

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

October 22, 2015

- I. **CALL TO ORDER** – The meeting was called to order at 1:33 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; Karen Mundy; Mike Owens, Chair; Frank Penn; Carolyn Plumlee; Carolyn Richardson; Joseph Smith; and William Wilson. Absent was David Drake.

Planning staff members present: Jim Duncan, Acting Director; Bill Sallee; Barbara Rackers; Jimmy Emmons; Traci Wade; Tom Martin; and Stephanie Cunningham. Other staff members present were Tracy Jones, Department of Law; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services; Casey Kaucher, Division of Traffic Engineering; and Hillard Newman, Division of Engineering.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Mr. Wilson, and carried 10-0 (Drake absent) to approve the minutes of the September 24, 2015, meeting.

- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, October 1, 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: Bill Sallee, Tom Martin, Cheryl Gallt, Denice Bullock, Kelly Hunter and Dave Jarman, as well as Lieutenant Joshua 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. **PLAN 2015-67P: COPPER CREEK SUBDIVISION (10/8/15)*** - located at 1850 Old Higbee Mill Road (a portion of).
(Council District 9) **(EA Partners)**

Note: The Planning Commission postponed this item at their August 13, 2015, September 10, 2015, and October 8, 2015, meetings.

The Subdivision Committee Recommended: **Postponement.** There are still concerns with the proposed street alignment and the lack of tree protection area(s).

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Discuss tree stands and need for tree protection areas.
11. Discuss proposed street alignment and "B-B" cross-section proposed.
12. Discuss proposed H.O.A lotting and the spirit of Art. 6-4(g) of the Land Subdivision Regulations prohibiting double frontage lots.
13. Discuss screening and maintenance of same adjacent to Wyndham Hills West.
14. Discuss extent of waivers that are necessary (sidewalk, etc.).
15. Discuss Comprehensive Plan recommendation for streets along greenway areas.
16. Discuss proposed Lot #26 (for future development).

Staff Presentation: Mr. Martin presented this preliminary subdivision plan, briefly orienting the Commission to the location of the property on Old Higbee Mill Road, near its intersection with Man O' War Boulevard. The property has frontage on Steam-

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boat Road, and Copperfield Drive stubs into it. In the immediate vicinity are the Wyndham Hills and Wyndham Dale subdivisions.

Mr. Martin stated that the subject property is just over 15 acres in size, with over eight acres of that area located in a floodplain. Referring to the rendered development plan, he noted the location of the floodplain area, which is proposed to remain as a greenway. The property is zoned R-3, and is adjacent to a parcel that has been zoned B-6P for many years. The B-6P parcel is located entirely within the floodplain, so it is unlikely to be developed in the near future.

Mr. Martin said that the applicant is proposing to extend Steamboat Road, past an intersection with Copperfield Drive, to end in a cul-de-sac. The current plan proposes 21 buildable lots, with three additional lots to be maintained by a homeowners association, one of which will include a connection to the existing trail system in the area. The exact location and timeline of the trail construction are not known at this time, but the staff is aware that the trail will be located on the same side of the creek as the subject property. Mr. Martin noted that Lot 25, as depicted on the plan, is also labeled as "non-buildable," since it is located within the floodplain. In order to develop that lot, the applicant would need to file a Letter of Map Revision (LOMR) with FEMA, and seek their approval.

Mr. Martin stated that there have been several revisions to this plan, and it has been postponed several times, primarily due to concerns about the extensive environmental constraints on the property. The large amount of floodplain area, as well as the steep slopes (with a grade varying between 6-30%), were of considerable concern to the Planning staff, as well as the Division of Traffic Engineering and Division of Engineering staff. Article 6-11 of the Land Subdivision Regulations requires that the applicant submit a report detailing their plans for mitigation of the environmentally sensitive areas. That report was submitted to the staff, and copies were circulated to the Commission members prior to the start of the meeting. Mr. Martin explained that the environmental constraints on the subject property dictated that the currently proposed configuration of Steamboat Road would be the most appropriate location for that roadway, relative to the greenway, floodplain, and steep slope areas. The staff was also concerned about the proposed significant retaining wall depicted on the plan, as well as two smaller walls, all of which were designed to address the grade change on the subject property. The Division of Engineering staff, in particular, had serious concerns about both the construction and maintenance of the walls. The walls are now proposed to be part of an HOA lot, with significant screening to protect the adjoining single-family homes. Mr. Martin emphasized that the retaining wall can be built and maintained safely, noting that there are several examples in the community of such walls in place at stream crossings.

Mr. Martin said that the revisions to this plan led to the need for a revised waiver request. The applicant is requesting waivers to the geometrics of the cross-section of the public street (Steamboat Road). The applicant's original request was to waive the required sidewalk on the south side of Steamboat Road, due to the proposed landscape buffer area and the desire to keep foot traffic away from the backs of the houses on the adjoining cul-de-sacs. There is an existing sidewalk on the other side of Steamboat Road, which connects to Copperfield Drive. As the plan evolved, the staff became aware of the need for waivers to reduce the right-of-way to 40' on the cul-de-sac, and 32.5' on Steamboat Road. In addition, the applicant has requested a waiver to reduce the angle of the Copperfield Drive/Steamboat Springs intersection from the preferred 80-90 degrees, to approximately 65 degrees; and to allow a 6% grade on Steamboat Springs at the intersection, in order to match the existing grade of Copperfield Drive. Mr. Martin explained that the need for waivers is based on the environmental constraints of the property, as well as the need to tie the extension of Steamboat Road to the existing right-of-way of that roadway and the intersection of Copperfield Drive.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Discuss Denote tree stands and need for tree protection areas.
- ~~11. Discuss proposed street alignment and "B-B" cross-section proposed.~~
- ~~12. Discuss proposed H.O.A. lotting and the spirit of Art. 6-4(g) of the Land Subdivision Regulations prohibiting double frontage lots.~~
- ~~11.13. Discuss Denote~~ screening and maintenance of same adjacent to Wyndam Hills West.
- ~~14. Discuss extent of waivers that are necessary (sidewalk, etc.).~~
- ~~15. Discuss Comprehensive Plan recommendation for streets along greenway areas.~~
- ~~12.16. Discuss proposed Denote~~ future development of Lot 26 25 (for future development) shall be determined pending modification to the FEMA floodplain.
13. Provided the Planning Commission grants the requested waivers to Article 6-1, 6-8 & 6-3.

