

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

December 17, 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, Vice-Chair; David Drake; Karen Mundy; Frank Penn; Carolyn Plumlee; Joe Smith (departed at 4:54 p.m.); and Bill Wilson. Absent were Patrick Brewer, Mike Owens, and Carolyn Richardson.

Planning staff members present: Jim Duncan, acting Director; Bill Sallee; Max Conyers; Traci Wade; Tom Martin; Brandi Peachler; and Stephanie Cunningham. Other staff members present were: Tracy Jones, Department of Law; Casey Kaucher, Division of Traffic Engineering; Hillard Newman, Division of Engineering; Tim Queary, Urban Forester; and Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 7-0 (Brewer, Drake, Owens, and Richardson absent) to approve the minutes of the November 19, 2015, meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

- a. **ANDERSON BRIDGEWATER, LLC, ZONING MAP AMENDMENT & ANDERSON 2 SUBDIVISION (AMD.) ZONING DEVELOPMENT PLAN**

- a. MAR 2015-27: ANDERSON BRIDGEWATER, LLC (3/1/16)* - petition for a zone map amendment from an Expansion Area Residential-1 (EAR-1) zone to an Expansion Area Residential-3 (EAR-3) zone, for 12.32 net (12.51 gross) acres, for property located at 425 Chilesburg Road.

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) by expanding housing choices (Goal #1), supporting infill and redevelopment as a strategic component of growth (Goal #2), and providing well-designed neighborhoods and communities (Goal #3). In addition, the Plan calls for maintenance of the boundaries of the Urban Service Area (Theme E, Goal #3).

The subject property is located within the Expansion Area, more specifically Subarea 2C. The Expansion Area Master Plan recommends Expansion Area Residential-1 future land use for the subject property, with a Special Design Area along Chilesburg Road. The Expansion Area Residential-1 land use would permit a maximum of three dwelling unit per gross acre of land.

The petitioner proposes a high density residential development with townhouses and a clubhouse in the southern portion of the subject property near Chilesburg Road (17 dwelling units), and an apartment complex in the northern portion of the site (192 dwelling units), for a total of 209 dwelling units and a residential density of 16.71 units per gross acre.

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

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

1. The proposed rezoning to Expansion Area Residential-3 is not in agreement with the Expansion Area Master Plan (for Expansion Area 2C), which is an element of the adopted 2013 Comprehensive Plan. High-density residential development was not envisioned for land that adjoined the Urban Service Area boundary at that time (including the subject property), in order to respect the established residential neighborhoods, such as Andover Hills.
2. An adequate transition between land uses, specifically Andover Hills subdivision and the future Tucker Property development, has not been established to create a well-designed community as recommended by Theme A, Goal #3 of the 2013 Comprehensive Plan.
3. Chilesburg Road, an existing two-lane rural roadway, has been designated by the Expansion Area Master Plan and the Zoning Ordinance as a Rural Scenic Roadway, which cannot be improved. The staff is concerned that the existing roadway may not be adequate to handle the proposed increase in density at this location, as no traffic impact study has been performed for this zone change.

- b. ZDP 2015-118: ANDERSON 2 SUBDIVISION (AMD) (3/1/16)* - located at 425 Chilesburg Road.

(Barrett Partners)

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

Note: The purpose of this amendment is to change single family development to multi-family residential.

The Subdivision Committee Recommended: Postponement. There were some questions regarding the street termination, compliance with the EAMP Stormwater Master Plan, and the proposed apartment buildings' orientation to the adjacent R-1D zone.

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

1. Provided the Urban County Council rezones the property EAR-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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Denote lot coverage and floor area ratio in site statistics.
9. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
10. Correct FEMA FIRM reference to the current maps.
11. Discuss street termination proposed (and possible need for waiver).
12. Discuss compliance with Article 23A-2(o) of the Zoning Ordinance and note #13.
13. Discuss note #19 and compliance with the EAMP Stormwater Master Plan.
14. Discuss note #20 and access to Jacobson Park.
15. Discuss proximity of proposed apartment buildings adjacent to R-1D zoned properties.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He requested a one-month postponement of this item.

Citizen Comments: Nathan Billings, attorney, was present representing the members of the Still Meadow Homeowners Association. He said that his clients would like for the Planning Commission to encourage the petitioner to meet with homeowners in the area and discuss alternatives to the development plan well in advance of the January 28th meeting, in order to reach a compromise if possible.

Action: A motion was made by Ms. Mundy, seconded by Mr. Penn, and carried 7-0 (Brewer, Drake, Owens, and Richardson absent) to postpone MAR 2015-27 to the January 28, 2016, Planning Commission meeting.

b. **STRONGBOX, LLC, ZONING MAP AMENDMENT & MAN O' WAR DEVELOPMENT, UNIT 2A, LOTS A-2 & A-3 (AMD.) ZONING DEVELOPMENT PLAN**

- a. MARV 2015-28: STRONGBOX, LLC (3/1/16)* - petition for a zone map amendment from an Interchange Service Business (B-5P) zone to a Light Industrial (I-1) zone, for 3.08 net (6.35 gross) acres, for property located at 1973 Bryant Road.

