

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

November 17, 2011

- I. **CALL TO ORDER** – The meeting was called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Will Berkley; Carla Blanton; Marie Copeland (arrived at 1:33 p.m.); Mike Cravens, Chair; Mike Owens; Frank Penn; and Lynn Roche-Phillips. Absent were Eunice Beatty, Patrick Brewer, Derek Paulsen, and William Wilson.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; Chris Taylor; Rob Hammons; and Stephanie Cunningham. Other staff members present were: Rochelle Boland, Department of Law; Jeff Neal, Division of Traffic Engineering; Hillard Newman, Division of Engineering; and Tim Queary, Urban Forester.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 6-0 (Beatty, Brewer, Copeland, Paulsen, and Wilson absent) to approve the minutes of the October 13, 2011, and October 27, 2011, Planning Commission meetings.
- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.
- IV. **LAND SUBDIVISION ITEMS** - No such items were presented.
- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, November 3, 2011, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Patrick Brewer, Mike Cravens, and Lynn Roche-Phillips. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

1. **SRC OF LEXINGTON, INC., ZONING MAP AMENDMENT & EASTLAND SUBDIVISION, BLOCK A, ZONING DEVELOPMENT PLAN**

- a. MARV 2011-17: SRC OF LEXINGTON, INC. (12/31/11)* - petition for a zone map amendment from a Wholesale & Warehouse Business (B-4) zone to a Light Industrial (I-1) zone, for 3.18 net (3.82 gross) acres, for property located at 1133 Industry Road. A dimensional variance has also been requested with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan recommends Wholesale and Warehouse (WW) land use for the subject property. The Central Sector Small Area Plan, an adopted amendment to the 2007 Plan, recommends the same land use for this location, but also (in Subarea "E") identifies the subject property as in a "mix of light industrial" uses as one travels west of Winchester Road. The existing building on the subject property is proposed to permit rebuilding and refurbishment of engines and transmissions for large mining and industrial machinery.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

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

1. In this instance, a restricted Light Industrial (I-1) zone for the subject property is in substantial agreement with the 2007 Comprehensive Plan, and with the Central Sector Small Area Plan, which is an adopted amendment to that Plan, for the following reasons:
 - a. The use proposed for the subject property is generally permitted (except for the size of the machinery) in the B-4 zone, and is located in a "cluster of business/light industrial activities" more recently identified by the adopted Small Area Plan. The applicant's proposed use closely aligns with the Wholesale and Warehouse (WW) land use category recommended at this location by the Plan.
 - b. Wholesale and Warehouse land use anticipates dealerships (and their corollary repair facilities) for trucks, airplanes, ships, boats and "goods which are extremely large, noisy, or inappropriate to other business zones." The engines and transmissions to be serviced and refurbished at this location are similar in size and in operation to this description, and would be clearly inappropriate to be located in any business zone.

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- c. Several objectives to Goal 11 of the adopted Comprehensive Plan would be advanced by the proposed use of the subject property for the manner proposed by the applicant, instead of as a warehouse under the current zoning of the property.
2. This recommendation is made subject to the approval and certification of ZDP 2011-93: Eastland Subdivision, Block "A" prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of any Planning Commission approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

ALLOWABLE USES:

- a. Principal permitted uses in the B-4 zone.
- b. Establishments and lots for the display, rental, sale, service or repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, tractor-trailer trucks, travel trailers, mobile homes, or supplies for such items.
- c. Car and truck washing establishments.
- d. Major or minor automobile and truck repair, including the repair, refurbishment and rebuilding of engines and transmissions of all sizes, provided that it is conducted within completely enclosed buildings.
- e. The manufacturing, compounding, assembling, processing, packaging and similar treatment of sheet metal, ceramics, electrical parts, electronic instruments, radios, rubber and metal stamps, rubber products, clocks, engine parts, wire and materials ordinarily used in internal combustion engines.
- f. Other industrial and manufacturing uses, such as auto parts rebuilding, battery manufacturing, box and crate assembly, carpet cleaning, heating equipment manufacturing, and tool manufacturing.
- g. Conditional uses in the I-1 zone (provided the necessary permit is approved by the Board of Adjustment).

These restrictions are appropriate and necessary for the subject property to limit uses of the subject property to those more closely recommended by the Comprehensive Plan and/or the adopted Small Area Plan for this location and vicinity.

b. REQUESTED VARIANCE

1. Reduce the zone-to-zone perimeter screening requirements from 15 feet to 0 feet and to eliminate the requirement for trees and shrubs.

The Zoning Committee did not make a recommendation on this variance request.

The Staff Recommended: **Postponement** of the requested landscape variances, for the following reasons:

- a. The Landscape Review Committee is scheduled to meet on November 8, 2011, and may make a substantive recommendation on the requested landscape variances prior to the Commission's scheduled public hearing on this request.
 - b. As of the date of this report, the applicant has not provided a justification in accordance with Article 7-6(b)(1) of the Zoning Ordinance to substantiate the requested elimination of all zone-to-zone screening required for this site.
- c. ZDP 2011-93: EASTLAND SUBDIVISION, BLOCK A (12/31/11)* - located at 1133 Industry Road.

(EA Partners)

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

1. Provided the Urban County Council rezones the property I-1; 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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Correct plan title.
7. Denote tree preservation areas.
8. Clarify required parking (add # of employees on maximum shift to site statistics).
9. Clarify street cross-section (does not match plat).
10. Resolve proposed use of gravel areas and the need for fencing.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property on Industry Road, in the vicinity of New Circle Road and its intersection with Winchester Road. She stated that Industry Road intersects with Winchester Road to the south of the subject property as well. The property is surrounded by industrial uses, with I-1 zoning to the north and west, and B-4 zoning to the east and southeast. The petitioner's existing 32,000 square-foot building is currently used as a warehouse. The petitioner proposes to re-zone the subject property in order to extend their operations there.

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Ms. Wade stated that the Division of Building Inspection determined that a zone change would be necessary in order for the petitioner to expand onto the subject property because of the scope and scale of the petitioner's business, which involves refurbishing engines and transmissions for mining and industrial equipment. The expansion of that operation would result in larger-scale industrial uses than those typically appropriate in the B-4 zone. Although major automobile repair is a permitted use in the B-4 zone, the size and scale of the work proposed by the petitioner would be much larger than typical repairs, even for tractor trailers.

Ms. Wade said that the 2007 Comprehensive Plan recommends Warehouse & Wholesale land use for the subject property, which corresponds to the existing B-4 zoning. The subject property, however, was also included as part of Sub-Area "E" in the Central Sector Small Area Plan. The Small Area Plan recognizes the clustering of business and light industrial uses in this area, noting the mixture of industrial uses along Eastland Drive and Floyd Drive, but it does not include any specific recommendations for change for the area. Of significance to the staff in determining whether the proposed rezoning was in agreement with the Comprehensive Plan was that the basic use of refurbishing or reconditioning engines is allowed in both the B-4 and I-1 zones. In addition, the staff considered Goal 11 of the Comprehensive Plan: "To provide diverse business and employment opportunities for Lexington-Fayette County," and the staff believes that several of the Objectives of that Goal would be furthered by the expansion of the petitioner's operation. Ms. Wade stated that the staff concluded, therefore, that the proposed rezoning could be found to be in substantial agreement with the 2007 Comprehensive Plan and the Central Sector Small Area Plan. She referred to the findings for approval on the agenda, noting that there was an error in the wording of 1 a and b; the land use category should read "Warehouse and Wholesale," rather than "Wholesale and Warehouse."

