

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

November 19, 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; Mike Cravens; Karen Mundy; Frank Penn; Carolyn Plumlee; Carolyn Richardson; Joseph Smith; and William Wilson. Absent were Patrick Brewer, David Drake, and Mike Owens.

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: Andrea Brown, Department of Law; Casey Kaucher, Division of Traffic Engineering; and Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 8-0 (Brewer, Drake, and Owens absent) to approve the minutes of the September 24, 2015, Planning Commission meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **LARRY LUTTRELL, JR., ZONING MAP AMENDMENT & LANE ALLEN PARK SUBDIVISION, LOT 4, ZONING DEVELOPMENT PLAN**

- a. MARC 2015-24: LARRY R. LUTTRELL, JR. (1/3/16)* – petition for a zone map amendment from a Single Family Residential (R-1A) zone to a Planned Neighborhood Residential (R-3) zone, for 2.6089 net and gross acres, for property located at 1911 Parkers Mill Road. A conditional use permit for a rehabilitation home 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 2013 Comprehensive Plan also provides several Goals, Objectives and policies for the growth and development of the community well into the 21st century.

The petitioner proposes rezoning the subject property to a Planned Neighborhood Residential (R-3) zone, and requesting a conditional use permit for a rehabilitation home for approximately 15 persons. The petitioner wishes to operate a rehabilitation home (aka: a sober-living home) within the existing single family residence.

The Zoning Committee Recommended: **Postponement.**

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, for the following reasons:
 - a. Theme A, Goal #1.c. of the Plan calls for "safe, affordable, and accessible housing to meet the needs of...disadvantaged residents." The residents of Liberty House meet this classification.
 - b. Goal #2 under Theme D of the Plan is to "provide for accessible community facilities and services to meet the health, safety, and quality of life needs of Lexington-Fayette County's residents and visitors." Liberty House is such a facility.
 - c. Goal #2.b. of Theme D of the Comprehensive Plan calls for cooperation "with educational and healthcare entities to meet the needs of Lexington-Fayette County's residents and visitors." An expanded Liberty House will more fully meet the needs of recovering citizens that have experienced addiction to alcohol.
 - d. Goals #2.a and #2.b of Theme C of the Comprehensive Plan calls for promoting sectors of the economy that will flourish in the County, and for improvement of small business opportunities. Although Liberty House is a specialized residence more than a traditional "business," an expanded version of it will augment Lexington-Fayette County's offering of healthcare services since it will provide a unique type of rehabilitation home, provided the corollary Conditional Use Permit is also approved.
 - e. Liberty House's location in a portion of the community generally devoid of similar facilities will ensure that a needed community service will be provided in a manner consistent with the Plan's direction to disperse necessary facilities throughout our community.
2. This recommendation is made subject to the approval and certification of ZDP 2015-104: Lane Allen Subdivision, Lot 4, 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 on the subject property:
 - a. Multi-family dwellings.

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

- b. Group Residential Projects.
- c. Townhouses.
- d. Kindergartens and nursery schools.
- e. Mining of non-metallic materials.
- f. Family child care and child care centers.
- g. Community centers.

These use restrictions are appropriate and necessary for the subject property since they will provide greater protection for the adjacent residences and neighborhoods surrounding this location.

b. REQUESTED CONDITIONAL USE

A rehabilitation home in a Planned Neighborhood Residential (R-3) zone.

The Zoning Committee Recommended: **Postponement.**

The Staff Recommends: **Approval** of the requested conditional use, for the following reasons:

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The proposed use will retain the residential character of the property, which will be in character with the surrounding residential neighborhoods. The existing house and parking are adequate to serve up to 20 residents with one full-time employee on site at any given time.
- b. All necessary public services and facilities are available and adequate to the subject site; however, the septic system will need to be reviewed and approved for use by the Fayette County Health Department, or the property will need to be connected to the public sanitary sewer system, prior to commencing the proposed use.

