

**MINUTES OF MEETING HELD SEPTEMBER 23, 2024**

The Common Council of the City of Somerset, Kentucky met in a regular meeting on Monday September 23, 2024, at 6:00 p.m. with the following present: Council Members Jerry Wheeldon, Jimmy Eastham, Jerry Girdler, Robin Daughetee, Patrick Hunley, John Minton, Jim Mitchell, David Godsey, Amanda Bullock, Tom Eastham, David Burdine, Brian Dalton, Mayor Alan Keck, and City Clerk Nick Bradley. Absent: City Attorney John Adams.

Mr. Dalton made a motion to approve the minutes of the regular meeting of September 9, 2024. Mr. Burdine seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. Daughetee, Mr. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, Mr. T. Eastham, Mr. Burdine, and Mr. Dalton.

Mr. Daughetee made a motion to approve the following Resolution Number 24-19: APPROVING AND AUTHORIZING AN ASSISTANCE AGREEMENT BETWEEN THE CITY OF SOMERSET, KENTUCKY AND THE KENTUCKY INFRASTRUCTURE AUTHORITY TO PROVIDE UP TO \$4,938,800 OF LAON FUNDS FOR PROJECT NUMBER B24-007. MS. Bullock seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. Daughetee, Mr. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, Mr. T. Eastham, Mr. Burdine, and Mr. Dalton.

**RESOLUTION 24-19**

A RESOLUTION APPROVING AND AUTHORIZING AN ASSISTANCE AGREEMENT BETWEEN THE CITY OF SOMERSET, KENTUCKY AND THE KENTUCKY INFRASTRUCTURE AUTHORITY TO PROVIDE UP TO \$4,938,800 OF LAON FUNDS FOR PROJECT NUMBER B24-007

WHEREAS, the City Council (the "Governing Authority") of the City of Somerset, Kentucky, (the "Borrower") has previously determined that it is in the public interest to acquire and construct certain facilities and improvements (the "Project") on the Borrower's wastewater system (the "System"); and

WHEREAS, the Borrower has made application to the Kentucky Infrastructure Authority (the "Authority") for the purpose of providing financing to construct the Project; and

WHEREAS, in order to obtain such financing, the Borrower is required to enter into an Assistance Agreement with the Authority (the "Assistance Agreement");

NOW, THEREFORE, IT IS RESOLVED by the City of Somerset, Kentucky, as follows:

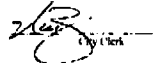
SECTION 1 That the Governing Authority hereby approves and authorizes the Assistance Agreement between the Borrower and the Authority regarding Project Number B24-007 substantially in the form on file with the Borrower for the purpose of providing the necessary financing to the Borrower for the Project.

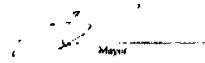
SECTION 2 That the Mayor and City Clerk of the Borrower be and hereby are authorized, directed, and empowered to execute necessary documents or agreements, and to otherwise act on behalf of the Borrower to effect such financing.

SECTION 3 That this resolution shall take effect at the earliest time provided by law.

ADOPTED on September 23, 2024

Attest:

  
City Clerk

  
Mayor

**CERTIFICATE**

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Somerset, Kentucky (the "Borrower"), and the foregoing is a full, true and correct copy of Resolutions adopted by the governing authority of the Borrower at a meeting duly held on September 23, 2024, that the official action appears as a matter of public record in the official records or journal of the governing authority, that the meeting was held in accordance with all applicable requirements of Kentucky law (including Sections 11.010 to 11.030, inclusive, of the Kentucky Revised Statutes) that a quorum was present at the meeting, that the official action has not been modified, amended, revoked, or repealed and is now in full force and effect.

IN TESTIMONY WHEREOF, witness my signature this September 24, 2024

  
City Clerk

Mr. Wheeldon made a motion to approve the following Ordinance Number 24-24: ESTABLISHING AND IMPLEMENTING A PROGRAM TO CHARGE MITIGATION

RATES FOR THE DEPLOYMENT OF EMERGENCY AND NON-EMERGENCY SERVICES BY THE FIRE DEPARTMENT FOR SERVICES PROVIDED/RENDERED BY/FOR THE CITY OF SOMERSET FIRE DEPARTMENT. Mr. Daughetee seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. Daughetee, Mr. Hunley, Mr. Minton, Mr. Godsey, Ms. Bullock, Mr. T. Eastham, Mr. Burdine, and Mr. Dalton. "No" Mr. Mitchell. Motion passed.