Ms. Wade stated that the Zoning Committee and the staff are recommending approval of this request, for the reasons as listed in the staff report and on the agenda, subject to the proposed conditional zoning restrictions, as listed in the staff report and on the agenda. The proposed conditional zoning restrictions would generally allow the principal permitted uses in the B-4 zone, plus six additional uses in the I-1 zone.

Commission Questions: Ms. Roche-Phillips stated that she had asked at the Zoning Committee meeting if there would be any noise associated with the proposed operation, and was told that there would be no noise; but now it appeared that there were some concerns about noise impact. Ms. Wade answered that the general land use description refers to uses that could be noisy, but she did not believe that the proposed use of the subject property would generate additional noise.

Mr. Penn asked why the property was being proposed for rezoning, since the proposed use of the property is permitted in both the B-4 and I-1 zones. Ms. Wade responded that the scope and scale of the engines and the repairs performed by the petitioner are not in line with the typical uses in the B-4 zone.

Development Plan Presentation: Mr. Taylor presented the associated final development plan for the subject property, noting that it depicts the existing 32,000 square-foot structure on the property, with 40 parking spaces. He said that the Subdivision Committee recommended approval of this plan, subject to the 10 conditions as listed on the agenda, the first nine of which are standard "clean-up" conditions. Condition #10 refers to the gravel areas which are denoted on the plan to the rear and side of the existing building. Under the requirements of the Zoning Ordinance, those areas would be required to either be paved, or fenced and screened as outdoor storage. Mr. Taylor said that condition #10 is worded such that the finishing of those gravel areas would be handled in conjunction with the Division of Building Inspection's sign-off for the plan. The petitioner will have to clarify whether or not the area will be paved; and, if not, how it will be fenced and screened, prior to certification of the plan.

Variance Presentation: Mr. Sallee presented the revised staff report on the requested variance, explaining that the petitioner is proposing to eliminate the landscaping (trees and shrubs) from the required 15' landscape buffer. The variance involves the north and northeast sides of the subject property. Since the adjacent properties will remain zoned B-4, zone-to-zone screening would otherwise be required.

Mr. Sallee stated that the subject property was developed in the 1960s, and has remained largely unchanged since that time. At the Zoning Committee meeting, the staff recommended postponement of the variance request, since the Landscape Review Committee had not yet had an opportunity to review this request. That Committee met last week, reviewed this application for the variance, and voted to recommend approval of it to the Planning Commission, with no conditions.

Mr. Sallee displayed several photographs reviewed by the Landscape Review Committee in order to familiarize the Commission members with the areas proposed for the variance: 1) aerial photograph of the subject property from the direction of Industry Road, noting the property line proposed for the variance and the close proximity between the existing building and a small, covered shed; 2) a view of the driveway to the property from the street frontage, noting the existing gate, the property line, and the topographic difference; 3) a view from the rear of the property, looking toward the front, noting the shed, some of the outdoor equipment storage, and the location of the building on the adjacent property; 4) a view of the same location, looking toward Industry Road from the north; 5) a view from the sub-

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ject property to the adjoining property on the east, noting the existing retaining wall and the elevation difference; 6) a view of the rear of the property, including the retaining wall and the existing screening around the railroad spur, which will also be zoned I-1 if the proposed rezoning is approved; and 7) an example of one of the large pieces of machinery which the petitioner proposes to refurbish on the subject property.

Mr. Sallee said that, since the applicant has provided a revised justification for the variance to the staff, the staff has revised their recommendation to the Commission to reflect the action of the Landscape Review Committee.

The Staff Recommended: **Approval** of the requested landscape variances, for the following reasons:

- a. Granting the requested variances should not adversely affect the public health, safety or welfare, create a nuisance to the general public, nor alter the character of the general vicinity. This portion of the subject site is devoid of any existing vegetation, and topographic differences ($\pm 5'$) between the site and the adjoining property to the north, including an existing retaining wall, will remain as they currently exist today.
- b. Approval of the variances will not result in an unreasonable circumvention of the Zoning Ordinance. The granting of this variance will allow the continued use of the existing building overhang, and an area of compacted gravel that is ill-suited for landscaping. The adjacent property to the north, including a railroad spur, is significantly lower than the subject property, and would not derive any significant benefit from installation of the otherwise required landscaping.
- c. Besides the topography, the special circumstances that apply to the subject property justifying the landscape variance are the close proximity of the adjacent building, the nearly 50-year old overhang on the subject building in the area of the required landscaping, and the existence of the retaining wall along the edge of the subject property.
- d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant because it would require the razing and relocation of part of the existing building, and would likely require the elimination of the compacted gravel area for necessary equipment storage.
- e. The circumstances surrounding this request are not the result of actions taken by the applicant since the adoption of the Zoning Ordinance in 1983, as the existing conditions have largely been unchanged since that time.

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

1. Provided the Urban County Council rezones the property I-1; otherwise, any Commission action of approval of this variance is null and void.
2. 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).
3. Prior to any occupancy for any new light industrial use, the applicant shall obtain all applicable permits from State and local agencies, including the LFUCG Divisions of Building Inspection and Fire & EMS.

Commission Questions: Ms. Copeland asked how many trees the public would be denied if the requested landscape variance was approved. Mr. Sallee answered that the Landscape Ordinance requires one tree for every 40 linear feet of boundary. The property line is 467 feet in length, so approximately 12 or 13 trees would ordinarily be required. Ms. Copeland said that she would like to note that, although those 12 or 13 trees will not be planted on the subject property because it is not "suitable," trees serve many purposes other than just screening. She asked if the Landscape Review Committee considered the loss of those trees to the overall canopy for the city, and whether those 12 or 13 trees could be planted in some location other than on the subject property. Mr. Sallee responded that he did not recall any extensive discussion about tree canopy at that meeting. Ms. Copeland said that it would have been the "green thing to do." She opined that it was a "glitch in the system" to deny the public the benefit of the 13 trees.

Petitioner Presentation: Glenn Price, attorney, was present representing the petitioner. He said that the reason for this rezoning request is that, although the existing B-4 zoning permits automobile engine refurbishing and the like, the petitioner refurbishes heavy mining and industrial engines and equipment, which is outside the scope of the permitted uses of that zone. All of the engine refurbishment will take place indoors, so there will be no noise impact to the surrounding area. Mr. Price said that the petitioner believes that Goal 11 of the Comprehensive Plan, to which Ms. Wade referred in her presentation, supports the proposed refurbishing use in both the existing B-4 zone and the proposed I-1 zone.