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

- 1. Should the subject property be rezoned to R-3, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
 - 2. The proposed use shall be operated in accordance with the submitted application materials.
 - 3. All necessary permits, including a Zoning Compliance Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy of the rehabilitation home.
 - 4. The Fayette County Health Department shall inspect and approve the existing septic system, or a connection to the public sanitary sewer system shall be completed prior to operation of the rehabilitation home.
 - 5. The parking shall not be expanded beyond the existing six parking spaces, and the total number of beds shall be limited to 20, with one full-time employee on the maximum working shift.
 - 6. There shall not be any meetings or counseling services provided for outside groups or individuals of the general public.
 - 7. As volunteered by the applicant, residents participating in this program shall not be there as a condition of their parole.
 - 8. This conditional use permit shall not be transferable to another applicant without application to, and approval from, the Board of Adjustment.
- c. ZDP 2015-104: LANE ALLEN PARK SUBDIVISION, LOT 4 (1/3/16)*- located at 1911 Parkers Mill Road.
(Endris Engineering)

The Subdivision Committee Recommended: **Postponement.** There were some concerns about a need for further discussion regarding sewage disposal, due to new information received since the Technical Committee meeting.

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

- 1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
- 2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
- 3. Urban County Traffic Engineer's approval of street cross-sections and access.
- 4. Building Inspection's approval of landscaping and landscape buffers.
- 5. Addressing Office's approval of street names and addresses.
- 6. Urban Forester's approval of tree preservation plan.
- 7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
- 8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
- 9. Division of Waste Management's approval of refuse collection locations.
- 10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- 11. Delete purpose of amendment note from plan.
- 12. Clarify required parking generator (beds).

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

13. Denote all parking spaces on plan.
14. Denote building line.
15. Clarify whether or not there will be dedication of right-of-way.
16. Discuss timing of sidewalk construction along Parkers Mill Road on plan.
17. Discuss need for improvements to Parkers Mill Road.
18. Resolve adequacy of existing septic system to serve proposed use.

Petitioner Representation: Chad Meredith, attorney, was present representing the petitioner. He stated that, at the Subdivision Committee meeting two weeks ago, some concerns were raised about the existing septic system on the property. The petitioner is working to resolve those issues, but does not have a definitive answer at this point. Mr. Meredith said that the petitioner would like to request a two-month postponement in order to continue working on the issue.

Action: A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 8-0 (Brewer, Drake and Owens absent) to postpone MARC 2015-24 to the January 28, 2016, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, November 5, 2015, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Joe Smith, 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, Jimmy Emmons, Traci Wade, Cheryl Galt, Denice Bullock, Kelly Hunter and Dave Jarman, as well as Captain Greg Lengal Division of Fire & Emergency Services; Chris Schnelle, Division of Police 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 2015-118P: PATCHEN PLACE SUBDIVISION, (FKA DALLAS PLAZA, UNIT 1) (CONRAD CHEVROLET, INC.) (1/3/16)*-
located at 2800 and 2890 Richmond Road. (Council District 5) **(Wheat & Ladenburger)**

The Subdivision Committee Recommended: Postponement. There were concerns about additional right-of-way, street connection and compliance with the Richmond Road Ordinance.

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.
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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote construction access.
8. Correct plan title to indicate it is a Preliminary Subdivision Plan.
9. Discuss compliance with Richmond Road Corridor Ordinance.
10. Discuss proposed termination of street and possible connections to Gribbin Drive.
11. Discuss proposed "dedication" and whether existing service road is public or private.

Staff Presentation: Mr. Martin presented this preliminary subdivision plan, briefly orienting the Commission to the location of the subject property on Richmond Road, between Patchen Drive and Mt. Tabor Road. The property, which was the site of the former Conrad Chevrolet dealership, is proposed to be subdivided into five lots. The petitioner is also proposing to construct a cul-de-sac to serve the new lots. Mr. Martin said that this plan was recommended for postponement by the Subdivision Committee at their meeting one week ago, due primarily to concerns about the proposed cul-de-sac.

Mr. Martin noted that this is a revised plan, and that the staff had distributed a revised recommendation to the Planning Commission members prior to the start of the meeting. The staff's primary concerns with the current version of the plan are street frontage, and how access will be provided to the property. The Richmond Road service road has only been dedicated as public in some locations, while other areas remain private; a portion of the area along the frontage of the subject property is not public, which was of significant concern to the staff. With the revised submission the petitioner proposes to dedicate that portion of the service road, which will provide adequate street frontage to the property and resolve compliance with the Richmond Road Ordinance. Mr. Martin stated that those issues have been sufficiently addressed with the revised plan.