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, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes a Light Industrial (I-1) zone in order to operate an establishment for the display, sale, service and minor repair of all-terrain vehicles (ATVs) and motorcycles on the subject property. The site is currently vacant, and would require only minor modifications in order for the proposed use to occupy the site.

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

The Staff Recommends: Approval, for the following reason:

1. A restricted Light Industrial (I-1) zone is in substantial compliance with the 2013 Comprehensive Plan, for the following reasons:
 - a. The site has been an underutilized site after more than two decades of B-5P zoning and a decade of failed restaurants. The property should be considered for a possible change to an alternative business zone (and use) in order to better serve the needs of the community within the Urban Service Area.

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- b. The proposed zoning and land use are generally compatible with the nearby "motorsports node" that has developed along Bryant Road. Conditional zoning restrictions to limit uses that may disturb visitors and guests in the adjacent hotels would be appropriate for the subject property to ensure land use compatibility.
- c. The proposed redevelopment will be able to use the existing infrastructure and transportation networks (which are adequate to serve the use), and the proposed land use will not impair existing environmental conditions on the site. This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 4: "Protecting the Environment," and Chapter 6: "Improving a Desirable Community."
- 2. This recommendation is made subject to approval and certification of ZDP 2015-120: Man o' War Development, Unit 2A, Sec. 2, Lots A-2 & A-3 (Amd), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- 3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:

Prohibited Uses

- a. Ice plant.
- b. Tire re-treading and recapping.
- c. Machine shop.
- d. Outdoor kennels.
- e. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment; contractor equipment; travel trailers; mobile homes; and/or precut, prefabricated or shell homes.
- f. Outdoor storage of supplies or materials.
- g. Auto-parts rebuilding; battery manufacturing; dextrine and starch manufacturing; enameling, lacquering and japanning; electric foundry; radium extraction; and tool manufacturing.
- h. Vehicle storage yards.
- i. Truck terminals.
- j. Advertising signs, also known as billboards, as regulated and defined by Article 17.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property. Such uses could have a negative impact on the nearby hotels related to noise and their hours of operation.

b. REQUESTED VARIANCE

- 1. Eliminate the property perimeter landscaping (zone-to-zone screening) for the entire property.

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

- a. Granting the requested variance will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public; conversely, if the required zone-to-zone screening were in place, this site would be out of character with the general vicinity.
- b. There are special circumstances that apply to this property that do not generally apply to land in the general vicinity: 1) there will be a business to business relationship with the adjacent B-5P zoned properties, and uses that would traditionally be a nuisance to the adjacent properties will be prohibited via conditional zoning; and 2) there are existing impediments on the subject property that greatly restrict the applicant from installing the full extent of the required landscaping, including an existing building, parking, and a large detention basin.
- c. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship for the applicant because of the limited space available. The applicant intends to retain the existing vehicular use area screening, which will be a sufficient buffer for this property based on the unique circumstances of this request.
- d. The circumstances surrounding the requested variance 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 property I-1; 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 variance that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
- c. ZDP 2015-120: MAN O' WAR DEVELOPMENT, UNIT 2A, SEC. 2, LOTS A-2 & A-3 (AMD) (1/31/16)* - located at 1973 Bryant Road. **(EA Partners)**

Note: The purpose of this amendment is to change the use of the property from a restaurant to retail sales of vehicles, and to revise parking.

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

1. Provided the Urban County Council rezones the property I-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Denote height of building, in feet.
7. Dimension area between sidewalk and parking lot.
8. Dimension sidewalks internal to the site.
9. Dimension area between west parking lot and building.
10. Addition of purpose of amendment note.
11. Discuss relocating fence to inside of landscape islands to better comply with Article 18 of the Zoning Ordinance.
12. Discuss display area fencing and compliance with Article 18 of the Zoning Ordinance, per Article 16-4(b)(5) of the Zoning Ordinance.
13. Discuss perimeter screening along the eastern property line, per Article 18 of the Zoning Ordinance.
14. Discuss plan status.

Petitioner Representation: Nick Nicholson, attorney, was present representing the petitioner. He said that the staff had recently received word from the property owner, who had some concerns about the proposed zone change. Since it would not be advisable for the Planning Commission to act without the full consent of the property owner, the petitioner would like to request a one-month postponement of this item.

Action: A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 7-0 (Brewer, Drake, Owens, and Richardson absent) to postpone MARV 2015-28 to the January 28, 2016, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, December 3, 2015, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Joe Smith, Mike Owens, 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, Traci Wade, Cheryl Gallt, Denice Bullock, Kelly Hunter, Dave Jarman, Scott Thompson, Harika Suklun, and Brandi Peacher, as well as Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Andrea Brown, 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.*

1. **PRELIMINARY SUBDIVISION PLANS**

- a. PLAN 2006-250P: HILLENMEYER PROPERTY, UNIT 1 (3/1/16)* – located on Sandersville Road (a portion of).
(Council District 2) **(EA Partners)**

Note: The Planning Commission postponed this item at their December 10, 2015, meeting. The Planning Commission originally approved this plan on December 14, 2006, 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 required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Greenspace Planner's approval of the treatment of greenways/bike trails.
7. Environmental Planner's approval of environmentally sensitive area(s).
8. Complete labeling of street cross-sections.
9. Kentucky Transportation Cabinet's approval of Greendale Road right-of-way and/or improvements.
10. Delete note #19.
11. Denote: There shall be no access to Greendale Road and Sandersville Road except at approved street intersections.