With regard to the requested variance, Mr. Price stated that the existing structure on the subject property was constructed in 1963, before landscaping requirements were added to the Zoning Ordinance. He noted that the 15' where the landscape buffer would typically be planted is either located under the overhang of the structure, or filled with heavily compacted gravel, so it would be unsuitable for plant life. In addition, that gravel helps to support the retaining wall, which is necessary due to the grade change between the subject property and the adjoining parcel.

Rory Kahly, EA Partners, stated, with regard to Ms. Copeland's questions about the possible loss of the tree canopy, that there will still be a canopy requirement on the subject property if the variance is granted. The required canopy trees will be planted elsewhere on the property.

Commission Question: Ms. Copeland asked if those trees would be planted on the subject property. Mr. Kahly answered that they would be. Ms. Copeland noted that the development plan does not depict the location of the trees elsewhere

on the property. Mr. Kahly responded that a landscaping plan is not typically included on development plans. Ms. Copeland asked if the plantings would be trees, or small shrubs. Mr. Kahly answered that the tree plantings would meet the requirements of the Zoning Ordinance.

Citizen Comments: There were no other citizens present to speak to this request.

Zoning Action: A motion was made by Ms. Blanton, seconded by Mr. Owens, and carried 7-0 (Beatty, Brewer, Paulsen, and Wilson absent) to approve MARV 2011-17, for the reasons provided by staff.

Variance Action: A motion was made by Ms. Blanton, seconded by Mr. Owens, and carried 7-0 (Beatty, Brewer, Paulsen, and Wilson absent) to approve the requested variance for MARV 2011-17, for the reasons provided by staff, subject to the three conditions as recommended by staff.

Development Plan Action: A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 7-0 (Beatty, Brewer, Paulsen, and Wilson absent) to approve ZDP 2011-93, subject to the 10 conditions as listed on the agenda.

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. HALLMARK STUDENT DEVELOPMENT CO., LLC, ZONING MAP AMENDMENT & TATTERSALL APARTMENT DEVELOPMENT ZONING DEVELOPMENT PLAN

- a. MAR 2011-16: HALLMARK STUDENT DEVELOPMENT CO., LLC (12/31/11)* – petition for a zone map amendment from a Wholesale & Warehouse Business (B-4) zone to a High Rise Apartment (R-5) zone, for 8.54 net (8.83 gross) acres; and from an Agricultural Urban (A-U) zone to a High Rise Apartment (R-5) zone, for 2.06 net and gross acres, for property located at 843 South Broadway and 1200 Red Mile Road (a portion of).

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 5) recommends a Commercial Residential Mixed Use (MU) land use for a majority the subject property, and Semi-Public Facilities (SP) for the rear portion of the site along the race track. The property was also included in the study area of the Red Mile Development Plan, which was formulated for The Red Mile property during the spring and summer of 2009, and was accepted by the Planning Commission. This Plan was consciously substituted for a Small Area Plan for the property. The petitioner proposes R-5 zoning in order to construct 4 multi-family buildings with 272 dwelling units (832 bedrooms), a clubhouse for residents, and associated off-street parking.

The Zoning Committee Recommended: **Postponement**, for the reasons provided by staff.

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

1. The 2009 Red Mile Development Plan identified very specific goals, principles and redevelopment recommendations. The proposal appears to be contrary to some of the stated and agreed upon redevelopment goals for the subject property.
 2. The staff would like to further assess the demand for student housing in this corridor, given the University of Kentucky's recent announcement that new dormitories are planned on the main campus.
- b. ZDP 2011-92: TATTERSALL APARTMENT DEVELOPMENT (12/31/11)* - located at 843 South Broadway.
(Vision Engineering)

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The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the plan status and the proposed lotting.

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

1. Provided the Urban County Council rezones the property R-5; 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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Addition of dimensions for buildings, clubhouse and courtyards.
7. Dimensions of access entrances.
8. Denote height of proposed buildings.
9. Denote existing and proposed easements.
10. Denote proposed bicycle rack locations.
11. Denote internal sidewalk connections.
12. Denote construction entrance and private road maintenance responsibilities.
13. Discuss proposed lotting (and possible need for variances).
14. Discuss detention.
15. Discuss extent of compact parking spaces.
16. Discuss zone-to-zone screening.
17. Discuss ability to meet tree canopy requirements.
18. Discuss termination of private street and/or connection to existing roadway.
19. Discuss access location proposed to South Broadway.

Zoning Presentation: Ms. Wade entered the following staff exhibits into the record: 1) University of Kentucky Campus Housing whitepaper; 2) a summary of the UK Campus Housing Master Plan, which includes a timeframe and specific graphics for each phase of development; and 3) a 2007 memo from the University of Kentucky to housing developers, related to student housing.

Ms. Wade oriented the Commission members to the location of the subject property, noting that it is located at 834 South Broadway and contains a fraction of the larger Red Mile parcel, which has an address of 1200 Red Mile Road. The subject parcels are approximately 8.5 acres and two acres in size respectively, and they have frontage along South Broadway and to the racetrack at the rear of the Red Mile property. The subject property is located next to the Speedway gas station at the intersection of Angliana Avenue and Foreman Avenue, along South Broadway, and to the north of the intersection of Red Mile Road with South Broadway and Virginia Avenue. Ms. Wade noted that the existing zoning in the vicinity of the subject property includes B-4 along Curry Avenue, as well as a majority of the subject property; B-3 zoning for restaurants and a hotel to the southeast, and a gas station to the north; and R-4 zoning in the Newtown Crossing apartment development across South Broadway, in addition to some B-1 and P-1 zoning. The racetrack portion of the Red Mile property is currently zoned A-U, while the majority of the property was rezoned to MU-3 within the past few years.

Ms. Wade stated that the petitioner is proposing an R-5 zone for the subject property in order to develop 272 dwelling units in four multi-family buildings, for a residential density of 25.66 dwelling units per acre. The South Broadway corridor from Red Mile Road to Maxwell Street is a mixture of residential, commercial, and industrial uses, with some of the newer developments resulting from the redevelopment of former tobacco warehouses. Those recent developments include several residential areas targeted toward students.

