

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

September 24, 2015

- 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; Patrick Brewer; Mike Cravens; David Drake; Karen Mundy; Mike Owens, Chair; Carolyn Plumlee; Carolyn Richardson; and William Wilson. Absent were Frank Penn and Joseph Smith.

Planning staff members present: Chris King, Director; Bill Sallee; Jimmy Emmons; Barbara Rackers; Traci Wade; Cheryl Gallt; and Stephanie Cunningham. Other staff members present were: Tracy Jones, Department of Law; Hillard Newman, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; and Lieutenant Joshua Thiel, Division of Fire and Emergency Services.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent) to approve the minutes of the August 27, 2015, meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **DR. MICHAEL GENTRY ZONING MAP AMENDMENT & CADENTOWN SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. MARV 2015-8: DR. MICHAEL GENTRY (9/24/15)* – petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Wholesale & Warehouse Business (B-4) zone, for 4.17 net (4.54 gross) acres, for property located at 2833 Liberty Road. A dimensional variance is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes to construct a veterinary clinic and an animal kennel. The proposed facility will be mostly enclosed ($\pm$ 20,000 square feet of space), with a small outdoor play area planned, and associated off-street parking.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Disapproval.** for the following reasons:

1. The requested rezoning to a Wholesale and Warehouse Business (B-4) zone is not in agreement with the 2013 Comprehensive Plan. The Goals and Objectives and policy statements of the Plan encourage the consideration of how proposals relate to existing development in the immediate vicinity, and focus on protecting neighborhoods and residential areas from incompatible land uses. A neighborhood node already exists a short distance away at Man o' War Boulevard and Liberty Road in this immediate vicinity. The Comprehensive Plan also encourages the placement of residential land and development nearest to our parks and greenways to ensure that they are utilized to the highest extent possible.
2. Re-zoning at this location may significantly impact the nearby neighborhoods within the area, especially Campbell Lane and the established Cadentown Historic District. The Comprehensive Plan does not state that job creation should be accomplished to the detriment of the community or nearby neighborhood(s).
3. Although the subject property is situated along a recently improved roadway, it is a considerable distance from the already established neighborhood node at Man o' War Boulevard and Liberty Road. No justification exists for leapfrogging business zoning along Liberty Road to the subject property. The existing residential zone remains appropriate for the site and is compatible with adjoining properties.
4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support B-4 zoning for the subject property.

b. **REQUESTED VARIANCE**

Decrease the minimum distance required for a kennel or animal clinic from a residential zone from 100 feet to 50 feet along the northwest property line.

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

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

- a. Granting the requested variance to 50 feet will not adversely affect the public health, safety or welfare. It will not negatively impact the essential character of the general vicinity because this modern kennel/animal clinic is primarily

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designed to keep the pets indoors; and in this case, the outdoor play area for pets will be more than 60 feet from a residential zone. Additionally, the property to the northwest is currently vacant and is buffered by a heavy line of vegetation that is proposed to remain.

- b. There is a special circumstance regarding this property (an 11-sided lot) that makes standard development more difficult. It applies to this property but does not generally apply to most commercial properties, which are generally much more rectangular in shape. Additionally, the proposed variance along the northwestern property line was chosen because the adjoining property is vacant, whereas there are occupied residential properties to the southeast on Campbell Lane.
- c. Although a facility could be constructed on this site without a variance, it would not likely result in a better design or outcome. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship for the applicant, because the design of the facility would need to be less efficient and could impact the operational needs of the proposed kennel/animal clinic.
- d. The requested variance is not an unreasonable circumvention of the Zoning Ordinance, because the setback requirements for this use are to buffer nearby residential uses from the potential nuisances of this use. This facility, like most modern kennels, will be built in such a way that the majority of the animal keeping is indoors with outdoor play areas located more than 60 feet from any residential zone, and more than 100 feet from any existing dwellings.
- e. The circumstances surrounding the requested variance are a result of the odd shape and other special considerations, and are not the result of prior actions taken by this applicant, as no construction has yet occurred on the subject site.

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

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
4. The tree line along the northwestern property line shall be retained.

Alternative Recommendation:

Should the Planning Commission recommend Disapproval of the requested B-4 zone change, the Staff Recommends: **Disapproval**, for the following reasons:

- a. Under Article 6-4(c) of the Zoning Ordinance, the Planning Commission may only hear conditional uses and variances when filed with an associated zone change. Therefore, unlike the associated zoning development plan, the Commission may only consider this matter within 90 days of its filing.
 - b. Disapproval of the conditional use does not prohibit the applicant from filing a dimensional variance application with the Board of Adjustment, should the Urban County Council approve the requested B-4 zoning of the subject property in the future.
- c. ZDP 2015-49: CADENTOWN SUBDIVISION – ANIMAL HOSPITAL/KENNEL (9/24/15)*- located at 2833 Liberty Road.
(**Vision Engineering**)

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the access to the proposed trail system and outdoor pet areas to be used.

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

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Denote access drive dimensions.
7. Denote sidewalk dimensions.
8. Denote canopy height.
9. Clarify outdoor kennel space.
10. Provided the Planning Commission grants the requested variance to the setback.
11. Clarify proposed building entrance.
12. Remove parking space conflict from required landscape buffer.
13. Denote access locations across Liberty Road on plan.
14. Denote proposed stormwater detention area.
15. Discuss excess parking.
16. Discuss access to Campbell Lane.

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17. Discuss open space area at the rear of the property.
18. Discuss access to proposed trail along the northern property boundary.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He stated that the petitioner had attempted to acquire an adjoining property, and he requested a one-month postponement in order for the petitioner to file an amended application.

Action: A motion was made by Ms. Richardson, seconded by Ms. Plumlee, and carried 9-0 (Penn and Smith absent) to postpone MARV 2015-8 to the October 22, 2015, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, September 3, 2015, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Joe Smith, Mike Owens, Will Berkley, Carolyn Plumlee and Frank Penn. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Jim Duncan, Tom Martin, Traci Wade, Cheryl Gallt, Denice Bullock, Kelly Hunter and Dave Jarman, as well as C.D. Schnelle, Division of Police; Captain Greg Lengal and Lieutenant Josh Thiel, Division of Fire & Emergency Services and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

A. DP 2015-74: CAVE HILL TOWNHOMES (11/1/15)* - located at 2236 Cave Hill Place.
(Council District 10) **(Vision Engineering)**

Note: The Planning Commission postponed this item at their September 10, 2015, meeting.

The Subdivision Committee Recommended: **Postponement.** There are questions regarding missing information (Article 21-7 of the Zoning Ordinance), whether or not this is intended to be a group residential project and the parking requirements for the proposed development.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Addition of record plat designation (Cabinet A, Slide 328).
11. Addition of existing and proposed easements.
12. Document lot coverage, floor area and open space in site statistics.
13. Addition of zone-to-zone screening information.
14. Addition of maintenance note for common area.
15. Discuss the need for tree protection areas.
16. Discuss plan status (preliminary vs. final).
17. Discuss compliance with Article 9 requirements.
18. Discuss required parking generator and numbers provided (bedrooms/units).

Staff Comment: Mr. Sallee noted that the staff had received one letter of objection to this plan, which had been distributed to the Commission members prior to the start of the meeting.

Staff Presentation: Ms. Gallt presented this final development plan, briefly orienting the Commission to the location of the subject property on Cave Hill Place at Cave Hill Lane. She said that the petitioner is proposing to construct nine townhomes on the property.

Ms. Gallt stated that the staff had distributed revised conditions for approval of this plan. Condition #14 refers to the need for sidewalks along Cave Hill Lane. There are existing sidewalks along the single-family residential portion of that roadway, but the petitioner did not originally propose to construct sidewalks along the frontage of the subject property. With the removal of

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the former single-family home on the property, the staff would prefer that sidewalks be provided to serve the new townhomes. Condition #15 refers to the need for a landscape buffer along the property boundary that adjoins a parcel zoned A-U (Agricultural Urban).

Commission Questions: Mr. Owens asked if staff could address the concerns outlined in the objection letter received by staff. Ms. Gallt answered that the petitioner's representative could better answer Mr. Owens' question.

Petitioner Presentation: Matt Carter, Vision Engineering, stated that the petitioner had met with the residents of the neighborhood along Cave Hill Place. He said that the citizen who wrote the objection letter had attended the meeting, and he felt that her concerns about stormwater runoff had been addressed. The petitioner intends to direct all runoff into the existing storm sewers, which should significantly reduce the runoff onto Cave Hill Place. Mr. Carter stated that residents were also concerned about how construction traffic would access the site. The petitioner proposes to create a construction entrance that should prevent construction traffic from using the main access to the neighborhood.

With regard to condition #14, Mr. Carter stated that the plan currently depicts sidewalks to Cave Hill Place; the petitioner is agreeable to providing an additional sidewalk along the property's frontage. He said that the petitioner is in agreement with the revised conditions, and he requested approval.

Action: A motion was made by Mr. Brewer, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent) to approve DP 2015-74, subject to the 15 conditions listed in the revised staff recommendation, changing #14 to read: "Revise construction of sidewalks along Cave Hill Lane."

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, September 3, 2015, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Mike Cravens, David Drake, Carolyn Richardson, and Bill Wilson. The Committee members reviewed applications and made recommendations as noted.

A. PUBLIC HEARINGS ON ZONING MAP AMENDMENTS

1. GREER LAND COMPANY ZONING MAP AMENDMENT & RIDDELL PLAZA, LOT 3 (PARKER PROPERTY) ZONING DEVELOPMENT PLAN

- a. MAR 2015-19: GREER LAND COMPANY (11/1/15)* - petition for a zone map amendment from a Neighborhood Business (B-1) zone and a Wholesale & Warehouse Business (B-4) zone to a Highway Service Business (B-3) zone, for 1.59 net (2.00 gross) acres, for property located at 1100 & 1108 South Broadway.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes to redevelop the site with a gas station, convenience store and two retail sales establishments, for a total of 14,000 square feet of space.

The Zoning Committee Recommended: **Approval.**

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

1. The requested rezoning to a Highway Service Business (B-3) zone is not in agreement with the 2013 Comprehensive Plan. Although more flexible, the Comprehensive Plan does not specifically address modest or minor changes in commercial land use. The petitioner contends that they are developing a variety of job opportunities for people living in the general vicinity (Theme C, Goal #1.a.), but that alone does not constitute agreement with the Comprehensive Plan.
 2. Although the petitioner contends that the proposed B-3 zone is appropriate, they have not provided a justification for why the existing zoning is inappropriate at this site, specifically the B-1 zone that exists along the South Broadway corridor. Based on one of the new buildings proposed, the B-1 zone is more appropriate to facilitate the proposed development.
 3. The petitioner has not requested any variances to the yard requirements along Simpson Avenue, as would be necessary for the currently submitted corollary zoning development plan.
- b. ZDP 2015-79: RIDDELL PLAZA, LOT 3 (PARKER PROPERTY) (11/1/15)* - located at 1100 and 1108 South Broadway.
(Vision Engineering)

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The Staff Recommends: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property **B-3**; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.

Amendment of Application: Matt Carter, Vision Engineering, was present representing the petitioner. He stated that the petitioner would like to amend this rezoning application in order to remove 1100 South Broadway from the application and to rezone 1108 South Broadway to B-1, instead of to a B-3 zone.

Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent) to accept the amendment to this application, in order to rezone 1108 South Broadway to B-1.

Zoning Presentation: Ms. Wade presented this rezoning request, noting that the petitioner's original application was for two parcels. Following the amendment to the application, the petitioner is now only requesting to rezone 1108 South Broadway from B-4 to B-1. The subject property has approximately 35' of frontage on South Broadway, with its primary frontage along Simpson Avenue. Ms. Wade briefly oriented the Commission to the location of the property, adding that other uses in the immediate vicinity include a small shopping center across Simpson Avenue, which is part of a larger shopping center to the northeast; a new AT&T store which has frontage adjacent to the subject property along South Broadway; some Professional Office uses on Burley Avenue; an additional warehouse, to the south-east; and the Burley/American Avenue neighborhood to the south. The nearby neighborhood is primarily single-family residential in character, but there have been some zone changes to R-4 (multi-family land use) in recent years. South Broadway is primarily commercial in this area, with a mix of B-1, B-3, B-6P, and B-4 zoning.

Ms. Wade displayed the following photographs of the subject property: 1) an aerial view, noting the existing warehouse building, which has its rear side facing Simpson Avenue; 2) a view of the existing warehouse, with parking along the frontage and a parking lot and tributary of Wolf Run Creek to the rear of the property; 3) a view of the existing parking lot from the interior of the property toward South Broadway, noting the backup of stormwater due to recent heavy rains; 4) a view of the detention area at the rear of the property; and 5) a view of the adjacent warehouse along Simpson Avenue.

Ms. Wade stated that the petitioner is proposing to rezone the subject property in order to develop a convenience store and gas station with frontage along South Broadway, and two retail establishments in the same building along Simpson Avenue. The proposed B-1 zone does allow all of those uses. The subject property was rezoned from a Single-Family zone in 1976 to the existing B-4 zone.

With regard to the recommendations of the 2013 Comprehensive Plan, Ms. Wade said that it does not make specific land use recommendations, or include policy statements about changes from one business zone to another. The petitioner contends that the proposed B-1 zoning is in agreement with the Comprehensive Plan; the staff agrees that it is in agreement with the Goals & Objectives that recommend identifying areas of opportunity for infill, redevelopment and adaptive reuse that is context-sensitive to the area; and providing job opportunities for people living in the immediate vicinity. The petitioner is proposing a neighborhood-oriented land use, with orientation to Simpson Avenue, in a location near an existing residential development. Ms. Wade stated that it is the staff's opinion that the B-1 zone is more compatible and consistent in this area of South Broadway than the existing B-4 zone, and that it provides a better buffer than the previously requested B-3 zone would for the established residential neighborhood to the southeast. The staff is recommending withdrawal of the application for 1100 South Broadway, and approval of the rezoning to B-1 for 1108 South Broadway, for the following reasons:

The Staff Recommends: **Withdrawal** of the portion of the application for 1100 South Broadway, and **Approval** of a **Neighborhood Business (B-1)** zone for a portion of the application for 1108 South Broadway, for the following reasons:

1. The requested rezoning to a Highway Service Business (B-3) zone at 1100 South Broadway is not in agreement with the 2013 Comprehensive Plan, and the Neighborhood Business (B-1) zone remains an appropriate zone at this location.
2. The proposed zone change to a Neighborhood Business (B-1) zone for 1108 South Broadway is supported by several Goals and Objectives of the 2013 Comprehensive Plan, including:
 - a. Theme A (*Growing Successful Neighborhoods*), Goal 2, Objective a., which states: "Identify areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible." The petitioner is providing neighborhood-oriented land uses and orienting the proposed structure to Simpson Avenue.

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- b. Theme C (*Creating Jobs and Prosperity*), Goal 1, Objective d., which encourages the creation of jobs near where people live. The property is located very near residential neighborhoods, and will provide support or service uses in the area that is compatible with the nearby residential neighborhoods.
3. The requested Neighborhood Business (B-1) zone is appropriate for this location, and the existing B-4 zone is inappropriate because of the property's location in proximity to existing residential areas. More neighborhood-oriented business uses can not only serve the nearby residential area, but also provide a superior land use buffer to the neighborhood.
4. This recommendation is made subject to the approval and certification of ZDP 2015-79: Riddell Plaza, Lot 3 (Parker Property), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Ms. Wade added that finding #1 is not required if the withdrawal of the portion of the application for 1100 South Broadway was part of the petitioner's request for amendment.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, explaining that the petitioner is proposing to use the existing South Broadway access to the property, as well as two accesses on Simpson Avenue. This plan has been revised; the original version depicted an access point closer to the South Broadway/Simpson Avenue intersection. The petitioner also addressed the orientation of the building to Simpson Avenue, based on the staff's concern at the Subdivision and Zoning Committee meetings three weeks ago. The staff was concerned about the presentation of the buildings to Simpson Avenue, including the area between the building and the right-of-way. The revised plan now depicts that area as a sidewalk, rather than a loading zone as depicted on the previous plan. Mr. Martin noted that this is a preliminary development plan; at the time of the Final Development Plan, the staff will initiate discussions about the façade of the building, and other aspects of its presentation to Simpson Avenue.

Mr. Martin stated that the petitioner is proposing to construct just over 13,000 square feet, with each of the retail spaces containing just over 4,000 square feet of floor area. The plan includes 63 parking spaces to serve the commercial uses, including a detention area in the rear of the property. Following the Subdivision Committee meeting, the petitioner revised the dumpster location slightly in order to provide for easier access. Mr. Martin stated that the petitioner is aware that there are existing stormwater issues in the vicinity of the subject property, and that the problems will have to be resolved according to the requirements of the Stormwater Manual at the Final Development Plan stage. The proposed detention on the subject property should help to address the issue, but additional work may be necessary in the easement area. Mr. Martin indicated that the staff is confident that the problem can be addressed at the time of the Final Development Plan. He said that the staff is recommending approval, subject to the four conditions as listed on the agenda, modifying condition #1 to reflect the B-1 zone rather than the B-3 zone.

Commission Question: Mr. Owens stated that the area in front of the building on Simpson Avenue appeared to be marked as parking spaces. Mr. Martin answered that the area is labeled as a 20' sidewalk, which should be a nice feature in a pedestrian-oriented area.

Petitioner Representation: Mr. Carter stated that the petitioner is in agreement with the four conditions, and he requested approval.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 9-0 (Penn and Smith absent) to approve MAR 2015-19, as previously amended, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 9-0 (Penn and Smith absent) to approve ZDP 2015-79, subject to the four conditions as listed on the agenda, changing #1 to refer to the B-1 zone.

2. CONTINENTAL REAL ESTATE ZONING MAP AMENDMENT & COONS PROPERTY, TRACT 1 (AMD) (A PORTION OF) ZONING DEVELOPMENT PLAN

- a. MAR 2015-20: CONTINENTAL REAL ESTATE (11/1/15)* - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 0.99 net (1.16 gross) acres, for property located at 4251 Saron Drive (a portion of).

COMPREHENSIVE PLAN AND PROPOSED USE

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The applicant proposes to construct a 4,000 square-foot commercial building for a restaurant with an accessory drive-through, in addition to a retail sales establishment.

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

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

1. The requested rezoning to a Planned Shopping Center (B-6P) zone is appropriate, and the existing High Density Apartment (R-4) zone is inappropriate for the subject property, for the following reasons:
 - a. The subject property is located adjacent to, and across Saron Drive from, properties that are currently located within a B-6P zone, and are developed as such. Therefore, the B-6P zone is compatible with the surrounding area.
 - b. The southern boundary of the subject property is defined by a significant stormwater and drainage feature and floodplain that creates a physical barrier to the remainder of the parcel to the south, which is currently under construction for an assisted living facility. As a result of these physical constraints, the subject property was not able to be utilized in the planning and development of the adjoining assisted living facility. This physical barrier is a more appropriate and recognizable land use buffer between the residential land use to the south and the commercial land use to the north in this instance.
 - c. As a stand-alone tract, the subject property is too small to be utilized for high density apartments, as suggested by its current zoning category, but is suitable for commercial development.
 - d. The proposed use and development is consistent with the provisions of Article 12 of the Zoning Ordinance for the B-6P zone, and is in a convenient location in order to serve the nearby neighborhoods without infringing upon their established boundaries.
 2. This recommendation is made subject to approval and certification of ZDP 2015-81: Coons Property, Tract 1 (a portion of) (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2015-81: COONS PROPERTY, TRACT 1 (A PORTION OF) (AMD) (11/1/15)* - located at 4251 Saron Drive.
(Rich Design Studios)

Note: The purpose of this amendment is to rezone the property and add restaurant/retail uses.

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

1. Provided the Urban County Council rezones the property B-6P; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Dimension access points to Saron Drive.
7. Dimension sidewalks on private property.
8. Denote construction access location.
9. Denote all development plan information existing and proposed for the entire property.
10. Addition of reference to Article 19 (floodplain elevations).
11. Discuss restaurant drive-through stacking and pick-up window location.
12. Discuss note #6 relative to proposed development.
13. Discuss proposed dumpster location.

Zoning Presentation: Ms. Wade presented the staff report on this requested zoning change, briefly orienting the Commission to the location of the subject property. She noted that the subject property is vacant; it is located across the street from the existing Tates Creek South Shopping Center, which is anchored by a Wal-Mart neighborhood market. It is a portion of a larger parcel, which is currently under development with an assisted living facility. To the north is a gas station, also in a B-6P zone, and a number of outlots. A child care center is located further to the south of the subject property, along with mostly single-family residential dwelling units. There is still some vacant property in the area, along Chas Drive. Part of that property is under consideration for development as a medical office in the near future. Ms. Wade said that zoning in the vicinity includes B-6P to the north and east; R-4 for the property to the south and west; and a greenway immediately to the west, which is associated with West Hickman Creek.

Ms. Wade stated that the petitioner is proposing to rezone this portion of the subject property because it could not be incorporated into the assisted living facility site due to drainage and topographic issues along the zone change boundary. The petitioner is proposing the B-6P zone in order to create an outlot for the shopping center across the street, with a 4,000-square foot building and a drive-through.

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With regard to the Comprehensive Plan recommendation, Ms. Wade explained that the 2013 Comprehensive Plan notes that compatibility is an important part of land use decisions. Since the adjoining B-6P zone is already developed, the staff agrees that B-6P zoning would help to provide consistency in the area. The staff and the Zoning Committee are recommending approval of this request, for the reasons listed in the staff report and on the agenda.

Development Plan Presentation: Ms. Gallt presented the corollary zoning development plan, noting the portion of the property that is being developed as an assisted living facility. She explained that the petitioner is proposing a restaurant use for the subject property, with an associated drive-through.

Ms. Gallt reviewed the Subdivision Committee recommendation, and noted that there was some discussion at the Committee meeting about the proposed locations for the drive-through and dumpster. The dumpster was originally proposed to be placed at an angle, which would not allow access for solid waste vehicles; the petitioner has agreed to revise the plan in order to straighten the approach to the dumpster. The staff wants to ensure that adequate stacking is provided for the drive-through, and that note #6 on the plan addresses the Division of Water Quality's requirements for the waterway.

