

ORDINANCE NO. 24-28

AN ORDINANCE AMENDING ORDINANCE NO. 00-18, KNOWN AS THE CITY'S ZONING ORDINANCE, AND ALTERING THE ZONING MAP TO REFLECT SAID AMENDMENT, BASED ON THE FINDINGS OF FACT MADE BY THE PLANNING AND ZONING BOARD, AND BASED ON SAID BOARD'S RECOMMENDATION OF A ZONE CHANGE;

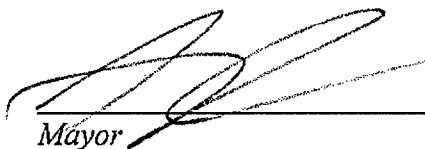
BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOMERSET, KENTUCKY:


That Ordinance No. 00-18, known as the Zoning Ordinance, Somerset, Kentucky, is hereby amended by altering the Zoning Map in the following manner:

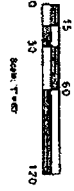
- I. By changing a boundary of land presently zoned **B-2** to **R-3**, said properties being more particularly described in Exhibit "A" attached hereto and incorporated herein in full by reference, located at **Undeveloped Property on Thurman Rd**, Somerset, Kentucky, and having PVA Parcel # **049-0-0-04.2**.
- II. The City Clerk of the City of Somerset, Kentucky is hereby authorized to alter the Zoning Map to reflect said changes.
- III. This Ordinance shall be in full force and effect from and after adoption and publication according to law.

