

ORDINANCE NO. 176 -2017

AN ORDINANCE CHANGING THE ZONE FROM AN AGRICULTURAL RURAL (A-R) ZONE TO AN ECONOMIC DEVELOPMENT (ED) ZONE, FOR 7.70 NET (9.53 GROSS) ACRES, FOR PROPERTY LOCATED 2050 NEWTOWN PIKE. (ANDERSON ACQUISITIONS, LLC; COUNCIL DISTRICT 12).

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WHEREAS, at a Public Hearing held on October 26, 2017 a petition for a zoning ordinance map amendment for property located at 2050 Newtown Pike from an Agricultural Rural (A-R) zone to an Economic Development (ED) zone for 7.70 net (9.53 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

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

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 2050 Newtown Pike from an Agricultural Rural (A-R) zone to an Economic Development (ED) zone for 7.70 net (9.53 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

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

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions within the Royal Springs Aquifer and Wellhead Protection Area shall apply via conditional zoning:

- a. All above ground and underground storage tanks shall be designed to have spill containment facilities.
- b. All establishments and facilities that store or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary.).
- c. On-site disposal of any hazardous waste materials shall be prohibited.
- d. Mining of non-metallic minerals and/or radium extraction

shall be prohibited.

These restrictions are both appropriate and necessary for the subject property for the following reasons:

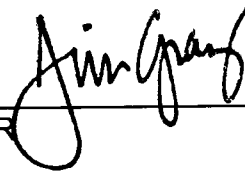
1. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer which sets forth a plan to ensure a continual source of potable groundwater from the Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has been approved by the Kentucky Division of Water.
2. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.

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.

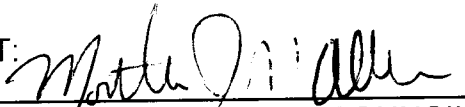
Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: December 7, 2017

MAYOR



ATTEST:



CLERK OF URBAN COUNTY COUNCIL

Published: December 14, 2017-1t

1258-17:TWJ:X:\Cases\PLANNING\17-LE0001\LEG\00592651.DOCX

ANDERSON ACQUISITIONS, LLC  
Zone Change from A-R to ED  
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED LOCATED WEST OF THE INTERSECTION DESTINY WAY AND ASPIRATION DRIVE IN NORTHWEST FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT at the northern property corner of Lot 22 of Kingston Hall Unit 2 (a portion of) and Kingston Hall Unit 1 as recorded in Plat Cabinet "R", Slide "470" in the Offices of the Fayette County Clerk; thence with the property line of Lot 22 South 24 Degrees 52 Minutes 24 Seconds West a distance of 567.44 feet to a point in the eastern right of way of Interstate 75; thence with the proposed zone line South 32 Degrees 51 Minutes 58 Seconds West a distance of 131.34 feet to a point in the centerline of Interstate 75; thence with said centerline North 57 Degrees 26 Minutes 40 Seconds West a distance of 623.84 feet to a point in the proposed zone line; thence with the proposed zone line for the following three (3) calls: North 29 Degrees 07 Minutes 11 Seconds East a distance of 124.38 feet to a point; thence North 25 Degrees 34 Minutes 13 Seconds East a distance of 504.69 feet to a point; thence South 63 Degrees 46 Minutes 52 Seconds East a distance of 621.32 feet TO the POINT OF BEGINNING.

The above described parcel contains 9.53 gross acres and 7.70 net acres.