Ms. Wade presented the following photographs of the subject property and surrounding area: 1) the Tattersalls entrance sign, along South Broadway, with the Speedway gas station to the rear; 2) the largest existing building on the subject property; 3) the existing barns to the rear of the subject property, which are located along the southwest boundary, close to the track area; 4) a closer view of the barns; 5) a view of the track and grandstand, taken from the A-U portion of the Red Mile parcel; 5) a view toward South Broadway, including the access entrance for the Tattersalls facility; (the area is part of an access easement that runs from South Broadway to Versailles Road); 6) a view of Curry Avenue to the northeast, noting the mixture of existing uses; 7) the existing access that connects the Tattersalls lot to the adjacent restaurant property; 8) a view of the shared property line between the subject property and the restaurant to the west, noting the Newtown Crossing development across South Broadway; 9) an existing large Bur Oak tree, which the petitioner proposes to retain; 10) a view of the location of the proposed access point to South Broadway; and 11) a view of the Red Mile Road area toward the south.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Commercial Residential Mixed Use for a majority of the subject property, and Semi-Public Facilities land use for the rear portion of the property that adjoins the racetrack. She explained that the Commercial Residential Mixed Use can be either a vertical or horizontal mixture, but use of the residential component is encouraged. The Semi-Public land use category includes service-oriented or dis-

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tinctive features in the community. Ms. Wade noted that, if redevelopment of a Semi-Public Facility is proposed, the Planning Commission should consider the recommendations of not only the Comprehensive Plan, but other relevant documents as well. The 2007 Comprehensive Plan also included a recommendation that the Red Mile property should be considered for a Small Area Plan, with strong consideration for High Density Residential and Mixed Use development. That recommendation, along with the owners' desire to redevelop the Red Mile property, led to the Red Mile Development Plan process in 2009. That plan was a joint effort between LFUCG and the property owners; since it was not a Small Area Plan, it was not adopted as an official element of the Comprehensive Plan, but it is considered a "relevant document" that must be consulted as part of the redevelopment process.

Referring to the staff exhibits distributed to the Commission members, Ms. Wade said that the first three pages were from the Red Mile Development Plan, including the site context and concept plan. She noted that, at the time the concept plan was developed, the Tattersalls property was proposed to remain a part of the active use of the racetrack. For that reason, the concept plan does not depict any redevelopment of that portion of the property. The concept plan identified 150 to 250 market-rate units, to be located on the north side of the property. Referring again to the staff exhibits, Ms. Wade said that the Goals and Principles section of the Red Mile Development Plan identifies overall goals and several principles that should be considered when evaluating the proposed development, including: encouraging the continuation of the racetrack and Tattersalls operations; not targeting residential development to undergraduate students; encouraging a mixture of housing, retail, and office uses; and linking the Red Mile property with new development on Angliana Avenue.

Ms. Wade stated that, in their review of the proposed zone change prior to the Zoning Committee meeting two weeks ago, the staff recommended postponement of this request, in order to consider some information in the Red Mile Development Plan, as well as the University's recent announcement about the construction of new dormitories on campus. Since the Zoning Committee meeting, the staff has met with the petitioner three times, and with representatives of UK, in order to discuss their housing goals. The petitioner submitted a written response to the staff recommendation of postponement, copies of which were included in the Commission members' notebooks. The staff prepared a supplemental report in order to address that response, copies of which were also included in the notebooks.

Ms. Wade said that the staff is considering, as other relevant information to this rezoning request, the University's goals and plans with regard to on-campus housing. As part of those plans, the University recently acquired the University Lofts property for use as their art department, which will result in the loss of 86 residential units in the community. The staff has also learned since the Zoning Committee meeting that the Tattersalls facility is no longer appropriate for continued use, since the number of racing days per year has declined and the necessary renovations to the building would be extensive and costly. The staff believes that that constitutes an unanticipated change on the property since the Red Mile Development Plan in 2009. Ms. Wade said that the staff has also considered the proximity of the subject property to the core of campus, which is approximately ½ mile, as well as the effect of large populations of students residing in established residential neighborhoods. The staff's final consideration was whether the proposed land use is suitable at this location.

With regard to the availability of on-campus student housing, Ms. Wade stated that the whitepaper recently released by the University indicates that 21.5% of the student body is currently housed on campus, with less than 6,000 beds to serve 28,000 students. UK's future goal is to house 30% of its students in 9,000 beds, while the student population is projected to increase to 30,000. The staff conducted some research into the approved multi-family housing in the vicinity of the subject property by dwelling units and number of bedrooms, and prepared an exhibit depicting their findings. Ms. Wade explained that the staff found that there are 2,155 dwelling units, and 5,175 bedrooms in the area of the subject property, which indicates that there is a concentration of student housing there and a desire for students to live very near to campus. She said that the staff had also distributed to the Commission members copies of a letter from the University that was submitted during the 2007 rezoning on Angliana Avenue, which indicated that UK's goal was to house 40% of their students on campus. Since that time, that goal has changed, which puts pressure on the rest of the community to absorb the housing for those students who do not reside on campus. The staff also learned, in their meeting with representatives of the University, that an RFP has been submitted for the construction of a 600-bed dormitory on campus for honor students with the next phases to include the demolition and replacement of most of the existing dormitories on campus.

Ms. Wade said that the staff gave significant consideration to the 2007 Comprehensive Plan's mixed-use designation for the subject property. When the staff reviewed the area bordered by Red Mile Road, Angliana Avenue, South Broadway, and the Red Mile property, they learned that there is no residential development within that block. There is an existing recommendation for redevelopment in that area, including a residential component; and the staff believes that the petitioner's proposed development could provide that residential element. Although the redevelopment recommendations of the Red Mile Development Plan called for no student housing in the area, the elimination of the Tattersalls support area from the Red Mile track should be considered an extenuating and unanticipated circumstance. The petitioner is proposing to meet several of the recommendations of the Red Mile Development Plan, including providing a connection from the Red Mile property to Curry Avenue and encouraging a mixture of uses, in-

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cluding residential, retail, and office, in that immediate area. More importantly, the addition of these market-rate units on the subject property would not take away from the market-rate units on the Red Mile property, for which a final development plan was recently approved. Ms. Wade said that the staff concluded, therefore, that the proposed development would encourage a mixture of uses in the South Broadway area, as recommended by the Comprehensive Plan and the Red Mile Development Plan, and that the R-5 zone would not compromise the recommendations of the Red Mile Plan. She presented the following revised recommendation:

