

1. **ANDERSON LURADANE, LLC ZONING MAP AMENDMENT & SULLIVAN PARK & DEVEREUX SUBDIVISION ZONING DEVELOPMENT PLAN**

Note: The Planning Commission postponed this item at their November 30, 2017, meeting.

- a. **PLN-MAR-17-00039: ANDERSON LURADANE, LLC (12/31/17)***- petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 0.92 net (1.06 gross) acres, for properties located at 135, 137 & 139 American Avenue and 112, 114, 116 & 118 Burley Avenue. Dimensional variances are also requested.

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 Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

Related to the proposed rezoning, the 2013 Comprehensive Plan Goals and Objectives recommend expanding housing choices (Theme A., Goal #1); supporting infill and redevelopment as a strategic component of growth, including compact and contiguous growth (Theme A., Goal #2 and Theme E., Goal #1b); providing for well-designed neighborhoods and communities (Theme A., Goal #3); reducing Lexington's carbon footprint (Theme B, Goal #2); and improving a desirable community by working to achieve an effective and comprehensive transportation system (Theme D., Goal #1). *Chapter 7: Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land* of the 2013 Plan also address specific recommendations for Infill and Redevelopment within Lexington-Fayette County.

The applicant proposes redeveloping the subject properties with a combination of single-family residences and multi-family dwelling units, as well as associated off-street parking. The corollary development plan depicts 26 dwelling units, with 31 bedrooms, which represents a density of 28.38 dwelling units per net acre. Numerous dimensional variances are requested in conjunction with the requested zone change for the subject properties.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Postponement, for the following reasons:

1. Currently, the proposed corollary development plan is a hybrid between a group residential development and individual R-4 zoned lots. This creates a myriad of regulatory compliance issues that must be addressed for both types of plans. The staff would like to explore other options with the petitioner to create a plan that supports the 2013 Comprehensive Plan's policy statements, goals and objectives.
 2. The compatibility of the High Density Apartment (R-4) zone for the subject property should be further discussed with the petitioner, especially in light of the limited infrastructure within the neighborhood, the need to achieve an effective and comprehensive transportation system, the land use patterns of the neighborhood and the desire to provide context sensitive development that respects the immediate area's design features.
- b. **REQUESTED VARIANCES**
1. Reduce the required front yard along American Avenue from 20 feet to 8 feet
 2. Reduce the required rear yard from 10 feet to 5 feet at 112 and 118 Burley Avenue
 3. Eliminate the zone-to-zone screening requirement.

The Zoning Committee recommended: Postponement, per the staff recommendations.

The Staff Recommends: Postponement, for the following reasons:

- a. Generally, when a variance is requested, one of the findings required to grant the variance must be based on special circumstances applicable to the property/properties that would serve as a justification for the variance. "Special circumstances" are typically understood to be physiographic in nature that would prevent a structure or structures from being constructed at the required setback. That situation does not appear to exist with this request; and, until further, more detailed reasoning is provided for needing the variances, the staff is unable to support the applicant's request.
 - b. In reviewing the proposed variances for this zone change request, it was discovered that a fourth variance is needed that was not requested. A postponement will allow the applicant to apply for a side yard variance for 112 and 118 Burley Avenue, as described in the body of this report, and to provide the necessary notification to surrounding property owners.
- c. **PLN-MJDP-17-00106 SULLIVAN PARK & DEVEREUX SUBDIVISION (12/31/17)*** - located at 135, 137 & 139 American Avenue and 112, 114, 116 & 118 Burley Avenue.
Project Contact: Barrett Partners

Note: The Planning Commission postponed this item at their November 30, 2017, meeting.

The Subdivision Committee Recommended: Postponement. There are still questions regarding compliance with Article 8-13 of the Zoning Ordinance as well as concerns with the stormwater management.

* - Denotes date by which Commission must either approve or disapprove request.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property R-4; 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. Denote height of building in feet on plan.
6. Denote compliance with Article 15-7 shall be determined at time of final development plan.
7. Denote pedestrian access to American Avenue.
8. Demonstrate compliance with open space required.
9. Provided the Planning Commission grants the requested variance to Article 18.
10. Discuss compliance with R-4 zone requirements.
11. Discuss note #12.
12. Discuss water quality/stormwater improvements per the Engineering Manuals.
13. Discuss improvements to Burley and American Avenues.

