _____

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

IN RE: PLN-MAR-24-00008: 3743 FREEDOM, LLC – a petition for a zone map amendment to modify Conditional Zoning Restriction to increase allowable square footage from 60,000 to 80,000 square feet, for 5.124 net (5.510 gross) acres for property located at 3743 Red River Drive. (Council District 8)

Having considered the above matter on **June 27, 2024**, at a Public Hearing, and having voted **11-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The miscalculation of the size of the existing school structure at is a difference in the physical character of the site that was not considered at the time of the 2017 zone change, which makes the current conditional zoning restriction in the Medium Density (R-4) zone inappropriate.
2. There has been a significant increase within the elderly population within Census Tract 40.01 that constitutes a social change, and results in a greater need for senior affordable housing within the immediate area.
3. The conditional zoning restriction unreasonably restricts the utilization of the subject property, and would prohibit the development that was approved by the Planning Commission within the corresponding Preliminary Development Plan from 2017.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following amended use restrictions shall apply:
 - 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 80,000 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.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2045 Comprehensive Plan, and to protect the adjoining residential land uses from development that is out of character with the existing neighborhood,

5. This recommendation is made subject to approval and certification of PLN-MJDP-24-00033: Melody Village, Unit 3-C Blk C, Lot 12 (Freedom Senior Apartments), 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 9th day of August, 2024.



Secretary, Jim Duncan

LARRY FORESTER
CHAIR

K.R.S. 100.211(7) requires that the Council take action on this request by September 25th, 2024

Note: The corollary development plan, PLN-MJDP-24-00033: Melody Village, Unit 3-C, Blk C, Lot 12 (Freedom Senior Apartments) was approved by the Planning Commission on June 27th, 2024 and certified on July 12th, 2024.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Shannon Huffer, applicant representative.**

OBJECTORS

- None.

OBJECTIONS

- None.

VOTES WERE AS FOLLOWS:

AYES: (11) Barksdale, Johnathon Davis, Zach Davis, Forester, Meyer, Michler,
Nicol, Owens, Pohl, Wilson, and Worth

NAYS: (0)

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of PLN-MAR-24-00008 carried.

Enclosures:

- Application
- Justification
- Legal Description
- Plat
- Development Snapshot
- Staff Reports
- Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

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

Applicant: 3743 FREEDOM LLC, 4511 BARDSTOWN RD, LOUISVILLE, KY 40218
Owner(s): 3743 FREEDOM LLC 4511 BARDSTOWN RD LOUISVILLE KY 40218
Attorney: Clifford Ashburner, 101 South Fifth Street, Suite 2500, Louisville, KY 40202
2. ADDRESS OF APPLICANT'S PROPERTY 3743 RED RIVER DR LEXINGTON KY 40517

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing Use	Zoning	Requested Use	Net	Acreage	Gross

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 checked="" 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



CONDITION AMENDMENT JUSTIFICATION

3743 Red River Road Ordinance No 145-2017

The proposed development is located on the south side of Red River Drive and in the River Park neighborhood. The applicant previously received approval for the requested zone change in Ordinance No 145-2017 in order to re-purpose the existing structures for an assisted living facility, medical offices, adult and child care centers, and a community center, and build new structures for medical offices and senior housing on the site. The zone change approval included an Other Use Restriction, which limited the R-4 zoned land to a maximum of 60,000 square feet of total floor area.

The Lexington-Fayette Urban County Council and the Urban County Planning Commission agreed the R-4 zone change request was in substantial agreement with the 2013 Comprehensive Plan, and the Armstrong Mill West Small Area Plan. The proposed development expanded housing choices to meet the needs of a disadvantaged and older population and meet the healthcare needs of the citizens of Fayette County, fulfilling Theme A, Goal #1c and Theme D, Goal #2 of the Comprehensive Plan. The proposed development reuses the vacant Blue Grass Baptist School site and encourages ageing in place, achieving Theme A, Goal #2 of the Comprehensive Plan. The proposed development creates an incidental office use that provides services for all ages as part of a community center, which improves access to medical services, accomplishing Goal #5 of the Armstrong Mill West Small Area Plan.

The applicant originally proposed 3 separate buildings and a community food garden, totaling 27,300 square feet. The new development proposes a 4 story building, totaling 46,315 square feet. The proposed modular building will utilize innovative materials and building techniques and will be first modular senior housing development in the state. The proposed modular development will maintain the same approved use and is compatible with the existing and projected future development of the area. The proposed development also includes a 1,385 square foot greenhouse, which is included into the maximum total floor area of the site. The proposed development also includes a dog park, front lawn, raised planting bed area, covered lounge, rainwater harvest tank, and a sidewalk connection to River Hill Park. The site design remains the same and will provide two points of access off Red River Drive, as previously approved.

The proposal to modify the maximum square feet of total floor area in the R-4 zoned land is in conformance with the Comprehensive Plan and Armstrong Mill West Small Area Plan. The applicant is not disturbing the existing developments and is only requesting an amendment from the condition, which will allow the applicant to offer an innovative modular building for senior housing to the community.

CONDITION AMENDMENT JUSTIFICATION
3743 Red River Road
Ordinance No 145-2017

The developer requests the increase of the R-4 Zoning restriction from 60,000 square foot (sqft) to 80,000 sqft, a 20,000 sqft increase. Since the original approval in 2017, there have been major physical (neighborhood), economic and social changes within the Fayette County, KY, where the subject property is located. Changes that were not anticipated at the time the Lexington-Fayette Urban County Council and the Urban County Planning Commission imposed the 60,000 sqft rezoning restriction. This paper will provide supplemental information to support this request, while ensuring the provisions set in the 2015 Armstrong Mill West Small Area Plan are not violated. Additionally, the developer is not requesting any other changes to the other Council and Commission zoning restrictions.

The proposed development is located on the south side of Red River Drive and in the River Park neighborhood. The applicant previously received approval for the requested zone change in Ordinance No 145-2017 in order to re-purpose the existing structures for an assisted living facility, medical offices, adult and child care centers, and a community center, and build new structures for medical offices and senior housing on the site. The Lexington-Fayette Urban County Council and the Urban County Planning Commission approved the 2017 R-4 Rezoning request that consisted of four planned buildings scattered throughout the site with the two existing structures (gym and vacant school) totaling 58,036 sqft. However, the zone change approval included an Other Use Restriction, which limited the R-4 Zoned land to a maximum of 60,000 sqft of total floor area. The Council and Commission also agreed that the overall R-4 and P-1 Rezoning request agreed with the 2015 Armstrong Mill West Small Area Plan that was incorporated into the area's 2013 Comprehensive Plan.