Mr. Martin explained that, in addition, there were concerns about extending the proposed cul-de-sac on the subject property through to Gribbin Drive. Staff would prefer that the cul-de-sac be a public street, in order to help mitigate traffic in the area

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and provide improved connectivity, but the petitioner was concerned about steep slopes along Gribbin Drive. Those issues resulted in several of the revised conditions proposed by staff. The staff is now recommending approval of this plan, subject to the following 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.
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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote ~~construction access~~ cul-de-sac as a private street, and add required maintenance notes.
8. Correct plan title to indicate it is a Preliminary Subdivision Denote: No building permit will be issued for Lot 5 until a Final Development Plan is approved by the Planning Commission.
9. ~~Discuss compliance with Richmond Road Corridor Ordinance.~~
- 9.10. Discuss proposed termination of street and possible connections access to Gribbin Drive from Lots 4 & 5 (or Denote no access to Gribbin Drive from Lot 4).
11. ~~Discuss proposed "dedication" and whether existing service road is public or private.~~

With regard to condition #9, Mr. Martin said that the staff is recommending that there should be no access to Gribbin Drive from Lot 4 due to the steep slopes that the petitioner contends eliminate the ability to construct a public street in that location. Lot 5 is unique, in that part of it is governed by an existing development plan, although the remainder of the subject property is not. Due to the possibility of significant traffic impact from the uses allowable in the B-3 zone, the staff believes that the issue should be addressed at this time, since it is likely that the Planning Commission will not have the ability to review a development plan for the rest of the property. The petitioner is proposing the cul-de-sac as an access easement, but the staff is recommending that it be constructed to public street standards. The staff is proposing that Lot 5 not be developed until there is a final development plan for the entire lot. That will allow the staff to evaluate whether or not the potential user of the lot should have access to Gribbin Drive.

Commission Questions: Mr. Penn said that the petitioner had indicated at the Subdivision Committee meeting that one of the reasons for not wanting to extend a public street through the property was the possibility of one user that might wish to occupy Lots 4 and 5, located along the frontage of Gribbin Drive. He asked if the proposed development plan restrictions would be the same if they were extended to Lot 5 as well as Lot 4. Mr. Martin answered that only Lot 5 would be subject to the condition. He agreed that the petitioner had indicated that there could be one user for both lots; but, as it stands today, the lots are separate. He added that Lot 4 would still face the issues of steep slopes and lack of frontage on Gribbin Drive, if it was included with Lot 5.

Mr. Berkley asked how the designation of the cul-de-sac on the subject property as "private street" could help to mitigate the lack of a development plan for Lots 1-3, as Mr. Martin mentioned. Mr. Martin answered that, if the private street were built to public street standards, it could handle the traffic impact generated by the uses on the property. He added that the petitioner could file a final record plat at some point to dedicate the street, provided it is built to all public street standards.

Petitioner Representation: Kevin Phillips, Endris Engineering, was present representing the petitioner. He stated that there was some disagreement at the Subdivision Committee meeting as to whether it would be preferred to extend a public street through the subject property, or construct a cul-de-sac with no access to Gribbin Drive.

Mr. Phillips said that this project is in the very early stages, with demolition work having just begun on the former Conrad Chevrolet dealership. He explained that the possible users and potential development of Lots 4 and 5 are still in question at this point; but the petitioner believes that there will be a single user, so the lots will be consolidated at some point in the future. Without knowing the exact needs of the future development, the petitioner would prefer to defer any restriction of access to Gribbin Drive until a development plan could be filed to cover both of those lots. At that time, the petitioner should have a much better idea of the need for any access to Gribbin, and what purpose such access could serve. Mr. Phillips added that the petitioner also has an adjoining parcel under purchase contract, which would provide additional frontage on Gribbin Drive. The petitioner has indicated that a hotel could be the potential user for the rear of the property, with a driveway access to Gribbin Drive through the parking lot.