FIRST READING SEPTEMBER 9, 2024

SECOND READING SEPTEMBER 23, 2024

Approved: 
Mayor

Attest: 
City Clerk



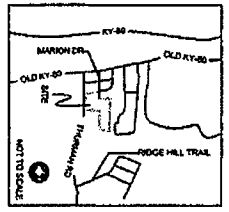
BOARD OF PLANNING
TOWN OF STANFORD, KY

PROPOSED ZONE CHANGES
EXISTING ZONE: COMMERCIAL APARTMENT (CA) ZONE
PROPOSED ZONE: RESIDENTIAL APARTMENT (RA) ZONE

PROPOSED ZONE: RESIDENTIAL APARTMENT (RA) ZONE
EXISTING ZONE: COMMERCIAL APARTMENT (CA) ZONE

PROPOSED ZONE: LOT REZONEMENT
EXISTING ZONE: COMMERCIAL APARTMENT (CA) ZONE

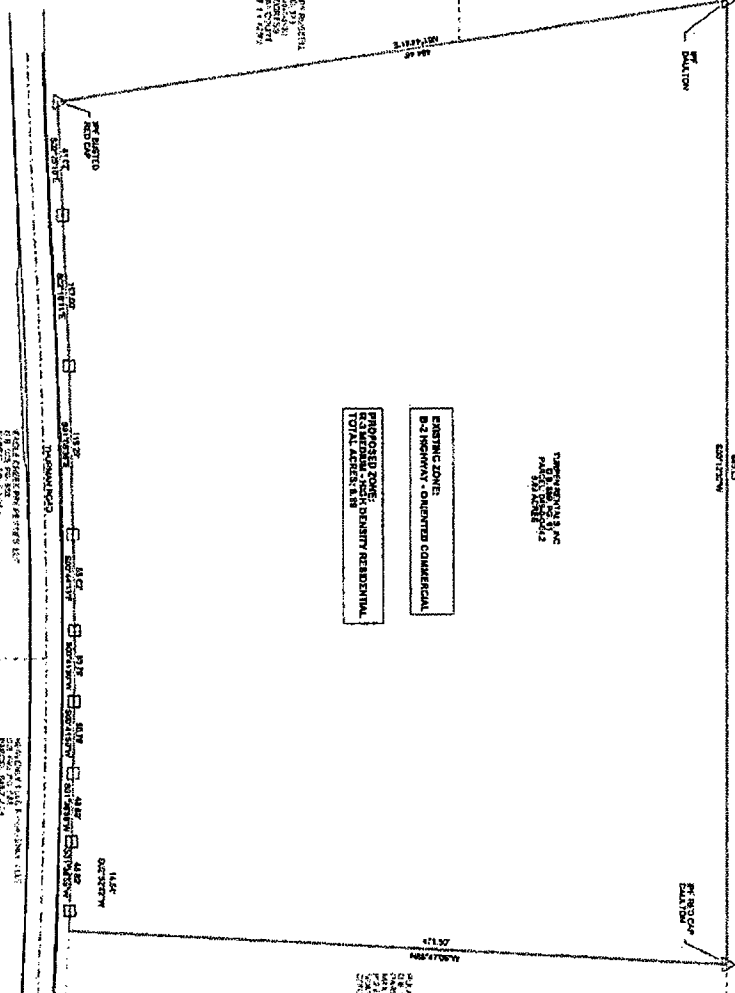
PROPOSED ZONE: LOT REZONEMENT
EXISTING ZONE: COMMERCIAL APARTMENT (CA) ZONE



CERTIFICATE OF APPROVAL FOR RECORDING
I HEREBY CERTIFY THAT THIS MAP IS TO BE RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF PULASKI, KY, AND THAT THE SAME HAS BEEN APPROVED BY THE BOARD OF PLANNING AND THE BOARD OF ZONING.

CERTIFICATE OF OWNERSHIP & DEDICATION
I, the undersigned, being the owner of the property described herein, and that I have adopted this plan to record the same.

STATE OF KENTUCKY
COUNTY OF PULASKI
LAND RECORDS
3118
DATE



PROPOSED ZONE: RESIDENTIAL APARTMENT (RA) ZONE
EXISTING ZONE: COMMERCIAL APARTMENT (CA) ZONE
TOTAL ACRES: 1.88

TURPEN RENTALS, INC.
P.O. BOX 204
STANFORD, KY

LEGEND
A FROM BOUNDARY (AS NOTED)
ROAD CENTERLINE
BOUNDARY LINE
UNIMPROVED DRIVE

THIS IS NOT A BOUNDARY SURVEY
THIS PLAT IS FOR ZONE CHANGE PURPOSES ONLY

1) SURVEY METHOD: THIS SURVEY WAS CONDUCTED BY THE SURVEYOR USING THE FOLLOWING METHODS: ELECTRONIC DISTANCE MEASUREMENT (EDM), TOTAL STATION, AND ANGLE MEASUREMENT. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1978, AS AMENDED.

2) THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 1978, AS AMENDED. THE SURVEYOR HAS REVIEWED THE PLAT AND HAS FOUND IT TO BE ACCURATE AND CORRECT. THE SURVEYOR HAS ALSO REVIEWED THE ZONING MAP AND HAS FOUND THAT THE PROPOSED ZONE CHANGES ARE IN ACCORDANCE WITH THE ZONING MAP.

**AGE**
ENGINEERING SERVICES, INC.
P.O. BOX 204
165 FOSTER LANE
STANFORD, KY 40484
PHONE (606) 365-8362
FAX (606) 365-1097

ZONE CHANGE
TURPEN RENTALS, INC.
THURMAN ROAD
SOMERSET, PULASKI, KY

DATE: 8/5/24
SCALE: 1" = 60'
DRAWN BY: J.E.M.
APPROVED BY: GOOCH
FILENAME: 2328 ZONE

CITY OF SOMERSET, KENTUCKY
PLANNING AND ZONING COMMISSION

FINDINGS OF FACT, CONCLUSIONS
AND RECOMMENDED MAP AMENDMENT

CASE NO: _____

RE: Zone Changes: Turpen Properties, LLC and Eagle Creek Development, LLC

For recording purposes,
Listed below are the parties involved in the Zone Change for
Thurman Road
Somerset, Kentucky
PVA Parcel 049-0-0-04.2

