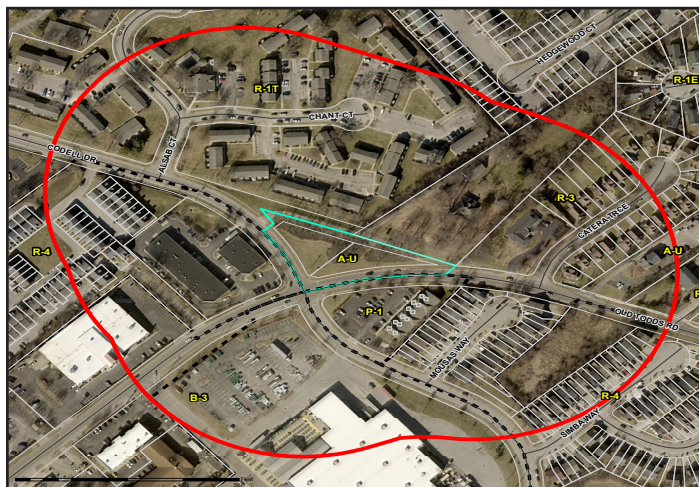


STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00006: AU ASSOCIATES, INC.

DESCRIPTION OF ZONE CHANGE

Zone	From an Agricultural Urban (A-U) zone
Change:	To a Planned Neighborhood Residential (R-3) zone
Acreage:	0.66 net (1.64 gross) acres
Location:	96 Codell Drive, 601 Old Todds Road, & Right-of-Way



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	A-U	Vacant
To North	R-3 / R-1T	Single Family Residential
To East	P-1	Professional Offices
To South	B-3	Hardware Store
To West	B-3	Shopping Center

URBAN SERVICE REPORT

Roads - The subject properties are located on the north side of the intersection of Old Todds Road and Codell Drive. The two roads are both categorized as collector roadways and service the surrounding residential and commercial traffic. The subject properties are less than ¼ of a mile north of the intersection of Old Todds Road and Richmond Road.

Curb/Gutter/Sidewalks - Old Todds Road and Codell Drive were upgraded by the state during the 1998 realignment of Old Todds Road and were constructed with curb, gutter and sidewalks.

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

Storm Sewers - The subject properties are located at the boundary of the West Hickman and East Hickman watersheds. The applicant is proposing stormwater basins along the front and rear of the proposed development. No FEMA Special Flood Hazard Area or known flooding issues exist within the immediate area.

Sanitary Sewers - The subject properties are located along the boundary of the West Hickman and East Hickman sewersheds and are served by the West Hickman Sewage Treatment Facility, located in northern Jessamine County. Since the use of the site is proposed for a major redevelopment, the petitioner will need to secure Capacity Assurance Program approval prior to the final development plan being certified.

Refuse - The Urban County Government serves this area with refuse collection on Fridays. However, supplemental service by private refuse haulers may be utilized by the applicant.

Police - The subject property is located within the Division of Police’s East Sector. The East Sector Roll Call Center is the closest police station to the subject property; it is located approximately 2 ½ miles southwest of the site on Centre Parkway in the Gainesway neighborhood.

Fire/Ambulance - Fire Station #21 is located approximately 1¼ miles southeast of the subject property, at the intersection of Mapleleaf and Dabney Drives.

Transit - LexTran service is available within a ¼ of a mile south of the subject properties along Richmond Road. The Richmond Road (#11) route has outbound and inbound service.

Parks - There are no public parks within walking distance of the subject properties.

SUMMARY OF REQUEST

The applicant is seeking to rezone the subject properties from an Agricultural Urban (A-U) zone to the Planned Neighborhood Residential (R-3) zone in an effort to allow for the construction of multi-family residential dwelling units. In addition to the requested rezoning, the applicant has applied for a variance to the side yard setback for portions of 100 Codell Drive.

PLACE-TYPE

ENHANCED NEIGHBORHOOD
An Enhanced Neighborhood is an existing residential area that could be enhanced with additional amenities, housing types, and neighborhood-serving retail, services, and employment options that contribute to a sustainable neighborhood. Vibrant neighborhoods include a range of uses. The development that occurs in this place-type should be context-sensitive to the surrounding area and implemented in a way that adds to the sense of place. Multi-modal connections from new elements within enhanced neighborhoods are crucial to their success and long-term viability.