Mr. Phillips stated that the petitioner would like to request that condition #9 be modified to remove the wording denoting no access to Gribbin Drive. The petitioner needs to get this subdivision plan in place in order to complete the grading on the property, because, at this time, they are restricted solely to demolition of the existing structure. The petitioner would prefer to limit access, if necessary, at the final record plat and amended development plan stages for Lots 4 and 5, which should be incorporated on a single plan. At that time, the petitioner should be able to provide a better plan for the proposed development, with a good indication of how traffic would flow through the property. Mr. Phillips asked that condition #9 be changed to read: "Access to Lots 4 and 5 to be resolved at the time of the Final Development Plan."

Discussion: Mr. Martin stated that the staff would be comfortable with a condition denoting no access to Gribbin Drive or development of Lots 4 and 5 until such time a Final Development Plan is approved.

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Mr. Berkley asked if the petitioner would be agreeable to changing the wording of condition #8 to refer to Lots 4 and 5. Mr. Phillips said that the petitioner would be in agreement with that change.

Mr. Penn asked if the cul-de-sac would be constructed prior to the filing of a Final Development Plan on Lots 4 and 5. Mr. Phillips responded that the street would need to be built prior to the conveyance of Lots 4 and 5, since a final record plat would be required in order to sell the lots. The final record plat could not be created until the cul-de-sac is constructed, since only the final course of asphalt could be bonded for future construction. Mr. Penn said that he was concerned that, once the cul-de-sac is complete, any possibility of a connection to Gribbin Drive would be eliminated. He added that, if the slope in that area is too steep for a public street, it would also be too steep for ingress/egress to Lots 4 and 5. Mr. Phillips explained that there is no plan to extend a full public street from Richmond Road to Gribbin Drive; any access through Lots 4 and 5 would likely be as a driveway or parking lot.

Mr. Cravens asked if the reason behind the petitioner's desire not to extend the street was to allow the consolidation of Lots 4 and 5 for use as one parcel. Mr. Phillips indicated that was correct.

Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Brewer, Drake, and Owens absent) to approve PLAN 2015-118P, changing condition #8 to read: "No building permit will be issued for Lots 4 & 5 until a Final Development Plan is approved by the Planning Commission;" and #9 to read: "Access to Gribbin Drive from Lots 4 & 5 to be resolved at the time of the Final Development Plan."

- B. DP 2015-111: URBAN 221 (A PORTION OF) (1/26/16)* - located at 221 Corral Street.
(Council District 1)

(Carman & Associates)

The Subdivision Committee Recommended: Postponement. There were some questions regarding the uses proposed on the site, open space requirements, building orientations and building height limitations.

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. Denote the date of the Board of Adjustment's approval of requested variances prior to certification.
11. Clarify whether a Preliminary or Final Development Plan.
12. Correct Cabinet/Slide notation from 989 to 949.
13. Denote the required parking in site statistics.
14. Denote all existing and proposed easements.
15. Denote floor area and lot coverage in site statistics per Article 21-4 requirements.
16. Correct Planning Commission certification.
17. Delete note #10.
18. Denote compliance with Article 15-7 of the Zoning Ordinance governing Infill and Redevelopment construction.
19. Review by Technical Committee prior to plan certification.
20. Discuss need for pedestrian street improvements to Wickliffe Street and Corral Street.
21. Discuss compliance with open space requirements.
22. Discuss building height limitations relative to Article 8-18(m) of the Zoning Ordinance.
23. Discuss need for vehicular use area screening on surface parking lot.
24. Discuss whether or not gate will be employed.

Staff Presentation: Mr. Martin presented this development plan, briefly orienting the Commission to the location of the subject property on Corral Street at its intersection with Martin Luther King Boulevard. He said that the property is in a Downtown Frame Business (B-2A) zone, and the petitioner is allowed by right to construct a building up to three stories in height. However, any building from three stories to ten in height requires the approval of the Planning Commission via a development plan.

Mr. Martin said that the petitioner is proposing to redevelop this lot with a five-story building, with parking to be provided on the first floor. A surface parking lot is also proposed, for a total of 150 spaces, or well over the required 38 spaces. The petitioner is proposing 151 dwelling units for the four upper floors of the proposed building, for a total of over 145,000 square feet of floor

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area. Several variances were requested in conjunction with this development plan. A two-way access is proposed from Corral Street to serve the residential development.