Mr. Martin stated, with regard to the conditions for approval, that the staff is requesting that the applicant denote the screening and maintenance of the HOA area adjacent to the subdivision. The applicant has provided that information in an exhibit, but the staff wants to ensure that the information is provided on the plan itself. Condition #12 refers to the possible future development of Lot 26 (the B-6P area on Old Higbee Mill Road), which would require the modification of the floodplain in order to be developed. Condition #13 refers to the approval of the requested waivers to the Land Subdivision Regulations. Mr. Martin reiterated that the staff is recommending approval of this preliminary subdivision plan, and of the requested waivers.

Commission Questions: Ms. Mundy asked, with regard to Lot 26, if the applicant could conceivably receive a LOMR from FEMA, add fill to the lot, and use it as a business. Mr. Martin responded that the applicant could attempt to modify the floodplain on that lot, although it would be very difficult to do so.

Ms. Plumlee asked what material was proposed for the construction of the retaining wall. Mr. Martin answered that the applicant's representative could elaborate further, but the staff understood that the wall would be constructed of poured-in-place concrete.

Applicant Presentation: Mr. Murphy began the applicant's presentation by emphasizing that this is a preliminary subdivision plan, not a zone change; the subject property has been zoned R-3 and planned for development for over 30 years. He displayed the Vacant Land Inventory map from the 2013 Comprehensive Plan, noting that the subject property was included in that inventory. When the surrounding properties were developed, 30 years ago, stub streets were provided into the subject property, which serves as further proof of the intention of the property for development. Mr. Murphy said that, although the existing R-3 zoning of the subject property would allow multi-family development, the petitioner proposes to construct single-family, detached residential units only, in order to maintain the character of the homes in the surrounding neighborhood.

Mr. Murphy stated, with regard to Ms. Mundy's question, that the applicant has no plans to develop Lot 26 for business use. The applicant has identified an area along Old Higbee Mill Road that could possibly be developed if a LOMR is granted to modify the floodplain. In addition, the floodway in that portion of the property is proposed to be dedicated to LFUCG for use as park space and a trail connection.

Mr. Murphy said that the revisions to the original plan include reducing the length of the Steamboat Road cul-de-sac, which resulted in the loss of one buildable lot. That lot is now depicted on the plan as non-buildable, and is intended to provide a connection from the new park to the existing Waverly Park. The street was also relocated slightly in order to accommodate the floodplain area. The revised plan also includes a widening of the landscape area between the subject property and the existing residences to the rear; that area now averages approximately 37.5' in width. The applicant has created a planting plan, which includes dense trees to provide screening for those residences. That planting area will be maintained by the homeowners' association, but should not create a maintenance burden, since it is proposed to be comprised primarily of trees.

With regard to the questions about the retaining wall, Mr. Murphy stated that it would be poured in place with rebar, rather than block-type construction. The applicant believes that a poured, enforced wall will be much stronger and more durable, and will require little to no maintenance over the years. The applicant has considered the use of decorative molds to make the face of the wall more visually appealing.

Mr. Murphy said that the applicant is requesting a waiver to eliminate the need for a sidewalk along the side of the proposed road, as they believe it is unnecessary and it could interfere with the plantings in that area. A waiver has also been requested for the right-of-way around the cul-de-sac, so that the retaining wall will be on the HOA lot, rather than the public right-of-way. The third requested waiver, to the angle of the Steamboat Road/Copperfield Drive intersection, is necessary to accommodate the existing configuration and grade of the street stub.

Mr. Murphy stated that the petitioner has also agreed to provide geotechnical reports prior to digging on several of the lots. He thanked the staff, as well as the Division of Engineering and Traffic Engineering staff, for their willingness to work with the applicant on the proposed plan, which they now contend meets all of the necessary requirements. Mr. Murphy reiterated that the proposed subdivision would be developed at a much lower density than was anticipated when the property was originally zoned R-3, but the applicant believes that the proposed development would be more in character with the surrounding neighborhood.

Commission Questions: Mr. Penn asked if any part of South Elkhorn Creek would be piped as a result of the proposed development. Mr. Murphy responded that it would not. Mr. Penn asked how high the proposed retaining wall would be. Mr. Murphy answered that the wall will begin at 0' on each side, and will be approximately 11' at its highest point.

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

Citizen Opposition: Linda Qaimmaqami, 4245 Canterbury Green Way, stated that she has been opposed to the proposed development since the original plan was presented. She said that she is the designated speaker for Wyndham Downs and Clemens Heights neighborhoods, where many of the residents are concerned that the proposed development will not protect the

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floodplain. Many residents live downstream from the subject property; they believe that South Elkhorn Creek is stressed, and that the proposed development could exacerbate an existing flooding situation.

Ms. Qaimmaqami said that the area homeowners have not had an opportunity to review or evaluate the revised plan prior to this meeting, which makes them feel at a disadvantage. The residents would have preferred that the applicant make more of an effort to post plans online or otherwise make them available for review prior to this meeting. She added that the subdivision plat does not accurately depict the conditions of the creek that exist on the ground, since it has recently "split" into two sections. She contends that that realignment of the creek serves as proof of how much pressure it is under as a result of development in the area. In addition, the applicant has not indicated how they believe the proposed development will impact the new Wyndale subdivision, which is currently under construction nearby, or what effect both of those projects could have on the creek downstream. Ms. Qaimmaqami stated that the area residents are primarily concerned about "squeezing" the proposed development between existing homes, the creek, and environmentally sensitive steep slope areas.

Ms. Qaimmaqami said that neighborhood residents are also concerned that the proposed development will not be economically viable; and, as such, will not be completed, like the Centrepont project in downtown Lexington. She stated that the homes are proposed to be priced at approximately \$400,000, while the average price of the existing residences is approximately \$200,000. The front yards of those homes will face the rear yards of the existing neighborhood, which would likely be undesirable to many homebuyers. Area residents believe that the proposed development will also be awkwardly situated, which could cause the development to remain incomplete; the residents would then be "left with a mess."