Commission Questions: Mr. Owens asked if the three discussion items had been addressed. Ms. Gallt answered that the petitioner had agreed to revise the plan in order to address those items, but had not yet provided the appropriate documentation for that revision. She added that note #6 refers to the hydrological study that was done for the entire property as part of the development of the assisted living facility.

Ms. Plumlee asked where the dumpster is proposed to be located. Ms. Gallt answered that the dumpster location was originally proposed to be at an angle; the petitioner has indicated intent to revise the plan in order to meet the backup distance for the Division of Waste Management's vehicles. She again said that note #6 refers to the Division of Water Quality's control requirements, which were met based on a hydrology study done as part of the development of the assisted living facility.

Petitioner Presentation: Kevin Rich, Rich Design Studios, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations.

Mr. Rich said that note #6, as referenced in condition #12, refers to a detention basin. The basin was constructed following a watershed analysis done as part of the construction of the assisted living facility. The analysis indicated that detention was not needed for the entire property, which was why no stormwater facilities were provided on the assisted living center site. Mr. Rich said that he had spoken with Hillard Newman in the Division of Engineering, who indicated that he had no problems with the terminology of the note.

With regard to the dumpster location, Mr. Rich said that the angle of approach had been changed to accommodate Division of Solid Waste vehicles.

Commission Question: Mr. Owens asked if condition #11, concerning the drive-through on the property, had been addressed. Mr. Rich responded that he had worked with the Division of Traffic Engineering, and those issues had been addressed. Mr. Owens asked why the revised version of the plan was not before the Commission members at this hearing. Mr. Rich answered that the appropriate copies of the plan had not been provided to the staff.

Mr. Owens asked if the staff was comfortable with the information provided on the plan, even though a revised version had not been presented. Ms. Gallt indicated that they were comfortable with recommending approval of the plan.

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent) to approve MAR 2015-20, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 9-0 (Penn and Smith absent) to approve ZDP 2015-81, with the first 10 conditions as listed on the agenda, deleting conditions #11-13.

3. GREER NICK RD II, LLC, ZONING MAP AMENDMENT & GIBSON PARK SUBDIVISION, BLOCK C, ZONING DEVELOPMENT PLAN

Note: The Planning Commission continued this hearing from their August 27, 2015, meeting. Mr. Berkley stated that, since he was not present at that hearing, he would be unable to vote on this item.

- a. MAR 2015-13: GREER NICK RD II, LLC (9/24/15)* - continuation of a zone map amendment from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 1.12 net (1.47 gross) acres, for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke Road.

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

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes to maintain the existing Thornton's convenience store near Gibson Avenue and to construct a new fast food restaurant with an accessory drive-through facility on the portion of the zone change area near Pyke Road. The proposed rezoning of the Thornton's parcel and the two parcels to the rear of a vacant tract will bring the land between Gibson Avenue and Pyke Road all into the same zoning category.

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

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of ZDP 2015-62: Gibson Park Subdivision, Blk. C, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Cocktail lounges and nightclubs.
- c. Pawnshops.
- d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

- b. ZDP 2015-62: GIBSON PARK SUBDIVISION, BLK. C (9/24/15)*- located at 1201 S. Broadway & 402, 406 and 408 Pyke Road.
(Vision Engineering)

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

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Dimension existing building and canopy height.

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6. Discuss access to South Broadway and removal of apron(s).
7. Discuss notes #10 & #14.
8. Discuss need for landscape buffers adjacent to residential lots.

Development Plan Presentation: Mr. Martin stated that the reason for the continuation of this hearing was the discussion of the proposed vehicular access to South Broadway. At the August zone change hearing, the staff noted for the Commission the location of the proposed access points from Pyke Road and South Broadway, and the cross-access between the restaurant site and existing Thornton's station. The discussion centered on the access points located in the Gibson Avenue/South Broadway intersection, and, to a lesser extent, two of the accesses to Gibson Avenue.

Mr. Martin said that the primary issue on the subject property is the need for fuel trucks to be able to access the existing Thornton's station in order to safely deliver fuel. Following the August meeting, the petitioner met with staff from Planning and the Division of Traffic Engineering. At that meeting, the petitioner demonstrated that the Thornton's station does need those two accesses to South Broadway, in order to prevent trucks from backing out onto the roadway. The petitioner has revised the plan, combining one of the two accesses to South Broadway, in order to provide for cross movement between the restaurant property and the gas station. Mr. Martin said that the staff believes that the petitioner has provided a better solution to address the access and circulation on the property. He noted that this is a preliminary plan; and, should the Thornton's property ever be proposed for redevelopment, the access issues will come back up for discussion.

Commission Questions: Mr. Wilson asked what issues were related to the access points to Gibson Avenue. Mr. Martin answered that the staff was originally concerned that three access points were depicted on the plan, and that they did not appear to be necessary. He noted that, if the property was initially being proposed for development, the access situation would be much better controlled; however, since the configuration is existing, it is more difficult to address the challenges.

Mr. Owens asked if the Division of Traffic Engineering was in agreement with the recommendation on the revised plan. Ms. Kaucher indicated that the staff was in agreement.

Petitioner Representation: Matt Carter, Vision Engineering, was present representing the petitioner. He stated that the petitioner had since met with the staff and the Division of Traffic Engineering, and they had agreed that it would be acceptable to combine two of the proposed accesses to South Broadway into one access. Mr. Carter said that the petitioner was in agreement with the conditions for this plan, and he requested approval.

Citizen Comments: Vicky Batzka, 1080 Duncan Avenue, stated that her concerns about the Pyke Road/South Broadway intersection, which she raised at the August hearing, were even more pressing since the Commission had just approved (early this day) another zone change directly across South Broadway from the subject property.

Ms. Batzka stated that she and her neighbors were still concerned about the amount of traffic that could be generated on Pyke Road by the proposed development, and about the inability to make left turns from Pyke Road onto South Broadway due to poor visibility. She said that the proposed development, as well as the recently approved development across South Broadway, will add two sets of traffic onto that roadway within 100' feet, with no traffic signal at Pyke Road.

Robbie Phillips, 506 Pyke Road, agreed with Ms. Batzka that the intersection of Pyke Road and South Broadway is dangerous. He added that he is also concerned that the proposed development could encourage more cut-through traffic through the adjoining neighborhood to Red Mile Road.

Rich Cowden, 1073 Duncan Avenue, stated that the stop sign at the Pyke Road/South Broadway intersection is set back some distance from the intersection itself, which exacerbates the visibility problems caused by the Gatehouse building. He stated that he was also concerned about the possibility of drivers cutting through the Thornton's property to reach Gibson Avenue, and about additional traffic in the neighborhood.

Mr. Cowden displayed two photographs of the Pyke Road/South Broadway intersection, noting that left turns there are nearly impossible due to heavy traffic volumes and poor visibility.

Commission Question: Mr. Owens asked Ms. Kaucher to address the traffic situation at the Pyke Road/South Broadway intersection. Ms. Kaucher stated, with regard to the sight distance at that intersection, that the building on that corner is existing. One of the ways the Division of Traffic Engineering recommended to help address the situation was to provide cross-access between the two lots on the subject property in order to allow for additional exit options. Ms. Kaucher said that she believed that providing cross-access could help to discourage drivers from using the residential area as a cut-through from the subject property to the traffic signal at the Gibson Avenue intersection.

Mr. Berkley asked if the restaurant traffic was expected to use the Pyke Road access. Ms. Kaucher responded that drivers exiting that property are more likely to use the South Broadway access, rather than Pyke Road.

Ms. Kaucher clarified that the previously approved zone change across South Broadway does not include any new access points; the proposed development on that site will use the existing access.

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Petitioner Rebuttal: Mr. Carter opined that it could be safer to exit the subject property onto Pyke Road or Gibson Avenue, rather than South Broadway. He said that the petitioner is reducing the number of accesses to Pyke Road by one, and is pushing that access back on the lot to allow for stacking at the intersection.

Staff Rebuttal: The staff had no rebuttal comments.

Mr. Owens declared the public hearing closed at this time.

Commission Discussion: Mr. Drake asked if there were a high number of accidents at the Pyke Road/South Broadway intersection. Ms. Kaucher answered that she had not researched that intersection specifically, but noted that it does not appear on the list of most dangerous intersections for the Urban County.

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve MAR 2015-13, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve ZDP 2015-62, subject to the seven conditions as listed in the revised staff recommendation.

3. CAPKY BLUEGRASS PROPERTIES, LLC, ZONING MAP AMENDMENT & STOREY BUSINESS SUBDIVISION, LOT 6 (WALLER AVENUE SELF STORAGE) ZONING DEVELOPMENT PLAN

- a. MAR 2015-17: CAPKY BLUEGRASS PROPERTIES, LLC (11/1/15)* - petition for a zone map amendment from a Professional Office (P-1) zone to a Wholesale & Warehouse Business (B-4) zone, for 3.05 net (3.29 gross) acres, for property located at 353 Waller Avenue. A dimensional variance is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes to construct a self-storage facility, with one multi-story structure, and seven one-story buildings. The proposed facility will be approximately 95,700 square feet of space, with a small off-street parking lot along the Waller Avenue frontage. The petitioner has offered to restrict the zoning of the property via conditional zoning restrictions.

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommends: Disapproval, for the following reasons:

1. The requested rezoning to a Wholesale and Warehouse Business (B-4) zone is not in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives and policy statements of the Plan encourage the consideration of how proposals relate to existing development in the immediate vicinity, and focus on protecting neighborhoods and residential areas from incompatible land uses. No B-4 zoning exists along the Waller Avenue corridor, and a self-storage facility is not a neighborhood-oriented land use.
 - b. The Goals and Objectives encourage creating jobs and prosperity (Theme C), but the proposed self-storage facility will generate very few jobs in support of this idea.
 - c. Policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, compatibility of land uses and creating neighborhood nodes of commercial development or a focal point. Waller Avenue has been that neighborhood node that provides necessary goods and services to the adjoining neighborhoods in this immediate vicinity.
2. The existing Professional Office (P-1) zone remains appropriate at this location because it offers many land uses that would be considered compatible within the character of the corridor and the adjoining neighborhood. While there is no demand for the former nursing home building, there has been steady interest in redevelopment of the property over the past five years.
3. The proposed B-4 zone is not appropriate for the subject property, for the following reasons:
 - a. Statistical information would indicate that our community already has the right amount (more than the national average of 32% for urban facilities) of self-storage facilities inside New Circle Road, especially given the knowledge that two additional facilities of similar characteristics are planned/proposed for completion in the near future.

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- b. There is no other B-4 zoning or land use compatible with B-4 uses in the immediate vicinity, including the professional office, multi-family and single-family residential uses.
- c. Lower traffic generation is not vitally important for a parcel of land that is situated on a minor arterial roadway.
4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would justify a B-4 zone for the subject property.

b. REQUESTED VARIANCE

1. To reduce the required 100' setback for the portion of the buildings that have overhead doors in a Wholesale & Warehouse (B-4) zone to 25 feet from an adjacent residential zone.