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

IN RE: **PLN-MAR-17-00035: ANDERSON ACQUISITIONS, LLC** – a petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Economic Development (ED) zone, for 7.70 net (9.53 gross) acres, for property located at 2050 Newtown Pike. (Council District 12)

Having considered the above matter on **October 26, 2017**, at a Public Hearing, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

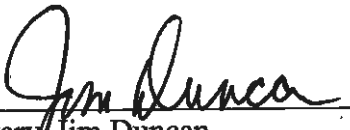
1. The requested Economic Development (ED) zone is in agreement with the 2013 Comprehensive Plan, and the 1996 Expansion Area Master Plan, for the following reasons:
  - a. The 1996 Expansion Area Master Plan recommends Economic Development (ED) future land use for the subject property, which is the primary employment land use in the Expansion Area. The applicant has requested Economic Development (ED) zoning for the subject property, in agreement with the Plan's recommendation.
  - b. The 2013 Comprehensive Plan's Goals and Objectives recommend creating prosperity and jobs (Theme C), and more specifically, to "foster the success and growth of large employment sectors; protect and provide readily available economic development land to meet the needs for jobs; and enable infill and redevelopment that creates jobs where people live" (Goal #2d.). The subject property will allow for a consistent and compatible use of the land between the Urban Service Area boundary and the interstate corridor for potential economic development opportunities within the community.
  - c. The proposed rezoning will create "shovel ready" economic development land. Infrastructure is either constructed or currently being constructed to serve the immediate area, and the land is generally flat; therefore, minimal grading would be needed.
  - d. The proposed rezoning maintains the current Urban Service Area boundary (Theme E, Goal #3), and encourages development of underutilized and/or vacant property within the current boundary (Theme E, Goal #1).
  - e. The 2013 Comprehensive Plan also recommends that there be a supply of "jobs infrastructure" ready for development in a variety of manners (pg. 72), including office, industrial and healthcare, all of which can be accommodated by the proposed Economic Development (ED) zone.
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00097: Winburn Land Company (Kingston Hall, Unit 3)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions within the Royal Spring Aquifer and Wellhead Protection Area are recommended via conditional zoning:**
  - a. All above ground and underground storage tanks shall be designed to have spill containment facilities.
  - b. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary).
  - c. On-site disposal of any hazardous waste materials shall be prohibited.
  - d. Mining of non-metallic minerals and/or radium extraction shall be prohibited.



These use restrictions are both appropriate and necessary for the subject property for the following reasons:

1. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has been approved by the Kentucky Division of Water.
2. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.

ATTEST: This 10<sup>th</sup> day of November, 2017.

  
Secretary Jim Duncan

WILLIAM WILSON  
CHAIR

Note: The corollary development plan, PLN-MJDP-17-00097: WINBURN LAND COMPANY was approved by the Planning Commission on October 26, 2017 and certified on November 9, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by January 24, 2018.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by Dick Murphy, Attorney.

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (9) Bell, Berkley, Brewer, Cravens, Mundy, Owens, Penn, Plumlee, and Wilson

NAYS: (0)

ABSENT: (2) Forester and Richardson

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of PLN-MAR-17-00035 carried.

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

## MAP AMENDMENT REQUEST (MAR) APPLICATION

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

<b>Applicant:</b> ANDERSON ACQUISITIONS, LLC, 1720 SHARKEY WAY, STE 100, LEXINGTON, KY 40511
<b>Owner(s):</b> ANDERSON ACQUISITIONS, LLC, 1720 SHARKEY WA,Y STE 100, LEXINGTON, KY 40511
<b>Attorney:</b> Richard Murphy, Murphy & Clendenen, 250 W. Main Street, Suite 2510, Lexington, KY 40507

**2. ADDRESS OF APPLICANT'S PROPERTY**

2050 NEWTOWN PIKE, LEXINGTON, KY
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**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
A-R	Agricultural	ED	Economic Development	7.70	9.53

**4. EXISTING CONDITIONS**

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

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

Roads:	To Be Constructed
Storm Sewers:	To Be Constructed
Sanity Sewers:	To Be Constructed
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



## **Justification for zone change**

The applicant, Anderson Acquisitions, LLC, is requesting a zone change from the Agricultural Rural (A-R) zone the Economic Development (ED) zone for approximately 7.68 net acres located at 2050 Newtown Pike. Although this property has a Newtown Pike address, it has no frontage on Newtown Pike, it is adjacent to I-75.

This property was recently acquired by Anderson Acquisitions from Ward Builders, Inc. This parcel was a remnant parcel which was cut off from Winburn Subdivision by the construction of Interstate 75. It had remained in the same ownership for the last 45 years.