Ms. Qaimmaqami encouraged the Planning Commission members to disapprove this request, based on the number of unresolved issues and the belief that there are too many waivers requested. In particular, the neighbors are concerned about the protection of South Elkhorn Creek, along which there are currently six development projects underway. The residents believe that development along the creek, and its possible impact, should be considered as a whole.

Ms. Qaimmaqami stated that the area residents would much prefer that the subject property be used to connect to the existing park system in the area. She said that, just because the Comprehensive Plan had recommended R-3 zoning for the subject property for years, that does not necessarily mean that the proposed density would be appropriate for the subject property and surrounding neighborhoods.

Applicant Rebuttal: Mr. Murphy stated that LFUCG requested that the petitioner dedicate a portion of the subject property to be used as part of the park system in the area; a non-buildable lot will serve as a pedestrian connection between the new park and the existing Waverly Park. He indicated that the new facility could possibly become part of a ribbon park along the South Elkhorn Trail.

With regard to Ms. Qaimmaqami's comment about the proposed development failing to develop, like the Centrepont project, Mr. Murphy noted that this development will be bonded. If it is not completed properly and in a timely manner, those bond funds can be called upon to complete the work on the property. Prior to the start of construction on the property, the petitioner intends to submit geotechnical reports on several of the lots, to ensure that there will be no problems with developing them.

Mr. Murphy stated that the houses in the proposed development will face the rear sides of other houses, but the applicant is proposing to install significant screening between them. He estimated that the homes in the proposed development will be priced in the \$300,000 - \$400,000 range, comparable to many other new houses in the area. The applicant contends that those new homes could raise the property values in the vicinity of the subject property, rather than affecting them negatively.

With regard to concerns about the floodplain, Mr. Murphy explained that all construction will be located out of the floodplain and the floodway, and a 25' setback from the floodplain will be observed. Current floodplain management practices dictate that those areas should not be piped, or altered, and that they should be allowed to flood naturally. Mr. Murphy noted that the floodplain will continue to flood upstream and downstream from the subject property, because that is its intended purpose. Construction on the subject property should not affect the flooding of other areas, including the Ramsey's Restaurant on Harrodsburg Road. In addition, the applicant will be required to adhere to rigorous standards and receive the approval of the Divisions of Engineering and Water Quality for every phase of development, in order to not exacerbate flooding situations on the subject property. The Division of Water Quality has its own set of requirements and inspectors, who are required to sign off on each project. The applicant contends that keeping the density of the proposed development low will help to mitigate the impact on the environmentally sensitive areas of the property, as well as to maintain the existing character of the neighborhood.

Commission Questions: Mr. Penn stated, with regard to the opposition letter from a realtor outlining the cost of development of the subject property, that he was concerned that the applicant could find that the profit margin could be too thin for the project to be successful. Mr. Murphy answered that the petitioner will be bonding all of the improvements to the property, so that, if anything is done incorrectly, it can be rectified. He added that the applicants are experienced builders, with experience in approximately 20 subdivisions in Lexington-Fayette County, many of which included construction on steep slopes. The applicants will also not be able to obtain financing for the proposed development if the loan officer has concerns about the feasibility of the project. Mr. Murphy noted that it is also not part of the Planning Commission's purview to determine whether or not a project will be economically feasible.

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Ms. Plumlee asked if sidewalks are proposed on one side of Steamboat Road. Mr. Murphy answered that there will be sidewalks on both sides of Steamboat Road, up to a point, then on one side only. There will also be several other bicycle and pedestrian facilities in the area.

Mr. Cravens asked where Steamboat Road connects at the other end. Mr. Murphy answered that it connects to Clemens Drive.

Staff Rebuttal – The staff had no rebuttal comments.

Commission Questions – (con't.): Mr. Owens asked if the Division of Engineering staff was comfortable with the current version of the plan and the proposed protections for the floodplain. Mr. Newman stated that he was very comfortable with the current version of the plan, since all of the work is proposed outside of the defined FEMA floodplain. Mr. Owens asked if each project under development along South Elkhorn Creek was considered separately with regard to the floodplain management regulations, which Mr. Newman answered affirmatively. Mr. Owens noted that those projects would not be allowed to go forward unless the requirements were met.

Citizen Rebuttal: Ms. Qaimmaqami opined that, with only 20 homes in the HOA for the proposed development, residents might have difficulty providing sufficient funds for the maintenance of the landscaping and retaining wall. In that case, they could attempt to “attach themselves” to either the Clemens Heights or Wyndham Downs HOAs in order to share the maintenance fees. She said that the members of those HOAs have not expressed an interest in adding those 20 homes.

Ms. Qaimmaqami said that the neighbors appreciate the applicant's proposal to install significant screening, but they do not understand why the existing mature trees must be removed and then replaced in order to provide that screening.

With regard to the flooding concerns, Ms. Qaimmaqami said that some residents have had water up to their decks and back porches during heavy rain events. She said that the flooding concerns already exist, and opined that any additional hardscape in the area will limit the flow of the creek and make it run faster. She added that she would like to go on record as noting that the basements of the homes in the proposed development will flood.

Commission Comments: Mr. Owens declared the hearing closed at this time.

Mr. Brewer said that, with all due respect to the citizen concerns, he believed that the applicants had done their homework, and that this plan was much improved.

Action: A motion was made by Mr. Brewer, seconded by Ms. Richardson, and carried 10-0 (Drake absent) to approve PLAN 2015-67P, including the waivers as requested.

B. DP 2015-30: HIGH POINT SUBDIVISION (MONON, INC.) (10/815)* - located at 1123 Winchester Road.
(Council District 5) **(Myke Robbins)**

Note: The applicant had requested that this previously postponed item be given consideration by the Commission. The Planning Commission postponed this item at their September 10, 2015, and October 8, 2015, meetings, due to lack of representation by the applicant

The Subdivision Committee Recommended: Postponement. There are concerns that the proposed use may not be allowed in the B-3 zone.

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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Addition of building heights in feet.
10. Denote name and address of developer on plan.
11. Addition of contour intervals.
12. Addition of tree protection plan and tree canopy information.
13. Denote name and address of plan preparer on plan.

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14. Remove new pavement/parking areas within 3' of side property lines.
15. Identify interior landscaping areas on the face of plan.
16. Delete parallel parking spaces proposed next to existing building.
17. Dimension entrance details.
18. Discuss compliance with Art. 8-20(b)(28) for proposed uses.
19. Discuss apparent drainage area in rear of property.