DEVELOPMENT TYPE

MEDIUM DENSITY RESIDENTIAL
Primary Land Use, Building Form, & Design
Primarily multi-family units. Multi-family units should complement and enhance existing development through quality design and connections.
Transit Infrastructure & Connectivity
Nearby commercial/employment uses and greenspaces should be easily accessible, and bicycle and pedestrian modes should be maximized to connect residents to destinations.
Parking
These developments should include intentional open space designed to fit the needs of area residents, and a variety of neighborhood-serving commercial / employment uses.

PROPOSED ZONING



This zone is primarily for multi-family dwellings and other residential uses. This zone should be at locations and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

PROPOSED USE



The applicant is seeking to rezone the properties to allow for the development of a multi-family complex on three parcels (96 and 100 Codell Drive, and 601 Old Todds Road), two of which are remnant portions of right-of-way created by the realignment of Old Todds Road. The applicant is also requesting a variance to reduce the required side yard setback from 20 feet to 10 feet for portions of 100 Codell Drive.

APPLICANT & COMMUNITY ENGAGEMENT



The applicant has not indicated any community engagement prior to the submission of the application. The applicant should indicate if they have conducted community engagement.

PROPERTY & ZONING HISTORY



The area of rezoning was initially zoned Agricultural District (A-1) until the 1969 comprehensive rezoning of the city and county. During that rezoning, the area located east of Old Todds Road to the Urban Service Area's boundary were rezoned to Agricultural Urban. Whereas the majority of the properties surrounding the subject properties were rezoned in the late 1980s to the 1990s for development, the area of rezoning and the associated right-of-way remained zoned A-U. In 1998m Codell Drive was constructed and Old Todds Road was realigned. At that time, the remnant portions of the right-of-way and the area to the south were separated from those properties to the north. The applicant is seeking to include these remnant portions of land within their proposed project, which will be primarily situated on 100 Codell Drive, which was rezoned in 1994 (MAR 94-41; Ord. 256-94).

COMPREHENSIVE PLAN COMPLIANCE



The 2018 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. Despite the flexibility of the 2018 Comprehensive Plan the applicant indicates that due to the site size, site geometrics, impact of remnant right-of-way, and site topography, they are unable to show agreement with the Comprehensive Plan for 96 Codell Drive and 601 Old Todds Road.

The applicant states that due to the small size of the site it is insufficient to develop any density unless it is combined with the neighboring R-3 parcel, which are all owned under common ownership and are being sold together. Furthermore, the triangular shape of the properties eliminates a sizable portion of the developable area once the setbacks are taken into consideration, which is further impacted by the presence of the remnant right-of-way. Finally, the applicant indicates that the site has a significant rise in topography from the sidewalk along Old Todds Road up to the buildable area of the site. The front one-third of the site is not easily developable without regrading the site in an expensive and unnecessary way, especially when it could be easily combined with the neighboring R-3 zoned parcel in a more cohesive development plan.

Staff concurs with the applicant regarding the difficulty of showing agreement with the Comprehensive Plan due to the site size, site geometric, impact of right-of-way, and site topography. As such, the applicant is seeking to utilize an alternative justification for the zone change: that the current A-U zone is inappropriate and the proposed R-3 zone is the most appropriate zone for the subject properties. The applicant indicates that the A-U zone is described as a "placeholder" zone for properties within the urban service area which are not ready for development until proper public facilities and services are adequate and available. The applicant states that the properties are within the Urban Service Area and are adequately serviced by urban facilities. The applicant also indicates that the R-3 zone is the most appropriate, as the adjacent parcel, 100 Codell Drive, is currently zoned R-3. Furthermore, the R-3 zone is a recommended zone within the Comprehensive Plan for the Enhanced Neighborhood Place-Type and Medium Density Residential Development Type.

GOALS & OBJECTIVES

Despite the inability of the applicant to show agreement with the Comprehensive Plan for the subject properties, the applicant opines that the project as a whole is in agreement with several Goals and Objectives of the 2018 Comprehensive Plan. The applicant indicates that the proposed project will encourage the expansion of housing choices (Theme A, Goal #1) by developing deed restricted affordable housing options and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density residential and a mixture of housing types (Theme A, Goal #1.b and 1.d and Theme A, Goal #2.a and #2.c). Additionally, the applicant opines that the proposed development will support infill and redevelopment (Theme A, Goal #2), as the three properties that will be utilized for the development are either vacant or contain a single family dwelling unit.