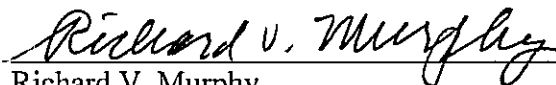
This property is surrounded on the west, north and east by property zoned E-D as part of the Kingston Hall development. On the south side, it is directly adjacent to Interstate 75/64.

Thus, it is completely compatible with surrounding uses.

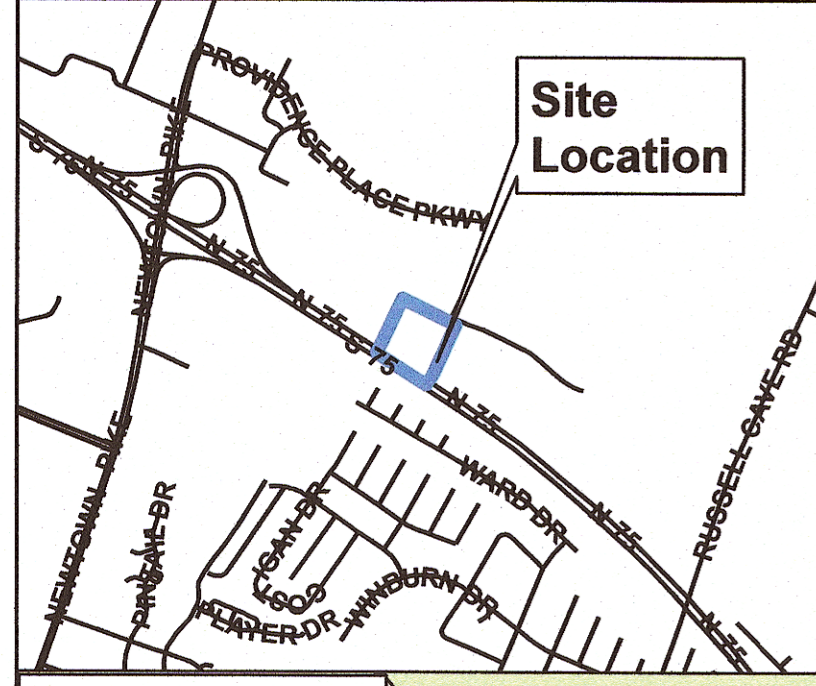
In addition, it is in agreement with the Comprehensive Plan. This property is a part of Expansion Area 3, which was designated for the economic development designation in the Expansion Area Master Plan. In addition, it agrees with the 2013 Comprehensive Plan. The Economic Development Zone is a jobs creation zone, and it agrees with the goals and objectives of Theme C, Creating Jobs and Prosperity. Particularly, it agrees with Objective C.1.d. which calls for fostering the success and growth of large employment sectors, and protecting and providing readily available economic development land to meet the needs for jobs. It also meets the goals of Theme E, including upholding the Urban Services Area concept (Goal E.1.), encouraging the compact, contiguous and sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs (Objective E.1.b.), and maintaining current boundaries of the Urban Service Area (Goal E.3.). This property will provide the jobs infrastructure as called for in the text of the Comprehensive Plan (Page 72).

This property will be incorporated into the Providence Business Center, utilizing the infrastructure of Providence Business Center/Kingston Hall.