Staff Presentation: Mr. Martin presented this development plan, explaining that the subject property is located on the north side of Winchester Road, near Industry Road. There is an existing 5,000 square-foot building on the property, which is zoned B-3. The applicant is currently proposing to construct a second principal structure on the property, which was the reason for filing this plan. The new building is proposed to be 3,500 square feet in size, to be located to the rear of the existing building. Twenty-five parking spaces are also proposed, with the existing access configuration.

Mr. Martin stated that the reason for the multiple postponements of this plan was concern about the proposed use of the property in the B-3 zone. Based on the statistics on the original submission, it appeared that storage was the dominant use for the buildings on the property. While accessory storage is allowed in the B-3 zone, storage as a principal use is not permitted. After some conversations with the applicant, the staff eventually determined that the primary use of the property will be retail.

Mr. Martin said that, with this new information, the staff can now recommend approval of this plan, subject to the following revised conditions:

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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Addition of building heights in feet.
10. Denote name and address of developer on plan.
11. Addition of contour intervals and their source.
12. Addition of tree protection plan and tree canopy information.
- ~~13. Denote name and address of plan preparer on plan.~~
- ~~14. Remove new pavement/parking areas within 3' of side property lines.~~
- ~~15. Identify interior landscaping areas on the face of plan.~~
- ~~16. Delete parallel parking spaces proposed next to existing building.~~
13. 17. Dimension entrance details.
- ~~18. Discuss compliance with Art. 8-20(b)(28) for proposed uses.~~
14. 19. Discuss Resolve building conflict with apparent drainage area in rear of property to the approval of the Division(s) of Engineering and Water Quality, prior to plan certification.

Mr. Martin stated, with regard to condition #14, that the petitioner will need to resolve the conflict between the new building and an existing drainage area in the rear of the property. The staff is not aware at this time which properties are served by that detention area, or whether it is still necessary. Condition #14 will require the resolution of that conflict to the approval of the Divisions of Engineering and Water Quality.

Petitioner Representation: Myke Robbins was present representing the applicant. He stated that the applicant is in agreement with the revised conditions, and he requested approval.

Action: A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 10-0 (Drake absent) to approve DP 2015-30, subject to the 14 revised conditions as listed.

V. **ZONING ITEMS** - The Zoning Committee met on Thursday, October 1, 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. **DR. MICHAEL GENTRY & RML CONSTRUCTION, LLP, (AMD.) ZONING MAP AMENDMENT & CADENTOWN SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. MARV 2015-8: DR. MICHAEL GENTRY & RML CONSTRUCTION (10/22/15)* – amended petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 1.74 net (1.80

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gross) acres, and to a Wholesale & Warehouse Business (B-4) zone, for 2.43 net (2.74 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 petitioners propose to construct a veterinary clinic with an associated animal kennel, and a 28-unit apartment building with associated off-street parking. The proposed vet clinic and kennel facility will be enclosed ($\pm$ 20,000 square feet of space), with a small outdoor play area planned, and will also have considerable off-street parking.

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

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

1. The requested rezoning to a High Density Apartment (R-4) zone, and for a lesser acreage to a Wholesale and Warehouse Business (B-4) zone, is 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. A neighborhood node already exists a short distance away at Man o' War Boulevard and Liberty Road, which will be expanded with this rezoning to R-4.
 - b. 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. This amended zone change application to an R-4 zone will accomplish this recommendation, since the Brighton Trail is planned for the former railroad line immediately north of this location.
 - c. Some 35-40 persons are to be employed at this location (which equates to about 15 jobs/acre), some of which will be veterinary professionals. Quality pet care and modern animal boarding facilities are an important service that adds to the quality of life in our community.
2. This recommendation is made subject to the approval and certification of ZDP 2015-49: CADENTOWN SUBDIVISION – ANIMAL HOSPITAL/CLINIC, prior to forwarding this 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 prohibited in any B-4 zoning approved for a portion of the subject property:
 - a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstery; tile, mosaic and terrazzo work; electroplating; interior decorating.
 - b. Cocktail lounges and nightclubs, or the serving of alcoholic beverages.
 - c. Laundry, clothes cleaning or dyeing shop.
 - d. Ice plant.
 - e. Tire re-treading and recapping.
 - f. Machine shop.
 - g. Offices of purchasers, processors and handlers of agricultural products.
 - h. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
 - i. Truck terminals and freight yards.
 - j. Automobile service stations.
 - k. Major or minor automobile and truck repair.
 - l. Establishments for the display and sale of precut, prefabricated or shell homes.
 - m. Circuses and carnivals.
 - n. Retail sale of building materials and lumber.
 - o. Pawnshops.

These use restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant; since they will ensure continued agreement with the 2013 Comprehensive Plan; and, most importantly, since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

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b. REQUESTED VARIANCE

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

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 designed to keep the pets indoors; and in this case, the kennel/hospital will be more than 130 feet from the nearest residence. 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 (a 9-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, and more than 130 feet from any existing or proposed 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.

c. ZDP 2015-49: CADENTOWN SUBDIVISION – ANIMAL HOSPITAL/KENNEL (10/22/15)*- located at 2833 Liberty Road.
(**Vision Engineering**)

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

1. Provided the Urban County Council rezones the property B-4 and 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Provided the Planning Commission grants the requested variance to the building setback requirements.
7. Denote access locations across Liberty Road on plan.
8. Denote proposed stormwater detention area on plan for both proposed developments.
9. Denote lot coverage and floor area ratio site statistics for the proposed R-4 development.
10. Discuss access entrance proposed to Campbell Lane.
11. Discuss access to proposed trail for the proposed R-4 development.
12. Discuss pedestrian access from the proposed R-4 development to the existing apartment complex, and to Liberty Road.

Zoning Presentation: Ms. Wade presented the staff report for this amended rezoning request, briefly orienting the Commission to the location of the subject property on the east side of Liberty Road, to the north of the intersection of Liberty and Man O' War Boulevard. She stated that the subject property is approximately four acres in size. Zoning in the immediate vicinity includes R-1D surrounding the subject property, along with several R-3 and R-4 parcels along Campbell Lane that are part of the Brighton 3050 multi-family residential development. One parcel, which serves as an access for a Kentucky Utilities parcel along Man O' War Boulevard, is zoned A-U; it is the former right-of-way for the abandoned rail lane, and the future location of a Rails-to-Trails shared use path that will connect the existing Liberty and Brighton paths. Also in the vicinity are the Link-Belt manufacturing facility, which has access to Palumbo Drive; several churches, single-family residential developments, and an elementary school to the northeast; and two small shopping centers to the south.