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

1. The proposed rezoning from a Wholesale & Warehouse Business (B-4) zone, and from an Agricultural Urban (A-U) zone to a High Rise Apartment (R-5) zone is in substantial agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Plan recommends that most of the subject property be used for Commercial Residential Mixed Use (MU) future land use, defined as "combinations of office and neighborhood retail with residential above, or adjacent to, the retail and office." Non-residential uses already exist in the vicinity of this location, with some located adjacent to this site.
 - b. The Plan recommends redevelopment of the subject property, which is being proposed.
 - c. The petitioner proposes a residential use adjacent to restaurant and retail uses, for some 272 apartment units on 10.6 net acres, at a density of 25.66 units per net acre.
 - d. Residential redevelopment of the subject property, consistent with the Infill & Redevelopment Study recommendations, will implement the "mixed use" land use recommendation for this area of the South Broadway corridor.
 - e. The Plan recommends a small portion of the subject property, to the rear, be used for Semi-Public Facilities (SP) land use. Although this area of the subject property is mostly proposed for associated parking in support of the proposed residential uses, off-street parking for use by the harness track at this location would otherwise qualify as a Semi-public land use as well.
2. This recommendation is made subject to approval and certification of the applicable portions of ZDP 2011-92: Tattersall Apartment Development, 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. Copeland asked how large the subject property is. Ms. Wade answered that the subject property is 10.6 acres in size. Ms. Copeland asked how many bedrooms are proposed. Ms. Wade responded that the petitioner is proposing 832 bedrooms. Ms. Copeland asked how high the proposed structures will be. Ms. Wade answered that the buildings are proposed to be four stories in height. Ms. Copeland said that the proposed honor student on-campus housing will have 600 bedrooms, and it will be located on a much smaller piece of property. She asked if the density on the subject property could be increased further. Ms. Wade responded that, in the proposed R-5 zone, there could be a higher floor area ratio, but generally parking constraints would prohibit the construction of many additional units. She noted that, if the petitioner could find additional parking spaces, they could add more bedrooms. Ms. Copeland asked why, if the subject property is located ½ mile from campus, the petitioner is guaranteeing parking to its residents as an amenity. Ms. Wade answered that the R-5 zone has a parking requirement. Ms. Copeland stated that, since university parking often spills out of the "university zone" into other areas of town, she believes that it might be appropriate to consider lower parking standards for areas around the university. Ms. Wade said that the reality is that most students have vehicles, and they will need somewhere to park them. Ms. Copeland said that more dwelling units could be constructed, in taller buildings, if the parking requirements were decreased, and that there is a fixed amount of land close to the university. Ms. Wade stated that, whether or not the parking spaces are required, most developers want more spaces in order to accommodate their residents' needs.

Mr. Owens asked if the subject property was part of the 2009 Red Mile Development Plan. Ms. Wade answered that it was part of the site, because it is owned by the Red Mile, but they did not include a concept plan for that portion of their property.

Mr. Owens asked if the staff could provide any numbers with regard to the occupancy rate of the existing student apartments in the area. Ms. Wade responded that the staff did not have any such data, but the petitioner could possibly provide it as part of their presentation.

Mr. Owens asked Ms. Wade to display, on the zoning map, where the subject property is located in relation to the intersection of Maxwell and Rose Streets. Ms. Wade used the rendered zoning map to note the location of that intersection. He asked if the numbers the staff provided for dwelling units and bedrooms included all of the available student housing in Lexington. Ms. Wade answered that it did not; there is also a considerable number of student housing units between the campus and the downtown area. She added that the area around the subject property has about 5,000 bedrooms, and the university has about 5,000 bedrooms as well, so there are approximately 10,000 – 11,000 bedrooms between the subject property and campus.

Mr. Owens asked if Ms. Wade had included the 524 Angliana development in the staff's assessment that there are no existing residential units in the block where the subject property is located. She said that the staff did not include that development; they factored in only the areas recommended for mixed use on the Comprehensive Plan.

Mr. Penn stated that, when the Red Mile Development Plan was drafted, the purpose was to create a destination that would serve not only nearby residents, but all of Lexington, in order to augment the income of the Red Mile racetrack. He said that, at that time, the Tattersalls facility was proposed to continue its use as a sales facility with barns. He asked if, in the staff's opinion, rezoning the subject property to R-5 would change the overall intent of the Red Mile Development Plan. Ms. Wade answered that the staff did not believe that rezoning the subject property to R-5 would change the intent of that plan.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, explaining that the petitioner is proposing to construct four, 4-story apartment buildings, approximately 50 feet in height, and with a total of approximately 103,000 square feet. The petitioner proposes to add approximately 4,000 square feet of courtyard areas to meet the necessary open space requirements, as well as a pool, volleyball court, and clubhouses. Detention is proposed to be underground at the rear of the property. A public street is proposed to be located at the rear of the property, with connections to both Red Mile Road and Curry Avenue. Mr. Martin said that the petitioner has chosen to use the 10% parking discount allowed by the Zoning Ordinance, which would reduce the number of required parking spaces to 674. The revised development plan depicts 701 spaces, 184 of which are compact spaces, scattered throughout the property. The petitioner proposes access to a new public street, in addition to the proposed access to South Broadway.

Mr. Martin stated that the Subdivision Committee recommended postponement of the plan originally submitted by the petitioner. Following the submission of this revised plan on November 11th, the staff prepared a revised recommendation, copies of which were distributed to the Commission members. Mr. Martin presented the revised staff recommendation, subject to the following conditions:

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

1. Provided the Urban County Council rezones the property R-5; 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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. ~~Addition of dimensions for buildings, clubhouse and courtyards.~~ Correct proposed lot sizes shown in the site statistics.
7. ~~Dimensions of access entrances.~~ Denote: The location of the six proposed parking spaces on the access drive (near the clubhouse) shall be reviewed at the Final Development Plan.
8. ~~Denote height of proposed buildings.~~
9. ~~Denote existing and proposed easements.~~
10. ~~Denote proposed bicycle rack locations.~~
11. ~~Denote internal sidewalk connections.~~
12. ~~Denote construction entrance and private road maintenance responsibilities.~~
13. ~~Discuss proposed lotting (and possible need for variances).~~
14. ~~Discuss detention.~~
15. ~~Discuss extent of compact parking spaces.~~
16. ~~Discuss zone-to-zone screening.~~
- 9.17. ~~Discuss ability to meet tree canopy requirements.~~ Denote that the Tree Protection Area and tree canopy requirements shall be reviewed on the Final Development Plan.
18. ~~Discuss termination of private street and/or connection to existing roadway.~~
- 10.19. ~~Discuss access location proposed to South Broadway.~~ Denote: The access location to South Broadway and any necessary roadway improvements shall be determined on the Final Development Plan, and shall be subject to the approval of the Kentucky Transportation Cabinet.

With regard to the conditions for approval, Mr. Martin noted that condition #6 refers to the correction of the proposed lot sizes as listed in the site statistics. He explained that the property would eventually be subdivided, and each of the four proposed buildings will be on its own lot. The staff recommended that the location of the six parking spaces depicted on the access drive near the clubhouse be reviewed at the time of a final development plan, to which condition #7 refers. In addition, the petitioner needs to denote the location of any existing or proposed easements on the property. Mr. Martin said that an absence of utility easements in areas such as the subject property is not uncommon, as easements are sometimes located in the right-of-way; but the petitioner will need to document those locations via a note on the plan, which is the purpose for condition #8. With regard to the discussion item for zone-to-zone screening, Mr. Martin explained that, on the original plan, a 5' landscape buffer was depicted, which would only be acceptable if a 6' fence was included. The revised plan depicts the location of that fence, so that condition has been met. With regard to condition #9, Mr. Martin said that it is normal for the staff to review the tree canopy requirements and any necessary tree protection areas at the time of a final development plan. The staff believed that in this situation, however, it would be prudent to denote that requirement, as there are three significant trees on the property, and several other large trees that should be maintained if possible. The three significant trees include a hackberry, a bur oak in the location of the proposed tennis court, and a catalpa in the area identified on the plan as Parcel 2. The six parking spaces to which Mr. Martin referred