Physical changes in the area that would justify the modification of the R-4 Zoning conditions. The original 2017 plan for the R-4 Zone consisted of four new structures scattered throughout the site - three separate buildings (27,300 sqft floor area) plus a community food garden (5,760 sqft floor area) – plus two existing structures (vacant school and gym) for a total 58,036 sqft. However, recent reexamination of this plan identified that the square footage calculation was incorrect, the plan does not total 58,036 sqft but actually totals 64,036 sqft. The existing vacant school building is actually 21,012 sqft, not 15,012 sqft as calculated in 2017, representing an increase of 6,000 sqft. Therefore, the plan initially did not comply with the 2017 Lexington-Fayette Urban County Council and the Urban County Planning Commission Other Use Restriction, which limited the R-4 Zoned land to a maximum of 60,000 sqft of total floor area. Refer to Figure 1 (Previous 2017 R-4 Rezoning Design Plan).

The new proposed R-4 site development plan consolidates the four new structures scattered throughout the site into a single new 46,315 sqft four-story apartment building, with a common space annex and a 1,385 sqft domed greenhouse. It removes the planned incorporation of the two existing structures (gym and vacant school) in order to maximize the amount of housing that could be provided to low-income seniors in the area in accordance with a nine percent Low Income Housing Tax Credit (LIHTC) project by the State of Kentucky. Nevertheless, the plan must still account for the two existing structure's 30,976 sqft of floor area because they are potentially usable

space within the R-4 Zone, even though these structures will not be utilized. The revamped design does increase the site's proposed square footage from the previous approved 58,036 sqft (really 64,036 sqft after the error was detected) to 78,676 sqft. However, this 14,640 sqft increase in floor area is predominantly vertical because the new plan reduces the amount of impervious ground cover. The 2017 plan called for 58,036 sqft of impervious lot coverage; whereas, the new 2024 plan calls for 40,793 sqft of impervious lot coverage. This is a reduction of 17,243 sqft impervious ground coverage, thereby, preserving more of the site's greenspace. Therefore, the new plan develops the R-4 Zone more efficiently, thereby, causing less disruption to the existing space. Consequently, it has a higher degree of compliance with the intent of the 2015 Armstrong Mill West Small Area Plan by protecting the adjoining residential land uses from development that is out of character with the existing neighborhood. Refer to Figure 2 (New 2024 R-4 Rezoning Design Plan).

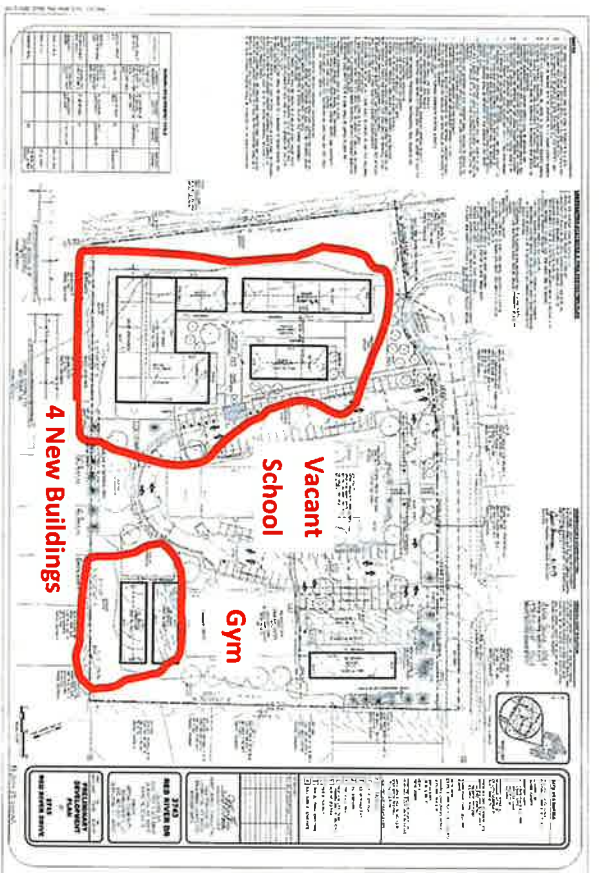


Figure 1. Previous 2017 R-4 Rezoning Design Plan



Figure 2. New 2024 R-4 Rezoning Design Plan

Social changes in the area that would justify the modification of the R-4 Zoning conditions. Analysis of 2017 to 2024 demographic data of citizens in the Fayette County, Kentucky (KY) area age 60 and older, obtained from the Demographic And Housing Estimates, American Community Survey (ACS), U.S. Census Bureau, shows a 38 percent increase of this population since the 2017 rezoning. This trend is in line with national demographics, as the U.S. “Baby Boomer” generation (ages 61-79 years old) ages. Concurrently, it is feasible to conclude that the need for affordable housing, especially affordable senior housing, in the county has also increased. Refer to Table 1 (Fayette County, KY 60 and older Demographics).

Fredon LIHTC Apartments Minimum Eligibility Age - 62 yrs old				
LABEL	2017 Census Tract Fayette County, KY Estimate	2024 Census Tract Fayette County, KY Estimate	DELTA	% Change
Total population	6,354	6,482	128	2.01%
60 to 64 years	247	338	91	36.84%
65 to 74 years	460	467	7	1.52%
75 to 84 years	187	174	-13	-6.95%
85 years and over	39	86	47	120.51%
TOTAL NET INCREASE BETWEEN 2017 AND 2024: 132				
AVERAGE % CHANGE BETWEEN 2017 AND 2024: 38%				

Table 1. Fayette County, KY 60 and older Demographics

Additionally, in the 2014 Housing Study for Fayette County produced by CZB, LLC, there was a stated need for 6,000 additional affordable housing units. According to the Kentucky Housing Corporation’s most recent 2024 analysis, Fayette County is now more than 14,000 rental units short, with another 8,800 for sale units required to meet the affordable housing requirement. Furthermore, the 2024 revamped Freedom LIHTC Apartment plan does increase the site’s proposed square footage from the previous 2017 approved 58,036 sqft (really 64,036 sqft after the error was detected) to 78,676 sqft. However, this increase facilitates expanding the 2017 planned 28 units to 52 units, which represents an 85.7 percent increase in available low income senior housing. This increase offers 24 more single or married local low income housing qualified seniors, who may no longer be able to live independently in their personal homes, an opportunity to remain in their neighborhood. This does not account for all the other amenities the planned development will offer its residents. Therefore, increasing the square footage of the development helps to offset the area’s increased housing demand, while offering a unique senior housing option that incorporates on-site medical care and meals, plus social activities. Consequently, the increased need for housing, especially affordable housing, in the Fayette County community should represent enough of a social change in the area’s fabric to justify increasing the 2017 R-4 Zoning restriction from 60,000 sqft to 80,000 sqft. Refer to Table 2 (Kentucky Housing Corporation’s most recent 2024 analysis, Fayette County).