Mr. Martin said that the rendering on display is a revised version of the plan; with it, the petitioner addressed several of the staff's original concerns. The staff is now recommending approval, subject to the following 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. 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. Denote the date of the Board of Adjustment's approval of requested variances prior to certification.
- ~~11. Clarify whether a Preliminary or Final Development Plan.~~
- ~~12. Correct Cabinet/Slide notation from 989 to 949.~~
- ~~13. Denote the required parking in site statistics.~~
- 11.14. Denote all existing and proposed easements.
- ~~15. Denote floor area and lot coverage in site statistics per Article 21-4 requirements.~~
- ~~16. Correct Planning Commission certification.~~
- ~~17. Delete note #10.~~
- ~~18. Denote compliance with Article 15-7 of the Zoning Ordinance governing Infill and Redevelopment construction.~~
- 12.19. Review by Technical Committee prior to plan certification.
- ~~20. Discuss need for pedestrian street improvements to Wickliffe Street and Corral Street.~~
- 13.21. Discuss Denote compliance with open space requirements.
- ~~22. Discuss building height limitations relative to Article 8-18(m) of the Zoning Ordinance.~~
- 14.23. Discuss need for Denote vehicular use area screening on surface parking lot on plan.
- 15.24. Discuss whether or not Denote location of gated entrance will be employed and details to the approval of the Division of Fire and Emergency Services.
16. Revise "building footprint edge" information on eastern corner, to match rest of plan.

Mr. Martin stated, with regard to condition #13, that the staff believed it was important to denote how the petitioner proposes to meet the minimum open space requirements on the property. The petitioner has indicated intent to utilize balconies and a large outdoor central feature area above the first floor of the development. Condition #15 refers to a request by the staff of the Division of Fire and Emergency Services to require a gated emergency entrance, to provide access to the surface parking lot if necessary. The petitioner has agreed to landscape the area along Corral Street, and has provided cross-sections for the streetscape and pedestrian facilities. Mr. Martin said that those facilities were discussed at length at the Subdivision Committee meeting, where it was noted that, due to its downtown location, the proposed development should be very pedestrian-friendly. He noted, with regard to condition #10, that the petitioner had applied to the Board of Adjustment for several variances, which would be considered at the Board's meeting the day following this meeting. In addition, since this plan was filed late, it will also require review by the Technical Committee. Condition #16 is a clean-up item, for an area on the plan that does not include any articulation for the building.

Commission Question: Mr. Penn asked if additional fire regulations must be met because of the proposed first floor parking area. Mr. Martin answered that he was unsure, but the petitioner might be able to address that question. Mr. Penn asked Mr. Martin to address condition 15, which refers to the fire gate. Mr. Martin explained that the petitioner will provide an emergency access to the surface parking lot, and that the interior entrance to the parking garage will also be required to meet the standards of the Division of Fire and Emergency Services.

Ms. Plumlee asked if the sidewalk is proposed to be six feet wide. Mr. Martin answered that the sidewalk is proposed to be six feet wide along Corral Street, and eight feet along Martin Luther King Boulevard.

Petitioner Representation: Jacob Walbourn, attorney, was present representing the petitioner. He stated that the proposed development, which is geared toward young professionals, represents a substantial investment in a corridor that has not yet seen redevelopment, as have some other downtown areas. The petitioner believes that this project could spur further redevelopment opportunities along the corridor. Mr. Walbourn entered into the record two letters of support for this proposal, from Sayre School and Central Christian Church.

Mr. Walbourn noted that the petitioner will be meeting the ground-level open space requirement, so that requested variance will be withdrawn at the upcoming BOA hearing.

John Carman, Landscape Architect, stated, with regard to Mr. Penn's question about the fire code, that the proposed building will be compliant. Such developments typically require fire protection on all levels, including the parking deck area, with sprinkler systems and protection of the structural components. The structure will also be required to meet the Kentucky Building Code prior to issuance of a building permit. Mr. Carman added that the petitioner has met with Captain Lengal and worked out the details of the emergency access gate, which will be operated by emergency vehicles only, in compliance with the standards of the Division of Fire and Emergency Services.