Ord. 24-24

**ORDINANCE NO: 24-24**

**AN ORDINANCE ESTABLISHING AND IMPLEMENTING A PROGRAM TO CHARGE MITIGATION RATES FOR THE DEPLOYMENT OF EMERGENCY AND NON-EMERGENCY SERVICES BY THE FIRE DEPARTMENT FOR SERVICES PROVIDED/RENDERED BY/FOR THE CITY OF SOMERSET FIRE DEPARTMENT.**

**WHEREAS,** the emergency and non-emergency services response activity to incidents continues to increase each year, the Somerset Fire Department requires investing equipment and training, and Somerset Fire Department investing equipment and training, creating additional demands on all operational aspects of the fire department services, and

**WHEREAS,** the fire department has investigated different methods to maintain a high level of quality of emergency and non-emergency services, a capability to respond to constantly increasing service demands, while maintaining an effective response by the fire department decreases the costs of incidents to insurance carriers, businesses, and individuals through timely and effective management of emergency situations, saving lives and reducing property and environmental damage, and

**WHEREAS,** raising real property tax to meet the increase in service demands would not be fair when the responsible party(s) should be held accountable for their actions, and

**WHEREAS,** the City Council of the Somerset Fire Department desires to implement a fair and equitable procedure by which to collect said mitigation rates and shall establish a billing system in accordance with applicable laws, regulations and guidelines. Now, Therefore

**BE IT ORDAINED BY THE CITY COUNCIL OF THE SOMERSET FIRE DEPARTMENT:**

**SECTION 1:** The Somerset Fire Department shall include mitigation rates for the delivery of emergency and non-emergency services by the fire department for personnel, supplies and equipment at the scene of emergency and non-emergency incidents as listed in "EXHIBIT A". The set rates shall be based on actual costs of the services and that which is a cost, equipment and consumable (EQR) as shown in "EXHIBIT A", which may include any services, personnel, supplies, and equipment and with business established by addition in this document.

**SECTION 2:** A claim shall be filed to the responsible party(s) through their insurance carrier. In some circumstances, the responsible party(s) will be billed directly.

**SECTION 3:** The fire department's City Council may make rules or regulations and from time to time may amend, revoke, or add rules and regulations, not consistent with this Section, as they may deem necessary or expedient in respect to billing for these mitigation rates or the collection thereof.

**SECTION 4:** It is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted at open meetings of the City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal action were in accordance with all legal requirements, and the Codified Ordinances of the City Council.

**SECTION 5:** This Ordinance shall take effect upon actual reading, passage and final publication.

**SECTION 6:** The Mitigation Rate lists in Exhibit A will increase annually based on the annual percentage increase in the Consumer Price Index (CPI), as developed by the Bureau of Labor Statistics of the U.S. Department of Labor. Rate adjustments will occur on the anniversary date of this ordinance resolution to keep the fire department's cost recovery program in conformity with increasing operating expenses.

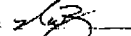
First Reading: September 9, 2024

Second Reading: September 23, 2024

THE ABOVE WAS PASSED

Yea 11

Nay 1

Clerk by the Clerk: 

Signature: \_\_\_\_\_

Name (printed): Alan Kack

Title: Mayor

Date: September 25, 2024

Rev. 2021.04

**EXHIBIT A**

**MITIGATION RATES  
BASED ON PER HOUR**

The mitigation rates below are average "billing levels", and are typical for the incident responses listed. However, when a claim is submitted, it may be deemed and based on the actual service provided.

These rates are based on a fuel cost being estimated to include for equipment (or being used for equipment repairs and maintenance.) Labor rates include an average department's actual personnel labor costs and not just a firefighter's wage. These include support, relocation, overtime, uniform, camp, etc.

**MOTOR VEHICLE INCIDENTS**

**Level 1 - \$462.00**

Provide hazard down main lane, management and scene stabilization. This will be the most common "billing level". This is a typical every time the fire department responds to an accident/incident.

**Level 2 - \$817.00**

Includes Level 1 services as well as clean up and transfer of used materials. For hazardous fluid clean up and disposal. We will bill at this level if the fire department has to clean up any gasoline or other substances that are spilled as a result of the accident/incident.