Ms. Wade explained that the original petitioner modified his rezoning application in order to request a kennel and animal hospital on the front of the property, and a multi-family residential building with 28 dwelling units on the rear of the property. The petitioners contend that the proposed rezoning is in agreement with several of the Goals & Objectives and policy statements of the 2013 Comprehensive Plan, including providing accessible community facilities; enabling infill & redevelopment that creates jobs; attracting and retaining high-paying jobs; supporting infill & redevelopment within the Urban Service Area boundary; and encouraging and expanding housing choices throughout the community. The staff recognized that the proposed zone change would expand the existing neighborhood node at

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Man O' War Boulevard and Liberty Road, by providing more business opportunities and an expanded residential use. Ms. Wade stated that the staff is recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Ms. Wade noted that the petitioner provided a list of proposed conditional zoning restrictions that would prohibit several uses in the B-4 zone. The staff report included a typographical error; item "b" identified cocktail lounges and nightclubs as a prohibited use; however, that use is not currently allowed in the B-4 zone, so item "b" could be deleted from the staff's findings for approval.

Ms. Wade indicated that the staff had received two letters of opposition to this request, which she distributed to the Commission members for their review.

Development Plan Presentation: Mr. Martin presented the revised preliminary development plan, explaining that it includes the new animal hospital/kennel, which is proposed to be approximately 20,000 square feet in size. Access to the animal hospital is proposed from Liberty Road, with an associated off-street parking area. A connection is provided to the R-4 portion of the property, where a three-story apartment building is proposed, with 21 one-bedroom units and four three-bedroom units. Parking is provided separately for the apartment building, and it will have access to Campbell Lane. There is an existing emergency access gate on Campbell Lane, such that the new that access point will not access that roadway, but instead will tie the proposed apartment building on the subject property to the existing Brighton 3050 development. That will provide a route through the apartment development, which will allow drivers to use Liberty Road for access, rather than Campbell Lane, which is very substandard.

With regard to the discussion items, Mr. Martin explained that they relate to the proposed multi-family building, and how it will relate to the existing R-4 development. The staff is also concerned about providing access from the subject property to the proposed Brighton East Rail Trail. The staff is comfortable, however, with deferring the discussion items to the final development plan stage. Mr. Martin said that the staff and the Subdivision Committee recommended approval of this plan, subject to the 12 conditions as listed on the agenda.

Variance Presentation: Mr. Emmons stated that the petitioner was requesting a variance in conjunction with this rezoning, to reduce the 100' distance requirement for a kennel/animal clinic from a residential zone to 50', along the northwest and northeast property boundaries. Referring to the rendered development plan, he noted the area that would be buildable for the kennel/animal hospital, should the requested variance be granted.

Mr. Emmons said that the staff is recommending approval of the requested variances. As the proposed kennel will be a new, modern facility, most of their activities will take places indoors, so the staff does not believe that the proposed use will have a negative impact on the nearby residences. In addition, the northwest property line is heavily vegetated, so it should help to provide a buffer for the residence.

Commission Questions: Mr. Wilson asked where the Link-Belt facility is located relative to the subject property. Mr. Emmons indicated the location on the rendered zoning map, noting that it is across Liberty Road, catty-corner from the subject property. Mr. Wilson asked what the distance is between the two properties. Ms. Wade responded that the distance is approximately 200', across the Liberty Road right-of-way. She noted that Link-Belt typically uses the rear portion of their property, nearest to Liberty Road, for storage only. Their property frontage along Liberty Road is also very narrow, with most of their activity located on their property much closer to Palumbo Drive.

Mr. Owens asked how access would be provided to the residential portion of the subject property. Mr. Emmons answered that access would be through the existing apartment complex.

Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioners. He stated that the petitioners were in agreement with the staff's recommendations for the zone change, variances, and development plan.

Mr. Murphy said that, at the Planning Commission sub-committee meetings, there were concerns about the possible use of the rear portion of the subject property, and the lack of residential use in the area. Dr. Gentry, who was the petitioner for the original application, discovered that Ball Homes was interested in developing the rear portion of the property. They formed a partnership wherein RML Construction would purchase that rear portion and develop it as part of the adjoining Brighton 3050 complex.

With regard to the emergency access between the subject property and the existing residential development, Mr. Murphy explained that apartment residents will not use Campbell Lane at all; rather, all traffic will be directed through the complex to the other access.

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Mr. Murphy said that the animal hospital is also an important component of the proposed development, not just the kennel. The petitioners do propose a small outdoor exercise area for the kennel use, but the main exercise area will be enclosed in a courtyard.

With regard to the two opposition letters received, Mr. Murphy said that representatives of the Link-Belt company were concerned about the proposed residential development. The petitioner is proposing to construct the animal hospital and kennel between the residential use and the Link-Belt property, which should help to provide a buffer for the residences. The other letter was from the owner of the adjoining property, with whom the petitioner attempted to negotiate a purchase price for that parcel. Those negotiations were unsuccessful, and the property owner is now objecting to the proposed development.

Mr. Murphy said that RML Construction has extensive experience in constructing multi-family residential development, and the petitioners believe that they can provide sufficient screening to adequately buffer the proposed residential building from the animal hospital/kennel. The petitioners also contend that the proposed development will benefit the area by supplying quality jobs, and that it is fully in agreement with the recommendations of the 2013 Comprehensive Plan.

Zoning Action: A motion was made by Ms. Richardson, seconded by Ms. Mundy, and carried 10-0 (Drake absent) to approve MARV 2015-8, for the reasons provided by staff, deleting item "b" from the list of conditional zoning restrictions.

Variance Action: A motion was made by Ms. Richardson, seconded by Mr. Penn, and carried 10-0 (Drake absent) to approve the requested variances, for the reasons provided by staff, subject to the conditions as listed on the agenda.