Mr. Carman said that the proposed development will meet the open space requirements, with open space proposed that more than meets the local market conditions. The bike and pedestrian planner weighed in on the sidewalk widths, and the current plan reflects his input in what is expected to be an area with high pedestrian traffic.

Commission Question: Ms. Plumlee asked what type of screening would be provided for the surface parking lot. Mr. Carman answered that the petitioner has not depicted screening details for that area, but that landscaping would be provided to meet the requirements of Article 18 of the Zoning Ordinance. The parking lot will be secured with an ornamental fence, also in compliance with the Ordinance, in addition to the emergency access gate.

Action: A motion was made by Ms. Richardson, seconded by Mr. Berkley, and carried 8-0 (Brewer, Drake, and Owens absent) to approve DP 2015-111, subject to the 16 revised conditions as recommended by staff.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, November 5, 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, Carolyn Richardson, and Bill Wilson. The Committee members reviewed applications and made recommendations as noted.

A. PUBLIC HEARINGS ON ZONING MAP AMENDMENTS

1. H & J PROPERTIES OF LEXINGTON, LLC, AND TLJ PROPERTIES OF LEXINGTON, LLC, ZONING MAP AMENDMENT & FAIRLAWN SUBDIVISION, LOTS 19-22, ZONING DEVELOPMENT PLAN

- a. MARV 2015-22: H & J PROPERTIES OF LEXINGTON, LLC, AND TLJ PROPERTIES OF LEXINGTON, LLC (1/3/16)* – petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 1.538 net (2.069 gross) acres, for property located at 1400, 1402 and 1412 North Broadway. 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 Comprehensive Plan also encourages growing successful neighborhoods (Theme A) through adaptive reuse that respects the area's context and design features (Goal 2.a.); and creating jobs and prosperity (Theme C), with emphasis on creating jobs near where people live (Goal 1.d.).

The petitioners propose to rezone the property to a Neighborhood Business (B-1) zone, utilizing the existing buildings and parking in order to expand the number of uses permitted on these properties.

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

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

1. The proposed zone change to a Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, and 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 re-using the existing buildings and parking for new uses.
 - 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 may provide a support or service use in the area that is not currently available.
2. The requested Neighborhood Business (B-1) zone is appropriate for this location since it is located directly across from the major tourist attraction currently located in the corridor.
3. With appropriate conditional zoning restrictions, the Neighborhood Business (B-1) zone will continue to provide an appropriate land use transition between the B-3 zoning across North Broadway (ball park) and the residential land uses further to the southeast of this location, promoting the Plan's emphasis on protecting existing neighborhoods.

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4. This recommendation is made subject to the approval and certification of ZDP 2015-22: Fairlawn Subdivision Lots 19-22, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
5. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:
 - a. Automobile Service Stations
 - b. Miniature Golf and Putting Courses
 - c. Car Washes
 - d. Outdoor Live Entertainment
 - e. Drive-through facilities.

These use prohibitions are appropriate and necessary to ensure that future development will be compatible with the character of the adjoining residential area by prohibiting uses that are generally auto-centric and create excessive noise and light disturbances.

b. REQUESTED VARIANCES

1. To eliminate the property perimeter screening along the southeast property line of 1400 N. Broadway.
2. To eliminate vehicular use area and property perimeter screening along the southwest property line at 1412 N. Broadway.
3. To substitute the 6' high fence required for property perimeter screening with a single row of 6' tall shrubs along the southeast property line at 1412 N. Broadway.