Current Housing Gap

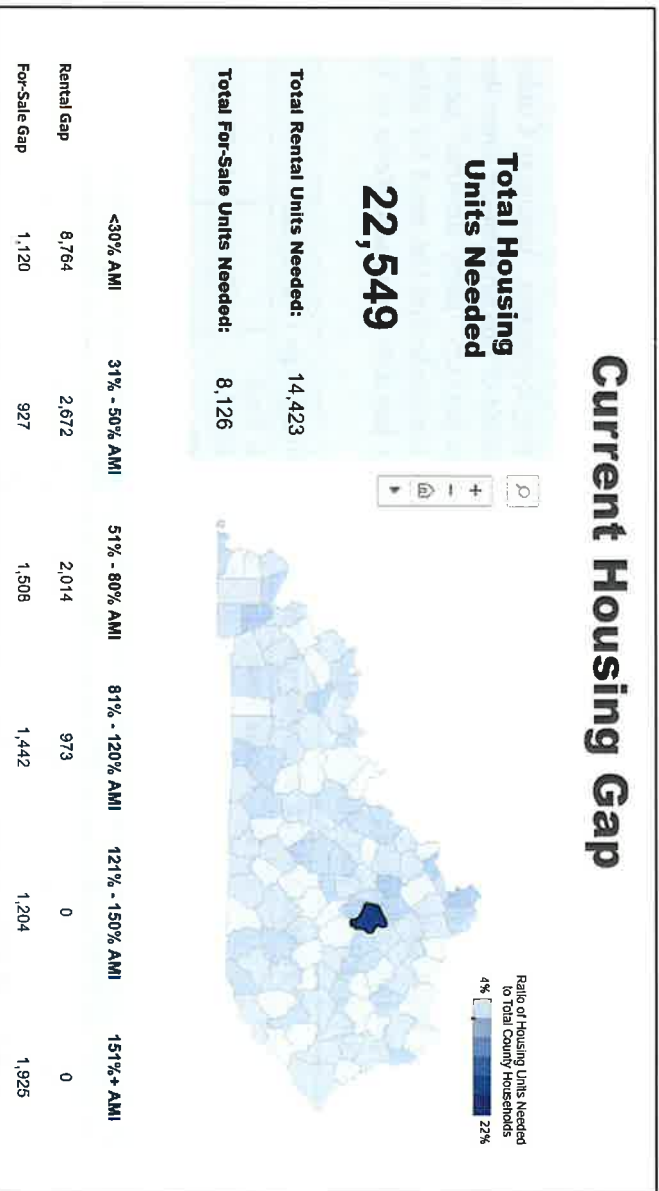


Table 2. Kentucky Housing Corporation's most recent 2024 analysis, Fayette County

Economic changes in the area that would justify the modification of the R-4 Zoning conditions. Interest rates and construction costs have increased by more than 30% since the original approval. In order to continue to serve the same population as the 2017 plan, the applicant proposes the single modular building to replace the 3 separate buildings. By reducing the proposed development to a single modular structure, the applicant is able to more efficiently develop the proposed units and keep costs down for the end user.

In addition to the specific physical, social and economic changes, there are other criteria that would support the approval of increasing the 2017 R-4 Zoning Other Use Restriction from 60,000 sqft to 80,000 sqft. The proposed development expands the area's housing choices to meet the needs of a disadvantaged and older population. Additionally, it supports the healthcare needs of the citizens of Fayette County, fulfilling Theme A, Goal #1c and Theme D, Goal #2 of the Comprehensive Plan. The proposed development reuses the vacant Blue Grass Baptist School site and encourages ageing in place, achieving Theme A, Goal #2 of the Comprehensive Plan. The proposed development creates an incidental office use that provides services for all ages as part of a community center, which improves access to medical services, accomplishing Goal #5 of the Armstrong Mill West Small Area Plan. This development plan also increases neighborhood security by providing a permanent presence in the area that would disrupt the use of the vacant structures on the site for illicit purposes.

The proposed modular building will utilize innovative materials and building techniques and will be first modular senior housing development in the state. The proposed modular development will maintain the same approved use and is compatible with the existing and projected future development of the area. The proposed development also includes a 1,385 square foot greenhouse, which is included into the maximum total floor area of the site. The proposed development also

includes a dog park, front lawn, raised planting bed area, covered lounge, rainwater harvest tank, and a sidewalk connection to River Hill Park. The site design remains the same and will provide two points of access off Red River Drive, as previously approved.

The developer concluded that while demolishing the existing unused brick school building would free up 21,012 sqft within the R-4 Zone, it was not a viable course of action. This course of action would effectively solve the Other Use Restriction problem by reducing the project's total floor area from 78,676 sqft to 57,664 sqft below the 60,000 sqft restriction. However, the high cost of demolition would increase the overall project, possibly beyond its viability. Demolishing the aged school building could release sealed contaminants (i.e., lead, asbestos) that were previously contained after the owner invested approximately \$80K in mitigation when the building was initially purchased. If these contaminants were inadvertently released during the demolition process, not only would the increased project cost and delay possibly bring the viability of the project into question, but it would also unintentionally create a hazard for all of the neighborhood's residents. Third, demolishing the structure would remove its future use as an otherwise usable structure, which could have been easily converted to another beneficial use in the future. Finally, given the ever increasing cost of new construction, demolishing a viable structure did not make financial and strategic sense.