Party One
City of Somerset,
Planning & Zoning Commission
PO Box 989
Somerset, Kentucky, 42502

Party Two
Turpen Rentals, Inc.
PO Box 1478
Somerset, Kentucky, 42502

Listed below are the parties involved in the Zone Change for
Marion Drive
Somerset, Kentucky
PVA Parcel 049-0-0-05.8

Party One
City of Somerset,
Planning & Zoning Commission
PO Box 989
Somerset, Kentucky, 42502

Party Three
Eagle Creek Properties, LLC
450 Old Salts Road
Somerset, Kentucky, 42503

The Planning and Zoning Commission having heard testimony at a public hearing conducted before the Commission on the 27th day of August 2024 and based on the evidence presented, the Planning and Zoning Commission enters the following FINDINGS OF FACT, CONCLUSIONS AND MAP AMENDMENT.

FINDINGS OF FACT

Turpen Rentals, Inc. is the owner of record of a 6.89 tract in the City of Somerset bounded on the west by Thurman Road and on the east by Marion Drive.

It being that tract of land conveyed to **Turpen Rentals, Inc.**, by deed of conveyance dated the 5th of August 2005 and of record in Deed Book 889 Page 091.

The parcel is zoned B-2 (Highway Oriented Commercial).

The future uses for the tract as shown on the current planned use map is Commercial.

The land is vacant, with a small copse of trees on the north and sown field on the south.

It is PVA Parcel 049-0-0-04.2

Eagle Creek Properties, LLC is the owner of record of a 10.59-acre in the City of Somerset bounded on the west by the undeveloped right of way of Marion Drive.

It being that tract of land conveyed to **Eagle Creek Properties, LLC.**, by deed of conveyance dated the 2nd of December 2022 and of record in Deed Book 1067 Page 088. The tract is shown on plat of record in Plat Cabinet G Slide 229A and is titled Taylor Family Acres, LLC (Consolidation of Parcels 1-3).

The parcel is zoned A-1 (Agricultural).

The tract is at the terminus of the developed section of Marion Drive. Access onto Marion Drive is via the undeveloped right-of-way that runs along the west side of the tract.

The future uses for the tract as shown on the current planned use map is Commercial.

The petitioners own the tract to the west, and have developed this tract with commercial properties, mostly in the service area. The south portion of this tract (2.55-acres) is leased to an adjoining business. None of the roads that serve this tract intersect the undeveloped right-of-way of Marion Drive.

The north portion (8.04-acres) of the land is vacant, with a sown field.

The south portion (2.55-acres) is developed with a gravel yard that is fenced. It is leased to Cintas Uniform Services, who leases a building on the adjoining tract to the west, a portion of PVA Parcel 049-0-0-04.

It is PVA Parcel 049-0-0-05.8

The two petitioners above are rezoning a tract or portions of a tract for the benefit of a purchaser (Ally Development).

The owners of the Turpen Tract and 8.04-acres of the Eagle Creek Tract are asking that these tracts be rezoned to Medium Density Residential R-3. A request that the remainder of the Eagle Creek Tract be rezoned to B-3 (Neighborhood Commercial) is also under consideration by the Planning and Zoning Commission and addressed in this document.

The adjoining land owners are:

Parcel 049-7-2-32, Thurman Road, Larry Russell Light, B-2 (North of Turpen)

Parcel 049-7-2-36, 200 Marion Drive, Brenda Jen Burton, B-2 (North of Turpen)

Parcel 049-7-2-42, 217 Marion Drive, Gary & Shirlene Taylor, A-1, (East of Turpen, North of Eagle Creek)

Parcel 049-0-0-05, 215 Marion Drive, Melody Taylor, A-1. (East of Turpen, North of Eagle Creek)

Parcel 049-0-0-03, 25 Carl Floyd Rd, Pulaski County Fair Board, Inc., B-2 (East of Eagle Creek)

