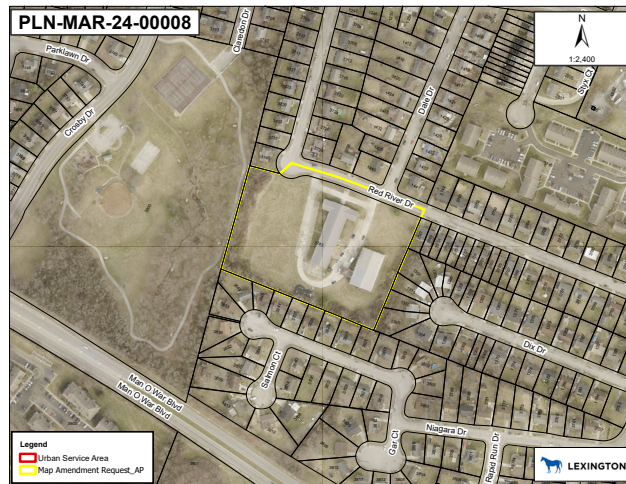


STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-24-00008: 3743 FREEDOM, LLC

DESCRIPTION OF ZONE CHANGE

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



EXISTING ZONING & LAND USE

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.