**Level 3 - CAR FIRE - \$838.00**

Provide scene safety, fire suppression to extinguish fire, fire hot to be taken up and away from vehicles per fire, and clean up removal of fluid substances such that are spilled as a result of the accident/incident.

**ADD-ON SERVICES**

**Extraction \$1,811.00**

Includes heavy vehicle extrication, air bags, cutting, etc. This charge will be added if the fire department has to extricate anyone from their vehicle using any equipment. We will bill at this level if the patient is severely injured and fire department is able to equalize the claim for as much as possible. This level is for initial only if equipment is deployed.

**Creating a Landing Zone - \$883.00**

Includes for Care (with) engine company (rescue and fire) and helicopter. We will bill at this level every time a helicopter landing zone is created and is required to transport the patient(s).

**Revised Response:** You have the option to bill each incident as an independent event with custom mitigation rates for each incident using the incident response (UICR).

Rev. 2021/04

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**LEGAL FEES**

**Assignment - \$564.00 per hour, per engine / \$883.00 per hour, per truck.**  
When a fire is started by any person or persons that requires a fire department response during a race or festival where there are regulated or controlled by local or state rules (such as at or during a race) or public or fire danger concerns, such person or persons will be liable for the fire department response at a total not to exceed the actual expense incurred by the fire department to respond and contain the fire. If a fire is started where permits are required for such a fire and the permit was not obtained and the fire department is required to respond to contain the fire the responsible party will be liable for the response if it does not exceed the actual expenses incurred by the fire department. The actual expenses will include direct labor, equipment costs and any other costs that can be reasonably allocated to the cost of the response.

**WATER INCIDENTS**

**Level 1**

**Basic Response:** Claims will include engine response, first responder assignment, perimeter establishment, evacuation, first responder set-up and command, scene safety and investigation (including possible permit contact, hazard control). This will be the most common "Billing level". This occurs almost every time the fire department responds to a water incident.

**Billed at \$584 plus \$68 per hour, per rescue person.**

**Level 2**

**Intermediate Response:** Includes Level 1 services as well as clean up and material used (separators), minor hazardous clean up and disposal. We will bill at this level if the fire department has to clean up small amounts of gasoline or other fluids that are spilled as a result of the incident.

**Billed at \$1,110 plus \$68 per hour, per rescue person.**

**Level 3**

**Advanced Response:** Includes Level 1 and Level 2 services as well as D.A.R.T. activation, donning breathing apparatus and detection equipment. Set up and removal of decon center, detection equipment, recovery and establishment of material, disposal and environment clean up. Includes above in addition to any disposal rates of material and contaminated equipment and material used of scene.

**Billed at \$3,747 plus \$88 per hour per rescue person, plus \$134 per hour per HAZMAT team member.**

**Level 4**

**Revised Response:** You have the option to bill each incident as an independent event with custom mitigation rates for each incident using tiered rates deemed most customary and reasonable (UCR). These incidents will be billed, tiered, per trapped rescue person, plus rescue products used.

Rev. 2021/04

Rev. 2021/04

customary and reasonable (UCR). These incidents will be billed, tiered per apparatus, per personnel, plus products and equipment used.

**HAZMAT**

**Level 1 - \$872.00**

**Basic Response:** Claims will include engine response, first responder assignment, perimeter establishment, evacuation, set up and command.

**Level 2 - \$4,473.00**

**Intermediate Response:** Claims will include engine response, first responder assignment, thermal or other heat and appropriate equipment, perimeter establishment, evacuation, set up and command, Level A or B full decon, breathing air and detection equipment. Set-up and removal of decon center.

**Level 3 - \$4,190.00**

**Advanced Response:** Claims will include engine response, first responder assignment, thermal or other heat and appropriate equipment, perimeter establishment, evacuation, first responder set-up and command, Level A or B full decon, breathing air and other heat equipment and other equipment. Set-up and removal of decon center, perimeter equipment, recovery and establishment of material. This includes environmental cleanup. Includes above in addition to any disposal rates of material and contaminated equipment (not) additional cost of waste. Includes 2 hours of on scene for each additional hour @ \$381.00 per HAZMAT team.

**FIRE**

**Assignment - \$44.00 per hour, per engine / \$883.00 per hour, per truck**

**Includes:**

- Scene Safety
- Investigation
- Fire Hazard Control

This will be the most common "Billing level". This occurs almost every time the fire department responds to an incident.