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earlier in his presentation could possibly conflict with the location of the bur oak, which was the basis for the staff's recommendation to include condition #9. With regard to condition #10, Mr. Martin said that, while the staff is very pleased with the proposed street connection to Curry Avenue, which has been recommended for some time, they were concerned about the location of the South Broadway access point and its proximity to the existing traffic light, as it was depicted on the original plan submittal. On this revised development plan, the petitioner is proposing to construct that access on the opposite end of the property, near the former Coach House restaurant building. The staff is still concerned about the location of that access point, which was the basis for their recommendation to include condition #10. The petitioner has conducted several meetings with the Planning staff, as well as the Division of Traffic Engineering and the Kentucky Department of Transportation, to determine the most appropriate location for that access point. Should the petitioner be required to relocate that access point, it could reduce the impact on the significant trees, but it might require the redesign of some of the amenity areas. The staff believes that all of those issues can be addressed at the time of a final development plan for the subject property. Mr. Martin reiterated that the staff is recommending approval of this revised preliminary development plan.

Commission Questions: Mr. Penn asked if the proposed access to South Broadway will be right-in/right-out only. Mr. Martin answered that it is proposed to be a full access point. Mr. Penn asked if the access would be signalized, noting that it would be difficult to make a left-hand turn from the subject property onto South Broadway. Mr. Martin responded that the access is not proposed to be signalized.

Ms. Blanton asked if the staff had any concerns about drivers backing out of the proposed parking spaces near the entrance to the subject property. Mr. Martin answered that the staff had some concerns about those traffic movements; but they believe that the revised plan depicts more depth in that proposed access, which should mitigate those concerns somewhat.

Mr. Owens asked if the width of the proposed new public street will be adequate to handle the expected traffic. Mr. Martin responded that the staff believes that it will be, and that it will be re-evaluated at the time of a final development plan. Mr. Owens said that it appears that the lots on Curry Avenue are approximately 40'-50' in width, and he asked if those lots would be sufficient for a public street. Mr. Martin answered that those lots could accommodate a local street. Mr. Owens stated that he had driven on Curry Avenue, and found that it is very narrow. Mr. Martin agreed that it is a narrow street, and noted that parking has been restricted to one side of the street only, in an attempt to improve access. Mr. Owens asked how much further it is from the end of Curry Avenue to the location of the one-way alley to Angliana Avenue. Mr. Martin responded that he did not believe that it was a great distance. He added that the staff believes that the proposed traffic system will be adequate to serve pedestrians, bicycles, and vehicular traffic. Mr. Owens asked if the staff had any discussions with the petitioner about continuing the access from Curry Avenue to Angliana Avenue. Mr. Martin answered that the staff had not discussed that option, as there is a current plan that depicts access between Curry Avenue and Angliana Avenue, and the staff believes that that plan will be back before the Commission at some point.

Traffic Impact Study Presentation: Mr. Hammons presented the staff report on the petitioner's Traffic Impact Study, noting that the petitioner has been working closely with staff to determine the best means to address the traffic concerns associated with the development of the subject property. One of those concerns is the short 64' distance between the Speedway gas station access to South Broadway, and the proposed access to the subject property.

With regard to the Traffic Impact Study (TIS), Mr. Hammons stated that it met the Zoning Ordinance requirements for completeness and accuracy. He said that the TIS indicates that the number of average annual daily trips on South Broadway has been at 34,000, with only some slight fluctuations, since 1990. Red Mile Road averages 16,500 daily trips. Mr. Hammons opined that the development of the subject property for residential use, along with the redevelopment of many of the warehouses on Angliana Avenue, could actually improve the traffic situation in the general vicinity, since much of the former heavy truck traffic has been eliminated.

Mr. Hammons stated, with regard to the proposed trip generation numbers for the subject property, that those numbers are calculated for the p.m. peak hours (between 4:30 p.m. and 6:00 p.m.), since that is generally the busiest time for traffic on the roadways. Trip generation for the subject property is projected at approximately 1,828 daily trips, with 138 trips in the a.m. peak hours, and 168 in the p.m. peak hours. The TIS indicates that approximately 55% of that traffic from the subject property will be traveling toward South Broadway, with the remaining 45% traveling to Versailles Road. Mr. Hammons noted that the proposed development on the subject property only exceeded the Traffic Impact Study threshold by approximately 10 trips per day; if the potential number of residents who will walk or bike to campus, or who use mass transit, had been taken into consideration, the proposed development might have been under that 100-trip-per-day-threshold.

Mr. Hammons said, with regard to the projected Levels of Service (LOS) for the nearby intersections, that the South Broadway/Red Mile Road; South Broadway/proposed access to the subject property; and Versailles Road/Forbes Road intersections are projected to have LOS of "E" or "F" due to minor turning movements. He explained that those delays are typical and, although they indicate that there is congestion in the area, the addition of traffic entering and leaving the subject property should not create a significant burden on the overall roadway system in that vicinity.

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Mr. Hammons said that, despite the significant congestion around the South Broadway/Red Mile Road intersection, traffic accident data research noted only five accidents in the a.m. peak hours, and five or six during the p.m. peak, for a total of approximately 48 accidents a year. Most of those were either rear-end collisions or sideswipes.

With regard to the recommendations of the consultant who prepared the TIS, Mr. Hammons stated that traffic signal timing at the South Broadway/Red Mile Road intersection was recommended to be increased during the a.m. and p.m. peak hours in order to allow pedestrians more time to cross. The consultant also recommended the addition of a lane to the Red Mile Road approach to Versailles Road and the addition of a northbound right turn lane onto Virginia Avenue. Mr. Hammons noted that the MPO's unscheduled/unfunded project list includes the re-design of the South Broadway/Red Mile Road/Virginia Avenue intersection, but there is currently no timeline for that project.

Mr. Hammons stated, in concluding his comments, that the Traffic Impact Study meets the requirements of the Zoning Ordinance. He added that the Transportation Planning staff will continue to work with the petitioner to address their concerns throughout the process.

Commission Questions: Ms. Blanton asked if there are any solutions to the traffic problems at the intersection of South Broadway, Angliana Avenue, and Curry Avenue, which is very confusing. Mr. Hammons answered that there are several predicted dispersal points for traffic from the subject property, so there might not be a significant increase in the number of daily trips at that intersection. He added that that intersection is troublesome, but the fact that some drivers avoid it, for that reason, could actually help to reduce congestion there. Ms. Blanton said that there is no signage or direction given to help drivers navigate the intersection. Mr. Hammons responded that the intersection is problematic, but it has existed in that configuration for many years. Ms. Blanton said that the addition of as few as 10 cars could significantly increase the existing problems there. Mr. Hammons replied that the petitioner will most likely review that intersection at the time of a final development plan for the subject property, but any changes to the intersection would be considered an off-site improvement. He added that he believes that improvements to the intersection are on the MPO's unscheduled and unfunded projects list.