Parcel 049-0-0-05.4, Thurman Road, JAL Holdings, LLC, Small Portion A-1, remainder unzoned. (South of Eagle Creek)

Parcel 049-0-0-04, 30 Sir Noah's Way, Eagle Creek Properties, LLC, B-2 (West of Eagle Creek)

Parcel 049-0-0-04.1, 50 Kennedy Way, Pulaski County Fiscal Court, B-2, (South of Turpen, West of Eagle Creek)

Parcel 049-7-2-28, 1295 West Hwy 80, Heavenly 1, LLC, I-1, (West of Turpen)

Parcel 049-7-2-31.1, Thurman Road, Eagle Creek Properties, LLC, B-2, (West of Turpen)

Parcel 049-7-2-31.1, 100 Chapel Dr T, Somerset Culinary Properties, LLC, B-2, (West of Turpen).

The majority of adjoining properties are zoned B-2, with those to the north being used as residences. As such, they are legal nonconforming. Their present use can continue, up to the point they are used as a principal use outlined in the City of Somerset Zoning Ordinance. After that they cannot return to a residential use. The adjoining and nearby uses are varied, with the fairgrounds to the east, and Rescue Squad Office south of Turpen and west of Eagle Creek. There are boat/large vehicle storage units and a restaurant on the west side of Thurman Road. The large vacant tract south of the storage is zoned Light Industrial (I-1). As stated earlier Cintas Uniform Services leases the south portion of the Eagle Creek Tract and adjoining tract.

The entity buying the petitioners tracts plan to construct an assisted living facility and memory care facility on the Turpen Tract, and independent senior living residences on the north portion of the Eagle Creek Tract. It will be somewhat similar to the Neighborhood and the adjoining residences, on a smaller scale.

An assisted living facility and a memory care facility are considered to be residential structures.

The Zoning Ordinance specifically locates any assisted living facility and memory care facility (specialized skilled nursing facility) in a R-3 zone and also requires a Conditional Use Permit. Along with assisted living facility and nursing home, hospitals and rest homes, are allowed in a R-3 with conditional uses. (Nursing homes are a principal use in B-1. Hospitals are a principal use in B-2).

Multi-family residential buildings are a principal use in R-3 zones.

The future use of the property is commercial.

The buyer chose these properties, due to their location, on the west side of town, in somewhat close proximity to the hospital and medical offices and clinics located near the hospital (1.7-miles). He looked at several tracts along the Southwestern Bypass corridor but preferred this location.

There are limited tracts that meet the parameters of the buyer, and none are closer than the subject that are in a residential zone or tract whose future use is residential. Turpen Rentals, Inc. principal William Turpen stated that he had no serious interest in the property since its purchase in 2005.

For the south portion of the Eagle Creek Parcel, there are basically three options for potential zones that would allow it's continued use, B-2, B-3, or I-1. A discussion was held within the Planning and Zoning office as to whether the tract and 30 Sir Noah's Lane should be rezoned to I-1, or the 2.55-acre tract to B-2, to match the current zoning of 30 Sir Noah's Lane.

The future uses for the tracts as shown on the current planned use map is Commercial.

The end user of the proposed R-3 tracts, if the property is rezoned, Ross Oberhausen, Ally Development, spoke at length, stating that there is a need for the proposed use, and provided the current occupancy in the other assisted living facilities in Somerset, which were in the 95% plus occupancy range. He further stated that he had planned to develop in Somerset in 2020 but delayed doing so until after Bluegrass Senior Living was completed and operational.

Note: The tract for Bluegrass Senior Living was bought in 2016. The building was completed in 2020. Bluegrass Senior Living was developed on a B-2 tract in MedPark West. The tract was not rezoned nor the subject of a Board of Adjustments Meeting (no conditional use issued).

No adjoining property owners or others spoke on the matter during the public hearing. Ross Oberhausen or Doug Gooch, owner, AGE Engineering, fielded many questions pertaining to the physical characteristics of the planned development from the commission.