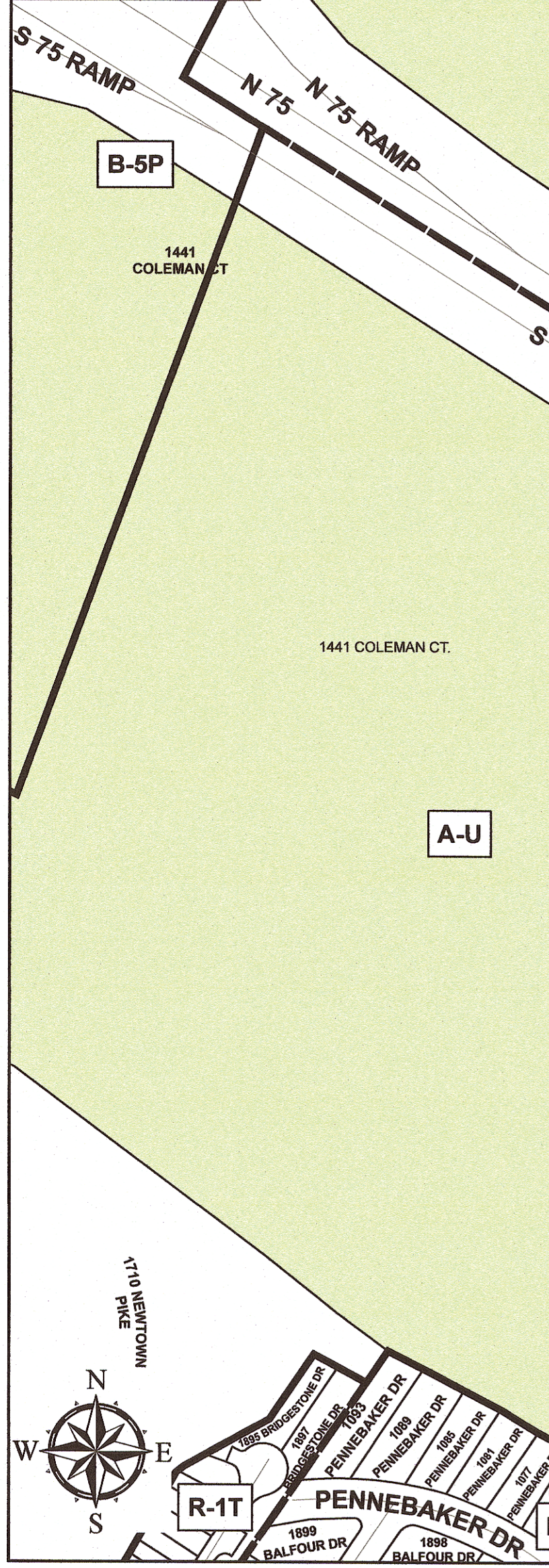
Thank you for your consideration of this zone change request.

  
Richard V. Murphy  
Attorney for Applicant,  
Anderson Acquisitions, LLC

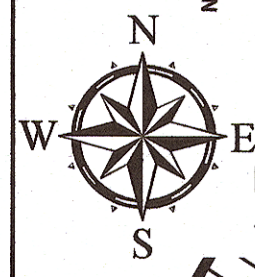
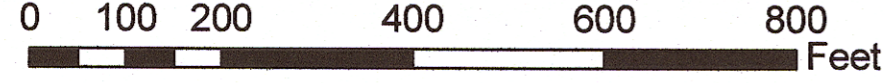




Vicinity Map



Notification Map



**ZOMAR**  
**WINBURN LAND CO. INC (KINGSTON HALL UNIT 3)**  
 ADDRESSES: 2050 Newtown Pike  
 APPLICANT:  
 Anderson Acquisitions, LLC  
 1720 Sharkey Way, Ste. 100  
 LEXINGTON, KY 40511-2028  
 OWNER:  
 Anderson Acquisitions, LLC  
 1720 Sharkey Way, Ste. 100  
 LEXINGTON, KY 40511-2028  
 PREPARED BY: EA PARTNERS, PLC  
 DATE FILED: SEPTEMBER 1, 2017  
 ZONE CHANGE REQUEST:  
 FROM: AGRICULTURAL RURAL (A-R) ZONE  
 TO: ECONOMIC DEVELOPMENT (ED) ZONE  
 7.70 ACRES NET & 9.53 ACRES GROSS