Ms. Blanton asked, with regard to the projected Levels of Service as listed in the TIS, four of which were "D," "E," or "F," at what point a LOS could be considered too poor to allow the development plan to move forward. Mr. Hammons answered that the Zoning Ordinance defines a "safe and acceptable" Level of Service as "D." He explained that, when LOS "E" and "F" appear on a TIS, it is typically due to difficulties with minor turning movements. Mr. Hammons added that the area is heavily urbanized, and congestion is to be expected there. Ms. Blanton opined that it was troubling that the LOS is predicted to decline, at some intersections, from "B" to "F." Mr. Hammons replied that, if the residents of the subject property choose to walk or bike to campus, those Levels of Service could improve considerably, and the design of the entrance to the subject property could be refined at the final development plan stage. Ms. Blanton stated that the predicted LOS, even after improvements to the intersections, are still poor. Mr. Hammons responded that the petitioner will work to resolve those issues at the final development plan stage. Ms. Blanton asked if there was any information in the Traffic Impact Study that could reassure the Commission members that there will be no LOS "F" after improvements are made. Mr. Hammons answered that LOS of "F" is not uncommon in an urbanized area, where existing conditions prior to redevelopment were already poor. Ms. Blanton asked if there is any hope of improvement for that intersection. Mr. Hammons responded that the project is on the books, so the staff is hopeful that those improvements might be made at some point.

Mr. Owens asked Mr. Hammons to explain the portion of the TIS that projects that 55% of the traffic leaving the subject property will use South Broadway, while 45% will use Versailles Road. Mr. Hammons answered that those figures are part of the projected trip generation data. Mr. Owens said that the TIS recommends the addition of a turn lane on South Broadway, but it does not appear that there is sufficient space to add a lane in that location. Mr. Hammons responded that space in that area is limited, but the consultant included a proposed design for those improvements as part of the TIS, which the Commission members could see if they so chose. He noted, however, that those changes would also be considered as off-site improvements. Ms. Wade added that the report that the petitioner provided was filed as an addendum to the full Red Mile mixed-use traffic studies, so the declines in some of the Levels of Service could be attributed to the proposed MU-3 entertainment district rather than this proposed student housing development. She added that, in one case, the change from LOS "D" to "E" was one second of wait time.

Ms. Roche-Phillips asked, with regard to the traffic accident data, which portion of South Broadway was measured. Mr. Hammons answered that the data was studied from the South Broadway/Angliana Avenue intersection to the South Broadway/Red Mile Road intersection. Ms. Roche-Phillips asked if that area was approximately 200' in length. Mr. Hammons responded that it was approximately ¼ mile. He added that the study indicated four to six accidents in the p.m. peak hours for that stretch of roadway. Ms. Roche-Phillips stated that making left turns in that area could be difficult. Mr. Hammons replied that there is a two-way left turn lane in that location, and there will be an opportunity to resolve that issue at the time of the final development plan. Ms. Roche-Phillips asked if pedestrian and bicycle information was included in the accident data. Mr. Hammons answered that the information that he received from the Division of Police included only vehicle accident data. Ms. Roche-Phillips said that she is concerned about adding more students who

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will have to cross South Broadway at the busy Red Mile Road intersection in order to reach the UK campus. Mr. Hammons noted that pedestrians at that intersection have 120 seconds to cross the street. He added that students traveling to the center of campus will also have the opportunity to use the pedestrian bridge near the railroad crossing.

Mr. Berkley asked, with regard to the trip generation data, if some other type of use, such as retail, would generate more trips. Mr. Hammons answered that a retail or Wholesale and Warehouse use would generate a lot more traffic, including heavy trucks. He added that the trip generation data was provided according to the ITE standards. Mr. Berkley asked how multi-family use ranks in terms of number of trips generated. Mr. Hammons responded that multi-family residential use is comparatively low, and, when its proposed use for student housing is factored in, the projected number of trips is reduced even further.

Mr. Cravens asked if the trip generation data was for standard multi-family use, or student multi-family. Mr. Hammons answered that the data was provided for an apartment use. He added that those estimates could be conservative, given that many of the students could walk or bike to campus. Mr. Cravens opined that it was unlikely that residents of the proposed development could find a location any closer to campus where they could park.

Note: Chairman Cravens declared a brief recess at 3:09 p.m. The meeting reconvened at 3:16 p.m.

Petitioner Presentation: Bruce Simpson, attorney, was present representing the petitioner. He stated that the petitioner has the burden of demonstrating that they are entitled to a zone change. When the staff has made a recommendation of approval, the attorney has a choice between presenting a number of exhibits, or letting the staff's presentation stand as sufficient reason for rezoning. Mr. Simpson said that he believes that the staff did an excellent job, and covered all of the points that he intended to make.

Mr. Simpson stated that every attorney who represents an applicant before the Planning Commission understands that their first mission is to satisfy the staff that the proposal is either in compliance with the Comprehensive Plan, or it satisfies one of the two elements that would allow a rezoning. He said that the staff is a neutral party, all of whom use their professional judgment and have no stake in the outcome; therefore, he believes that he can rely upon their recommendation. Mr. Simpson introduced his exhibit book into the record of the meeting, noting that, since he is unaware of any opposition to this request, he believes that the evidence as set forth by the staff is sufficient to approve the proposed rezoning.

Mr. Simpson said that he practices in many other counties, but no other county has the same level of review prior to presenting a request to the Planning Commission. He said that, in many other counties, only one person reviews a plan or rezoning request, whereas in Lexington-Fayette County, each request is scrutinized by several staff members, the Technical Committee, and the Subdivision and Zoning Committees.

With regard to the Commission members' questions about the Traffic Impact Study, Mr. Simpson said that the difference between the different Levels of Service is a delay of seconds. He said that the city of Lexington has decided, as a matter of public policy, to "grow up and not out." That type of growth will result in more traffic downtown and in other urban areas, with more intense developments, and the proposed development fits into the decision not to expand the Urban Service Area.

Mr. Simpson stated, with regard to the concerns that the proposed development might not be fully occupied, that the occupancy rates of all the student apartment developments in the vicinity are 100%, with the exception of The Lex, which is 93% occupied. He said that the proposed development will be high quality, and could take some of the burden of housing students off of the existing residential neighborhoods near the campus. The petitioner believes that the proposed development, which is projected to cost 28 million dollars, will serve the long-term needs of higher-caliber students who wish to locate in a more upscale apartment, which will be located as near to campus as Kirwan Towers.

Mr. Simpson said that the petitioner's Traffic Impact Study did not factor in the possibility that students could walk or bike to campus, so the projected traffic estimates are very conservative. He added that the study was done as if the 62-acre Red Mile development was completely built out, which contributed to the projected traffic estimates.

Mr. Simpson stated that the staff has thoroughly analyzed this rezoning request; it has been through three Committee meetings, as well as six other meetings with the staff. He thanked the Commission for their time, and requested approval.