The developer plans to conduct neighborhood outreach to ascertain if the community has any concerns about the planned development and if there is any apprehension regarding the proposed R-4 Other Use Restriction modification.

In closing, the proposal to modify the maximum square feet of total floor area in the R-4 Zoned land from 60,000 sqft to 80,000 sqft is in conformance with the 2013 Comprehensive Plan and 2015 Armstrong Mill West Small Area Plan. The applicant is only deviating from the previously approved plan with regard to this one building and Other Use Restriction.

Additional data obtained from Fayette County, KY website.

<https://datausa.io/profile/geo/fayette-county-ky?propertyTaxesValue=propertyTaxes>



2225 Lawrenceburg
Building B
Frankfort, KY 40601
Ph. 502-352-2197
www.qk4.com

EXHIBIT A

LEGAL DESCRIPTION

3743 Red River Drive, Lexington, KY 40517
PVA Parcel #94010430
(Gross Area 5.510 Acres/ Net Area 5.124 Acres)

A certain tract of land located in Fayette County, Kentucky, being a portion of the Melody Village Subdivision Unit 3C dated 1973, being more particularly described as follows:

The basis of bearing hereon is North American Datum of 1983, Kentucky State Plane Coordinate System Single Zone, Grid North as recorded via redundant GNSS RTK observations.

Beginning at a point, being the southeastermost corner of PVA Parcel Number 94010430, located at 3743 Red River Drive; thence N68°47'00"W, 271.20' to a point; thence N68°44'31"W, 274.91' to a point; thence N13°44'33"E, 359.88' to a point; thence S76°12'02"E, 106.43' to a point; thence N67°40'26"E, 72.34' to a point; thence S74°35'33"E, 79.97' to a point; thence S71°45'13"E, 90.95' to a point; thence S69°14'15"E, 122.36' to a point; thence S69°03'32"E, 75.96' to a point; thence S69°06'48"E, 72.08' to a point; thence S20°53'12"W, 24.97' to a point; thence S21°58'20"W, 120.19' to a point; thence S22°05'02"W, 290.03' to a point; being the point of beginning and containing 5.510 Acres or 240,017 Square Feet being the gross area of 3743 Red River Drive and including the adjacent right-of-way to the centerline Red River Drive. The net area of the property, not including the right-of-way, being 5.124 Acres. This description created for administrative zoning purposes, does not represent a boundary survey under 201 KAR 18:150, and shall not be used for property transfer.

D. Kelly Carr, Jr.
KY PLS 3812
2225 Lawrenceburg Road
Building B
Frankfort KY 40601
502.229.3006
kcarr@qk4.com



UPDATED 5.21.2024

**3743 FREEDOM, LLC
MAR-24-00008**

3743 RED RIVER DRIVE

**Modify Conditional Zoning Restrictions
to allow for increased residential
development.**

Applicant/Owner

3743 FREEDOM, LLC
4511 BARDSTOWN ROAD
LOUISVILLE, KY 40517

ATTORNEY: clifford.ashburner@dinsmore.com

Application Details

Acreage:

5.124 net (5.510 gross) acres

Current Zoning:

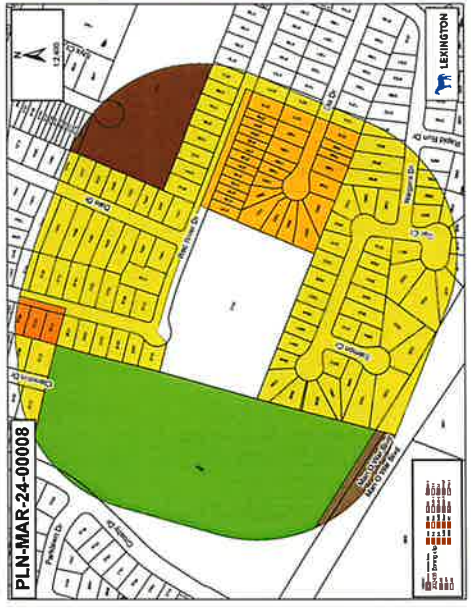
Medium Density Residential (R-4) Zone and Professional Office (P-1) Zone, with Conditional Zoning Restrictions

Proposed Zoning:

Medium Density Residential (R-4) and Professional Office (P-1) Zone, with modified Conditional Zoning Restrictions.

Description:

The applicant is seeking to modify the Conditional Zoning Restrictions that were established when the property was originally rezoned in 2017, which limited the overall development in the R-4 zoned portion of the site to a maximum of 60,000 square feet of building area. The applicant seeks to modify this restriction to allow for up to 80,000 square feet of development. The applicant is requesting this increase in order to accommodate an affordable four-story multi-family residential development for seniors while retaining the other existing buildings on-site.