Staff Presentation – Ms. Wade oriented the Commission to the location of the subject property, the surrounding zoning, and presented a PowerPoint presentation and gave a brief description of the applicant's zone change request.

Ms. Wade indicated that the staff had originally recommended postponement of this request for the reasons provided on the agenda. However, since the Zoning Committee meeting, the staff had met with the applicant twice and they provided additional information as well as discussed revisions to the corollary development plan in order to meet the requirements of the R-4 zone and the Group Residential Project provisions established by the Zoning Ordinance, and to discuss agreement with the Comprehensive Plan.

Ms. Wade noted that the staff had distributed a Supplemental Report, and is now recommending approval, for the following reasons:

1. The proposed High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives recommend growing successful neighborhoods through expanded housing choices that address the market needs for all residents (Theme A, Goal #1b.). The petitioner proposes the addition of 24 one-bedroom dwelling units, and maintaining four 3-4 bedroom units, which creates a variety of dwelling unit types in the immediate area that complement the existing neighborhood. Such mixing of housing types also encourages stability in the neighborhood.
 - b. The Goals and Objectives encourage infill development throughout the Urban Service Area as a strategic component of growth for our community (Theme A, Goal #2) and to encourage compact, contiguous and/or mixed-use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth (Theme E, Goal #1b). The petitioner proposes to increase the density of the subject property, from 7.6 dwelling units per acre to 30.57 dwelling units per acre. These Goals and Objectives are furthered by the applicant's proposal to create affordable, safe/secure high density residential dwelling units, which will allow students and others to live near the University of Kentucky.
 - c. The Goals and Objectives recommend providing well-designed neighborhoods that are connected for all modes of transportation (Theme A, Goal #3b.), and working to achieve an effective and comprehensive transportation system for the community (Theme D, Goal #1). The petitioner is providing sidewalks and increased right-of-way pavement to provide adequate infrastructure to accommodate all modes of transportation.
 - d. Chapter 3 (Growing Successful Neighborhoods) and Chapter 7 (Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land) of the Comprehensive Plan emphasize the importance of safe, secure, well-designed neighborhoods that are context sensitive, compatible with the surrounding area, and compact, contiguous and/or mixed-use sustainable development. The proposed two-story development will be consistent in scale and mass with the surrounding neighborhood.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00106: SULLIVAN PARK AND DEVEREUX SUBDIVISION, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Commission Questions – Ms. Mundy said that as lots are redeveloped as single family homes they were not required to install curb and gutter. Ms. Wade replied affirmatively. Ms. Mundy then asked since this is a larger development will the applicant be required to install curb and gutter. Ms. Wade replied affirmatively. Ms. Mundy said that this development will create an odd curb and gutter situation next to the properties that do not have the curb and gutter. She asked who would be responsible for installing curb and gutter on the other properties. Ms. Wade said that should another large development come into the area then that developer would be responsible to ensure that the improvements match the cross-section. She added that single family homes are generally not required to install curb and gutter so for those lots, it would be the responsibility of the government.

Mr. Martin presented the revised staff's report on the preliminary development plan, and noted that the staff had distributed the following revised recommendation of approval to the Commission.

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

1. Provided the Urban County Council rezones the property R-4; 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. Denote height of building in feet on plan.
6. ~~Denote compliance with Article 15-7 shall be determined at time of final development plan.~~
7. Denote pedestrian access to American Avenue.
8. Demonstrate compliance with open space required.
9. Provided the Planning Commission grants the requested variance to Article 48-13(h).
10. ~~Discuss compliance with R-4 zone requirements.~~
11. ~~Discuss note #12.~~
10. 42. Discuss Denote water quality/stormwater improvements per the Engineering Manuals shall be determined at the time of final development plan.
11. 43. Discuss Denote Improvements to Burley and American Avenues shall be determined at the time of final development plan.

Mr. Martin presented several schematics and briefly explained that when reviewing the entire area there are different lot sizes that range from 25 foot in width to one-and two-acre lots.

Commission Questions – Ms. Plumlee asked why would this request need Board of Adjustment's approval. Mr. Martin explained that the applicant would need to seek the Board of Adjustment approval if they cannot meet 20 percent of the lot depth in the rear yard. He noted that this is a variable dimension, so the applicant can request a reduction from the Board of Adjustment; otherwise, the applicant will need to make this plan comply before it is certified.