Commission Questions: Mr. Penn stated that he had served on the Red Mile Development Plan committee, and he is confused about why the Tattersalls facility is no longer needed. He said he would also like for a representative of the Red Mile to offer some reassurance about their commitment to maintaining their harness racing tradition. Mr. Penn added that he is concerned about the parking area that is proposed to be located near the racetrack, and the possibility of vehicle lights being directed toward the track. Mr. Simpson responded that the petitioner has agreed to install screening and fencing to protect the racetrack from vehicle lights. He added that a portion of the track is recessed, so that

should help mitigate any concerns about lighting as well. Mr. Simpson said that Joe Costa, president of the Red Mile, would address Mr. Penn's question about the their commitment to maintaining racing operations.

Mr. Penn said that the Red Mile Development Plan process had been very open, and he appreciated the petitioner's willingness to bear the costs associated with that process. He asked Mr. Costa to provide an overall view of why he thinks the Red Mile can still be a destination if the subject property is rezoned for student housing; how the petitioner intends to maintain Standardbred racing at the Red Mile; and how stabling will be handled once the Tattersalls facility is removed.

Joe Costa, president and CEO of the Red Mile, stated that he came to Lexington from New Jersey in 2001, and he did not know a great deal about running a racetrack. He said that it took a while, but he came to the conclusion that the historic Red Mile, which was established in 1875, could not be saved by racing alone, since racing is the most expensive part of its operation. As the Red Mile management considered the best way to save the institution, to which they are firmly committed, they determined that they should utilize their most valuable asset, which is real estate. With that goal in mind, they decided to "become landlords" and lease out their land in order to offset the losses of racing Standardbred horses.

Mr. Costa said that the Red Mile Development Plan did not include the Tattersalls facility because it was being used at that time. As that plan evolved, the Red Mile began doing business at the Fasig-Tipton facility, which they believe is far superior. They evaluated the cost of renovating the Tattersalls facility, but determined that it would cost approximately a million dollars, and the facility would still be substandard compared to the competition in the community. In addition, the number of horses requiring stabling at the Red Mile had been steadily declining, which further eliminated the use for the Tattersalls building. Once it was determined that the Tattersalls building should be removed, the Red Mile management was approached by three companies specializing in student housing development, each of whom offered a good price for that piece of property. The Red Mile management board did not choose the highest bidder; instead, they decided to work with the company who appeared the most invested in creating a successful development where students would have the ability to walk to campus.

Mr. Costa stated that, since he has been in charge of the Red Mile, they have consistently marketed to UK students, with little success. This year, however, there has been a dramatic increase in students attending the races, and the Red Mile management believes that it is due to the new student housing development located on Angliana Avenue, which overlooks the back stretch of the racetrack. They believe, therefore, that additional student housing will not detract from the racing operations at the Red Mile, but will actually enhance it. Mr. Costa said that, once businesses see the increased activity around the racetrack, they will become interested in locating in the mixed-use portion of the Red Mile property, which will help to create the entertainment destination that was envisioned during the Red Mile Development Plan process.

Citizen Comments: Bill Bausch, attorney, was present representing Post Road Properties, which owns one of the parcels on South Broadway that is adjoining the subject property. He said, with regard to Ms. Copeland's question about parking, that, given the close proximity of his client's property to the subject property, the quality of the proposed development is very important. His clients believe that it would be detrimental to create more density in the proposed development. They also stress the importance of providing adequate parking for the residents of the apartments, since "overflow" vehicles are likely to park on their property if sufficient parking is not provided.

Mr. Bausch said that his client's primary concern is ingress and egress to the subject property, but they are aware that existing access problems will not be solved by the proposed development. He noted that the proposed development could be very beneficial for the property owners along South Broadway, which represent a substantial investment in the community and many jobs. If access to the subject property is not adequately addressed, and access not provided between the subject property and that owned by Post Road Properties, however, it could be detrimental to their tenants. Mr. Bausch complimented the petitioner on their willingness to work with his clients, as they have been part of the process since the beginning, and they are committed to finding a solution that would allow a shared access for both properties. His clients have lost many tenants due to problems with access to their property, and they are willing to continue to work with the petitioner to reach the best arrangement for all parties. Mr. Bausch's clients believe that, if the petitioner continues this process in the same manner, all of the current traffic issues can be resolved at the time of a final development plan for the subject property. In addition, he has agreed to be responsible for working with KYDOT to request traffic signals and other improvements. Mr. Bausch concluded by noting that his petitioner is in favor of the proposed development if, at the final development plan stage, they are provided with a mutual, open access point with the subject property, so that the residents at the apartment complex can travel freely to the businesses located on his client's property.

Petitioner Rebuttal: Mr. Simpson stated that he appreciates Mr. Bausch's comments, and agreed that their clients have had a good working relationship. He said he believes that the final development plan for the subject property will include an access configuration that will be satisfactory for the petitioner, Mr. Bausch's clients, and the Planning Commission.

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Mr. Simpson said that the racetrack was never intended to be included as part of the redevelopment plans for the Red Mile. He commended the current ownership for making the commitment to maintain the track, and said that he believes that the proposed development will be a positive contribution to the redevelopment process.

Staff Rebuttal: Ms. Wade stated that the staff had no rebuttal comments.

Zoning Action: A motion was made by Mr. Penn, seconded by Mr. Berkley, and carried 5-2 (Copeland and Roche-Phillips opposed ;Beatty, Brewer, Paulsen, and Wilson absent) to approve MAR 2011-16, for the reasons provided by staff.

Development Plan Motion: A motion was made by Mr. Penn and seconded by Mr. Berkley to approve ZDP 2011-92, subject to the 10 conditions as listed in the staff's revised recommendation.

Discussion of Motion: Ms. Roche-Phillips stated, with regard to Mr. Bausch's comments, that she believes that the addition of a traffic signal could impact this development plan. She said she did not believe that the access proposed on this development plan is the best solution for the property.

Mr. Cravens stated that a motion for approval of the preliminary development plan was currently on the floor.

Ms. Roche-Phillips said that she believes that a final development plan is too late to deal with issues of ingress/egress and traffic signals, and that she would like to see those issues resolved prior to the approval of the preliminary development plan.

Mr. Cravens asked if Ms. Roche-Phillips would like to take action. She replied that a motion was currently on the floor.

Mr. Penn asked if Ms. Roche-Phillips would like to amend the motion, or to go ahead and vote on it. She answered that the Commission could vote on the motion, but she wanted to express her concern.

Development Plan Action: Mr. Penn's motion carried, 4-3 (Copeland and Roche-Phillips opposed ;Beatty, Brewer, Paulsen, and Wilson absent).

VI. COMMISSION ITEMS – No such items were presented.

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. MEETING DATES FOR DECEMBER, 2011

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 1, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	December 1, 2011
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	December 8, 2011
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 14, 2011
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	December 15, 2011

X. ADJOURNMENT – There being no further business, Chairman Cravens declared the meeting adjourned at 3:49 p.m.

TLW/TM/CT/BJR/BS/src