Development Plan Action: A motion was made by Ms. Richardson, seconded by Ms. Mundy, and carried 10-0 (Drake absent) to approve ZDP 2015-49, subject to the 12 conditions as listed, changing #10-#12 to read "Resolve at the time of final development plan."

2. FLYING DUTCHMAN PROPERTIES, LLC, (AMD.) ZONING MAP AMENDMENT & GIBSON PARK SUBDIVISION, BLK B, ZONING DEVELOPMENT PLAN

- a. MARV 2015-15: FLYING DUTCHMAN PROPERTIES, LLC (AMD.) (10/22/15)* - amended petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone, for 0.654 net (0.754 gross) acre, for property located at 509, 513 and 517 Pyke Road. 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. In addition to the Comprehensive Plan mission statement, the Goals and Objectives of the Plan also encourage growing successful neighborhoods (Theme A), and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E).

The petitioner proposes to retain the existing residence on the subject property, and develop a new duplex or townhouses on either side, with associated off-street parking.

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

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, as follows:
 - a. The Goals and Objectives recommend growing successful neighborhoods through expanded housing choices that address the market needs for all residents (Theme A, Goal #1b.). The petitioner proposes a townhouse style development of 8 dwelling units, which creates a variety of housing types in the immediate area that complement the existing neighborhood.
 - b. The Goals and Objectives encourage infill development throughout the Urban Service Area as a strategic component of growth for our community (Theme A, Goal #2). The petitioner proposes to increase the density of the subject properties, as compared to the surrounding area, to 12.23 dwelling units per net acre.
 - c. The Goals and Objectives recommend identifying areas of opportunity for infill development that respects the area's context and design features (Theme A, Goal #2a). The applicant plans to maintain a similar front yard setback, and provide off-street parking in the rear of the development, which will better match the existing character of the neighborhood.
 - d. The Goals and Objectives also encourage the use of underutilized land (Theme E, Goal #1a.) and building in a compact, contiguous, and/or sustainable manner (Theme E, Goal #1b.) The proposed development is well

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- aligned with the vision articulated in the Comprehensive Plan for "single/small lot infill" projects, and is using two vacant lots that are considered underutilized in this urban context.
2. This recommendation is made subject to approval and certification of ZDP 2015-63: Gibson Park Subdivision, Block B, 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 prohibited for the subject property:
 - a. Multi-family dwellings.
 - b. Dormitories.
 - c. Boarding or lodging houses.
 - d. Assisted living facilities.
 - e. Community residences.

These limitations are appropriate and necessary to better protect the existing neighborhood and to prevent the most intensive uses that might be out of character with the existing residents of the area.

b. REQUESTED VARIANCES

1. Reduce the required lot frontage for a duplex use in the Planned Neighborhood Residential (R-3) zone from sixty (60) feet to fifty (50) feet.
2. Increase the maximum allowable number of parking spaces for a single family residence in the defined Infill & Redevelopment Area from 2 to 6.

The Zoning Committee **made no recommendation** on the requested variances.

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

- a. Granting the requested frontage and parking variances will not adversely affect the public health, safety or welfare; and will not alter the character of the general vicinity, as 50' wide lots are commonplace in this neighborhood. The parking will be located to the rear of the structures and will not be readily visible from the street or other residential properties.
- b. Granting the requested variances will not result in an unreasonable circumvention of the Zoning Ordinance because the existing lot is 50' wide and can be built upon as a legal non-conforming lot, should the property be rezoned to R-3. With regard to the parking variance, the overall project does not exceed the maximum allowable parking for the uses on the three lots.
- c. The special circumstance that applies to this site that does not generally apply to land in the general vicinity is the location of the existing single family house, which the applicant desires to retain as a part of this infill and redevelopment project.
- d. Strict application of the requirements of the Zoning Ordinance would not deprive the applicant of a reasonable use of the property, but would create an unnecessary hardship in the future should they wish to modify the lot in any way, or design each unit to independently meet their required parking on each lot.
- e. The circumstances surrounding the requested variance are not the result of the actions of this applicant, but rather are a response to the unique characteristics of this redevelopment project.

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

1. Provided the Urban County Council rezones the property R-3; 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).
- c. ZDP 2015-63: GIBSON PARK SUBDIVISION, BLOCK B (9/4/15)*- located at 509, 513 & 517 Pyke Road.
(Vision Engineering)

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding compliance with the requirements of Articles 8-10 and 15-7 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-1T; 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. Correct plan title.
6. Denote: Compliance with Art. 15-7(d) of the Zoning Ordinance shall be determined at the time of the Final Development Plan.
7. Dimension sidewalks.
8. Discuss timing of the resolution of the conflict with the 30' platted building line.
9. Discuss proposed lotting and parking lot maintenance and access.
10. Discuss note #9.
11. Discuss compliance with Article 15-7(d) of the Zoning Ordinance.
12. Discuss compliance with Article 8-10(o)(g) of the Zoning Ordinance.
13. Discuss Article 18 landscape requirements' conflict with existing utility easement at rear of property.
14. Discuss easement conflict with proposed building.

Zoning Presentation: Ms. Wade presented the staff report on this amended rezoning request for three parcels on the east side of Pyke Road, including ½ of the abandoned right-of-way of Devonshire Avenue. She briefly oriented the Commission to the location of the subject properties, noting that zoning and uses in the general area include primarily single-family residences in the Golf View Estates subdivision; a multi-family residential development further along Devonshire Avenue; professional office uses along Red Mile Road; and commercial business along South Broadway. The subject property currently contains one existing single-family residential structure situated on the center lot, which the petitioner is proposing to retain. The development plan originally filed with this request depicted eight townhouses on the subject parcels. However, the petitioner amended the request, and is now proposing to construct one duplex on either side of the existing single-family residence, for a total of five dwelling units, and a density of approximately 7.65 dwelling units per acre.