A-R

Site Location

B-5P

A-U

A-R to ED  
 9.53 AC. GROSS & 7.70 AC. NET

A-R

R-2

R-1T

ED

R-4

ED

ED

ED

R-1T

R-1D

1150 PROVIDENCE PLACE PKWY

PROVIDENCE PLACE PKWY

2301 RUSSELL CAVE RD

DESTINY WAY

1150 PROVIDENCE PLACE PKWY

1068 ASPIRATION DR

2115 RUSSELL CAVE RD

1441 COLEMAN CT.

1441 COLEMAN CT.

S-75 RAMP

N-75

S-75

N-75

S-75

N-75

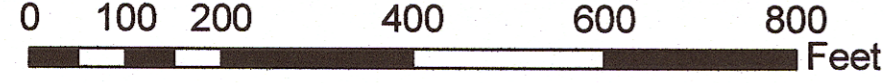
N-75

S-75

1710 NEWTOWN PIKE



Notification Map



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A-R

Site Location

B-5P

A-U

A-R to ED  
 9.53 AC. GROSS & 7.70 AC. NET

A-R

R-2

R-1T

ED

R-4

ED

ED

ED

R-1T

R-1D

1150 PROVIDENCE PLACE PKWY

PROVIDENCE PLACE PKWY

2301 RUSSELL CAVE RD

DESTINY WAY

1150 PROVIDENCE PLACE PKWY

1068 ASPIRATION DR

2115 RUSSELL CAVE RD

1441 COLEMAN CT.

1441 COLEMAN CT.

S-75 RAMP

N-75

S-75

N-75

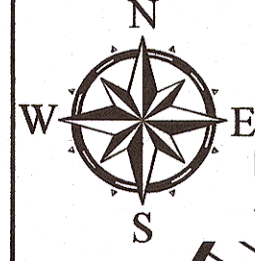
S-75

N-75

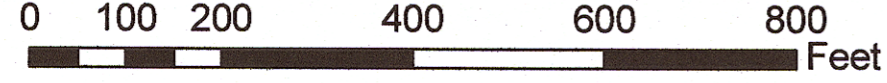
N-75

S-75

1710 NEWTOWN PIKE



Notification Map



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 7.70 ACRES NET & 9.53 ACRES GROSS





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

**PLN-MAR-17-00035: ANDERSON ACQUISITIONS, LLC**

**DESCRIPTION**

**Zone Change:** From an Agricultural Rural (A-R) zone  
To an Economic Development (ED) zone

**Acreage:** 7.70 net (9.53 gross) acres

**Location:** 2050 Newtown Pike

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Property	A-R	Agricultural
To North	E-D	Vacant
To East	E-D	Vacant
To South	R-2	Residential & I-64/75
To West	ED	Vacant

**URBAN SERVICES REPORT**

**Roads** – The subject property is bounded by Interstates 64 and 75, a six-lane expressway, immediately to the south. In addition, Aspiration Drive was recently constructed to provide access to portions of the Providence Business Center (East Bridgeford Land & Development Co. and Kingston Hall Subdivisions), including about 130 feet of frontage along the northeast corner of the subject property. Aspiration Drive connects to Providence Place Parkway via Destiny Way. Providence Place Parkway is a two-lane roadway that is intended to be the primary connection between Newtown Pike (KY 922) and Russell Cave Road (KY 57) through the Providence Business Center development. Aspiration Drive will need to be extended along the subject property's frontage in accordance with the Division of Engineering Manuals.

**Curb/Gutter/Sidewalks** – Aspiration Drive is constructed with curb, gutter and sidewalks. These improvements are expected to continue along the entire frontage of the subject property.

**Storm Sewers** –The subject property is located within the Can Run watershed and the Royal Spring Wellhead Protection Area. Within Expansion Area 3, stormwater management facilities to control the quantity and quality of stormwater discharge are to be provided on-site in accordance with the adopted Engineering Stormwater Manual.

**Sanitary Sewers** – The only existing sanitary sewers in this area are those serving businesses near Newtown Pike; therefore, sanitary sewers will need to be extended to the subject property at the time of development. Within Expansion Area 3, a force main and pump station are planned along the Urban Service Area (USA) boundary for the transmission to and treatment of sewage waste at the Town Branch Wastewater Treatment Plant. These regional infrastructure improvements have been designed, and construction bids were solicited during the summer of 2017.