Eagle Creek Properties, LLC, Member, Bob McAlpin spoke on behalf of the south portion of the Eagle Creek Properties tract, asking that it be rezoned to B-3, which conforms with the Future Use. No adjoining property owners or others spoke on the matter during the public hearing.

CONCLUSIONS

Turpen Rentals Tract

049-0-0-04.2

The Turpen Rentals Tract is under consideration for R-3 zoning.

The Turpen Rentals Tract, if rezoned, will be improved with an Assisted Living Facility, and a Memory Care Facility. (two buildings). The Memory Care Facility is specifically designed for those with dementia and Alzheimer's who require more specialized care and activities. The Assisted Living Facility is for people who need help with daily care, but not as much help as a nursing home provides. Assisted living residents usually live in their own apartments or rooms and share common areas. They have access to many services, including up to three meals a day; assistance with personal care; help with medications, housekeeping, and laundry; 24-hour supervision, security, and on-site staff; and social and recreational activities. This type of property is considered to be residential, due to the limited care provided by the staff, but basically operates as a commercial endeavor, due to the staffing and the limited care provided by the staff. An assisted living facility is considered as a transition stage between independent living and residential buildings requiring specialized care and activities (Skilled Nursing Facilities (Principal use in B-1)), so therefore is on the opposite side of the spectrum of traditional housing typically associated with R-3 type housing (apartments buildings with more than three units). The placement of the Bluegrass Senior Living facility in a B-2 zone has not hampered its occupancy, as it was at 97% when sampled by the end use (Oberhausen). One could argue that the Assisted Living Facility is more commercial in nature rather than residential as the staffing and

operation is somewhat similar to skilled nursing facilities, hotels, and motels, all principal uses in the Business Zoning.

Due to these factors, it is felt that the proposed use(s) would be suitable in a Commercial Zone, and the use would in essence fulfill the planned use. One of the other assisted living facilities in Somerset was developed on a corner tract (The Neighborhood) with a conditional use. This was developed prior to the current zoning ordinance. The Highlands is on Norfleet Drive in a residential zone, and Crestwood Assisted Living is on South Richardson Drive and is located in an I-1 zone. Both of these were developed prior to the current ordinance as well. The proposed use fits in with the predominant use of the adjoining properties to the north (residential) though they are zoned commercial. As such, it is felt that the present zone is inappropriate. The trend in the immediate area is to stay residential, in defiance of current zoning. Furthermore, it is felt that the proposed improvements would fit in the area, as a transition between the residential to the north and businesses to the south, and because of this, the R-3 zone is appropriate for the Turpen Rental Tract, in this instance, given the nature of the proposed improvements, which though classified as residential, seem to be a mixed use of commercial and residential.

Eagle Creek Properties, LLC, (North Portion)
A portion of PVA Parcel 049-0-0-05.8

This portion of the Eagle Creek Properties, LLC tract is under consideration for R-3 zoning.

The tract is situated near the developed portion of Marion Drive at the northwest corner. Access onto Marion Drive would be via the undeveloped portion of Marion Drive that abuts the west property line of this tract. The tract does not have frontage along a developed road.

The tract is zoned A-1 (Agricultural).

The lack of infrastructure (roads) has limited the potential uses.

The development of this tract as an accessory use of the adjoining Turpen Rental Tract is one of four potential avenues of development. One would be the outright purchase by a third party for use in the commercial sector. Marion Drive as developed is a dampener to this avenue of development due to its limited width and load bearing capacity.

(The other two would be the continued development by Eagle Creek Development from the west) and development from the south by the adjoining owner. This is unlikely given the extension of the

adjoining use by Eagle Creek Properties for its tenant (Cintas Uniform Services), which would probably halt the development of Marion Drive from the south.