Mr. Berkley asked if the setback should be addressed today. Mr. Martin indicated that the setback needs to be resolved prior to certification of the plan. Ms. Wade said that the Planning Commission cannot approve a variance that has not been advertised in the newspaper or where property owners had not received the required notification by mail.

Ms. Rackers presented the staff's revised report on the variance request, and noted that the staff had distributed the following revised recommendation of approval to the Commission.

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested variance will not adversely affect the public health, safety or welfare, will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public. In fact, granting the variance will help to promote and maintain public health, safety and welfare by allowing a development that will include infrastructure improvements in an area that has been known and recommended for these types of improvements, as well as improved and mixed housing, since at least the 1990s when the *South Broadway Corridor Plan* was written and adopted as an element of the Comprehensive Plan.
- b. Granting the requested variance will not result in an unreasonable circumvention of the Zoning Ordinance. The building and parking, as proposed, are designed to maximize the site, replacing three older residential structures with a safer, more modern living space for students or others who might wish to take advantage of "live where you work" opportunities, both of which are endorsed by the Comprehensive Plan. Additionally, granting the variance will allow the parking for the entire development to be completely interior to the project and not in front of the building, something also supported by the Comprehensive Plan as well as the infill regulations.
- c. One special circumstance that applies to this site that does not generally apply to land in the general vicinity is its size, which would not allow the redevelopment as proposed without the variance. Another circumstance is that this is an urban infill project located near the University of Kentucky campus that will continue to provide rental housing, which is always in demand. The new building proposed will replace three older structures with a new, safe structure that will contain only sixteen dwelling units.
- d. Strict application of the requirements of the Zoning Ordinance would prevent the most efficient layout of the parking area that is currently proposed, or would require an off-setting decrease in the number of dwelling units for this redevelopment project.
- e. Although the circumstances surrounding the requested variance are associated with the proposed zone change, the variance is requested in an effort to accomplish an efficient design of the off-street parking area, which will be totally interior to the project. Additionally, the apartment building will be at a setback more in line with what is existing on two of the three American Avenue properties that are proposed for redevelopment. Improved infrastructure will be provided in an area that has been either inadequate or lacking, and will provide greater safety for pedestrians as well as vehicular traffic. In the staff's opinion, this is just as important and may even outweigh the fact that if the property weren't proposed to be re-zoned and developed in this manner, the variance would not be needed.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.

3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. Prior to obtaining an Occupancy Permit, the applicant shall obtain a Zoning Compliance Permit from the Division of Planning.

Petitioner Presentation – Richard Murphy, attorney; Dennis Anderson, applicant; Tony Barrett, Barrett Partners; were present to represent the applicant. Mr. Murphy presented a PowerPoint presentation, and gave a brief description of each slide. He indicated that they were in agreement with the staff recommendations and requested approval.

Citizen Comments in support – Lee Rose and John Dauer, owners of Luradane, LLC, were present to speak in support of this request. They expressed their excitement in collaborating with Anderson Communities. They believe the project will greatly enhance the neighborhood and represents the best use for the property.

Mr. Wilson noted that Ms. Ginny Daley had requested additional time; however, all others who are present to speak regarding this request will be limited to 3 minutes.

Citizen Comments in opposition – Ginny Daley, 136 Burley Avenue, presented a PowerPoint presentation and gave a brief description of each slide. She voiced her concerns about the negative impacts that this project will have on the neighborhood, and indicated that this development is too dense and it would do more harm than good. She requested that the Planning Commission deny the zone change because it does not support the Comprehensive Plan.

Walt Gaffield, 2001 Bamboo Drive, spoke in opposition to the rezoning and indicated that this development was in poor design and out of context, and this is the beginning of university housing for under graduate students. He suggested the Commission consider a conditional use to only allow one-bedroom units. He is concerned that this proposal will set a precedent for this neighborhood and other neighborhoods.

Frances Hisle, 166 and 170 American Avenue, spoke in opposition to the rezoning and indicated the streets in this area could not handle an increase in traffic. She said that the traffic and parking issue in this area has made the neighborhood unsafe for pedestrians.