Status

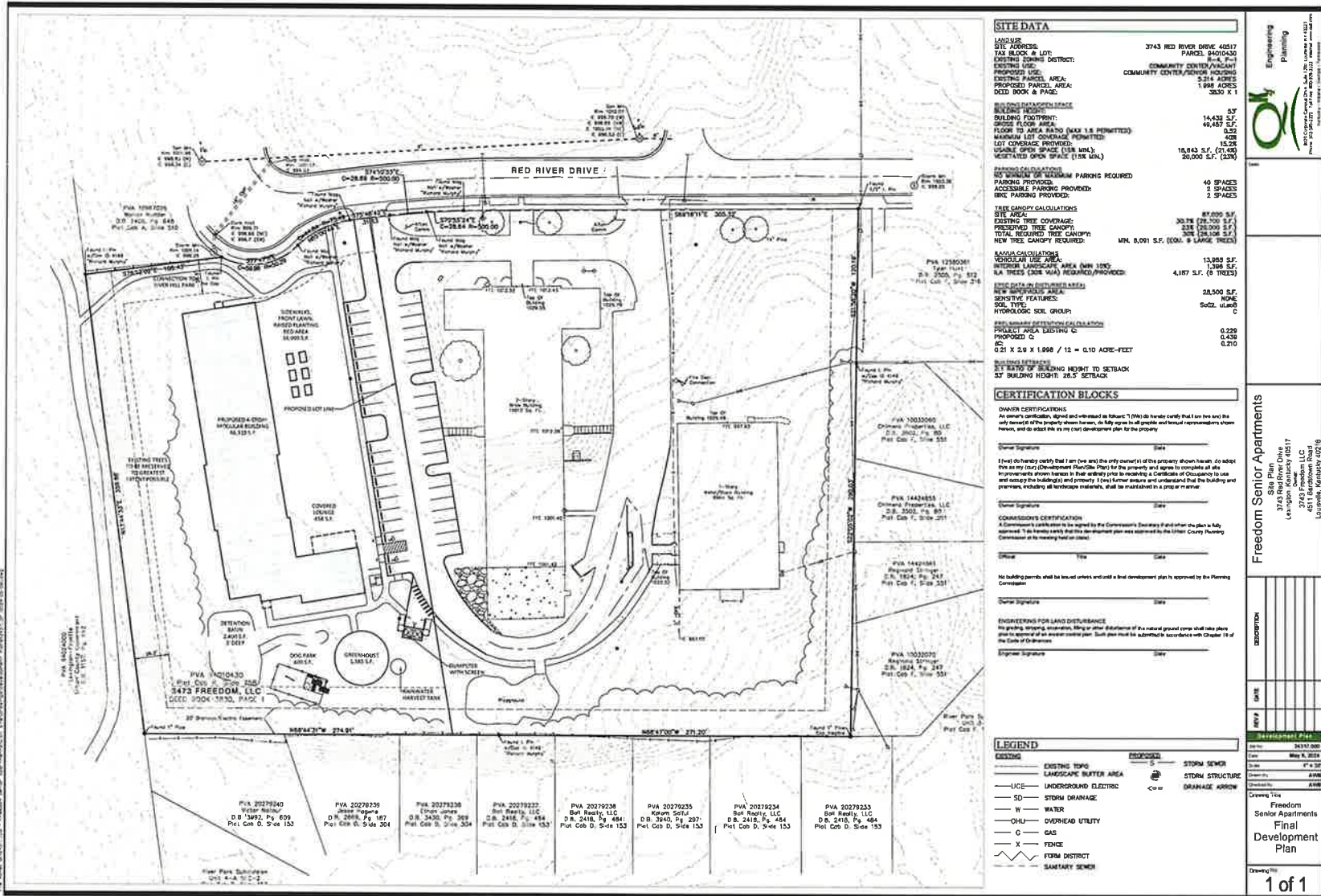
- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

Public Engagement

- The applicant has not provided any information regarding their public outreach efforts.

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal (lexingtonky.gov/plans) or contact Planning for the latest information.

Development Plan



SITE DATA	
LANDUSE	
SITE ADDRESS	3743 RED RIVER DRIVE 40517
TAX BLOCK & LOT:	PARCEL 8040424
EXISTING ZONING DISTRICT:	R-4, P-1
EXISTING USE:	COMMUNITY CENTER/SENIOR HOUSING
PROPOSED USE:	COMMUNITY CENTER/SENIOR HOUSING
EXISTING PARCEL AREA:	5.214 ACRES
PROPOSED PARCEL AREA:	1.998 ACRES
DEED BOOK & PAGE:	3530 X 1
BUILDING DATA/OPEN SPACE	
BUILDING FOOTPRINT:	14,433 S.F.
GROSS FLOOR AREA:	49,457 S.F.
FLOOR TO AREA RATIO (MAX 1.8 PERMITTED):	3.22
HARDWARE LOT COVERAGE PERMITTED:	428
LOT COVERAGE PROVIDED:	15.25
USABLE OPEN SPACE (15% MIN.):	15,843 S.F. (21.45)
REQUIRED OPEN SPACE (15% MIN.):	20,000 S.F. (23%)
PARKING CALCULATIONS	
NET SQUARE FEET MINIMUM PARKING REQUIRED:	40 SPACES
PARKING PROVIDED:	2 SPACES
ACCESSIBLE PARKING PROVIDED:	2 SPACES
SEC. PARKING PROVIDED:	2 SPACES
TREE CANOPY CALCULATIONS	
SITE AREA:	87,000 S.F.
EXISTING TREE COVERAGE:	30.7% (26,300 S.F.)
PRESERVED TREE CANOPY:	23% (20,300 S.F.)
TOTAL REQUIRED TREE CANOPY:	33% (28,560 S.F.)
NEW TREE CANOPY REQUIRED:	MIN. 8,091 S.F. (DOM. & LARGE TREES)
RAVINE CALCULATIONS	
VERTICAL CURVE AREA:	13,855 S.F.
INTERIOR LANDSCAPE AREA (MIN 10%):	1,386 S.F.
LA. TREES (ONE MAX) REQUIRED/PROVIDED:	4,187 S.F. (6 TREES)
SOIL DATA AND DISTURBED AREAS	
NEW IMPERVIOUS AREA:	24,500 S.F.
SYNTHETIC FEATURES:	NONE
SOIL TYPE:	SoCl, ulsBc
HYDROLOGIC SOIL GROUP:	C
PERMITS/REGULATIONS CALCULATIONS	
PROJECT AREA LIGHTING C:	0.228
PROPOSED C:	0.438
0.2 X 2.5 X 1,500 / 12 = 0.10 ACRE-FEET	0.210
BUILDING SETBACKS	
SET BACKS OF BUILDING HEIGHT TO SETBACK	
3' BUILDING HEIGHTS 28.5' SETBACK	

CERTIFICATION BLOCKS

OWNER CERTIFICATIONS
As owner, contractor, agent and/or member of the firm, I/We do hereby certify that I/We do and we warrant that the property shown herein, in full compliance with all applicable laws and regulations, and do intend to use the property for the purposes stated herein, and do intend to use the property for the purposes stated herein.

Owner Signature: _____ Date: _____

I/We do hereby certify that I am (we are) the only owner(s) of this property shown herein, do not have any other interests in this property, and do hereby certify that I/We do and we warrant that the property shown herein, in full compliance with all applicable laws and regulations, and do intend to use the property for the purposes stated herein, and do intend to use the property for the purposes stated herein.

Owner Signature: _____ Date: _____

COMMISSIONER'S CERTIFICATION
A Commissioner's Certificate shall be signed by the Commissioner's Secretary if and when the plan is duly approved. This certificate certifies that the plan was approved by the Urban County Planning Commission on the meeting held on (date):

Office: _____ Title: _____ Date: _____

No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.