This plan was certified on January 5, 2007, but its approval had since expired. The Planning Commission reapproved this plan on September 13, 2012, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.
5. Urban Forester's approval of tree preservation plan and required street tree information.

Note: This plan was certified on December 21, 2012, and now the applicant is requesting an extension of that approval.

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The Staff Recommends: **Postponement**. There has been no documentation provided by the applicant as to the “progress ... made in the physical construction of improvements” for this development over the past year.

- b. PLAN 2012-99P: HILLENMEYER PROPERTY, UNIT 2 (3/1/16)* - located at 2405 Sandersville Road.
(Council District 2) **(EA Partners)**

Note: The Planning Commission postponed this item at their December 10, 2015, meeting. The Planning Commission originally approved this plan on October 11, 2012, 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 protection plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Denote greenway/floodplain area per note #10 from ZDP 2005-161.
9. Denote record plat reference for adjacent properties (Non Building Minor "N-10").
10. Denote that KU pole line easement will be relocated by underground electric service.
11. Denote access to detention basins to the approval of the Division of Water Quality.
12. Resolve the scope of building permit restrictions in relation to access to Greendale Road and Sandersville Road.
13. Resolve stone walls in relation to proposed road improvements.

Note: This plan was certified on December 21, 2012, and now the applicant is requesting an extension of that approval.

The Staff Recommends: **Postponement**. There has been no documentation provided by the applicant as to the “progress ... made in the physical construction of improvements” for this development over the past year.

- c. PLAN 2012-100P: SFH PROPERTY (3/1/16)* - located at 2373 Sandersville Road.
(Council District 2) **(EA Partners)**

Note: The Planning Commission postponed this item at their December 10, 2015, meeting. The Planning Commission originally approved this plan on October 11, 2012, 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 protection plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Addition of note #10 from the Preliminary Development Plan referencing the Division of Emergency Management and fuel tanks.
9. Correct note #7 to the approval of the Division of Water Quality.
10. Resolve proposed widening of Sandersville Road in relation to existing stone wall.
11. Denote that access to detention basin on adjacent property will be to the approval of the Division of Water Quality.
12. Resolve the scope of building permit restrictions in relation to access to Greendale Road and Sandersville Road (requiring two access points for emergency services).
13. Resolve landscaping and trail location at the time of Final Record Plat.

Note: This plan was certified on December 21, 2012, and now the applicant is requesting an extension of that approval.

The Staff Recommends: **Postponement**. There has been no documentation provided by the applicant as to the “progress ... made in the physical construction of improvements” for this development over the past year.

Staff Presentation: Mr. Sallee presented renderings of PLAN 2012-100P, PLAN 2012-99P and PLAN 2006-250P, since all three plans are for adjoining properties. Displaying an aerial photograph, he briefly oriented the Commission to the location of the subject properties near the intersection of Sandersville Road and Greendale Road, on the north side of Sandersville Road, across from the Spring Valley Country Club. The properties are also immediately adjacent to the existing Hillenmeyer Landscaping company property on Sandersville Road.

Mr. Sallee stated that these three preliminary subdivision plans were approved several years ago by the Planning Commission. PLAN 2006-250P refers to the property at the corner of Sandersville Road and Greendale Road; PLAN 2012-99P refers to the directly adjoining property along Sandersville Road; and PLAN 2012-100P adjoins the PLAN 2012-99P property on the other side (to the east). The plans were approved in 2006 and 2012, and were certified in December,

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2012. Mr. Sallee explained that, under the Land Subdivision Regulations, preliminary subdivision plans are considered active for three years, to allow the petitioners to submit improvement plans to the Division of Engineering, and final record plats to the Planning Commission. For these three plans, the three-year period expires next week, and the petitioner is requesting a one-year extension of the Planning Commission's approval.

Mr. Sallee stated that these plans were recommended for postponement at the Planning Commission's meeting one week ago, since no documentation had been provided detailing the work that had been performed on the properties over the past year. The staff has since received a letter from the petitioner, outlining the work that has been done at this location. Copies of the approved grading plan were provided to the Commission members for their review, along with an email from the Division of Engineering, detailing the state's authorization of the site work that has been done.

Mr. Sallee stated that this information has allowed the staff to provide the necessary finding for the Commission's action of approval for the extensions of these plans. He noted that the three plans include a number of lots in residential zones: 181 lots for the oldest plan; 238 lots for the middle parcel; and 79 lots for the other parcel. The staff expects that final record plats will be submitted for these parcels over the next several years. Mr. Sallee said that the staff is recommending approval of a one-year extension for these three plans, subject to the Commission adopting the necessary findings.

Commission Question: Mr. Penn asked if the three plans should be acted upon separately, or together. Mr. Sallee said either action would be appropriate, but asked that the Commission ensure that the findings are adopted.

Petitioner Representation: Rory Kahly, EA Partners, was present representing the petitioner. He said that the petitioner is in agreement with the staff recommendation, and he requested approval.

Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 8-0 (Brewer, Owens and Richardson absent) to approve PLAN 2006-250P, PLAN 2012-99P, and PLAN 2012-100P, subject to the findings as provided by staff.

2. FINAL DEVELOPMENT PLANS

- a. DP 2015-99: WILLOW OAK SHOPPING CENTER (MILLPOND CENTER) (AMD) (1/3/16)*- located at 3560 Boston Road.
(Council District 9) **(The Roberts Group)**

Note: The Planning Commission postponed this item at their November 12, 2015, and December 10, 2015, meetings. The purpose of this amendment is to add 1,200 sq. ft, revise the parking to add eight (8) covered spaces, add a pharmacy drive-through, correct parking calculations and add a new access to Man o' War Boulevard.

The Subdivision Committee Recommended: **Postponement.** There were some questions regarding the zoning of the property proposed for the new access location.

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. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
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. Addition of sidewalks and crosswalks to Man o' War Boulevard.
12. Correct owner's certification.
13. Provided the Planning Commission approves a waiver to Article 6-8(q)(3)(b) of the Land Subdivision Regulations.
14. Remove business names from plan.
15. Discuss A-U zoning on property to be used as access point.

Staff Presentation: Ms. Gallt presented a rendering of this final development plan, noting that the purpose of this amendment is to add floor area to the existing Kroger store. She briefly oriented the Commission to the location of the subject property at the intersection of Boston Road and Man o' War Boulevard.

Ms. Gallt said that the petitioner would like to add square footage to the Kroger store; a drive-through lane for the pharmacy; and several pickup stalls for their new online ordering system. The Subdivision Committee originally recommended postponement, due to concerns about the proposed right-in/right-out access to Man o' War Boulevard. With regard to the conditions for approval, Ms. Gallt said that #15 refers to an issue with the small portion of the property

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that is zoned A-U, which is the proposed location for the right-in/right-out access. The Law Department staff has not found any case law to prohibit the use of that property for the access, so that condition could be deleted at this time.

Waiver Report Presentation: Mr. Martin presented the staff's report on the requested waiver, which is associated with the proposed right-in/right-out access. He noted that the shopping center currently has two accesses to Boston Road, one of which is signalized.

Mr. Martin explained that the petitioner is requesting a waiver in order to construct a right-in/right-out access point to be located approximately 460' from the signalized intersection at Boston Road and Man o' War Boulevard. There is an existing median on Man o' War Boulevard, which, in the staff's opinion, is necessary for proper control of right-in/right-out accesses. Referring to the rendered development plan, Mr. Martin noted that the design of the right-in/right-out had been modified somewhat from what was originally proposed, due to concerns expressed by Traffic Engineering about pedestrian safety and the lack of a slip lane. Traffic Engineering staff would prefer for drivers to be required to stop prior to exiting the right-in/right-out access onto Man o' War Boulevard. The proposed 460' distance from the Man o' War Boulevard/Boston Road intersection is somewhat shorter than the two similar accesses recently approved by the Planning Commission, which were approximately 800' from the nearest intersection. Mr. Martin said that the staff is recommending approval of the requested waiver, for the following reasons:

1. The requested intersection waiver will have no negative impact on public safety to vehicles or pedestrians, which is consistent with the basic intent of the Land Subdivision Regulations.
2. Strict enforcement of the access spacing requirements would constitute a hardship for the applicant and potentially could have a negative impact on public safety due to existing and increasing traffic pressures in the area of Boston Road and Man o' War Boulevard.

The staff's recommendation of approval is made subject to the following additional requirement:

- a. A proposed de-acceleration lane for the right-in entrance to the subject site must be designed to the approval of the Division of Traffic Engineering.

Petitioner Representation: Nick Nicholson, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations.

With regard to the requested waiver, Mr. Nicholson stated that the petitioner has met the design requirements of the Division of Traffic Engineering. The proposed location of the right-in/right-out access is the only area on the property that could feasibly accommodate it, due to the steep grade change from Man o' War Boulevard to the site. The location of the right-in/right-out will also help to mitigate stormwater runoff, since additional infrastructure will be installed in an area where runoff has pooled in the past. Mr. Nicholson noted that the proposed right-in/right-out is in the center of the shopping area, not near the entrance or pedestrian areas, so there will be no need for internal stacking. The petitioner has added a 250' deceleration lane, off of the main drive aisles of Man o' War Boulevard, to provide for external stacking without impacting traffic on Man o' War Boulevard.

Mr. Nicholson said that the subject property has been used as a shopping center for over 20 years, and has been the subject of traffic concerns from neighbors and various LFUCG divisions. In order to ensure that the proposed right-in/right-out would be beneficial to the development, the petitioner commissioned a full traffic study. The results indicated that, in the AM peak, traffic moves poorly on Boston Road; in the PM peak, traffic slows on Man o' War Boulevard entering Boston Road. In particular, there are stacking issues with cars attempting to make left-hand turns onto the subject property, which causes backups from Boston Road onto Man o' War Boulevard. The petitioner's traffic study concluded that adding a right-in/right-out at the proposed location would greatly reduce stacking on Boston Road in the AM peak, and northbound Man o' War Boulevard during the PM peak hour.