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

- a. Granting the requested variances will not adversely affect the public health, safety or welfare. It will not negatively alter the essential character of the general vicinity because landscaping has existed between the commercial office uses and residential properties for many years, and appropriate alternative screening will be provided to enhance the existing landscaping, where needed.
- b. The existing pattern of development of the property, along with some of the existing screening, creates the unique circumstances that justify consideration of an alternative screening pattern for the subject properties.
- c. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship because change in the topography on 1400 N. Broadway and the width of the existing drive aisle on 1412 N. Broadway present challenges in installing effective screening.
- d. The requested variances are not an unreasonable circumvention of the Zoning Ordinance, because alternative landscaping and screening (VUA screening, dumpster screening, and a 6' tall hedge in place of a fence) will be provided along the property boundaries where the variances are requested.
- e. The circumstances surrounding the requested variances are not the result of prior actions taken by this applicant, as no construction (or even building demolition) 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 properties B-1; otherwise, any Commission action of approval of these variances 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 required screening for the dumpster on 1412 N. Broadway shall be constructed prior to the issuance of a Zoning Compliance Permit, unless otherwise requested by the Division of Waste Management to not be installed for operational purposes.

- c. ZDP 2015-103: FAIRLAWN SUBDIVISION, LOTS 19-22 (H & J PROPERTY OF LEXINGTON, LLC & TLJ PROPERTY OF LEXINGTON, LLC) (1/3/16)*- located at 1400, 1402 and 1412 North Broadway.
(S. Mark McCain, RLA)

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. Denote height of buildings, in feet.
6. Provided the Planning Commission grants the requested variances.
7. Denote 20' building line on plan.
8. Denote nonconformity in the existing building(s) setback in the B-1 zone.

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9. Dimension exterior of all buildings.
10. Dimension access entrance and drive-through lane adjacent to Paris Avenue.
11. Dimension sidewalks internal to the site.
12. Resolve existing access to North Broadway.
13. Resolve lack of interior (landscape) tree plantings.

Zoning Presentation: Ms. Wade presented the staff report on this requested zone change, briefly orienting the Commission to the location of the subject properties, on the east side of North Broadway, between Loudon Avenue and New Circle Road. The property, which is comprised of three parcels, is located directly across from the Whitaker Bank ball park. The zoning in the immediate vicinity includes: B-1 across Withers Avenue; P-1 across Paris Avenue; and single family residential in the Fairlawn subdivision to the southeast. The area is characterized primarily by commercial development, but there is a mix of residential, professional office and business uses in the overall area between Loudon Avenue and New Circle Road.

Ms. Wade explained that there are currently three structures on the subject property, one of which has several vacancies. The petitioner is not proposing to modify the existing structures, but is requesting rezoning in order to permit new uses on the subject property. The larger property at 1412 North Broadway has "for rent" signs in place, which indicated to the staff a likelihood that the units could be filled if the rezoning were approved.

Ms. Wade displayed the following photographs of the subject property and surrounding area: 1) a view of the property at 1400 North Broadway, at the corner of Withers Avenue and North Broadway, which includes an existing house being used as a professional office; 2) a view along Withers Avenue toward the entrance to the ball park; 3) 1402 North Broadway, which is currently occupied by a veterinarian's office and an accessory structure; 4) a view from the corner of Paris Avenue and North Broadway of the property at 1412 North Broadway, which has a larger, L-shaped professional office building that includes a basement level accessible from the rear; and 5) a view down Paris Avenue. Ms. Wade noted that the subject properties comprise the entire block between Withers and Paris Avenues. The intersection of Withers Avenue and South Broadway is currently signalized.

With regard to the recommendations of the 2013 Comprehensive Plan, Ms. Wade stated that the subject property falls within subarea "D" of the Central Sector Small Area Plan (CSSAP), approved just a few years ago. The CSSAP provided some guidance to the staff in reviewing this application, including encouraging redevelopment and investment in the study area; it also recommended sidewalk improvements along North Broadway, which the petitioner is proposing with their corollary development plan. The petitioner opines that the proposed rezoning is in agreement with the Goals & Objectives of the 2013 Comprehensive Plan, because it supports adaptive reuse and commercial activity, which is in line with Theme A, Goal 2; and, that existing neighborhoods will benefit from business and employment opportunities within walking distance. The staff found that retail uses, which are typical in the B-1 zone, would be appropriate directly across from the Lexington Legends ball park, since it is a major tourist attraction. The staff also considered that the B-1 zone would maintain an appropriate buffer for the residential neighborhoods to the south, as long as conditional zoning restrictions were put in place.