It is felt that the planned use in the Commercial Sector is possible, but not in the near future, given the availability of other tracts in the city with better accessibility and infrastructure. The proposed use in the R-3 Sector as independent living in the senior sector dovetails nicely with the Assisted Living Facility and Memory Care Facility on the Turpen Tract.

Due to these factors, it is felt that the present use or the planned uses are inappropriate, given the infrastructure or lack thereof. It is felt that the proposed zone is more appropriate, due to the planned development on the adjoining tract and the continued use of the adjoining properties to the north in the residential sector rather than their present zone (B-2).

Eagle Creek Properties, LLC, (South Portion)
A part of PVA Parcel 049-0-0-05.8

This portion of the Eagle Creek Properties, LLC tract is under consideration for B-3 zoning.

The tract is the south portion of the Eagle Creek Properties, LLC. This tract is situated on the undeveloped portion of Marion Drive that abuts the west property line of this tract. The tract does not have frontage along a developed road.

The tract is zoned A-1 (Agricultural).

The petitioner has extended a gravel drive from the original tract leased to Cintas Uniform Services to the this tract. The present use is an accessory use in the B-2 and B-3 zones and a principal use in the I-1 Zone.

The petitioners have been asked to request the B-3 zone in this instance.

The rezoning of the original Cintas Uniform Services tract and this tract to the I-1 zone was discussed but would allow potential uses that would not complement the existing properties. The rezoning of the property to match the original Cintas Uniform Services tract (B-2) would allow the development of the tract with self-storage with a conditional use permit. It is felt this possibility need not happen with the development of the north portion with Independent Senior Living.

The B-3 zone conforms to the planned future use of the tract per the present comprehensive plan and as stated earlier, is an accessory use in the B-3 Zone.

It is ironic that one would state that both zones are appropriate for the Eagle Creek Properties tract. The south portion should have been rezoned prior to its development in to its present use along with the rest of the tract to Business. Due to this oversight, this has allowed Ally Development the possibility to purchase the property, and along with the Turpen Rental Tracts, so they can be developed into an Assisted Living Facility, a Memory Care Facility, and Independent Senior Living. While the first two are classified as residential, they are clearly a mixture of commercial and residential uses, due to the staffing requirements to meet the needs of the residents, and the use by the residents. It is felt that this is another example of the need to develop a zone with mixed commercial and residential uses, or expand the B-3 zone with more residential uses. Mixed uses or residential uses are allowed in Central Business District (B-1).

RECOMMENDED MAP AMENDMENTS

**Turpen Rentals Tract
049-0-0-04.2**

It is hereby recommended by this Commission that the map amendment be granted, having met the requirements of KRS 100.213 (1) (a), that the present zoning is inappropriate and the requested zone is appropriate and therefore the tract should be rezoned to Medium Density R-3.

**Eagle Creek Properties, LLC, (North Portion-8.04-acres)
A portion of 049-0-0-05.8**

It is hereby recommended by this Commission that the map amendment be granted, having met the requirements of KRS 100.213 (1) (a) that the present zoning is inappropriate and the requested zone is appropriate and therefore the tract should be rezoned to Medium Density R-3.and be rezoned to Medium Density R-3.

**Eagle Creek Properties, LLC, (South Portion-2.55-acres)
A portion of 049-0-0-05.8**

It is hereby recommended by this Commission that the map amendment be granted, having met the requirements of KRS 100.213 (1) that the map amendment is in agreement with the adopted comprehensive plan, and be rezoned to Neighborhood Commercial B-3.

A true and correct copy of this Findings of Fact, Conclusions and Recommended Map Amendment shall be sent to the City of Somerset City Council for adoption.

DONE AND ORDERED this 28th day of August 2024.

Michael H. [unclear]

Chairman, Planning and Zoning Commission
City of Somerset

ATTEST:

[Handwritten Signature]

Planning & Zoning Commission Clerk

This document was prepared by the staff of the Planning and Zoning Department under the supervision of John Adams, City Attorney

City Attorney