**Refuse** – Collection to properties is provided by the Urban County Government to this region of the Urban Service Area on Thursday. Supplemental service is often times desired for commercial establishments and/or industrial facilities.

**Police** – The nearest police station to this location is the West Sector Roll Call Center on Old Frankfort Pike, near its interchange with New Circle Road, approximately four miles southwest of this location.

*Fire* – The nearest fire station (#8) is located about two miles to the southeast on North Broadway, between New Circle Road and Interstates 64 and 75.

*Utilities* – Most utilities are available to this area of the Urban Service Area, including electric service, telephone, and public water. Streetlights and cable television service are expected to be provided or extended to the site when the subject property develops.

### **COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. The 2013 Comprehensive Plan also encourages creating jobs and prosperity (Theme C) and maintaining a balance between urban uses and safeguarding rural land (Theme E).

The subject property is located within the Expansion Area, more specifically Subarea 3. The Expansion Area Master Plan recommends Economic Development (ED) future land use for the subject property. The petitioner proposes to develop this property with the principal permitted uses allowed in the Economic Development (ED) zone.

### **CASE REVIEW**

The petitioner has requested a zone change from an Agricultural Rural (A-R) zone to an Economic Development (ED) zone for 7.7 acres of property located at 2050 Newtown Pike.

The subject property is located on the north side of Interstates 64 and 75, approximately mid-point between Newtown Pike and Russell Cave Road. The property is a remnant parcel, which was cut-off from the Winburn Subdivision when the interstate was built in the 1960s. The site is located within Expansion Area 3, as identified in the 1996 Expansion Area Master Plan, and is now accessible from Newtown Pike via the constructed Providence Place Parkway and a series of local streets. The site currently has approximately 130 feet of frontage along Aspiration Drive, which is proposed to continue along the length of the property another 490 feet.

The subject property is surrounded on three sides by Economic Development (ED) zoned land, which was rezoned in 2003, all of which remains vacant. A 21-acre site directly to the east is planned for a professional office land use, but has yet to be developed. A commercial area oriented toward the interstate with a combination of restaurants, hotels and gas stations (B-5P zoning) in closer proximity to Newtown Pike. To the south of the subject property, across Interstates 64 and 75, the Winburn Subdivision is comprised of several different housing types, at varied densities (R-1D, R-1T, R-2, R-3 and R-4).

The applicant is requesting an Economic Development (ED) zone for the subject property, located in the center of an approved industrial and office business center. The Economic Development (ED) zone was created in 1996 to implement the Expansion Area Master Plan's future land use recommendations, and is intended to "provide land within the Expansion Area for employment opportunities compatible with the overall character of development as provided in the Expansion Area Master Plan."

The Economic Development zone was recently updated to remove some of the barriers to development that have been in place since Article 23 was adopted to implement the EAMP in 1996 (ZOTA 2016-4: Amendments to the Economic Development Zone). The principal permitted uses in this zone include offices, research centers, manufacturing, and healthcare that typically yield a high rate of employment opportunities. Limited supportive uses such as restaurants,

hotels and dwelling units are now also permitted to help create a more desirable employment center. The maximum building height and maximum floor area ratio were also relaxed to permit a higher intensity of development.

The 1996 Expansion Area Master Plan recommends that the subject property be used for Economic Development (ED) purposes, and emphasizes the importance of ED land use near the interstate highway system (pg 42). Further, the 2013 Comprehensive Plan's Goals and Objectives recommend creating prosperity and jobs (Theme C), and more specifically, in Goal #2, Objective d. to "foster the success and growth of large employment sectors; protect and provide readily available economic development land to meet the needs for jobs; and enable infill and redevelopment that creates jobs where people live." The subject property will allow for a consistent and compatible use of the land between the Urban Service Area boundary and the interstate corridor for economic development within the community. Although no particular business is currently interested in the site, the rezoning will allow for the property to be "shovel ready" within the next 6 months, because infrastructure is either constructed or currently being constructed to serve the immediate area, and the land is generally flat, therefore, minimal grading would be needed. The proposed rezoning also maintains the current USA boundary and (Theme E, Goal #3), and encourages development of underutilized and/or vacant property within the current boundary (Theme E, Goal #1). The Comprehensive Plan also recommends there be a supply of "jobs infrastructure" ready for development in a variety of manners (pg 72), including office, industrial and healthcare, all of which can be accommodated by the proposed Economic Development zone.