The Zoning Committee Recommended: **Referral to the full Commission.**

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

- a. The requested variance does not arise from a special circumstance that does not generally apply to other land in the B-4 zone. There are no unique physical characteristics, such as topography or neighborhood character, that would serve as a justification to approve the requested variance.
 - b. Granting the requested variance will potentially cause a nuisance to the nearby residential neighbors, especially if different and more intense uses occupy the buildings.
 - c. Strict application of the Zoning Ordinance will not deprive the applicants of a reasonable use of their property. It is possible to redesign the proposed facility on this 3-acre property to accommodate the required 100-foot setback for overhead doors (and not necessarily buildings) from the adjacent residential zones.
- c. ZDP 2015-83: STOREY BUSINESS SUBDIVISION, LOT 6 (WALLER AVENUE SELF STORAGE) (11/1/15)* -
located at 353 Waller Avenue. **(EA Partners)**

The Subdivision Committee Recommended: **Postponement**. There were questions regarding detention and the possible need for a variance.

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

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Correct plan title.
7. Provided the Planning Commission grants a variance to Article 8-21(o)(1) requirements.
8. Addition of gate access information, to the approval of the Division of Fire & Emergency Services.
9. Revise internal drive aisles to be 30' minimum.
10. Addition of tree inventory information required by Article 26.
11. Delete "maximum height of building" information in site statistics.
12. Denote estimated building heights on plan.
13. Discuss need for water quality improvements, on site.
14. Discuss architectural details for Building A.
15. Discuss nearest storm water detention location(s).
16. Discuss access to and/or termination of Camden Avenue.
17. Discuss need for truck parking in front of facility.

Zoning Presentation: Ms. Wade presented the staff report on this requested zone change, noting that the staff had received one email in opposition. She distributed a copy of the email to the Commission members for their review, along with a staff exhibit detailing the provisions of the P-1 zone and the petitioner's proposal for the B-4 zone, including the proposed conditional zoning restrictions.

Ms. Wade oriented the Commission to the location of the subject property on the north side of Waller Avenue, which connects from Harrodsburg Road to Nicholasville Road. The subject property is located close to the railroad tracks, and is surrounded on three sides by P-1 zoning to the west, south, and east. The property is adjoined by single-family residential zoning to the north in the American Avenue neighborhood; and to the west, by a group of multi-family buildings on Royalty Court. The petitioner is requesting the B-4 zone in order to locate nearly 100,000 square-foot self-storage facility on the property. The facility is proposed to include several one-story buildings and a multi-story structure.

Ms. Wade displayed the following photographs of the subject property: 1) an aerial view; 2) a view from Waller Avenue, noting that there are several existing structures that formerly comprised the Kenton Healthcare nursing

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facility, which are proposed to be removed; 3) a view along Waller Avenue toward the railroad tracks and Nicholasville Road; 4) a view down Waller Avenue toward Harrodsburg Road; 5) a view of the existing structure from the southwest corner of the site; 6) a view from the southeast corner of the property, along the eastern property line; 7) some of the large, multi-story Professional Office buildings in the area, as an example of the character of the area; 8) a view of the western and northern property boundaries, which are proposed for variances.

Ms. Wade stated that the petitioner originally proposed to prohibit two uses via conditional zoning restrictions; since the Zoning Committee meeting three weeks ago, they have added to that list. The current proposed conditional zoning restrictions would limit all but about six of the existing B-4 uses. The subject property was rezoned in 1993 in order to accommodate the expansion of the nursing home; but prior to that time, it had been zoned R-4 since 1969.

With regard to the recommendations of the 2013 Comprehensive Plan, Ms. Wade said that it encourages land use decisions to be made based on Small Area Plans, policy statements, and the Goals & Objectives. The petitioner is of the opinion that this request is both in agreement with the Comprehensive Plan, and that the B-4 zone is more appropriate than the existing P-1 zone. The Planning Commission must look to the Comprehensive Plan for guidance as to the appropriateness of the proposed B-4 zone; the Plan encourages the consideration of how proposals relate to existing development in the immediate vicinity, and compatibility with the adjoining land uses. The Comprehensive Plan also discusses protecting neighborhoods and residential areas from incompatible land uses. The Goals & Objectives encourage creating jobs and support infill and redevelopment that are respectful of an area's context, but policy statements also focus on the need for development to have appropriate relationships and create neighborhood nodes and focal points. Ms. Wade said that Waller Avenue has historically been a neighborhood node for the adjoining residential areas, offering several neighborhood-oriented uses. A self-storage facility, as proposed by the petitioner, would generate only 3.5 jobs on the site (or one job per acre). The petitioner contends that the proposed use would be a community support facility, while the staff opines that the Comprehensive Plan's reference to community support facilities is geared more toward health care facilities, libraries, schools, and other uses that are truly necessary. The staff is of the opinion that a self-storage facility is more of a convenience use than a necessity; and that the proposed B-4 zoning is not compatible with the nearby land uses, or consistent with the zoning in the Waller Avenue corridor. The staff cannot find, therefore, that the proposed B-4 zone is in agreement with the Comprehensive Plan.

Ms. Wade stated that the staff must consider whether the proposed zoning is appropriate, and the existing zoning is inappropriate for the subject property. The petitioner contends that Professional Office zoning is no longer appropriate at this location, for two reasons: the property has been vacant for six years, and there has been little demand for redevelopment for the property. The petitioner also contends that the B-4 zone is appropriate for the subject property, because there is an unmet demand for self-storage facilities inside New Circle Road, and that the proposed storage facility will generate less traffic and noise than the health care facility that was previously located there. Ms. Wade said that the staff found that there are 20 existing self-storage facilities in Lexington-Fayette County, eight of which (or 40%) are located inside of New Circle Road. The national average for such facilities is 32% in an urban environment; 52% in suburban environments; and 16% in rural environments. The staff is aware that two additional self-storage facilities are planned in the near future within the urban core area, so the staff does not agree that there is a demand for additional such services. There is no B-4 zoning along the Waller Avenue corridor; and, although there has not been a great deal of demand for the existing facility or building, the staff has received several enquiries about redeveloping the site. Ms. Wade noted that the existing P-1 zoning allows several principal and conditional uses that could fit within the Waller Avenue corridor and be more appropriate than B-4 uses. She said that the staff finds that the existing P-1 zone is not inappropriate at this location, and it is in keeping with the commercial zoning in the area. The staff also determined that there have been no changes of a physical, social, or economic nature in the immediate area that would constitute a change since the adoption of the Comprehensive Plan in 2013. The Zoning Committee recommended referral of this zone change to the full Commission; and the staff is recommending disapproval, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, noting that the staff had distributed to the Commission members revised conditions for approval of the plan. He stated that the petitioner is proposing to construct single-story storage units along the perimeter of the property; two rows of single-story units toward the rear of the property; and a three-story, climate-controlled structure in the center of the property. The three-story structure is proposed to contain 19,600 square feet per floor, for a total of over 58,000 square feet of floor area. The total square footage proposed is 93,700 square feet. Two access points are proposed to Waller Avenue, with landscaping and buffering, and two stormwater detention areas.

Mr. Martin stated that the staff is recommending approval of this plan, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.

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4. Urban Forester's approval of tree inventory map.
5. ~~Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.~~
6. ~~Correct plan title.~~
- 5.7. Provided the Planning Commission grants a variance to Article 8-21(o)(1) requirements.
- 6.8. Addition of gate access information, to the approval of the Division of Fire & Emergency Services.
9. ~~Revise internal drive aisles to be 30' minimum.~~
10. ~~Addition of tree inventory information required by Article 26.~~
11. ~~Delete "maximum height of building" information in site statistics.~~
12. ~~Denote estimated building heights on plan.~~
- 7.13. Discuss Denote that the need for on-site water quality improvements will be considered at the time of Final Development Plan.
- 8.14. Discuss Denote that architectural details for Building A will be determined at the time of Final Development Plan..
15. ~~Discuss nearest storm water detention location(s).~~
16. ~~Discuss access to and/or termination of Camden Avenue.~~
- 9.17. Discuss need for truck parking in front of facility.

Mr. Martin stated, with regard to condition #6, that the self-storage facility is proposed to be gated, and the Division of Fire and Emergency Services will have final approval of the gate access. He said that, at the time of a final development plan for the property, there will need to be discussions about water quality. The subject property is large, and a significant amount of impervious surface is proposed; so it will be essential to address water quality according to the requirements of the Stormwater Manuals. Also at the time of the final development plan, the petitioner will need to address the architectural details of the three-story structure, in order to create attractive features for the orientation to Waller Avenue. The petitioner displayed a rendering at the Subdivision Committee meeting that depicted an example of the types of features that are likely to be used. Mr. Martin stated that the requested dimensional variance to the location of the overhead doors is critical, since the staff believes it could have significant impact on the adjoining neighborhood. In addition, the staff is recommending a discussion of the need for truck parking in front of the building at the time of the final development plan. The plan does depict 30' drive aisles, so the staff believes there should be sufficient room for internal vehicle circulation throughout the site.

Variance Presentation: Mr. Emmons presented the requested variance, explaining that the petitioner originally requested a variance to the location of the overhead doors from the nearest residential area, of 100' to 25'. With the revised development, the petitioner is now requesting a variance from 100' to 55'. When the original plan was filed, one door was proposed to be located within 25' of the residential area, with the remaining doors further away.

Mr. Emmons stated that the staff is recommending disapproval of the requested variance. He said that, in considering a variance request, the staff must first determine if there are special circumstances that apply to the subject property that do not apply to other properties in the same zone or the general vicinity. In this case, there are no special circumstances for the subject property. It is rectangular in shape, and has no unique physical characteristics.

Mr. Emmons said that the staff must also consider whether strict application of the Zoning Ordinance regulations would cause an unnecessary hardship on the petitioner. Because the property is regular in shape, there is no reason why the proposed development could not be designed to accommodate the 100' setback. In addition, the staff is concerned that, since a dimensional variance runs with the property, another B-4 use could locate there that would create more of a nuisance for the surrounding residential areas. The petitioner could also present a final development plan that is different from the configuration that is depicted on the current plan.

Mr. Emmons noted that the staff would also like to emphasize that the Commission should first consider whether or not the subject property should be rezoned to B-4, rather than first considering the appropriateness of the requested variance. He reiterated that the staff is recommending disapproval of the variance, for the reasons as listed in the staff report and on the agenda.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He displayed a rendering of the proposed self-storage facility, noting its modern appearance and attractive architectural features, and its similarity in massing and scale to the other Professional Office buildings along Waller Avenue. The petitioner contends that the facility will be intended to appeal to professionals who need an off-site location to store samples, records, and other items related to their businesses.

Mr. Murphy stated that the petitioner is willing to invest \$10 million in the proposed development, which will not be a "typical" self-storage facility, but a modern, open glass structure with plantings. The buildings are designed to be climate-controlled and attractive, geared toward professionals, particularly in the medical field, who need to store records, samples, or similar items. Mr. Murphy displayed several photographs of self-storage facilities owned by the petitioner, noting the plantings and attractive facades, which the petitioner believes will be compatible with the existing buildings in the Waller Avenue corridor.

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Mr. Murphy stated that the petitioner completed a market study of the Lexington-Fayette County area, and found a population of 17,000 residents within a one-mile radius of the subject property; however, there are no self-storage facilities located within that area. Within a two-mile radius of the property, there are two self-storage facilities, serving a population of over 63,000 people. Mr. Murphy contended that the staff's relationship of the number of self-storage facilities to residents as a proportion is not relevant. Rather, the market demand for the use, and the location of the demand, is important to consider.