Ms. Wade said that the petitioner contends that the proposed rezoning is in agreement with the 2013 Comprehensive Plan, particularly Themes A and E, and Goals related to expanding housing choices; supporting infill & redevelopment that is context-sensitive; providing well-designed neighborhoods with mixed uses and housing types; and using underutilized property within the Urban Service Area boundary. The petitioner contends that the revised proposal is more context-sensitive than the townhouses originally proposed for the subject property; it allows the front building setbacks to match, and provides parking to the rear of the homes. Ms. Wade stated that the staff does agree with that contention, and agrees that the proposed rezoning is in agreement with the Comprehensive Plan. The petitioner has proposed conditional zoning restrictions in order to prohibit R-3 uses that would be detrimental for the existing single-family residential neighborhood, including multi-family dwelling units; dormitories; boarding and lodging houses; assisted living facilities; and community residences. The staff agrees that the proposed conditional zoning restrictions will help to maintain the character of the existing neighborhood.

Ms. Wade stated that the staff report was updated, based on the amended application, but the staff's findings needed to be updated as well. The staff is now recommending approval, for the following reasons:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, as follows:
 - a. The Goals and Objectives recommend growing successful neighborhoods through expanded housing choices that address the market needs for all residents (Theme A, Goal #1b.). The petitioner proposes **to develop two duplexes (on either side of the existing single-family residence)** ~~a townhouse style development of 8 dwelling units~~, which creates a variety of housing types in the immediate area that complement the existing neighborhood.
 - b. The Goals and Objectives encourage infill development throughout the Urban Service Area as a strategic component of growth for our community (Theme A, Goal #2). The petitioner proposes to **moderately** increase the density of the subject properties, as compared to the surrounding area, to **7.65** ~~12.23~~ dwelling units per net acre.
 - c. The Goals and Objectives recommend identifying areas of opportunity for infill development that respects the area's context and design features (Theme A, Goal #2a). The applicant plans to maintain a similar front yard setback, and provide off-street parking in the rear of the development, which will better match the existing character of the neighborhood.
 - d. The Goals and Objectives also encourage the use of underutilized land (Theme E, Goal #1a.) and building in a compact, contiguous, and/or sustainable manner (Theme E, Goal #1b.) The proposed development is well aligned with the vision articulated in the Comprehensive Plan for "single/small lot infill" projects, and is using two vacant lots that are considered underutilized in this urban context.
2. This recommendation is made subject to approval and certification of ZDP 2015-63: Gibson Park Subdivision, Block B, 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 prohibited for the subject property:
 - a. Multi-family dwellings.
 - b. Dormitories.

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- c. Boarding or lodging houses.
- d. Assisted living facilities.
- e. Community residences.

These limitations are appropriate and necessary to better protect the existing neighborhood and to prevent the most intensive uses that might be out of character with the existing residents of the area.

Development Plan Presentation: Mr. Sallee stated that the subject property is located at the northern end of Pyke Road, near the intersection with Devonshire Avenue. The subject property includes a 25' wide piece of land that, for over 80 years, was part of the right-of-way of Devonshire Avenue. No pavement was ever constructed there, but the right-of-way has recently been abandoned, formally, and ½ of it was added to the 517 Pyke Road parcel of the subject property.

Mr. Sallee explained that the existing house on the subject property is in the center of the site, and on either side, the petitioner is proposing to construct one new duplex. Shared access is proposed along the side and rear of the subject property, to include 13 parking spaces behind the residential units.

Mr. Sallee said that the Subdivision Committee recommended postponement of this plan when it was initially reviewed at their meeting several months ago. That plan was for a townhouse development in the R-1T zone, for the entirety of the property; the existing structure was proposed to be removed. This version of the development plan was submitted to the staff on October 14th; an earlier version was submitted along with the amendment to the zone change. Mr. Sallee stated that the staff is now recommending approval of this plan, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property ~~R-1T~~ R-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. Correct plan title.
6. Denote: Compliance with Article 15-7(d) of the Zoning Ordinance shall be determined at the time of Final Development Plan.
7. ~~Dimension sidewalks.~~
8. ~~Discuss timing of the resolution of the conflict with the 30' platted building line.~~
- 7.9. ~~Discuss Denote proposed lotting and parking lot maintenance and access~~ note on plan.
10. ~~Discuss note #9.~~
11. ~~Discuss compliance with 15-7(d) of the Zoning Ordinances.~~
12. ~~Discuss compliance with 8-10(e)(g) of the Zoning Ordinances.~~
- 8.13. ~~Discuss Article 18 Addition of street tree landscape requirements conflict with existing utility easement at rear front of property.~~
14. ~~Discuss easement conflict with proposed building.~~
9. Denote future use of "Ex. Carport" space, since driveway to it has been removed.
10. Provided the Planning Commission grants a dimensional variance to Article 8-11(g) and 16-4(b)(7) requirements of the Zoning Ordinance.

With regard to the conditions for approval, Mr. Sallee said that #2 through #5 are standard agency "sign-offs" and corrections, and the revised plan has addressed several of the additional conditions. The staff is recommending condition #7 in order to document the parking maintenance requirements, even though this is a preliminary development plan. Condition #8 needs to be added in order to account for tree plantings, if only in a general sense, as a final development plan will be required for this property. Condition #9 refers to the carport that is depicted on the development plan at one corner of the existing building. There is no driveway proposed to that carport, so the staff is requesting that the label for that area be changed to reflect the updated use of that portion of the property. Condition #10 refers to the two requested variances.

Commission Question: Mr. Penn asked why the Subdivision Committee did not review the revised plan. Mr. Sallee answered that he was not sure, as he was not in the office the week that the revised plan was originally submitted. Ordinarily, the staff would update the Commission's sub-committee when a development plan was revised.

Variance Presentation: Mr. Emmons stated that the petitioner had requested two dimensional variances, due to the requirements of the requested R-3 zone. He explained that the R-3 zone allows a variety of uses; depending on the type of use, the Zoning Ordinance specifies different dimensional requirements.

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Mr. Emmons said that the first requested variance is to the lot frontage requirement for the southernmost property, which is currently 50' wide. When a duplex is proposed in the R-3 zone, 60' of frontage is required. The petitioner is requesting a variance from 60' to 50' in order to construct the duplex on that lot. The staff does not believe that the variance is required to build the proposed duplex; however, the petitioner has expressed intent to move the property line via a consolidation plat in order to ensure that the properties can meet the side yard requirements. Once the lot line is moved, the lot would be non-conforming, and any changes would have to be done in such a way as not to increase the non-conformity. Mr. Emmons said that the staff does not believe that granting the requested variance from 60' to 50' will have an adverse effect on the public health, safety, or welfare, and it will not change the character of the immediate vicinity.