Mr. Nicholson agreed that the spacing of the right-in/right-out from the Boston Road/Man o' War Boulevard intersection might not be ideal, but noted that it is not unique. There is a right-in/right-out with 389' spacing serving the Kroger shopping center near the intersection of Richmond Road and Man o' War Boulevard; a right-in/right-out serving the Wal-Mart shopping center with a 392' spacing from the Winchester Road/Sir Barton Road intersection; and a 409' spacing from the Polo Club Boulevard/Man o' War Boulevard intersection. The petitioner contends that the key to the success of these accesses is the appropriate design of the right-in/right-out, with deceleration lanes to safely move cars out of the traffic flow. This location also includes a median to prevent left turns into the right-in/right-out, and a hard stop into traffic on Man o' War Boulevard to enhance pedestrian safety.

Commission Questions: Ms. Plumlee asked how many of the large trees on the property will be lost with the construction of the right-in/right-out access. Mr. Nicholson answered that approximately five to eight trees would be lost. He said that tree protection plans are in place, and most of the trees will be maintained. He added that the petitioner had met with the Urban Forester, who had no concerns about their plan.

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Mr. Penn asked if the Boston Road access to the subject property was signalized. Mr. Nicholson answered that there is a signal at that location. Mr. Penn asked how the rear entrance to the development would be used. Mr. Nicholson responded that it is currently used by trucks accessing the shopping center, and as an alternative route for area residents. Mr. Penn explained that he is concerned that allowing additional such accesses to Man o' War Boulevard would eventually eliminate the limited-access nature of Man o' War Boulevard, making it similar to the congested north side of New Circle Road. Mr. Nicholson said that the major issue with that portion of New Circle Road is the number of vehicles making direct right turns out of traffic. He noted that the deceleration lane included in the proposed right-in/right-out should help to eliminate the impact on Man o' War Boulevard, since it will remove cars from the traffic flow.

Danny Lethco, real estate manager for Kroger, stated that the company is proposing to add a small bump-out space in front of the store to accommodate their online shopping program. The new pharmacy drive-through will not be attached to the building; rather, it will be located in the parking lot, and will operate with vacuum tubes similar to most bank facilities.

Mr. Lethco said that the Kroger store on the subject property has always been successful, but has never been great, due to its lack of direct access to Man o' War Boulevard. The petitioner believes that the proposed right-in/right-out is necessary for the continued success of the Kroger store and the shopping center as a whole.

Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens, Richardson absent; Mundy abstained) to approve DP 2015-99, including the requested waiver, subject to the conditions as recommended by staff, deleting condition #15.

- b. DP 2015-116: PRESTON ADDITION SUBDIVISION (ERIKA STRECKER PROPERTY) (AMD) (1/31/16)* - located at 601-613 W. Third Street, 610 King Street & 256 Newtown Pike. (Council District 2) **(Perkins Landscaping)**

Note: The Planning Commission postponed this item at their December 10, 2015, meeting. This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to add parking, building square footage and additional property to the Adaptive Reuse Project.

The Subdivision Committee Recommended: Postponement. There were some questions regarding the proposed uses for the expanded area of the Adaptive Reuse Project.

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. Remove "future patio" from 606 W. 3rd Street (zoned residential).
11. Denote lot coverage, floor area ratio and zoning in site statistics.
12. Remove future zone change information from legend.
13. Correct plan title.
14. Denote: Location of trail to be determined at the time of the final record plat.
15. Addition of stormwater quality note on plan.
16. Discuss proposed uses on expanded area (301-307 W. 3rd Street).
17. Discuss building #2 conflict with significant tree root zone.
18. Discuss compliance with Newtown Pike Landscape Corridor Ordinance.
19. Discuss compliance with public art component of the Adaptive Reuse requirements of the I-1 zone.

Staff Presentation: Mr. Martin presented a rendering of this amended development plan, briefly orienting the Commission to the location of the subject property on Newtown Pike, near its intersection with West Third Street. The property is currently being used as the Blue Stallion Brewery as part of an Adaptive Reuse Project, which was approved previously by the Planning Commission.

Mr. Martin explained that the purpose of this amendment is to construct a two-story addition to the existing building on the property, and to expand the parking. The addition is proposed to be just over 4,000 square feet (per floor) in size. The petitioner is also proposing a second phase addition to the property, but no tenant has yet been identified; the Planning Commission would be required to approve an amendment to the plan prior to any construction of the phase two portion. Referring to the rendered development plan, Mr. Martin also noted the location of the existing parking across East Third

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Street, which is key to this development. He also noted the location of a significant tree on the property, closer to Newtown Pike and Georgetown Street.