Mr. Murphy read the following excerpt from the Comprehensive Plan:

"While the land use map served an important purpose in the past, reliance on the map may inhibit the kind of visioning that can lead to the best land development decisions in a constrained growth environment. Zone change applications should address the recommendations of the Comprehensive Plan as thoroughly as possible, not simply match a color on a map. The Planning Commission and staff should monitor how development is reviewed and implemented to ensure all needs are being considered."

He said that, when the Comprehensive Plan moved away from map-based land use recommendations, it was mandated to maintain flexibility and consider each use on its own merits. The petitioner contends that the proposed development should be approved, since it will provide "accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors." The petitioner contends that storage facilities provide a service to residents and professional offices, particularly of the type located along Waller Avenue, and that those facilities need to be located as closely as possible to their users. Mr. Murphy added that the proposed facility could help to reduce the city's carbon footprint by providing necessary services close to areas where they are needed, as described in Goal B.2. The Comprehensive Plan also encourages infill and redevelopment inside the Urban Service Area in order to avoid expanding the boundary of that area. With regard to the existing EPA Consent Decree, the proposed development will generate less sewage and traffic than the previous use on the property.

Mr. Murphy stated that there is a large amount of available office space in the Waller Avenue corridor. Referring to his exhibit packet, he displayed photographs of several of the real estate signs in the area, advertising office space for lease. The subject property has been vacant for six years, because, the petitioner contends, there is no demand for additional Professional Office space in the general vicinity. The petitioner believes, however, that there is a need and a demand for off-site storage facilities to serve those Professional Office uses, particularly given the location near the "biggest medical community in the area."

Mr. Murphy said that the petitioner originally proposed conditional zoning restrictions, then added several more restrictions following the Zoning Committee meeting three weeks ago. The result is that most of the uses in the B-4 zone would be restricted, in order to reassure neighbors of the property that some of the more disruptive uses would not be permitted to locate there. The proposed conditional zoning restrictions would also prohibit the outdoor storage of recreational vehicles, campers, and boats, unlike typical self-storage facilities.

With regard to the proposed variances, Mr. Murphy said that the subject property is bounded by residential uses along the northern and western property boundaries. The B-4 zone requires that any type of opening other than an unmovable window or pedestrian door must be located at least 100' from a residential zone. The petitioner has redesigned the proposed development since the Subdivision and Zoning Committee meetings three weeks ago in order to make the buildings around the perimeter of the facility solid, with no openings, in order to ensure that all overhead doors are located at least 55' from the residential zones. The rear wall is proposed to have architectural details, but will have no windows or openings, so all noise and activity will be insulated by landscaping and the walls of the buildings themselves.

Mr. Murphy stated that the petitioner had received a letter of support from the owner of three of the adjoining apartment buildings, and obtained verbal support from another property owner. He said that the former nursing home on the property was very busy, with delivery trucks, large numbers of employees coming and going, and outdoor break areas for employees. The proposed facility will be located the same distance from the adjacent residential uses, but will have significantly less activity, located 55' from the property line. Mr. Murphy said that the petitioner believes that it is important to support the nearby Professional Office uses, rather than displace them, and he requested approval.

Dave King, Wentworth Property Company, stated that his company provides state-of-the-art storage space for high-caliber clients. He said that his company is interested in the Lexington-Fayette County market, because they believe that there is need for and lack of self-storage in the area. They intend to spend a great deal of money on the subject property, despite the fact that they would not normally locate in a city this size. Mr. King stated that the proposed development, however, could be his company's entry into the Lexington market for other projects as well.

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Mr. King stated that the petitioner is willing to work with the staff to resolve some of their concerns about the proposed development, including reconfiguring the property to eliminate the need for variances for the overhead doors. He explained that the building around the property perimeter will be tall, with pitched roofs that could accommodate a car or boat. The petitioner is not committed to maintaining the design, and would be willing to restructure the site, if the Planning Commission chooses to approve the proposed restricted B-4 zone.

Mr. Murphy added, with regard to condition #9 on the development plan, that the petitioner does not believe truck parking will be necessary in front of the building. Trucks will be admitted into the rear of the property, where they will be accommodated by wide drive aisles. Mr. Murphy suggested that the Planning Commission change that condition to read "resolve," in order to provide the petitioner an opportunity to work out those issues with the staff.

Citizen Support: No citizens were present in support of this request.

Citizen Opposition: Gene Lear, 1324 Camden Avenue, stated that his property directly adjoins the northern boundary of the subject property. He asked if the proposed rezoning would affect his property, including the easement that provides rear parking to some of his neighbors. Mr. Lear also asked if the petitioner could be required to clean up the fencerow at the rear of his property. Mr. Murphy responded that there are some easements along the northern boundary of the subject property, some of which have been closed over the years. He explained that the petitioner does not intend to use those easements as part of the proposed development, and noted that the petitioner could clean up the fencerow.

Note: Chairman Owens declared a brief recess at 3:36 p.m. The meeting reconvened at 3:41 p.m.

Citizen Opposition (con't.): Jacob Walbourn, attorney, was present representing the owners of 333, 343, and 354 Waller Avenue. He stated that those three entities object to the requested rezoning, and would ask that the Planning Commission recommend disapproval.

Mr. Walbourn said that his clients have a substantial presence on Waller Avenue, having owned property there, in some instances, for over 40 years. His clients have four primary objections to this request: 1) they believe it is inefficient use of employment land; 2) they do not believe the proposed self-storage facility will effectively serve the community; 3) they believe that rezoning the subject property to B-4 will cause dramatic changes in the existing neighborhood; and 4) they believe that the existing P-1 zoning is appropriate, and that the property could be developed under that zoning.

Mr. Walbourn stated that, in researching this request, he reviewed the Comprehensive Plan, particularly Theme A, which encourages redevelopment that respects the context and design of an area; Theme C, which discusses encouraging infill and redevelopment that creates jobs; and Theme E, which refers to upholding the Urban Service Area boundary. He noted that the 2013 Comprehensive Plan estimates that all available employment land within the Urban Service Area could be exhausted within 11 years, so it is important for the Commission to carefully consider the quality of the employment developments they review.

Mr. Walbourn stated that the subject property is approximately three acres in size, with buildings that total approximately 56,000 square feet of floor area. The proposed development could nearly double the square footage, while providing only 3.5 jobs. The Waller Avenue area is located in Fayette County Census Tract 18, which averages 12 residents per acre. The Census data breaks down the different types of jobs held by Fayette County citizens; warehousing/transportation jobs employ approximately 5,100 people, or 3% of residents, while P-1 uses employ nearly 40% of residents. Mr. Walbourn noted that 343 Waller Avenue has approximately 82 employees on site, or 43 jobs per acre; 354 Waller Avenue has approximately 72 jobs per acre. The proposed development would provide only 1.15 jobs per acre, which Mr. Walbourn's clients contend is not an efficient use of space.

Mr. Walbourn stated that the subject property is in the "medical triangle" of Lexington-Fayette County, surrounded by University of Kentucky, Central Baptist, and St. Joseph Hospitals. The petitioner contends that the prospective users of the proposed self-storage facility include medical facilities in close proximity to the property. Mr. Walbourn stated that his clients do not agree, however, because medical users can only store records in certain locations due to HIPAA and HI TECH medical records retention regulations. The HI TECH act, which was passed in 2009, seeks to make all medical records electronic, rather than paper; HIPAA protects the confidentiality of medical records. HIPAA requires three layers of security for medical records, which Mr. Walbourn is not convinced that the proposed facility could provide. He and his clients contend, therefore, that one of the primary markets for the facility might not viable. In addition, best practices in records storage suggest that records should not be retained in close proximity to the facility itself in case of natural disaster.

Mr. Walbourn said that climate-controlled self-storage facilities are often marketed as being perfect for the storage of family heirlooms, fine wines, antiques, and photographs. Census Tract data, however, indicates that the area around the subject property is occupied primarily by students, who are 11 years younger on the average than the population of Lexington-Fayette County on the whole. His clients contend that the area does not have the population makeup to

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support a high-end storage facility. The businesses that have developed successfully in the area over the years support the existing residents, offering gas stations, restaurants, tanning salons, and other services that students use. Other businesses in the area offer support for medical uses, including pharmacies, additional office space, and parking. Mr. Walbourn said that, "the businesses support the neighborhood, and the neighborhood supports the businesses." With regard to Mr. Murphy's comments about the need for a self-storage facility in the area, he displayed a map of the existing facilities in Lexington-Fayette County. Of those facilities, all 20 have space available, and 14 of them offer climate-controlled storage. Mr. Walbourn stated that these facts do not support the assertion that there is an unmet demand for self-storage, and that the self-storage use will not serve the community in the immediate vicinity.

Mr. Walbourn said that the Waller Avenue corridor is comprised primarily of three uses: residential; professional office; and a commercial shopping center. He displayed photographs of some of the other facilities owned by the petitioner, as well as several other types of self-storage businesses, opining that the neighborhoods in which those businesses are located are very different in context from the Waller Avenue area. Mr. Walbourn's clients believe that the proposed facility will not be context-sensitive, or compatible with the existing area. In addition, with regard to Mr. Murphy's comments about the proposed architectural details of the facility, he said that there is no means by which to compel adherence to those details under the Zoning Ordinance. The building owned by one of Mr. Walbourn's clients is set back further from Waller Avenue, and could have a much less-appealing view of the part of the subject property that does not feature architectural details.

Mr. Walbourn stated that the existing P-1 zoning allows a class of uses that provide community support, including churches, hospitals, offices, banks, schools, and other similar facilities. The B-4 zone permits some very intense uses, including kennels, lumber yards, and machine shops. The petitioner is proposing a long list of conditional zoning restrictions for the subject property, which would leave only a handful of allowable uses on the property. Mr. Walbourn's clients are concerned that, should the proposed self-storage facility not be successful, the result will be a heavily constrained B-4 property on which not much could be done. Three of the uses the petitioner is proposing to retain for the subject property would also be allowable in the existing P-1 zone. Mr. Walbourn stated that developments heavily constricted by conditional zoning have a history of being unsuccessful, requiring the removal of some or all of the restrictions. He said that, in the last 15 years, the Planning Commission has been asked to remove or amend conditional zoning restrictions on a property 17 times. Fifteen of those requests were approved by the Planning Commission, and the other two were approved by the Urban County Council following a recommendation of disapproval from the Commission. Mr. Walbourn said that his clients do not believe that conditional zoning is sufficient to protect the character of the neighborhood. They believe that B-4 uses are too intense for the neighborhood, and that no special circumstances exist to justify the granting of the requested variance.

Mr. Walbourn stated that his clients also disagree with the petitioner's contention that there is too much P-1 land in the area. His research found that six P-1 properties on Waller Avenue are outperforming the Lexington market on the whole for occupancy rates by 7.5%. Several properties in the vicinity have sold recently, one for \$2 million, and many of the P-1 buildings are 100% occupied. Mr. Walbourn's clients believe that the P-1 zone is adaptable enough to accommodate a wide variety of businesses, including mixed-use student housing, which has proven to be very successful near the University of Kentucky campus.