**OPTIONAL:** A fire department has the option to bill each fire as an independent event with custom mitigation rates.

**Tiered, per person, at various pay levels and for tiered products used.**

**BACK COUNTRY OR SPECIAL RESCUE**

**Tiered Response:** Each incident will be billed with custom mitigation rates deemed usual, customary and reasonable (UCR). These incidents will be billed, tiered per apparatus per hour, per trapped rescue person per hour, plus rescue products used.

**Minimum billed \$554 plus \$68 per rescue person. Additional rates of \$64 per hour per response vehicle and \$68 per hour per rescue person.**

**CHIEF RESPONSE**

This includes the set-up of Command, and providing direction of the incident. This could include operations, safety, and administration of the incident.

**Billed at \$347 per hour**

**MISCELLANEOUS / ADDITIONAL TIME ON-SCENE**

**ADDITIONAL TIME ON-SCENE (for all levels of service)**

Engine billed at \$564 per hour.  
Truck billed at \$893 per hour.  
Miscellaneous equipment billed at \$416.

**MITIGATION RATE NOTES**

The mitigation rates above are average "Billing levels" for one hour of service, and are typical for the incident response listed, however, when a claim is submitted, it may be deemed and based on the actual services provided.

These average mitigation rates were determined by comparing costs for a typical run (from the time a fire apparatus leaves the station until it returns to the station) and are based on the actual costs, using average values for expenses (including staff, equipment, repairs, and maintenance) and labor rates (an average department's "actual personnel expense" and not just a firefighter's basic wage). The actual personnel expense includes costs such as wages, retirement, benefits, workers comp, insurance, etc.

Mr. T. Eastham made a motion to approve the following Ordinance Number 24-26: 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 OF PARCEL NUMBER 049-0-0-05.8 (SOUTH SIDE) FROM A-1 TO B-3. Ms. Bullock seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. Daughetee, Mr. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, Mr. T. Eastham, Mr. Burdine, and Mr. Dalton.

**ORDINANCE NO. 24-26**

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 to the following manner:

- I By changing a boundary of land presently zoned A-1 to B-3, said properties being more particularly described in Exhibit "A" attached hereto and incorporated herein in full by reference, located at Undeveloped Property at the end of Marlow Dr (South Side), Somerset, Kentucky, and having PVA Parcel # 049-0-0-05.8.
- 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

Mr. Mitchell made a motion to approve the following Ordinance Number 24-27: 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 OF PARCEL NUMBER 049-0-0-05.8 (NORTH SIDE) FROM A-1 TO R-3. Mr. T. Eastham seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. Daughetee, Mr. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, Mr. T. Eastham, Mr. Burdine, and Mr. Dalton.

**ORDINANCE NO. 24-27**

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:

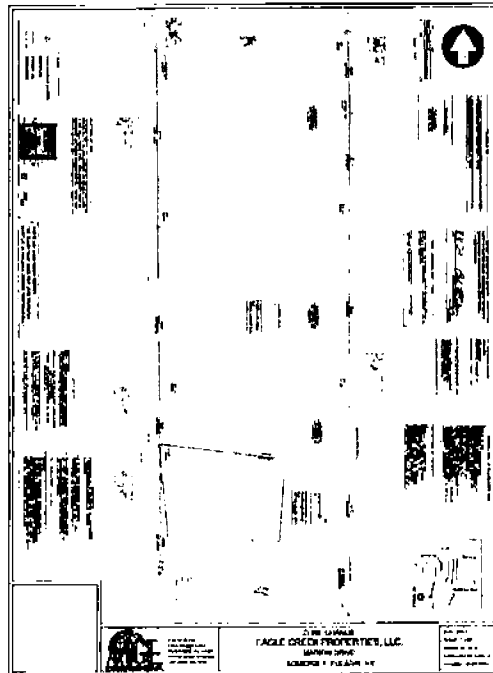
That Ordinance No. 00-18, known as the Zoning Ordinance, Somerset, Kentucky, is hereby amended by altering the Zoning Map in the following manner:

- I. By changing a boundary of land (presently zoned A-1 to R-3) and properties being more precisely described as Exhibit "A" attached hereto and incorporated herein by reference, located at Undeveloped Property at the end of Marlon Dr. (North Side), Somerset, Kentucky, and having PVA Parcel # 049-0-0-05.0
- 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 24, 2024