For these reasons, the staff agrees that the requested Economic Development (ED) zone is in agreement with the 2013 Comprehensive Plan's Goals and Objectives, as well as the adopted 1996 Expansion Area Master Plan for the subject property.

The subject property lies within the Royal Spring Aquifer Wellhead Protection Area as well. Royal Spring supplies parts of Scott County and the city of Georgetown with their water supply. Most of the subject property lies within the secondary recharge area, an area where ground water and surface water will make its way into the Royal Spring Aquifer. The Wellhead Protection Plan has been adopted by the Planning Commissions in both Scott and Fayette Counties. In order to protect the Wellhead Protection Area, some uses, such as hazardous materials storage, should be restricted through the use of conditional zoning.

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

1. The requested Economic Development (ED) zone is in agreement with the 2013 Comprehensive Plan, and the 1996 Expansion Area Master Plan, for the following reasons:
  - a. The 1996 Expansion Area Master Plan recommends Economic Development (ED) future land use for the subject property, which is the primary employment land use in the Expansion Area. The applicant has requested Economic Development (ED) zoning for the subject property, in agreement with the Plan's recommendation.
  - b. The 2013 Comprehensive Plan's Goals and Objectives recommend creating prosperity and jobs (Theme C), and more specifically, to "foster the success and growth of large employment sectors; protect and provide readily available economic development land to meet the needs for jobs; and enable infill and redevelopment that creates jobs where people live" (Goal #2d.). The subject property will allow for a consistent and compatible use of the land between the Urban Service Area boundary and the interstate corridor for potential economic development opportunities within the community.
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- d. The proposed rezoning maintains the current Urban Service Area boundary (Theme E, Goal #3), and encourages development of underutilized and/or vacant property within the current boundary (Theme E, Goal #1).
  - e. The 2013 Comprehensive Plan also recommends that there be a supply of “jobs infrastructure” ready for development in a variety of manners (pg 72), including office, industrial and healthcare, all of which can be accommodated by the proposed Economic Development (ED) zone.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00097: Winburn Land Company (Kingston Hall, Unit 3), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
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    - b. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary).
    - c. On-site disposal of any hazardous waste materials shall be prohibited.
    - d. Mining of non-metallic minerals and/or radium extraction shall be prohibited.

These use restrictions are both appropriate and necessary for the subject property for the following reasons:

1. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has been approved by the Kentucky Division of Water.
2. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring “best management practices” for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.



**2. ANDERSON ACQUISITIONS, LLC ZONING MAP AMENDMENT & WINBURN LAND COMPANY ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-17-00035: ANDERSON ACQUISITIONS, LLC (12/30/17)\*- petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Economic Development (ED) zone, for 7.70 net (9.53 gross) acres, for property located at 2050 Newtown Pike.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. The 2013 Comprehensive Plan also encourages creating jobs and prosperity (Theme C) and maintaining a balance between urban uses and safeguarding rural land (Theme E).

The subject property is located within the Expansion Area, more specifically Subarea 3. The Expansion Area Master Plan recommends Economic Development (ED) future land use for the subject property. The petitioner proposes to develop this property with the principal permitted uses allowed in the Economic Development (ED) zone.