Mr. Walbourn stated that, although the subject property has been vacant for more than six years, there is no indication that the P-1 zoning is the reason for the lack of redevelopment. The subject property was vacated during the recent recession, and some information has been provided to indicate that the prior property owner was not willing to agree to zoning contingencies, which could have contributed to its inability to redevelop. It would also be difficult to adapt the existing nursing home building, and expensive to raze it and rebuild. Mr. Walbourn said that his clients do not believe the P-1 zoning is the reason for the failure of the subject property to redevelop; they believe that P-1 zoning is working in the area, there is a market for it, and that the Planning Commission should recommend disapproval of the requested B-4 zoning.

Commission Question: Mr. Drake asked what negative effect the proposed development would have on Mr. Walbourn's clients. Mr. Walbourn answered that his clients do not believe the proposed development will be successful in the long term, and the risk of unrestricted B-4 zoning in a P-1 corridor is substantial to their property values. His clients are also concerned about the appearance of the proposed development, and the effect that it could have on their ability to rent space in their buildings.

Petitioner Rebuttal: Mr. Murphy stated that it "is possible to make a good-sounding argument against any use with numbers and statistics about demand." He opined that there is a market for the proposed development in the area, noting that statistics and numbers can be laid out in a way that could provide proof for either side of an argument. Mr. Murphy said that there have been requests to change conditional zoning restrictions, but there has been less than one per year on average. He noted that anyone could request to change the zoning or conditional zoning restrictions on any property, at any time in the future.

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Mr. Murphy reiterated that the subject property has been vacant for six years, and has generated no jobs during that time. The petitioner is willing to make a substantial investment in the property, which they contend would be the best self-storage facility in Lexington-Fayette County, and would generate jobs. Mr. Murphy asked the Planning Commission members to consider the big picture in this case, and focus on the investment and creation of jobs.

Citizen Rebuttal: Mr. Walbourn stated that he believed that it would be irresponsible to ignore the statistics provided, since they represent concrete information. He said that he provided numerous reasons why the property has been vacant, even though P-1 zoning is flourishing in the Waller Avenue corridor.

Mr. Walbourn stated that the proposed development would cap the number of jobs generated on the property at 3.5, with no concrete guarantee that the \$10 million discussed would actually be spent in the community. He said that Mr. Murphy asked the Planning Commission to consider this request from a global perspective, and he believed that he had provided information with which to inform their decision.

Staff Rebuttal: Ms. Wade stated that, even if there is, as Mr. Murphy suggests, too much P-1 zoning and vacant offices in the Waller Avenue corridor, there are a large number of other allowable uses in the P-1 zone that could be successful on a three-acre site, and still be compatible with the surrounding area. She stated that the staff could support change and redevelopment along Waller Avenue, but not of this nature, since the proposed development would be out of character and would set a negative precedent. In addition, the threshold question is not whether the petitioner could rework their plan to appear attractive or eliminate the need for a variance. Ms. Wade said that the threshold issue, rather, is whether the proposed B-4 zone fits along the Waller Avenue corridor, which is where the Comprehensive Plan recommendation comes in, and where the Planning Commission must decide what is appropriate for the community in the long run.

Commission Questions and Comments: Mr. Owens stated that the hearing was now closed, and he opened the floor for Commission questions and/or comments.

Mr. Drake stated that he had made a motion to recommend approval of this request at the Zoning Committee meeting three weeks ago, but that motion failed for lack of a second. He said that the Committee discussed all the issues that had been brought forward at this hearing, but he still believes that the “investment multiplier” of the proposed development could be very significant.

Mr. Drake said that this is the first development proposal that has been brought forward for the subject property in six years. He said that he is not comfortable with “usurping the market’s determination of whether or not the community has an adequate amount of a given goods or service.” Mr. Drake said he learned early in his career that economic, business, and cultural linkages with other areas can be important; he believes that the proposed development could establish a linkage with a large, successful company located in Phoenix, Arizona. He reviewed the company’s website following the Zoning Committee meeting, and he believes that the company has several impressive developments and a management team with extensive experience. Mr. Drake noted that, unless a fellow Commissioner could convince him otherwise, he intended to move for approval of this request.

Ms. Plumlee stated that she believed that the staff had adequately addressed the reasons for disapproval, and she would support the staff’s recommendation. She opined that company success and economic impact are not the question in this case; rather, the Commission should be attempting to determine whether the proposed B-4 zoning is appropriate for the subject property. The staff has made that determination, and Ms. Plumlee indicated that she intended to support their decision.

Mr. Wilson stated that the Commission knew, when they agreed to focus on infill and redevelopment rather than expansion of the Urban Service Area boundary, that it would involve some difficult decisions. He said that he was concerned about a prime piece of land producing only 3.5 jobs, and that he believed that asking price could have been a factor in the failure of the property to redevelop. Mr. Wilson said that he appreciated the petitioner’s interest in investing in Lexington-Fayette County, and asked that they consider other opportunities should the proposed rezoning be disapproved.

Mr. Berkley stated that he had no financial interest in the subject property, but he believed that approval of “spot zoning” must have good reasons. He said that evidence had been presented to indicate that the office space in the Waller Avenue corridor is 90% occupied, and no proof was provided of demand for the self-storage facility. Mr. Berkley said that he was also concerned about the small number of jobs to be generated, and suggested that the petitioner consider other P-1 uses for the subject property. He noted that he would not vote to approve this request.

Mr. Brewer stated that compelling arguments had been presented on both sides, but he would support the staff’s contention of the inappropriateness of the requested B-4 zone.

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Mr. Owens agreed that all the arguments presented were compelling, but he believed that the staff had done an admirable job of explaining why the B-4 zone is inappropriate at this location. He said that, at the Subdivision Committee meeting, he saw the rendering presented and thought the proposed development was attractive, but he feels differently after considering the appropriateness of the zone. Mr. Owens noted that he would like to see the proposed self-storage facility developed somewhere in Lexington-Fayette County, but he does not believe this is the appropriate location.

Zoning Motion: A motion was made by Mr. Drake to approve MARV 2015-17, for the reasons discussed in his comments, including: 1) significant economic impact; 2) economic linkages to other areas; and 3) investment in the community. Mr. Drake's motion failed due to lack of a second.

Zoning Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-1 (Drake opposed; Penn and Smith absent) to disapprove MARV 2015-17, for the reasons provided by staff.

Variance Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-1 (Drake opposed; Penn and Smith absent) to disapprove the requested variance, for the reasons provided by staff

Development Plan Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-1 (Drake opposed; Penn and Smith absent) to indefinitely postpone ZDP 2015-83.

4. MARV 2015-18: WILLIAM R. EMBRY, JR., & WILLIAM R. EMBRY, III, (d/b/a TWP HOUSING) ZONING MAP AMENDMENT & DELONG ADDITION (TWP APARTMENT HOUSING) ZONING DEVELOPMENT PLAN

- a. MARV 2015-18: WILLIAM R. EMBRY, JR., & WILLIAM R. EMBRY, III, (d/b/a TWP HOUSING) (11/1/15)* - petition for a zone map amendment from a Neighborhood Business (B-1) zone to a High Density Apartment (R-4) zone, for 0.5598 net (0.7744 gross) acre, for property located at 220, 224, 226, & 228 East Seventh Street and 628 Maple Avenue. Dimensional variances are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The Central Sector Small Area Plan, adopted in 2009 by the Planning Commission, identified four guiding principles, including: enhance the urban fabric, promote and prepare for redevelopment and investment, provide adequate and equitable housing, and preserve the cultural and historic heritage.

The petitioner proposes to rezone five properties in order to construct a multi-family apartment building with 16 affordable, one-bedroom dwelling units, and off-street parking. Two dimensional variances are requested to reduce parking and interior landscaping for the parking lot.

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

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

1. The requested High Density Apartment (R-4) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Comprehensive Plan Goals and Objectives recommend expanding housing choices to meet the needs for all of Fayette County's residents (Theme A, Goal #1.b.); planning for safe, affordable, and accessible housing to meet the needs of older/disadvantaged residents (Theme A, Goal #1.c.); supporting infill and redevelopment that respects the area's context and design features (Theme A, Goal #2.a.); and utilizing vacant properties within the Urban Service Area to encourage compact, contiguous and/or mixed-use sustainable development to accommodate future growth needs (Theme E, Goal #1.b).
 - b. These Goals and Objectives are furthered by the applicant's proposal to create affordable, safe and secure high density residential dwelling units to address an identified need for this area of the community; and to utilize five vacant lots to accommodate future growth needs of the community, thereby reducing pressure to expand the USA boundary. Also, the proposed high density redevelopment is located at the intersection of two collector streets, which is encouraged by the Comprehensive Plan; and the two-story redevelopment will be context-sensitive and in scale with the surrounding neighborhood.

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- c. The applicant's proposal to rezone the subject properties for 16 affordable dwelling units will also support the guiding principles of the Central Sector Small Area Plan (CSSAP) (adopted by the Planning Commission in 2009), and will address a specific need identified for Sub-Area C of the Plan. The provision of affordable housing in the core of the Central Sector area meets two of the guiding principles for enhancing the urban fabric and providing adequate and equitable housing.
2. This recommendation is made subject to approval and certification of ZDP 2015-80: Delong Addition (TWP Apartment Housing), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. REQUESTED VARIANCES
 1. Reduce the required parking from 24 spaces to 15 parking spaces (a 38% reduction), using a parking requirement of 0.9 parking spaces per bedroom.
 2. Eliminate the interior landscaping requirement for a parking lot over 6,000 square feet in area.

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

The Staff Recommends: **Approval of a parking reduction to allow 16 parking spaces and to eliminate the required interior landscape island**, for the following reasons:

- a. Granting the modest reduction in the off-street parking for this project should not adversely affect the subject or surrounding properties, nor should it cause a hazard or nuisance to the public. The proposed parking reduction will increase the amount of available open space on this property, while providing a reasonable number of parking spaces for the proposed use at one space per dwelling unit. Furthermore, granting the requested landscape variance is an extremely modest reduction that will not have an adverse effect because of the long-standing provision of non-compliant parking spaces on the subject property.
- b. Granting the requested variances will not negatively alter the character of this area, as there are several properties at this neighborhood business node that have front yard parking areas.
- c. Granting the requested variances will not allow an unreasonable circumvention of the Zoning Ordinance. The applicant has demonstrated that there will be less need for parking due to the decreased number of bedrooms, when compared to other typical multi-family dwellings, and because of the proximity to public transit and other amenities - all within a 20-minute walking distance of the subject property.
- d. The low number of bedrooms, the availability of on-street parking, the walkable nature of the surrounding neighborhood, and the fact that there are currently 15-17 non-compliant parking spaces that will be removed in favor of compliant parking spaces, are all special circumstances that apply to this property that do not generally apply to other more typical multi-family dwellings in an R-3 zone.
- e. The parking area is not yet constructed. The circumstances of this request are not the direct result of actions taken by the applicant; but are, rather, a response to the complex nature of doing an Infill & Redevelopment project.

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

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
4. Any outdoor lighting (if desired by the property owner) shall be less than 5' in height, if free-standing, and shall be directed away from any adjoining residentially zoned properties, regardless.
- c. ZDP 2015-80: DELONG ADDITION (TWP APARTMENT HOUSING) (11/1/15)* - located at 220-228 E. Seventh Street.
(Foster-Roland)

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding whether this development meets the required open space per Article 8-13 of the Zoning Ordinance.