Approved: \_\_\_\_\_  
Mayor  
Attest: \_\_\_\_\_  
City Clerk



Mr. Burdine made a motion to approve the following Ordinance Number 24-28: 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 OF PARCEL NUMBER 049-0-0-04.2 FROM B-2 TO R-3. Mr. Godsey seconded the motion. Upon roll call the following Council Members voted "Aye": Mr. Wheeldon, Mr. J. Eastham, Mr. Girdler, Mr. Daughetee, Mr. Hunley, Mr. Minton, Mr. Mitchell, Mr. Godsey, Ms. Bullock, Mr. T. Eastham, Mr. Burdine, and Mr. Dalton.

**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

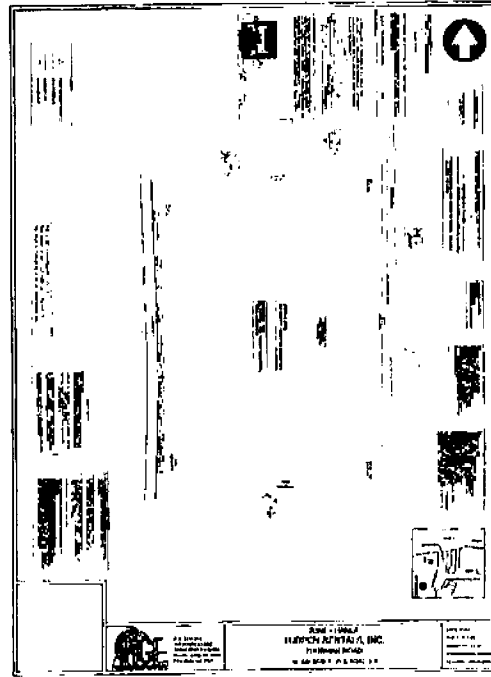
That Ordinance No. 00-18, known as the Zoning Ordinance, Somerset, Kentucky, as hereby amended by altering the Zoning Map in the following manner:

- I. By changing a boundary of land presently zoned R-2 to R-3 and properties being more particularly described in Exhibit A attached hereto and incorporated herein by reference, located at 1. undeveloped Property on Thurman Rd, Somerset, Kentucky, and having PVA Parcel # 049-0-0-04.1
- 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 its passage and publication according to law.

FIRST READING: SEPTEMBER 18, 2024

SECOND READING: SEPTEMBER 23, 2024

Approved:   
 Mayor  
 Attest:   
 City Clerk



**CITY OF SOMERSET, KENTUCKY  
 PLANNING AND ZONING COMMISSION  
 FINDINGS OF FACT, CONCLUSIONS  
 AND RECOMMENDED MAP AMENDMENT**

**CASHI (N)**

**RM Zone Change: Yurpen 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 049-0-0-04.1

Party One City of Somerset, Planning & Zoning Commission PO Box 999 Somerset, Kentucky, 42502	Party Two Yurpen Remale, Inc PO Box 3478 Somerset, Kentucky, 42502
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Listed below are the parties involved in the Zone Change for  
 Maroon Drive  
 Somerset, Kentucky  
 PVA Parcel 049-0-0-05.8

Party One City of Somerset, Planning & Zoning Commission PO Box 999 Somerset, Kentucky, 42502	Party Two Eagle Creek Properties, LLC 450 Old Salem Road Somerset, Kentucky, 42503
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The Planning and Zoning Commission having issued testimony at a public hearing conducted before the Commission on the 27<sup>th</sup> 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**

Yurpen Remale, Inc. is the owner of parcel of 6.07 acres in the City of Somerset located on the west by Thurman Road and on the east by Maroon Drive. It being that tract of land conveyed to Yurpen Remale, Inc. by deed of conveyance dated the 3<sup>rd</sup> of August 2015 and of record in Deed Book 882 Page 071. The parcel is zoned R-2 (Highway Corridor Commercial). The future use for the tract as shown on the current planned use map is Commercial. The parcel is vacant, with a small copse of trees on the north and west side on the south. It is PVA Parcel 049-0-0-04.1.