Mr. Emmons noted that the staff's review of the first requested variance led to the discovery that the petitioner would need an additional variance, to the parking area proposed adjacent to the existing single-family home on the property. In the Infill & Redevelopment area, single-family homes are allowed only two parking spaces; duplexes are allowed six spaces. Because the parking on the subject property is proposed to be shared between two duplexes and a single-family residence, the overall project will be in compliance with the parking requirements. However, if the single-family home in the center was reviewed independently, it would have six parking spaces, so the staff recommended that the petitioner request a variance to increase the maximum number of parking spaces for the single-family lot from two to six.

Mr. Emmons stated that the staff is recommending approval of both of the requested variances, for the reasons as listed in the supplemental staff report and on the agenda, and subject to the conditions as listed.

Petitioner Presentation: Jacob Walbourn, attorney, was present representing the petitioner. He opined that the proposed project is the "perfect example of context-sensitive infill development." The petitioner originally proposed to construct eight townhomes on the subject property in the R-1T zone; they presented that proposal to the Commission's subcommittees several months ago. While the petitioner was considering the feedback from the committees, it was determined that there was no need to demolish the single-family home, since it is occupied and in good shape. The petitioner then determined that the current proposal would provide the most flexibility for the development.

Mr. Walbourn said that there were some comments made during the Zoning Committee meeting about the scale of the proposed development, and the petitioner took those comments to heart. The rear parking, which is the most unique feature of the development, was designed to eliminate on-street parking, in order to not have to ask the existing area residents to bear the burden of the increased density in the neighborhood. The petitioner also brought forward conditional zoning restrictions in order to ensure that the property develops as proposed. Mr. Walbourn stated that there are existing single-family homes adjacent to duplexes with rear parking in the neighborhood today, in the 400 block of Pyke Road, and the petitioner believes that the proposed development will be an asset to the community.

Commission Question: Mr. Owens asked how many parking spaces are proposed. Mr. Walbourn replied that the petitioner is proposing 13 spaces on the subject property.

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

Citizen Opposition: Robert Wells, 512 Pyke Road, stated that he has lived in the area since 1991. He said that he has seen single-family neighborhoods in the Elizabeth Street and Waller Avenue areas develop with multi-family structures, and he and his neighbors do not want that type of development in their neighborhood. The petitioner did not present the proposed plan to the neighbors, who would have liked the opportunity to learn more about it prior to this hearing. Mr. Wells noted that, prior to the development of the apartment complex on Devonshire Avenue, that residents were told by the developer in that case that the units would be marketed to families. However, the development was targeted specifically toward UK students, and the neighborhood residents did not believe that was fair to them.

Mr. Wells stated that he is also concerned about the use of the former Devonshire Avenue right-of-way parcel, since he does not believe that it was abandoned, and it could belong to someone. He opined that that area should remain as greenspace, since it has mature trees that will likely need to be removed in order to accommodate the parking area for the proposed development. In addition, he is concerned about additional on-street parking from the proposed development, since a large number of cars are typically parked along Pyke Road.

Mr. Wells said that the Golf View subdivision is the only remaining single-family neighborhood in the area, since so much property has been developed for student housing, and he believes that it should be allowed to remain free of additional multi-family uses. He said that he is happy with his neighborhood, and he would prefer that the petitioner develop the subject property with single-family dwelling units, rather than duplexes.

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Mr. Wells added that he believes that there is a discrepancy in the addressing as depicted on the petitioner's ZOMAR plat, which was submitted with the rezoning request.

Staff Rebuttal: Ms. Wade stated, with regard to Mr. Wells' comments about an addressing discrepancy, that the existing single-family residence is on the middle lot, which is 513 Pyke Road according to the PVA records. The two vacant lots are 509 and 517 Pyke Road. She said that the mailing addresses might not have been updated to match the PVA record, but the staff is required by state law to use the PVA data for any zone change.

Petitioner Rebuttal: Mr. Walbourn said that the petitioner understands the concerns of the neighbors, but they attempted to make the proposed development as context-sensitive as possible. He said that the Comprehensive Plan notes that, in order to maintain the Urban Service Area boundary, modest increases in density in infill areas are an important component.

Mr. Walbourn noted that, although the former Devonshire Avenue parcel had been referred to as "found" property, it was paid for by the petitioner at a great deal of expense, and was closed by action of the Urban County Council.

Commission Question/Comments: Mr. Penn asked if the proposed development was intended to serve as student housing. Mr. Walbourn answered that it will not be marketed as student housing, noting that the proposed duplexes will be constructed of solid brick. Mr. Penn asked if the duplexes would be sold or rented, to which Mr. Walbourn responded that they would be rented. He added that the existing single-family home is currently rented by a professional, who has indicated his intent to remain. With regard to the carport, Mr. Walbourn noted that it was proposed to be removed.

Citizen Rebuttal: Mr. Wells stated that the resident of the existing single-family home moved out several weeks ago.

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

Mr. Cravens stated that he could not support this rezoning request, since the petitioner had not demonstrated any compelling need for the proposed development. He opined that the best use of the subject property would be to construct two additional single-family residences there, and he believed that the rear parking area is not context-sensitive to the area.

Mr. Wilson stated that he believed that the petitioners had done a good job with the proposed development, although he understood Mr. Wells' concerns, particularly about the possibility of more student housing.

Zoning Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-2 (Cravens and Mundy opposed; Drake absent), for the reasons provided by staff, with the revised findings as outlined by staff.

Variance Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-2 (Cravens and Mundy opposed; Drake absent) to approve the requested variances, for the reasons provided by staff, subject to the conditions as recommended by staff.

Development Plan Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-2 (Cravens and Mundy opposed; Drake absent) to approve ZDP 2015-63, subject to the revised conditions as presented.

VI. **COMMISSION ITEMS** – No such items were presented.

VII. **STAFF ITEMS** – No such items were presented.

VIII. **AUDIENCE ITEMS** – No such items were presented.

IX. **MEETING DATES FOR October & November, 2015**

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers	October 29, 2015
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November 5, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	November 5, 2015
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers	November 12, 2015
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers	November 19, 2015
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November 25, 2015

X. **ADJOURNMENT** – There being no further business, Chairman Owens declared the meeting adjourned at 3:43 p.m.