**The Zoning Committee Recommended: Approval.**

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

1. The requested Economic Development (ED) zone is in agreement with the 2013 Comprehensive Plan, and the 1996 Expansion Area Master Plan, for the following reasons:
  - a. The 1996 Expansion Area Master Plan recommends Economic Development (ED) future land use for the subject property, which is the primary employment land use in the Expansion Area. The applicant has requested Economic Development (ED) zoning for the subject property, in agreement with the Plan's recommendation.
  - b. The 2013 Comprehensive Plan's Goals and Objectives recommend creating prosperity and jobs (Theme C), and more specifically, to "foster the success and growth of large employment sectors; protect and provide readily available economic development land to meet the needs for jobs; and enable infill and redevelopment that creates jobs where people live" (Goal #2d.). The subject property will allow for a consistent and compatible use of the land between the Urban Service Area boundary and the interstate corridor for potential economic development opportunities within the community.
  - c. The proposed rezoning will create "shovel ready" economic development land. Infrastructure is either constructed or currently being constructed to serve the immediate area, and the land is generally flat; therefore, minimal grading would be needed.
  - d. The proposed rezoning maintains the current Urban Service Area boundary (Theme E, Goal #3), and encourages development of underutilized and/or vacant property within the current boundary (Theme E, Goal #1).
  - e. The 2013 Comprehensive Plan also recommends that there be a supply of "jobs infrastructure" ready for development in a variety of manners (pg. 72), including office, industrial and healthcare, all of which can be accommodated by the proposed Economic Development (ED) zone.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00097: Winburn Land Company (Kingston Hall, Unit 3), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions within the Royal Spring Aquifer and Wellhead Protection Area are recommended via conditional zoning:
  - a. All above ground and underground storage tanks shall be designed to have spill containment facilities.
  - b. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary).
  - c. On-site disposal of any hazardous waste materials shall be prohibited.
  - d. Mining of non-metallic minerals and/or radium extraction shall be prohibited.

**These use restrictions are both appropriate and necessary for the subject property for the following reasons:**

1. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has been approved by the Kentucky Division of Water.
2. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.

- b. PLN-MJDP-17-00097: WINBURN LAND COMPANY (12/30/17)\* - located at 2050 Newtown Pike.

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

(EA Partners)

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

1. Provided the Urban County Council rezones the property ED; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote proposed use of subject property.
8. Resolve timing of completion of frontage along Aspiration Drive.
9. Resolve timing to remove platted 300' building line.
10. Resolve status of sanitary sewer service.

Staff Zoning Presentation – Ms. Wade presented the staff report and recommendations for the zone change. She displayed photographs of the subject property and aerial photographs of the general area. She said the subject property is located in Expansion Area 3 and is currently vacant.

Ms. Wade stated that the applicant believes that this rezoning is in agreement with the 2013 Comprehensive Plan and the Land Use recommendation from the 1996 Expansion Area Master Plan. She said that that subject property is also located in the Royal Springs Aquifer and the staff made a recommendation for condition zoning restrictions due to this environmental condition. She said the staff and the Zoning Committee recommended approval of this zone change.

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

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

1. Provided the Urban County Council rezones the property ED; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
- ~~6. Denote proposed use of subject property.~~
- ~~6.~~ 7. Resolve Denote timing of completion of frontage along Aspiration Drive shall be determined at final development plan.
- ~~7.~~ 8. Resolve Denote timing to remove platted 300' building line shall be determined at final development plan and denote platted building line on property.
- ~~8.~~ 9. Resolve Denote status of sanitary sewer service shall be determined at final development plan.

Mr. Martin said that access to the subject property will be from Aspiration Way. He said that staff has a few sign-off conditions and the applicant will need to submit a final development plan. He added that in an Expansion Area, the applicant will be submitting required compliance reports at the time of the final development plan.

Mr. Martin said that the subject property will be utilizing the existing sanitary sewer pump station located near Newtown Pike until the new regional pump station is completed.

Applicant Presentation – Mr. Murphy, attorney representing the petitioner, said the applicant is in agreement with the staff's recommendations and is available for questions.

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

Zoning Action – A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 9-0 (Forester and Richardson absent) to approve PLN-MAR-17-00035: ANDERSON ACQUISITIONS, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 9-0 (Forester and Richardson absent) to approve PLN-MJDP-17-00097: WINBURN LAND COMPANY, with the revised conditions provided by the staff.