With regard to the conditions for approval, Mr. Martin said that this plan is a revised submission, and several of the original conditions had been satisfied. The reason for the postponement of this plan was the sign posting requirement for Adaptive Reuse Projects. The petitioner failed to post the sign in time for the Commission's December 10th meeting, but it has since been posted, and an affidavit of such will be filed with staff. The staff is recommending 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. 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. Remove "future patio" from 606 W. 3rd Street (zoned residential).~~
- ~~11. Denote lot coverage, floor area ratio and zoning in site statistics.~~
- ~~12. Remove future zone change information from legend.~~
- ~~13. Correct plan title.~~
- ~~14. Denote: Location of trail to be determined at the time of the final record plat.~~
- ~~15. Addition of stormwater quality note on plan.~~
- ~~16. Discuss proposed uses on expanded area (301-307 W. 3rd Street).~~
- ~~10.17. Discuss building #2 conflict with Denote that significant tree root zone will be addressed per the Urban Forester's requirements, or remove proposed addition from the root zone.~~
- ~~18. Discuss compliance with Newtown Pike Landscape Corridor Ordinance.~~
- ~~11.19. Discuss compliance with public art component of the Adaptive Reuse requirements of the I-1 zone.~~

Mr. Martin said that condition #10 refers to the significant tree on the property; construction of the proposed addition could potentially impact the root zone. Condition #11 refers to the public art component of the Adaptive Reuse Project, which the petitioner chose as one of the means to meet the requirements for such a project. The petitioner will need to demonstrate continued compliance with that requirement. The petitioner has indicated that they intend to move the existing public art; the staff is recommending that timing be required, in order to ensure that documentation of that required element is in place. Mr. Martin said that the staff would be comfortable with denoting compliance with that requirement, tied to a timing element for the restaurant addition.

Commission Question: Ms. Mundy asked if the pedestrian access is provided to the subject property through the parking area. Mr. Martin answered that those concerns were discussed at the time of the development of the property. He noted that ADA-compliant ramps are provided on the property, and that there were some discussions with the Division of Traffic Engineering about the provision of a crosswalk.

Representation: Johnathan Perkins, Landscape Architect, was present representing the petitioner, and submitted the affidavit for the required sign posting. He said that the petitioner had met with the staff, and had dealt with the majority of the discussion items related to this plan. Mr. Perkins noted that the public art element is in place on the subject property, and it will remain.

Commission Questions: Ms. Mundy asked about the walkability of the property and connectivity to the parking area. She said that she was concerned about the safety of pedestrians, particularly given that the subject property is occupied by a brewery. Erika Strecker, petitioner, stated that Third Street is one way at this location; with the previous plan, she added a crosswalk at Henry Street, along with the aforementioned ADA-compliant ramps. With regard to the public art component, Ms. Strecker said that there are four pads on the site to accommodate the relocation of the two pieces of public art.

Mr. Penn asked how pedestrians are discouraged from crossing from the parking lot outside of the crosswalk area. Mr. Perkins answered that, at the time of the development of the property in 2012, the recommendation from the Division of Traffic Engineering was to create a crosswalk at the Henry Street intersection, rather than mid-block, because mid-block crossings are seldom used. The opposite end of the street is also the location of a railroad crossing, so it would not be appropriate for a crosswalk. Mr. Penn asked if the situation should be improved at this point. Ms. Strecker noted that, because the street is one way, pedestrians have ample time to see traffic coming prior to crossing the street. Mr. Penn noted that, in other cities, he had seen lighted mid-block crosswalks that appeared to be easier for pedestrians to navigate. Ms. Kaucher stated that the Division of Traffic Engineering still believes that the Henry Street crosswalk is the

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best option for the subject property, although she noted that some pedestrians still cross mid-block. She said that the Henry Street/Third Street intersection does not have stop controls, so she would not recommend installing a crosswalk there.

Mr. Berkley asked if the situation could be improved by providing signage at the northernmost intersection, denoting the upcoming crosswalk. Ms. Kaucher opined that that type of signage could be used, but the Division of Traffic Engineering strives not to over-use it, preferring instead to use it only for crosswalks with large numbers of pedestrians. She said that, based on the number of pedestrians accessing the subject property, it could be done, but the Traffic Engineering staff would need to see if the location meets the required warrants.

Mr. Penn said that he hated to lose this opportunity to provide improvements to pedestrian safety at this location. Mr. Cravens suggested adding a 12th condition to resolve the crossing at the time of a Final Development Plan for the property.

Mr. Berkley asked if the railroad crossing acts as traffic calming at this location. Ms. Kaucher said that it does, and added that one-way traffic also helps to improve the safety for pedestrians. She noted that adding lighting to the crosswalk could also provide for additional pedestrian safety.

Mr. Sallee suggested deleting existing condition #11, and adding a new condition to read: "Resolve pedestrian improvements to West Third Street prior to certification." He added that the addition of that condition might not result in any changes to the property, but it would provide notice that the issue warrants additional consideration.

Ms. Mundy asked if there were any ways to make drivers aware of the pedestrians in the area. Ms. Kaucher said that signage could be added, but she would prefer to create a design that will work rather than just add signage.

Action: A motion was made by Mr. Berkley, seconded by Mr. Drake, and carried 8-0 (Brewer, Owens, and Richardson absent) to approve DP 2015-116, subject to the 10 conditions as listed, adding a new 11th condition to read:

11. Resolve pedestrian improvements prior to certification.

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

A. ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS

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

The procedure for these hearings is as follows:

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

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

The procedure for these hearings is as follows:

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

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

1. KENTUCKY HILL PROPERTIES, LLC, ZONING MAP AMENDMENT & BURKE, HOCKENSMITH & MAGGARD (GEORGETOWN ROAD) ZONING DEVELOPMENT PLAN

- a. MAR 2015-23: KENTUCKY HILL PROPERTIES, LLC (1/3/16)* - petition for a zone map amendment from a Light Industrial (I-1) zone to a Highway Service Business (B-3) zone, for 7.5 net (10.25 gross) acres, for property located at 1803 Georgetown Road.