Engineer Signature: _____ Date: _____

ENGINEERING FOR LAND DISTURBANCE
No grading, trench excavation, filling or other disturbance of the natural ground cover shall take place until the approved erosion control plan. Such plan must be submitted in accordance with Chapter 19 of the Code of Ordinances.

Engineer Signature: _____ Date: _____

LEGEND	
EXISTING	EXISTING IDPO
---	LANDSCAPE BUFFER AREA
---	UNDERGROUND ELECTRIC
---	STORM DRAINAGE
W	WATER
OHU	OVERHEAD UTILITY
G	GAS
X	FENCE
---	FIRM DISTRICT
---	SANITARY SEWER
---	STORM SEWER
---	STORM STRUCTURE
---	DRAINAGE APPROX

Engineering
Planning

Freedom Senior Apartments
3743 Red River Drive
Lexington, KY 40517
Owner: Freedom Senior Apartments, LLC
4511 Northtown Road
Louisville, Kentucky 40225

Site Plan
3743 Red River Drive
Lexington, KY 40517
Owner: Freedom Senior Apartments, LLC
4511 Northtown Road
Louisville, Kentucky 40225

NO.	DATE	DESCRIPTION
1	24/5/2024	Final Development Plan

Drawing No: 1 of 1

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-24-00008: 3743 FREEDOM, LLC DESCRIPTION OF ZONE CHANGE

Zone	From restricted Medium Density Residential (R-4)
Change:	zone To modify existing Conditional Zoning restrictions
Acreage:	5.124 net (5.510 gross) acres
Location:	3743 Red River Drive

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-4/P-1 w/CZ	Community Center
To North	R-1D	Residential
To East	R-1T	Residential
To South	R-1D	Residential
To West	A-U	Park



URBAN SERVICE 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.

Curb/Gutter/Sidewalks - Curb, gutter, and sidewalk facilities are present on Red River Drive.

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 area with refuse collection on Fridays. Supplemental service by private refuse haulers is available to supplement existing service, if necessary.

Utilities - All utilities, including natural gas, electric, water, phone, cable television, and internet are available in the area, and are able to serve the site.

Police - The subject property is located within the Eastern Sector, and is served by the Eastern Sector Roll Call Center, which is located on Clearwater Way, approximately 1.5 miles to the northeast of the subject property. The downtown Police Headquarters is less than one mile northwest of the subject property, on East Main Street.

Fire/Ambulance - The nearest fire station (#5) is located about 1/3 mile southwest of the subject property, at the intersection of Woodland Avenue and E. Maxwell Street.

Transit - LexTran services are available in the immediate area, with Route #3 featuring a stop along Trent Boulevard, approximately 0.2 miles to the northwest.

Parks - The subject property is located immediately adjacent to River Hill Park.

SUMMARY OF REQUEST

The applicant is seeking to modify the conditional zoning restrictions that were placed on the property in 2017 in order to increase the allowable building area of the R-4 portion of the property from 60,000 square feet to 80,000 square feet.

PROPOSED ZONING



The intent of this zone is to provide for medium to medium-high density multi-family dwellings and supporting uses. This zone should be located in areas of the community where services and facilities are/will be adequate to serve the anticipated population. The medium to medium-high density residential uses should be located along collector and arterial streets. Where lower density development occurs in this zone, it should be located along local streets. Adequate multi-modal connections should be available to all residents. Development should be in areas of the community where necessary services and facilities will be adequate to serve the anticipated population. Medium to medium-high density multi-family dwellings should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

PROPOSED USE



The applicant is seeking to modify the existing conditional zoning restrictions on the subject property to establish a four story senior affordable housing development. The applicant is proposing to retain the existing school building and community center structure, but is no longer proposing any development within the P-1 portion of the site.

APPLICANT & COMMUNITY ENGAGEMENT



The applicant has not provided any information regarding their community engagement or outreach efforts.

PROPERTY & ZONING HISTORY



The subject property was originally zoned R-1B Single Family Residential prior to the comprehensive rezoning of the city and county in 1969, and had been the operating site for the Blue Grass Baptist School, a private school for academic instruction, since the early 1970s. In 2017, the Blue Grass Baptist School closed this location, and subsequently, Afton Community Development sought a rezoning of the property from R-1D to P-1 (MAR-17-00016). The initial goal of the rezoning was to establish an assisted living facility, medical offices, adult and child care centers, and a community center. In the initial review of the project, staff had concerns with increased traffic, noise and light pollution that would result from locating a large portion of commercial zoning in an existing single-family area, and routing commercial traffic through a local residential street. Staff recommended disapproval of the request, and indicated in the staff report that a rezoning to a residential zone would be more appropriate. Based on staff and neighborhood feedback, the applicant overhauled their proposal. The revised request was primarily Medium Density Residential (R-4) zoning, with a limited portion of Professional Office (P-1) zoning present. Additionally, the applicant offered up a number of conditional zoning restrictions designed to limit future expansion and development of the site. Staff recommended approval of the revised request, and recommended restrictions pertaining to the permitted uses on-site. The rezoning was ultimately approved with the following Conditional Use Restrictions:

- 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.

The subject property was also included in the study area for the Armstrong Mill Small Area Plan. The plan, which was completed in 2015 and incorporated into the 2013 Comprehensive Plan, emphasizes creating livable neighborhoods with equitable and affordable housing, improving the quality of life for the residents of the area, and maintaining neighborhood character. In the review of the 2017 zone change, the staff found that the applicant's proposed development was generally supportive of the small area plan.

CONDITIONAL ZONING RESTRICTION PROCESS



Article 6-7(c)Amendment. Modification, removal or amendment of conditions or restrictions shall be as follows:

1. Restrictions or Conditions Designated by the Urban County Council. The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.
 - a. Findings Required. The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.
 - b. Procedure. The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment, except that a full public hearing by the Urban County Council shall be required in all cases. The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.

ZONING ORDINANCE COMPLIANCE



The applicant opines that the conditional zoning restriction relating to the maximum building area at this location is no longer appropriate due to economic changes. The first reason cited by the applicant is the need for senior housing. The applicant states that during the COVID-19 Pandemic, senior living occupancy rates dropped. They state that since that time, occupancy rates have been rising to pre-Covid-19 levels. The applicant notes that numerous Goals, Objectives, and Policies of the 2040 Comprehensive Plan speak to the importance of providing this housing; however, conditional zoning restrictions are evaluated not based upon the Comprehensive Plan, but rather the specific criteria outlined in the ordinance.