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

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Correct note #3.

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7. Provided the Planning Commission grants a variance to the required interior landscaping.
8. Denote height of building in feet.
9. Provide all required site statistics, including floor area ratio, lot coverage and open space.
10. Add sidewalk to E. 7th Street right-of-way.
11. Addition of a sidewalk from apartments to E. 7th Street.
12. Complete property perimeter information (bearings and distances).
13. Denote height of building on plan, in feet.
14. Discuss proposed dumpster location.
15. Discuss open space provided per R-4 requirements (Art. 8-13(k)).
16. Discuss on-street parking along E. 7th Street and Maple Avenue.

Zoning Presentation: Ms. Wade noted that the staff had received one letter of opposition to this request, which she circulated to the Commission members. She presented the staff report, briefly orienting the Commission to the location of the subject properties at the intersection of East Seventh Street and Maple Avenue, northeast of the downtown area. The subject properties are vacant, and the neighborhood is characterized by residential and mixed-use structures on Seventh Street, and mostly residential uses on Maple Avenue.

Ms. Wade displayed the following photographs of the subject property: 1) a view of the vacant property; 2) Maple Avenue, looking toward Seventh Street; and 3) the existing convenience store at the intersection of Seventh Street and Maple Avenue, kitty-corner to the subject properties.

Ms. Wade stated that the petitioner is proposing the R-4 zone in order to construct a multi-family building to be used as an affordable housing development. The development is proposed to include 16 dwelling units, for a residential density of 28.75 dwelling units per acre, and each unit is expected to have one bedroom.

With regard to the recommendations of the 2013 Comprehensive Plan, Ms. Wade said that the petitioner contends that the proposed rezoning to R-4 is in agreement with the Plan's recommendations. The petitioner cited several Goals & Objectives related to housing, specifically expanding housing choices to meet the needs of Fayette County residents; planning for safe, affordable, and accessible housing to meet the needs of older and disadvantaged residents; supporting infill and redevelopment that respects the area's context and design features; utilizing vacant properties within Fayette County to encourage, compact, contiguous, and/or mixed-use, sustainable development to accommodate future growth needs.

Ms. Wade stated that the subject property is also located within the Central Sector Small Area Plan (CSSAP) boundaries, specifically Sub-Area C. The petitioner's proposal for affordable housing is in compliance with two of the principles of the CSSAP, including enhancing the urban fabric, and providing adequate and equitable housing. In the CSSAP, there was a specific note that indicated a lack of quality, affordable housing in Sub-Area C. The staff believes that the proposed development also meets that statement.

Ms. Wade said that the staff agrees that the proposed rezoning is in agreement with the recommendations of the Comprehensive Plan and the CSSAP, and is recommending approval, for the reasons as listed in the staff report and on the agenda. The Zoning Committee also recommended approval of this request at their meeting three weeks ago.

Development Plan Presentation: Mr. Martin presented the staff report on the corollary preliminary development plan, noting that the staff had distributed revised conditions to the Commission members prior to the start of the hearing.

Mr. Martin stated that the petitioner is proposing to construct one building, with 16, one-bedroom apartment units, on two floors. An exterior breezeway system is proposed to serve the units, with balconies to provide open space. Access to the parking lot is proposed on Maple Avenue, with 15 parking spaces. With the revised plan, the petitioner has addressed several of the staff's original concerns, including the provision of a sidewalk from the subject property to Seventh Street. Mr. Martin stated that the staff's primary concern with the original plan was the need to document the ability to meet the open space requirement on the property. The building itself is proposed to be two stories in height; with a footprint of just over 7,000 square feet; and floor area ratio and lot coverage that comply with the R-4 requirements. In addition, there was a discussion at the Subdivision Committee meeting three weeks ago about the proposed dumpster location, with access through the parking lot. Following that discussion, the dumpster was moved nearer to the building, about which the staff was also concerned. The current version of the plan depicts the dumpster located off of Maple Avenue. This version of the plan also meets the Zoning Ordinance's minimum open space requirement, although the staff would like for the petitioner to clarify the site statistics on the plan, and note where the open space will be located. Mr. Martin stated that the staff is recommending approval of the revised plan, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.

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3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Correct note #3.
7. Provided the Planning Commission grants a variance to the required interior landscaping.
8. Denote height of building in feet.
9. ~~Provide all required site statistics, including floor area ratio, lot coverage and open space.~~
10. ~~Add sidewalk to E. 7th Street right of way.~~
11. ~~Addition of a sidewalk from apartments to E. 7th Street.~~
12. ~~Complete property perimeter information (bearings and distances).~~
13. ~~Denote height of building on plan, in feet.~~
14. ~~Discuss proposed dumpster location.~~
- 9.15. ~~Discuss Clarify areas included in open space calculations provided per R-4 requirements (Art. 8-13(k)).~~
- 10.16. Discuss Denote that the on-street parking along E. 7th Street and Maple Avenue will be considered at the time of the Final Development Plan.

Variance Presentation: Mr. Emmons presented the staff's variance report, explaining that the petitioner was requesting variances to the interior landscaping requirements for the parking lot, and to the required number of parking spaces (reducing the number from 24 to 15). He said that the parking lot is barely large enough to require an interior landscape island. The Landscape Review Committee did review the requested landscape variance, and recommended approval, but recommended that the petitioner be required to plant street trees along Seventh Street and Maple Avenue. There was some concern from Committee members present at that meeting about the overall design of the proposed development, but there was no concern expressed about granting the slight variance to the interior landscaping island(s).

Mr. Emmons explained, with regard to the requested parking variance, that the petitioner would like to vary the R-4 zone parking requirements. That zone requires either 1.5 parking spaces for each dwelling unit, or 0.9 spaces for each bedroom, whichever is greater. The petitioner is requesting a variance to whichever number of parking spaces is less, or 15 parking spaces for the 16 dwelling units, for a total of 0.9 parking spaces per dwelling unit.

Mr. Emmons stated that several special circumstances exist which are unique to the subject property, including the walkability of the neighborhood; the nearby retail businesses and two bus routes are located nearby. When considering a parking variance, the staff also looks at the need for parking on the property. All 16 of the dwelling units on the subject property are proposed to have only one bedroom. The staff has recommended to the Board of Adjustment in several instances that one space per dwelling unit is sufficient when a development is restricted to one-bedroom units. The staff also considers other available parking in the area; and when they reviewed the development plan, they found approximately 15 off-street parking spaces directly off of Maple Avenue. The petitioner is proposing to remove those non-compliant parking spaces and restore the curb, which will provide ample opportunity for additional on-street parking in the vicinity of the subject property.

Mr. Emmons said that the only difference between the staff's recommendation and the petitioner's variance request is the staff's recommendation of approval of a variance to 16 parking spaces, rather than 15 as requested. The staff believes that reducing the number of spaces to one per dwelling unit was as low as they should go, since it was the lowest parking number recommended to the Board of Adjustment in the past. The staff believes that the proposed development is so small that there is no significant difference between the recommended 16 spaces and the requested 15. Should the Planning Commission agree with the petitioner's request, and grant a variance for 15 spaces, two changes would be needed to the staff's findings. Mr. Emmons said that the staff is recommending approval of the requested variances, for the reasons as listed in the staff report and on the agenda.

Mr. Sallee clarified that the Landscape Review Committee did not take an official vote on this request, since they did not have a quorum, but the members present did express support for this variance.

Petitioner Presentation: Mr. Murphy stated that he had the honor of working with Bill Embry, Jr., one of the petitioners, on other affordable housing projects in Lexington-Fayette County, including Faith Community Housing.

Mr. Murphy stated that the proposed rezoning is in agreement with the recommendations of the 2013 Comprehensive Plan. He added that the 2007 Comprehensive Plan designated the subject property for residential use, even though it has been zoned B-1 for many years. The petitioner contends that the proposed development will help to reinforce the fabric of the neighborhood, since it is surrounded on three sides by other residential uses. Neighborhood services are provided on the north side of Seventh Street, including a small market and a hairdresser's salon.

With regard to the requested parking variance, Mr. Murphy stated that the petitioner's experience with affordable housing developments have taught them that each resident will not have a car, so the 15 spaces requested should be more than adequate. The subject property is located in the downtown area, which is walkable, and near two bus

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routes. The petitioner sees no need to pave more area than is absolutely necessary, so they would prefer not to provide 16 parking spaces, if possible. In addition, on-street parking is available on Maple Avenue. Mr. Murphy noted that the parking is located in front of the building for visibility, in order to provide additional security for residents.

Bill Embry, Jr., petitioner, stated, with regard to the opposition letter received from the NoLi CDC group, that he met with representatives of that organization a few weeks prior to this hearing. The NoLi representatives indicated at that time that they would prefer for the parking to be provided to the rear of the apartment building. He asked his surveyor to provide a drawing to the staff of the building with the parking in the rear, but his architect was "vehemently opposed" to putting the parking behind the building. The architect was involved in an affordable housing project in another state that placed parking in the rear, and it created serious safety problems for the residents, to the extent that the development was unlivable. Mr. Embry emphasized that it is important to the safety of the proposed development to maintain the parking in the front.

With regard to the requested parking variance, Mr. Embry said that, during the construction of the St. James Place development, he provided additional parking at the request of Planning staff, and that parking is not used. He said that many of the low-income residents who are expected to reside in the proposed development will likely not have cars, so the additional parking space should not be necessary.

Mr. Owens noted that the staff had received an email from Kris Nonn, NoLi CDC, and that the email had been distributed earlier to the Commission members.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Bernitha Kendrick, 617 Maple Avenue, stated that she was not necessarily opposed to the proposed development, and she appreciated the petitioner's efforts to assist older, disadvantaged individuals. She said that the area around the subject property, however, has a high level of criminal activity, and she was concerned about the safety of the potential residents of the development. Ms. Kendrick stated that prostitution, drug activity, hustling, and begging all take place at the corner of Seventh Street and Maple Avenue, and she does not believe that the subject property should be developed until those problems are addressed.

Ms. Kendrick stated, with regard to the requested parking variance, that the removal of off-street parking on Maple Avenue could create issues with on-street parking, since some existing residents currently park in that area.

Commission Discussion: Mr. Owens thanked Ms. Kendrick for her input, stating that the hearing was now closed; and he opened the floor for Commission questions or comments.

Mr. Wilson stated, with regard to Ms. Kendrick's comments, that she should take some consolation in the knowledge that redevelopment in the area and improving the community could actually help to address the existing crime issues by adding new residents to watch for criminal activity. He agreed that the area needs help in order to keep the residents safe, and expressed his hope that the proposed affordable housing project will contribute to those improvements.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 9-0 (Penn and Smith absent) to approve MARV 2015-18, for the reasons provided by staff.

Variance Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 9-0 (Penn and Smith absent) to approve the requested variances to reduce the required parking to 15 spaces and to eliminate the interior landscape requirement.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 9-0 (Penn and Smith absent) to approve ZDP 2015-80, subject to the 10 conditions as listed in the revised staff recommendation.

Note: Ms. Mundy left the meeting at this time.