Amy Clark, 628 Kastle Road, presented a PowerPoint presentation and gave a brief description of each slide. She spoke in opposition to the rezoning and indicated that the front yard variance proposed for this request is incompatible with the existing setbacks; and some properties have enclosed their front porches, which projects toward the street. She indicated that KRS 100.247 states that a variance shall not alter the density requirements of that zone. The requested variance is not specifically altering the density requirements, but it is altering the parking requirements, which bear an immediate relationship to density. She added that parking requirements are a way to control what density is allowed in an area. She indicated that staff had cited Article 15-7(d) in their report, but the Zoning Ordinance states that the intent of the Infill and Redevelopment regulations is to allow new construction that is compatible and grants the relief of unusual hardship. She said that there is nothing unusual to the R-4 zone about needing room for parking and there is nothing unusual to the neighborhood about having very little room. To her, the hardship seems to be that the land is too small for this development.

Petitioner Rebuttal – Mr. Murphy said that traffic impacts to the neighborhood are minimal. If this development has 35 cars then for every 12 hours, there would be 3 cars per hour or 1 car every 40-minutes added to the street, which is not significant.

Mr. Murphy directed the Commission's attention to the overhead, and said that the rent on the existing house is between \$1,400 and \$1,500 per month, which is not affordable housing. He then said that the location of this property is next to the University of Kentucky campus, which creates a heavy demand for student housing. This is the reason why the rental properties are priced as they are.

Mr. Murphy said that the staff agreed this proposal is in compliance with the Comprehensive Plan. They did not recommended disapproval, but they recommended postponement due to the number of variances being requested. He then said that they revised their proposal, which only required one variance then the staff changed their recommendation to approval.

Mr. Murphy said that they understand the neighbors are concerned with not wanting a new single family development next to an older single family development, but they are not proposing to construct the same type of housing as what is already in the area. They will be building a better development with one-bedroom apartments, which are needed in this area. They are enhancing the neighborhood by adding curb and gutter, sidewalks, and other infrastructure. He said that they understand the concerns with changing the neighborhood, but this change will improve the neighborhood.

Mr. Murphy said that there were comments made about what is allowed in this zone, but the issues that are being raised are beyond the scope of the Planning Commission. He said that the Commission has no control over conversions or teardowns of one or two-story houses or the type of material being use. This area is already zoned single family and the property owners have the right to change their property. He said that they believe their proposal is a better development.

Note: Mr. Brewer departed at this time.

Citizen Rebuttal – Ms. Daley expressed her concern with the proposed development being too dense for this area.

Ms. Clark expressed her concerns that this proposed development will increase traffic on Burley Avenue, and the improvement made to the street will not be maintained. She referenced a Board of Adjustment case where individual 25' wide lots were determined to be existing buildable lots, which has contributed to the changing character of the neighborhood.

Staff Rebuttal – The staff had no rebuttal at this time.

Commission Questions – Mr. Wilson directed the staff's attention to the revised staff report for the variance, and asked for clarification if Item b would be appropriate to approving this request. Ms. Jones replied affirmatively.

Mr. Penn indicated that he is reluctantly supporting this proposal, but commented that this neighborhood is changing because there is housing that cannot be renovated, so different housing styles are being constructed. He said that what happened in the past cannot be changed and as developments are proposed, the 2013 Comprehensive Plan will be referenced. He added that because of the infrastructure and the problems in this area, he does not believe this neighborhood will work if each lot develops differently from the next.

Mr. Wilson said that the issue raised about gentrification is a problem and he has already spoke about that issue with the staff. He understands that is a concern that relates to new development coming into an area.

Mr. Cravens indicated his agreement with Mr. Penn, and said that some of the older houses cannot be repaired, so new development would be a good solution.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Forester, and carried 9-0 (Brewer and Richardson absent) to approve **PLN-MAR-17-00039: ANDERSON LURADANE, LLC**, for the reasons provided by the staff.

Variance Action – A motion was made by Mr. Cravens, seconded by Mr. Forester, carried 9-0 (Brewer and Richardson absent) to approve the requested front yard variance along American Avenue, for the reasons provided by the staff, and with the recommended conditions.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Mr. Fosterer, and carried 9-0 (Brewer and Richardson absent) to approve **PLN-MJDP-17-00106 SULLIVAN PARK & DEVEREUX SUBDIVISION**, subject to the revised conditions provided by the staff.

Note: Mr. Bell departed at this time.