As the second part of their justification, the applicant states that an additional economic change since 2017 has been an increase the cost of borrowing and construction. The applicant does not explain how the increase in costs for development justifies a request to increase, not decrease, the amount of development proposed on the site. Furthermore, the increase in building and borrowing costs is a nationwide trend that does not specifically apply to the property or the surrounding area. The applicant should provide more specific economic information that demonstrates a change in this particular area.

The existing conditional zoning restrictions were established at this location as a direct result of concerns that greater intensity development would negatively impact the existing single-family residential neighborhood. While staff does not disagree that there is a demand for affordable senior housing, or that construction costs in general are increasing, these are not changes that are specific to this area, and the proposed changes do not address the intensity issue that prompted the condition's inclusion.

At this time, staff recommends postponement in order to provide the applicant an opportunity to supply supplemental information to bolster their appropriateness argument. Additionally, the applicant should consider conducting further outreach with the neighborhood to provide insight into their thoughts on the appropriateness of the revised conditional zoning restrictions.

STAFF RECOMMENDS: **POSTPONEMENT, FOR THE FOLLOWING REASONS:**



1. The applicant should provide information regarding neighborhood outreach regarding the proposed modification and development
2. The applicant should provide greater information regarding more specific physical, economic, or social changes in this area since the 2017 rezoning that would justify the modification of the conditions.

DAC/AMG

6/05/2024

Planning Services/Staff Reports/MAR/2024-MAR-24-00008

SUPPLEMENTAL STAFF REPORT

PLN-MAR-24-00008 3743 FREEDOM, LLC



LETTER OF JUSTIFICATION

In the supplemental letter of justification, the applicant provides a greater amount of information about the changes within the area that they opine make the current 60,000 square-foot maximum building area conditional zoning restriction inappropriate. The applicant first states that there were physical factors of the site that were not considered at the time of the application in 2017 that make the R-4 zone restriction condition inappropriate. The 60,000 square-foot restriction was offered by the original applicant in 2017 to accommodate the size of the planned senior residential use, while retaining the existing buildings that were associated with Bluegrass Baptist School. The approved preliminary development plan associated with the 2017 rezoning listed the size of the existing school building as 15,012 square feet. During the review for this proposal, the current applicant has found that the original plan did not correctly account for the usable basement space in the structure, which would bring the size of the structure up to 21,012 square feet. As a result, the total size of development within the R-4 zoned portion of the site on the approved preliminary plan is 64,036 square-feet, which exceeds the 60,000 square-foot limit that was allowed based on the conditional zoning restriction. Based on that information, the applicant contends that the original condition was inappropriate, as it was too small to accommodate the corresponding development plan that was approved by the Planning Commission.

Additionally, the applicant contends that there have been social changes in the demographic makeup in the area that make increasing the size restriction to accommodate additional senior housing appropriate. To demonstrate the changes, the applicant has provided census population data from the time of the original Map Amendment Request in 2017, as well as current data from 2024. Based on the statistics provided by the applicant, the Census Tract 40.01, which the subject property is located in experienced only minor overall population growth during this time, with an increase of 2.01% in the total number of residents since 2017. However, during that same time period, the number of individuals aged 60 and older within this census tract has significantly rose, up 14%. Additionally, the number of individuals in the oldest age demographic band (85 years and older), experienced an increase of 120.51% from 2017 to 2024 for this tract. The applicant opines that an increase in the scope of the project is needed in order to address the changing population of the neighborhood and the corresponding growing need for senior affordable housing.

Finally, the applicant cites economic factors they opine have changed since the 2017 rezoning. The applicant states that since the 2017 rezoning, development costs have risen significantly, claiming their construction costs have increased over 30% in that time period. The applicant opines that increases in development cost necessitate an increase in the number of overall units and building size in order for development of the site to remain viable. While the economics of the applicant's proposed development do provide insight into the changes of scope from the 2017 proposal, the increase in development costs is a larger trend that is not specific to this particular property or area, and does not meet the threshold required by the ordinance to amend conditional zoning restrictions.

While staff disagrees with the applicant's economic justification, staff agrees that there are social and physical changes in the area that were not anticipated when the original conditional zoning restrictions were placed on the property, and that make the current restriction inappropriate. The applicant's proposed modified condition more accurately accounts for existing development, retains a cap on the total amount of development on the parcel to ensure neighborhood compatibility, while providing necessary affordable senior housing for an area that has a growing senior population.

PUBLIC ENGAGEMENT

In the initial staff report, staff emphasized the need for the applicant to conduct further outreach with the surrounding neighborhood. The applicant indicated that they attempted to arrange an on-site meeting with



members of the Riverpark neighborhood, but that neither of the two existing neighborhood contacts on file were able to be reached. At this time, staff has not received any letters of opposition or calls responding to the mailed notice or sign posting on the property.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The miscalculation of the size of the existing school structure at is a difference in the physical character of the site that was not considered at the time of the 2017 zone change, which makes the current conditional zoning restriction in the Medium Density (R-4) zone inappropriate.
2. There has been a significant increase within the elderly population within Census Tract 40.01 that constitutes a social change, and results in a greater need for senior affordable housing within the immediate area.
3. The conditional zoning restriction unreasonably restricts the utilization of the subject property, and would prohibit the development that was approved by the Planning Commission within the corresponding Preliminary Development Plan from 2017.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following amended use restrictions shall apply:
 - 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 80,000 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 2045 Comprehensive Plan, and to protect the adjoining residential land uses from development that is out of character with the existing neighborhood.

5. This recommendation is made subject to approval and certification of PLN-MIDP-24-00033 Melody Village Unit 3-C Blk C Lot 12 (Freedom Senior Apartments), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.



1. 3743 FREEDOM, LLC ZONING MAP AMENDMENT AND MELODY VILLAGE UNIT 3-C BLK C LOT 12 (FREEDOM SENIOR APARTMENTS) DEVELOPMENT PLAN

- a. **PLN-MAR-24-00008: 3743 FREEDOM, LLC** – a petition for a zone map amendment to modify Conditional Zoning Restriction to increase allowable square footage from 60,000 to 80,000 square feet, for 5.124 net (5.510 gross) acres for property located at 3743 Red River Drive.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 applicant is seeking to modify the existing conditional zoning restrictions on the subject property to establish a four story senior affordable housing development. The applicant is proposing to retain the existing school building and community center structure.