5. JOURNEY'S END, LLC, ZONING MAP AMENDMENT & LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 ZONING DEVELOPMENT PLAN

- a. MAR 2015-21: JOURNEY'S END, LLC (11/1/15)* - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road.

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

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

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

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

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:

Prohibited Uses

 - a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
 - b. Carnivals and circuses on a temporary basis.
 - c. Repair of household appliances.
 - d. Miniature golf or putting courses.
 - e. Indoor theaters.
 - f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
 - g. Banquet facilities.
 - h. Drive-through facilities.
 - i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
 - j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

- b. ZDP 2015-82: LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 (11/1/15)* - located at 3092 and 3094 Leestown Road.
(Endris Engineering)

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

1. Provided the Urban County Council rezones the property B-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. Urban Forester's approval of tree inventory map.
5. Correct notes #3 & #8.
6. Clarify use of "comm. boxes" indicated on plan.
7. Denote interior landscaping dimensions.
8. Denote construction access location on plan.
9. Denote floor area ratio and lot coverage per Article 21 requirements.
10. Denote adjoining property zoning on plan.
11. Resolve access to Town Branch Trail at time of the final development plan.

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Zoning Presentation: Mr. Sallee presented the staff report on this rezoning request, noting that the staff had received two letters and four emails in opposition to this request. He circulated these to the Commission this time. He oriented the Commission to the location of the subject property, which is comprised of two lots at the corner of Bracktown Road and Leestown Road, across from Masterson Station Park. Most of the zoning in the vicinity of the subject property is R-1C and R-1E, with the Bracktown Baptist Church facility also in close proximity.

Mr. Sallee displayed the following photographs of the subject property: 1) an aerial view of the property from the east, noting that a gas station was formerly located there for about 80 years as a non-conforming use in the R-1D zone; 2) a view of the former gas station, which was most recently used for minor auto repair; 3) a closer view of the gas station; 4) Leestown Road, near the entrance to the Federal Medical Center prison facility, noting that Leestown is currently being upgraded to four lanes at this location; 5) a view of Leestown Road; 6) a vehicle exiting Long Branch Lane from Leestown Road, noting the visible houses in the McConnell's Trace subdivision, some of which front on the small portion of Long Branch Lane near the subject property; 7) a view of Bracktown Road, on which the rear of the subject property has frontage; 8) a view to the north and west into Bracktown, noting the entrance to the church; and 9) an exhibit from the Bracktown Small Area Plan, which was done in the 1990s.

Mr. Sallee said that the Bracktown Small Area Plan allowed this portion of Fayette County to be included in the Urban Service Area, and addressed the needs of the Bracktown neighborhood. No change to the zoning or land use of the subject property was recommended as part of that Small Area Plan, although the property had previously been proposed for rezoning in 1997. That rezoning proposal was withdrawn. In 2000, the subject property went before the Board of Adjustment, due to a request by the owner for alcohol sales and the sale of trees and shrubs at this location. That application, which was an administrative appeal, was denied, in order to avoid the expansion of an existing non-conforming use.

Mr. Sallee stated that the petitioner is proposing to rezone the subject property in order to convert the existing building into a restaurant with off-street parking. The staff noted in their report that the subject property is different from many others in the area, in that it effectively has frontage on three sides. Most of the other parcels in Bracktown are double-frontage lots, but they are much more rectangular in shape, as are the newer subdivision lots to the south, on the former Marshall property. The Leestown Road highway expansion seems like a logical time to allow the subject property to be rezoned in a manner that would allow its expansion. Mr. Sallee noted that the staff does believe it is necessary, if the subject property is rezoned, to limit a number of uses via conditional zoning. The staff and the Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, explaining that the petitioner is proposing to re-use the existing building on the subject property and incorporate it into the new restaurant. The restaurant is proposed to be 5,000 square feet in size, with 25 parking spaces. One access is proposed from Leestown Road, and one from Bracktown Road.

Mr. Martin stated that the petitioner presented a revised plan at the Subdivision Committee meeting; that revision proposed the closure of one of the existing accesses to Bracktown Road. However, the petitioner has not officially filed a revision, so the staff has not been able to review it or create revised conditions. Mr. Martin noted that the staff is recommending, at the time of a Final Development Plan for the property, the resolution of a connection to Town Branch Trail. He said that the Subdivision Committee recommended approval of this plan, subject to the conditions as listed on the agenda.

Petitioner Presentation: Kevin Phillips, Endris Engineering, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendation.

Mr. Phillips stated that the subject property has been used for a commercial business for 80+ years, and the petitioner would like to continue and expand that use as a new restaurant. The petitioner contends that the purpose of the B-1 zone is to provide neighborhoods with facilities and services in close proximity to where people live.

Mr. Phillips displayed several photographs for the Commission members, noting that there are only two business zones in the vicinity: the site of the future Citation Village shopping center along the Citation Boulevard corridor, and the Frank Minnifield Enterprises historic business site. He displayed a map of other arterials in Lexington-Fayette County, noting the locations of other B-1 zones along those roadways.

Mr. Phillips stated that the B-1 zone does allow other uses besides restaurants, including banks, offices, beauty shops, daycares, and other neighborhood-oriented uses. Because of the proposed conditional zoning restrictions, particularly drive-through facilities, however, the petitioner contends that the proposed restaurant will not have a negative impact on the surrounding neighborhood. Fast-food restaurants and banks depend on drive-throughs for the

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majority of their business; and, without those facilities, the subject property should not generate a significant amount of traffic.

Brandon Green, petitioner, stated, with regard to the opposition letters received, that the Facebook account for the proposed restaurant was generating support and excitement online. He said that the subject property has been used as a business for 80+ years. Due to the subject property's frontage on Leestown Road, Mr. Green does not believe it is conducive to residential use, and he would request approval in order to move forward with the proposed restaurant.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Barb Stucker, president of the McConnell's Trace Neighborhood Association, stated that the rear of her property faces the subject property. She said that there are two homes in McConnell's Trace that face the subject property, and four homes at the end of the Long Branch Lane cul-de-sac, that currently have a view of the trail and adjoining open space. The residents' main concern is the possible loss of property value, since homes located as little as 40' from a busy restaurant are unlikely to sell.

Ms. Stucker said that residents are also concerned about possible noise from the proposed restaurant, including indoor entertainment. Residents are also concerned about lighting on the property, security and crime issues, and the possible issuance of a liquor license to the proposed restaurant. Since the rear of the restaurant will face the neighborhood, residents believe that the dumpster location could also become an issue, since it could attract vermin and generate unpleasant odors.

Ms. Stucker stated that residents believe that the proposed restaurant will generate a significant amount of additional traffic in the area, particularly on Bracktown Road. They are concerned that the proposed access to Leestown Road will be located at the point where the roadway widens to four lanes, which could increase the number of accidents and cause widespread traffic problems in the vicinity. Residents have also indicated that they would feel unsafe on the Town Branch Trail once the proposed restaurant opens, due to increased activity in the area. There have been problems in the past with drivers parking on Long Branch Lane to access the trail, or driving across the trail to reach the cul-de-sac, and residents believe the issue could be exacerbated by parking for the proposed restaurant. Should the restaurant be unsuccessful, residents are concerned about what type of business could locate on the subject property.

Ms. Stucker asked that the Planning Commission members consider how close the proposed restaurant will be to existing homes, and the effect that it could have on the peace and quiet in the neighborhood.

Olivia Escodero, 112 Long Branch Lane, stated that her home directly faces the subject property. She stated that she is concerned about overflow parking for the proposed restaurant, since drivers have used Long Branch Lane to provide access to the Bracktown Baptist Church child care center in the past.

Petitioner Rebuttal: Mr. Phillips stated, with regard to parking in the cul-de-sac and drivers crossing the trail, that those activities are not currently caused by the use of the subject property, since it is vacant; so, they should not be worsened by the location of a restaurant there. He noted that it is not illegal to park on a public street, and no parking has been provided for the Town Branch Trail, so it makes sense that some drivers might park on Long Branch Lane to access the trail. That activity, however, is also unrelated to the current use of the subject property.

With regard to the concerns about odors, lighting, and noise from the subject property, Mr. Phillips said that the proposed restaurant will be a small, family operation, and a much less intense use than typical fast-food businesses with drive-throughs. Any lighting on the property will be directed inward and downward, as required by the Zoning Ordinance, which requires lighting for safety in the parking lot. The petitioner does not propose to have live entertainment on the property, so the amount of noise generated should be minimal. Mr. Phillips stated that, should the restaurant no longer be in operation on the subject property, the proposed conditional zoning restrictions will limit the number of allowable uses, particularly since drive-through facilities will be prohibited.

Mr. Phillips said, in response to concerns about the view from the houses near the subject property, that, due to the existing pine trees on an adjoining parcel, those residents would be unlikely to see the proposed restaurant at all. He displayed several photographs taken from the driveways of those homes located on the cul-de-sac, noting that the existing building on the property was not visible. Mr. Phillips stated that it would be unreasonable to think that the subject property will never be redeveloped, so the cul-de-sac residents will not have always have an open view of the park. The existing building on the property has been in place for over 80 years, long before the adjoining neighborhood was developed, and the petitioner contends that allowing the property to remain vacant would not be its highest and best use.

Mr. Phillips added, with regard to concerns about the safety of the proposed access to Leestown Road, that the Kentucky Transportation Cabinet (KYTC) provided infrastructure for two accesses to the subject property, but the

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petitioner is requesting only one narrower entrance, further from the nearest intersection. KYTC has approved the one proposed access.

Citizen Rebuttal: Ms. Stucker agreed that there was an existing business on the subject property when the neighborhood was constructed, but noted that it was a very quiet, low-impact operation. She added that Mr. Phillips did not address the question of loss of property value as a result of the proposed restaurant.

Staff Rebuttal: Mr. Saltee indicated that the staff had no rebuttal comments.

Commission Discussion: Mr. Owens stated that the hearing was now closed, and he opened the floor for Commission questions and/or comments.

Ms. Plumlee thanked the neighbors for their participation. She noted that the LFUCG Zoning Ordinance does an excellent job of regulating planning and zoning issues in the community, but it does not guarantee peace and quiet for any property owner. Ms. Plumlee stated that, as the proposed restaurant moves forward, the residents' concerns about lighting, noise, and the dumpster location should be addressed, and that the conditional zoning restrictions should help to mitigate the impact on the adjoining neighborhood.

Mr. Owens echoed Ms. Plumlee's statements, thanking the citizens for their participation. He noted that this is a preliminary zoning development plan, and that the Commission will have the opportunity to review a Final Development Plan for the property if the proposed restaurant goes forward. He added that the subject property has been used for many years, and he believes that redevelopment there is inevitable.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve MAR 2015-21, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve ZDP 2015-82, subject to the conditions as listed on the agenda.

VI. COMMISSION ITEMS

VII. STAFF ITEMS

VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will **NOT** be heard are those requiring the Commission's formal action, such as zoning items for early re-hearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

IX. MEETING DATES FOR October, 2015

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	October 1, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	October 1, 2015
Subdivision and ND-1 Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	October 8, 2015
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers	October 22, 2015
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	October 28, 2015

X. ADJOURNMENT – There being no further business, Chairman Owens declared the meeting adjourned at 5:42 p.m.

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