The staff agrees with these aspects of the applicant's proposal and that these Goals and Objectives of the 2018 Comprehensive can be met with the proposed development.

STAFF RECOMMENDS: **APPROVAL**, FOR THE FOLLOWING REASON:



1. The existing Agricultural Urban (A-U) zoning is inappropriate, and the proposed Planned Neighborhood Residential (R-3) zoning is appropriate at this location for the following reasons:
 - a. The existing A-U zone is intended to be a holding zone until public facilities and services are adequate. Generally, urban services have been available to serve this portion of the Urban Service Area since the mid-1980s and the realignment of Old Todds Road updated the roadway system in 1998.
 - b. The proposed R-3 zone is consistent with the adjoining lot that is intended to be consolidated and reconfigured in conjunction with the subject properties. The R-3 zone and the proposed and multi-family dwelling units are compatible with the existing land uses in the immediate vicinity.
2. This recommendation is made subject to approval and certification of PLN-MJDP-22-00023: Shadow Wood Phase II (Richwood Bend), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also seeking a dimensional variance, requesting relief from the required side yard setback for a group residential project in a Planned Neighborhood Residential (R-3) zone. The applicant is seeking to reduce the minimum required side yard or project exterior yard from twenty (20) feet to ten (10) feet, a requirement of Article 9-6(c)(2) of the LFUCG Zoning Ordinance.

Before any variance is granted, the Planning Commission must find the following:

- a. The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Planning Commission shall consider whether:
 1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Planning Commission shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 9-6(c)(2) states that where a group residential project exterior yard is required, the distance between principal buildings and the outside boundary of the property upon which the Project is located shall not be less than the height of the building, nor twenty (20) feet, whichever is less. Where the wall of any principal building is not parallel to the outside boundary of the property or is broken or otherwise irregular, the average distance shall not be less than as specified above. At no point shall such distance be less than fifteen (15) feet.

CASE REVIEW

The applicant is requesting a dimensional variance to reduce the minimum required side yard or project exterior yard from twenty (20) feet to ten (10) feet for a portion of the 100 Codell Drive that abuts 851 Old Todds Road and 212 Catera Trace. The applicant indicates that the request arises from the unique shape of the R-3 parcel, which tapers as the property extends from the frontage. The tapering of the property results in a narrowness that does not allow the property to maintain the required twenty (20) foot setback while also providing the necessary parking, vehicular circulation, and open space associated with multi-family development. The applicant indicates that they have tailored their request to minimally impact the rear setbacks of the adjacent single-family homes, and have situated the majority of the area indicated for the variance to the more intensive use located at the corner of Old Todds Road and Catera Trace. The applicant indicates that the variance does not generally apply to other R-3 zoned land as it is situated along a long and tapered lot and does not have greater connections to the overall area.

Additionally, the applicant indicates that the variance will not adversely affect the public health, safety and welfare and will not alter the essential character of the general vicinity nor would cause a nuisance. Moreover, a strict application of the zoning ordinance would deprive the applicant of the reasonable use of the site and would restrict density of R-3 zoned land inside the Urban Service Area, which is contrary to the spirit of Theme A, Goal #1 of the Comprehensive Plan that encourages infill housing and prioritizes higher density and affordability.

Staff agrees with the applicant's justification, and recommends approval of the proposed variance request.

STAFF RECOMMENDS: APPROVAL OF THE VARIANCE TO THE PROJECT EXTERIOR YARD, FROM TWENTY (20) FEET TO TEN (10) FEET, FOR THE FOLLOWING REASONS:



1. Granting a variance of ten (10) feet should not adversely affect the public health, safety, or welfare as the applicant is situating the area impacted by the request along the adjacent clubhouse use and limiting the impact on the neighboring single family dwelling units.
2. The request arises from the unique shape of the parcel, which tapers as the property extends from the frontage.
3. The request is not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary process for this project and has requested the variances prior to commencing construction.

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

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the R-3 zone, otherwise the requested variances shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.