Eagle Creek Properties, LLC is the owner of parcel of a 10.55-acre in the City of Somerset located on the west by the undeveloped right-of-way of Maroon Drive. It being that tract of land conveyed to Eagle Creek Properties, LLC, by deed of conveyance dated the 2<sup>nd</sup> of December 2022 and of record in Deed Book 1067 Page 086. 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 (Agriculture). The tract is at the terminus of the developed portion of Maroon Drive. Access over Maroon Drive is via the undeveloped right-of-way that runs along the west side of the tract. The future use for the tract as shown on the current planned use map is Commercial. The petitioner owns the tract in the west, and have developed this tract with commercial property, mostly in the eastern area. The south portion of this tract (2.55-acre) is leased to an adjoining business. None of the roads that cross this tract interrupt the undeveloped right-of-way of Maroon Drive.

The north portion (8.04 acre) of the land is vacant, with a small copse of trees. The south portion (2.55-acre) is developed with a gravel yard that is fenced. It is leased to Clinton Uniform Services, who leases a building on the adjoining tract to the west, a portion of PVA Parcel 049-0-0-04.1. It is PVA Parcel 049-0-0-05.8.

The two portions shown are receiving a tract or portions of a tract for the benefit of a purchaser (1875 Development).

The owners of the Turpen Tract and 804 acres of the Eagle Creek Tract are asking that these tracts be rezoned to Medium Density Residential (R-3). They request that the remainder of the Eagle Creek Tract be rezoned to B-1 (Neighborhood Commercial) to also under consideration by the Planning and Zoning Commission and addressed in this document.

The adjoining land owners are:

Parcel 049 7 2 30, Thurston Road, Larry Rios, LLC, R-3 (South of Turpen)

Parcel 049 7 2 36, 700 Mason Drive, Brenda Jean Rios, R-2 (North of Turpen)

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

Parcel 049 0 0 01, 217 Mason Drive, Melody Taylor, A-1 (East of Turpen, North of Eagle Creek)

Parcel 049 0 0 02, 217 Mason Drive, Melody Taylor, A-1 (East of Eagle Creek)

Parcel 049 0 0 03, 217 Mason Drive, Melody Taylor, A-1 (East of Eagle Creek)

Parcel 049 0 0 04, 217 Mason Drive, Melody Taylor, A-1 (East of Eagle Creek)

Parcel 049 0 0 05, 217 Mason Drive, Melody Taylor, A-1 (East of Eagle Creek)

Parcel 049 0 0 06, 217 Mason Drive, Melody Taylor, A-1 (East of Eagle Creek)

Parcel 049 0 0 07, 217 Mason Drive, Melody Taylor, A-1 (East of Eagle Creek)

Parcel 049 7 2 26, 1295 West Hwy 30, Heavenly 3, LLC, B-1 (West of Turpen)

Parcel 049 7 2 11, Thurston Road, Eagle Creek Properties, LLC, B-2 (West of Turpen)

Parcel 049 7 2 11, 100 Chapel Dr, Northwest Valley Properties, LLC, B-1 (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 high-density residential. The parcels are also zoned up to the point they are used as a principal use outlined in the City of Norman's Zoning Ordinance. After that they cannot remain as a residential use. The adjoining and nearby uses are varied, with the headquarters to the east, and Home of Liquid (later north of Thurston Road and Eagle Creek) - these are low/high which occupy sites and a warehouse to the west of Thurston Road. The large vacant lots south of the zoning is zoned Light Industrial (I-1). As stated earlier, most utility services leave the south portion of the Eagle Creek Tract and adjoining tract.

The owner buying the petroleum tank is plan to construct an assisted living facility and memory care facility on the Turpen Tract, and residential care living residences on the north portion of the Eagle Creek Tract. It will be a residential structure 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 (operational skilled nursing facility) in a B-3 zone and also requires a Conditional Use Permit. Along with assisted living facility and nursing homes, hospitals and rest homes, are allowed in a B-3 with conditional use. (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 B-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 an area that is generally to the hospital and medical offices and clinics located near the hospital. (1.7 miles). He looked at several tracts along the Southwestern Byway 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 Ranch, 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 Tract, there are presently 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 to 40 to 50 to 60 to 70 to 80 to 90 to 100 to 110 to 120 to 130 to 140 to 150 to 160 to 170 to 180 to 190 to 200 to 210 to 220 to 230 to 240 to 250 to 260 to 270 to 280 to 290 to 300 to 310 to 320 to 330 to 340 to 350 to 360 to 370 to 380 to 390 to 400 to 410 to 420 to 430 to 440 to 450 to 460 to 470 to 480 to 490 to 500 to 510 to 520 to 530 to 540 to 550 to 560 to 570 to 580 to 590 to 600 to 610 to 620 to 630 to 640 to 650 to 660 to 670 to 680 to 690 to 700 to 710 to 720 to 730 to 740 to 750 to 760 to 770 to 780 to 790 to 800 to 810 to 820 to 830 to 840 to 850 to 860 to 870 to 880 to 890 to 900 to 910 to 920 to 930 to 940 to 950 to 960 to 970 to 980 to 990 to 1000 to 1010 to 1020 to 1030 to 1040 to 1050 to 1060 to 1070 to 1080 to 1090 to 1100 to 1110 to 1120 to 1130 to 1140 to 1150 to 1160 to 1170 to 1180 to 1190 to 1200 to 1210 to 1220 to 1230 to 1240 to 1250 to 1260 to 1270 to 1280 to 1290 to 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allowing use for Eagle Creek Properties for its present (Rural Uniform services), which would partially halt the development of Mountain Creek from the south.