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 Comprehensive Plan identifies the need to protect and provide readily available economic development land to meet the need for jobs (Theme C: Creating Jobs and Prosperity), as well as encouraging development in a compact and contiguous manner (Theme E: Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land).

The petitioner proposes a Highway Service Business (B-3) zone in order to develop approximately 46,500 square feet of retail and restaurant space, and associated off-street parking.

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommended: Disapproval. for the following reasons:

1. The requested Highway Service Business (B-3) zone is not in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. Theme C: "Creating Jobs and Prosperity" identifies the need to protect and provide readily available economic development land to meet the need for jobs. The B-3 zone is not considered an appropriate zone for job creation.
 - b. Goal #1b. of Theme E encourages compact and contiguous development as guided by market demand to accommodate future growth needs. The west side of the Georgetown Road corridor is primarily industrial in nature, and such markets typically develop at a slower pace. A significant portion of the land between Georgetown Road and the CSX railroad line (to the west), and between New Circle Road and Spurr Road, is prime "jobs land" that is either developed or is in the process of being developed; thus, demand does exist for industrial land use in the immediate area.
 - c. 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. The proposed B-3 zone would introduce incompatible land uses to this area, while two larger tracts are already available for neighborhood-oriented business at the intersection of Georgetown Road and Citation Boulevard.
 2. The existing restricted Light Industrial (I-1) zone remains appropriate at this location because it is compatible with the adjoining land uses. The subject property has been recommended for Light Industrial land use for four decades and, in addition, the I-1 zone is able to fulfill the goal of increasing opportunities for employment locations within the urban county.
 3. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support B-3 zoning for the subject property.
- b. ZDP 2015-102: BURKE, HOCKENSMITH & MAGGARD (GEORGETOWN ROAD DEVELOPMENT) (1/3/16)*- located at 1803 Georgetown Road. **(Vision Engineering)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding the proposed access to Georgetown Road complying with the required spacing on an arterial roadway.

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

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Dimension buildings Denote floor area ratio per Article 21.

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- ~~7. Denote height of building, in feet.~~
- ~~8. Dimension sidewalks.~~
- ~~7.9. Delete Correct notes #5, #10, #12 and #13.~~
- ~~10. Clarify Atoma cul-de-sac right-of-way and property's lot line.~~
- ~~11. Correct parking statistics to denote required and provided numbers.~~
- ~~12. Denote area of site included in Royal Spring Aquifer recharge area.~~
- ~~8.13. Denote Division of Water Quality's approval of the Capacity Assurance Program.~~
- ~~14. Clarify proposed uses in each structure, and revise parking statistics accordingly.~~
- ~~15. Denote 20' building line on plan.~~
- ~~8.16. Discuss existing tree canopy relative to no TPAs proposed.~~
- ~~9.17. Discuss proposed access to Georgetown Road and compliance with Article 6-8(q)(3) of the Land Subdivision Regulations.~~
- ~~10.18. Discuss improvements and/or right-of-way dedication to Sandersville Road.~~
- ~~11.19. Discuss pedestrian access, both internal and to the public right-of-way.~~

Zoning Presentation: Ms. Wade presented the staff report on this rezoning request, noting that the petitioner had provided two letters of support at the Zoning Committee meeting two weeks ago. She circulated those letters to the Commission members for their review, along with one letter of opposition received by the staff.

Ms. Wade briefly oriented the Commission to the location of the subject property at the northwest corner of the Georgetown Road/Sandersville Road intersection. Adjoining land uses include Light Industrial to the north and west; the Konner Woods subdivision and Imani Baptist Church, which are zoned R-3, to the south; and three single-family residential subdivisions across Georgetown Road. The area bordered by Spurr Road, New Circle Road, Georgetown Road, and the Norfolk Southern railroad line is primarily industrial, with a small pocket of residential use in the Konner Woods subdivision.

Ms. Wade stated that the petitioner is proposing to rezone the subject property to B-3 in order to develop approximately 50,000 square feet of retail and restaurant space, with associated off-street parking. The property was rezoned from Agricultural Urban (A-U) to Light Industrial (I-1) in 1998. Conditional zoning restrictions were placed on that property along with that rezoning, due to the location of a portion of the property within the Royal Spring Aquifer, which supplies water to the city of Georgetown. The conditional zoning restrictions also limited the use of the property in order to reduce the impact on the nearby residential developments.

Ms. Wade displayed the following photographs of the subject property and surrounding area: 1) an aerial view, noting that much of the area is built out; 2) an aerial view, noting the surrounding industrial uses; 3) a view toward the west, noting the single-family neighborhoods across Georgetown Road, and Konner Woods to the south; 4) a view toward downtown, indicating the location of vacant industrial land to the south, which includes a historic house.