The Zoning Committee Recommended: Postponement

The Staff Recommends: Postponement, for the following reasons:

1. The applicant should provide information regarding neighborhood outreach regarding the proposed modification and development.
2. The applicant should provide greater information regarding more specific physical, economic, or social changes in this area since the 2017 rezoning that would justify the modification of the conditions.

- b. **PLN-MJDP-24-00033: MELODY VILLAGE, UNIT 3-C, BLOCK C, LOT 12 (FREEDOM SENIOR APARTMENTS) (AMD) (8/3/24)*** - located at 3743 RED RIVER DRIVE, LEXINGTON, KY.

Council District: 8
Project Contact: QK4

Note: The purpose of this plan is to depict new building and parking layout in support of the requested amendment to the conditional zoning restrictions.

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

1. Provided the Urban County Council approves the requested amendment to the conditional zoning; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval if environmentally sensitive areas.
7. Addition of dimensions for all driveways, walkways, parking spaces, points of Ingress and egress, and buildings.
8. Addition of street cross-sections and location on plan face.
9. Clarification of information in site statistics box for the entire development to include zoning and totals for property.
10. Addition of zoning information on plan face for this property, showing both zones.
11. Addition of 20' building line across all of the property per Plat R-758.
12. Addition of existing and proposed easements per plat R-758.
13. Addition of tree protection plan information per Article 26 of the Zoning Ordinance, denoting the DBH (diameter at breast height) of trees on layout.
14. Clarify intent of tree preservation statement.
15. Correct labeling for adult daycare centers from 17 to 16.9.
16. Clarify use of area adjacent to dog park.
17. Remove note for owner regarding Certificate of Occupancy.
18. Delete detention basin square footage and depth information.

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

Staff Presentation – Mr. Daniel Crum presented the supplementary staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment to modify conditional zoning restriction to increase allowable square footage from 60,000 to 80,000 square feet, for 5.124 net (5.510 gross) acres for property located at 3743 Red River Drive. Mr. Crum indicated that the applicant is seeking to increase the square footage in order to develop a senior affordable housing development and that there would be no discussion regarding Placebuilder Criteria.

Mr. Crum highlighted the surrounding zoning, indicating that most of the area was single-family residences, and the conditional zoning restrictions that facilitated this request. According to Mr. Crum, the restrictions stem from a 2017 zone change that utilized an existing school building for an assisted living facility and some senior housing. Mr. Crum noted the size and shape of the structure and stated they are important to the current request so that the proposed four story development may go on the open portion of the property. Mr. Crum stated that the applicant would keep the existing structures, but needs to increase the allowable square footage to build the new proposed building.

Mr. Crum highlighted the current conditional zoning restrictions and noted that in order to change them, Staff looked at physical, economic, and social changes that were not anticipated at the time the original conditions were placed. Mr. Crum stated that the applicant argued there has been a physical change in the size of the structure, due to the previous engineer not counting the square footage of the basement. The current 60,000 square foot restriction would make it difficult for the applicant to build anything new. The applicant also opined that there has been a social change in that due to the demand in affordable senior housing in this area. Mr. Crum then presented census data that showed a significant increase in the population aged 60 and older within the property's census tract.

Mr. Crum concluded by stating Staff was recommending approval of the application for the reasons mentioned and could answer any questions from the Planning Commission.

Commission Questions and Comments – Mr. Nicol commended the Staff for their willingness to work with the applicant and make this application work.

Mr. Michler asked where the 80,000 square foot number came from and the justification behind that. Mr. Crum indicated that 80,000 square feet came from the request of the applicant and what they wanted to do with the development and was what the applicant was most comfortable with asking for.

Mr. Michler stated that he understood the logic behind it, but stated that this was size a limitation that he thought the Planning Commission was trying to get away from. Mr. Crum stated that the wording of conditions is dependent on the project and this just fit more in line with what this particular applicant requested.

Development Plan Presentation – Ms. Cheryl Galt oriented the Planning Commission to the location and characteristics of the subject property. Ms. Galt noted the proposed building, the access points, and the change from many buildings from the original development plan, to the new single structure. Ms. Galt also mentioned the sidewalk easements, and noted the shape of the sidewalk and asked for the applicant's reasoning for having a zig-zag design in a development meant for seniors.

Ms. Galt concluded by stating Staff was recommending approval of the application for the reasons mentioned and could answer any questions from the Planning Commission.

Commission Questions and Comments – Mr. Michler asked if there was discussion between Staff and the applicant about reorienting the office and activity center from the back to the front, and Ms. Galt stated that the location of the office is where the site is more flat, and there is a slope towards the street.

Applicant Presentation – Shannon Huffer, project manager for the applicant, stated that the applicant had been awarded 10 million dollars' worth of tax credits to do this 52 unit senior affordable housing development. Ms. Huffer noted the greenhouse, as well as their mission of health and long living. Additionally, Ms. Huffer stated that residents in the adjoining neighborhood could transition to this development if living in their current homes became untenable.

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

Ms. Huffer stated that they had talked with various members of the neighborhood about the changes; however, they were not able to schedule a more formal meeting. She noted that they would be willing to have a more formal meeting to alleviate any concerns.

Ms. Huffer concluded that they are attempting to do something that will be an overall benefit to the area and are in agreement with Staff's recommendations.

Commission Questions and Comments – Mr. Michler asked Ms. Huffer to discuss the orientation of the entrance and office area and Ms. Huffer said that in discussions with the engineer, this was the orientation that worked best and made the most sense.

Mr. Michler also asked about the aesthetic of the side that faces the neighborhood and she said she could not speak to that, but said that the complex would look very modern looking and nice.

Action – A motion was made by Mr. Johnathon Davis, seconded by Mr. Pohl and carried 11-0 to approve PLN-MAR-24-00008: 3743 FREEDOM, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Johnathon Davis seconded by Mr. Pohl and carried 11-0 to approve PLN--MJDP-24-00033: MELODY VILLAGE, UNIT 3-C, BLOCK C, LOT 12 (FREEDOM SENIOR APARTMENTS) (AMD and changing condition #11 from "discuss" to "resolve"