It is felt that the planned use of the 0.5 acres of land is appropriate for the site, given the availability of other tracts in the area with better accessibility and infrastructure. The proposed use in the B-3 zone as independent living in the center serves directly with the Assisted Living Facility and Memory Care Facility on the Tappan Street.

Due to these factors, it is felt that the present use of the parcel is not inappropriate, given the infrastructure of both streets. It is felt that the proposed use is appropriate due to the planned development on the adjoining tract and the continued use of the adjoining properties to the north as the residential sector rather than these parcels alone (B-3).

**Eagle Creek Properties, LLC, (South Tract 0.55 acres)**  
 A portion of PVA Parcel 0418171010

The parcel 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. One tract is reserved to the undeveloped portion of Mountain Creek, also about the west property line of this tract. The tract does not have to merge along a developed road.

The tract is zoned A-1 (Open Space).

The parcel has a residential use as an elderly independent living center (Uniform Services) to the west tract. The present use is an accessory use in the B-2 and B-3 zones and a principal use in the B-3 zone.

The parcel has been asked to request the B-3 zone in this instance.

The reasons of the original (Rural Uniform Services) use and the tract to the B-3 zone was not allowed but would allow present uses that would not compromise the zoning properties. The portion of the property to use in the original (Rural Uniform Services) use (B-3) would allow the development of the tract with an accessory use with a conditional use permit. It is felt that this proposal would not happen with the development of the north parcel with independent living.

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

It is noted that one would state that both zones are appropriate for the Eagle Creek Properties tract. The south portion should have been reserved prior to its development to its present use along with the rest of the tract to the north. Due to the strength, the fact allowed A-1 Development the possibility to partition the property, and along with the Tappan Rental Tract, 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 use. Mixed uses or residential use are allowed in Certain Township Districts (B-1).

**RECOMMENDED MAP AMENDMENTS**

Large Roadside Tract  
 OWR 0-0-01.2

It is hereby recommended by the Commission that the map amendments be granted, having met the requirements of RC 150.213 (1) (a), that the present zoning is inappropriate and the proposed zone is appropriate and therefore the tract should be rezoned to Medium Density R-1.

Eagle Creek Properties, LLC, (South Tract 0.55 acres)  
 A portion of OWR 0-0-01.2

It is hereby recommended by the Commission that the map amendments be granted, having met the requirements of RC 150.213 (1) (a), that the present zoning is inappropriate and the proposed zone is appropriate and therefore the tract should be rezoned to Medium Density R-1.

Eagle Creek Properties, LLC, (South Tract 0.55 acres)  
 A portion of OWR 0-0-01.2

It is hereby recommended by the Commission that the map amendments be granted, having met the requirements of RC 150.213 (1) (a), that the present zoning is inappropriate and the proposed zone is appropriate and therefore the tract should be rezoned to Medium Density R-1.

A true and correct copy of this finding of fact, conclusions and recommended map amendments shall be sent to the City of Summit City Council for adoption.

DONE AND ORDERED this 20th day of August 2024.

\_\_\_\_\_  
 Chairman, Planning and Zoning Commission  
 City of Summit

ATTORNEY

\_\_\_\_\_  
 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

There being no further business the meeting was adjourned at 6:26 p.m.

ATTEST:

  
\_\_\_\_\_  
CITY CLERK

APPROVED:

  
\_\_\_\_\_  
MAYOR