Ms. Wade explained that the staff is recommending prohibiting five land uses on the property, via conditional zoning, which were listed in the staff report and on the agenda. She said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, explaining that it proposes no major changes to the existing configuration on the property. The plan includes the existing structures and parking lots, with access from North Broadway and Paris Avenue. The access on North Broadway extends across the street frontage; one of the conditions for approval would require that access point to be constricted in order to make it safer and more efficient.

Mr. Martin said 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-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. Denote height of buildings, in feet.
6. Provided the Planning Commission grants the requested variances.
- ~~7. Denote 20' building line on plan.~~
- ~~8. Denote nonconformity in the existing building(s) setback in the B-1 zone.~~
- ~~7.9. Dimension exterior of all 2,000 square-foot two-story buildings at 1402 South Broadway.~~
- ~~10. Dimension access entrance and drive-through lane adjacent to Paris Avenue.~~

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- 8.14. Dimension sidewalks internal to the site for side and rear of building at 1412 South Broadway.
9.12. Resolve Denote timing of revision to existing access to 1402 North Broadway.
10.13. Resolve lack of interior (landscape) tree plantings for 1412 North Broadway.
11. Discuss plan status.

He noted, with regard to condition #11, that the staff discussed with the petitioner the possibility of making this a Final Development Plan, since so few physical changes are proposed; but the petitioner indicated that they would prefer to maintain it as a preliminary development plan.

Variance Presentation: Mr. Emmons presented the requested variances, all of which apply to landscaping for the property. The petitioner is requesting to eliminate the zone-to-zone screening along the property boundary for 1400 North Broadway, at the corner of Withers Avenue; eliminate zone-to-zone screening at 1412 North Broadway; and substitute a different type of screening along most of the property line for 1412 North Broadway. The property at 1402 North Broadway meets all of the landscaping requirements, so no variances were necessary.

Mr. Emmons explained, with regard to the first requested variance, that there is a significant grade difference between the subject property and the adjoining parcel. That is part of the reason for the petitioner's request to eliminate zone-to-zone screening, which would require a 6' fence, in that location. The petitioner is proposing to install vehicular use area screening instead, which would include a 3' hedge. The staff believes that, along with the grade change, a 3' hedge would provide an adequate buffer.

The second requested variance, Mr. Emmons said, would apply to the rear property boundary at 1412 North Broadway. Zone-to-zone screening is required at that location; and, although some vegetation is present, it is located on the adjoining residential property. The petitioner opines that, because the building is located 20' from the property line, it would be more appropriate to keep that area free from landscaping for safety reasons. The Division of Fire and Emergency Services staff concurred.

Mr. Emmons stated that the third proposed variance would apply to the boundary to the rear of the parking lot at 1412 North Broadway. Article 18 of the Zoning Ordinance would require a 6' fence or hedge plus trees in that location; the petitioner is proposing to install a 6' hedge instead, along with the required trees. The staff believes that will be adequate, and will provide a more attractive, "softer" buffer for the adjoining residential properties than would a privacy fence. Mr. Emmons said that the staff is recommending approval of all three requested variances, for the reasons as listed in the staff report and on the agenda.

Petitioner Representation: Peter Brown, attorney, was present representing the petitioner. He stated that the petitioner was in agreement with the staff's recommendations, and he requested approval.

Citizen Comment: Although there were citizens present, none wished to comment on this request.

Zoning Action: A motion was made by Mr. Berkley, seconded by Mr. Penn, and carried 8-0 (Brewer, Drake, and Owens absent) to approve MARV 2015-22, for the reasons provided by staff.

Variance Action: A motion was made by Mr. Berkley, seconded by Mr. Penn, and carried 8-0 (Brewer, Drake, and Owens 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. Berkley, seconded by Mr. Penn, and carried 8-0 (Brewer, Drake, and Owens absent) to approve ZDP 2015-103, subject to the revised conditions as listed, deleting #11.

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

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

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

IX. **MEETING DATES FOR December, 2015**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 3, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	December 3, 2015
Subdivision and ND-1 Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	December 10, 2015
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 16, 2015
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers	December 17, 2015

X. **ADJOURNMENT** – There being no further business, Vice-Chair Cravens declared the meeting adjourned at 2:29 p.m.

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TLW/TM/CT/BJR/BS/src

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