With regard to the 2013 Comprehensive Plan, Ms. Wade said that it utilizes policy recommendations rather than relying on a specific land use map. She noted that previous Comprehensive Plans from 1976 to 2007 all recommended Light Industrial use for the property, which the staff believes is clearly reflective of the available infrastructure in the area and the compatibility of the land use. The 2013 Comprehensive Plan includes a chapter titled "Creating Jobs and Prosperity," which notes that the focus is to preserve jobs land and be more flexible in its use. "Jobs land" is typically defined as I-1, where things are manufactured or produced; P-1, where offices are located; P-2, which serves as a combination of industrial and professional; and ED, which is located in the Expansion Area. Ms. Wade quoted the following from the 2013 Comprehensive Plan:

"The community now carefully guards its urban jobs land, just as it does its rural farms."

Ms. Wade reported that the staff contends that the subject property is prime jobs land, located within an industrial corridor, and designated for the creation of jobs. Economic development groups in Lexington-Fayette County have repeatedly emphasized the need to maintain "shovel-ready" jobs land, including a joint project with the Mayor of Louisville to create an initiative for advanced manufacturing. The Comprehensive Plan notes that, since the 1990s, the inventory of jobs land has been depleted by over 500 acres, some of which was lost within the Georgetown Road corridor, as it was developed as the Konner Woods subdivision and Imani Baptist Church. Ms. Wade explained that the 2013 Comprehensive Plan also encourages compact and contiguous development as guided by market demand. The petitioner contends that the 7.5-acre subject property does not meet the needs of industrial land users. The staff did some research, however, and found that the average Light Industrial lot size is slightly less than three acres; lots range in size from less than an acre to almost 300 acres. Based on that research, the subject property could accommodate up to two "average" size industrial uses.

Ms. Wade stated that the Comprehensive Plan Goals & Objectives also encourage consideration of how proposals relate to development within the immediate vicinity, as well as protection of neighborhoods and residential areas from incompatible development. The proposed zone change would remove shovel-ready land from the existing inventory in

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order to provide neighborhood and/or highway-oriented business development. The petitioner contends that the Georgetown Road area is in need of commercial areas in close proximity to the existing industrial users, as well as the single-family residential neighborhoods. In considering the Georgetown Road corridor, the staff identified several pockets of existing business zoning, some of which have been developed, and some undeveloped. The New Circle Road/Georgetown Road intersection includes adjacent land with B-3 and B-1 zoning; there are two large sites to the north of the subject property which are vacant, and zoned B-3 and B-6P; there is also another B-3 site to the north along Georgetown Road, as well as a B-1 site at the intersection of Citation Boulevard and Greendale Road. Ms. Wade noted that it is the staff's belief that Georgetown Road serves as a buffer between commercial/industrial development on the west side, and a mix of uses, including residential, on the east side. This land is available and, in many cases, "shovel-ready," for the same type of development that the petitioner is proposing. The staff is concerned that, by allowing the proposed development on the subject property, an opportunity could be eliminated for a project that is already zoned on one of those other properties. The Gatton Trust owns 26 acres less than one mile to the north of the subject property; Meijer Stores owns 25 acres less than half a mile to the north; and Greendale Properties has 10 acres a mile to the west of the subject property.

Ms. Wade said that the staff cannot conclude that the proposed rezoning is in agreement with the 2013 Comprehensive Plan. In addition, the petitioner has not provided any evidence as to why the subject property would not be appropriate for industrial land use, other than the fact that it remains undeveloped. The staff is recommending disapproval of this request, because they cannot support the rezoning of the subject property to the B-3 zone, for the reasons as listed in the staff report and on the agenda.

Ms. Wade noted that the petitioner did submit the required traffic study with this request, which would be reviewed later in the staff's presentation.

Commission Questions: Mr. Drake asked if any of the other properties Ms. Wade mentioned were available for purchase. Ms. Wade answered that the Meijer property is not currently available for purchase; however, based on the letter of opposition from Greendale Properties, owner of the parcel at the intersection of Citation and Greendale, that property is currently available for development.

Mr. Wilson asked how many jobs should be created on a property in order to meet the Comprehensive Plan recommendation for "jobs land." Ms. Wade answered that Commerce Lexington had created a formula based on number of jobs per acre; the goal of their development on Innovation Drive was 60-70 jobs per acre. She added that not only the number of jobs, but also the rate of pay, figures into the calculations. Retail jobs would not typically be considered high-paying. Mr. Wilson said that the Lexington-Fayette County area has an existing high salary base, so it might be best to provide more lower-paying jobs.

Mr. Berkley said that he does not agree with the staff's assertion that the B-3 zone is not considered an appropriate zone for job creation. He asked Ms. Wade to explain the staff's position. Ms. Wade responded that the uses in the B-3 zone include retail, restaurants, car lots, hotels, and other uses that do not generate higher-paying jobs. Industry, advanced manufacturing, and other higher-paying jobs are the focus of groups like Commerce Lexington in making recommendations for jobs land. This community has a large number of existing retail and restaurant-type jobs available currently.

Development Plan Presentation: Mr. Martin noted that, in his past experience when designing industrial parks, they were not designed for retail or restaurant uses; rather they were intended as locations for better-paying jobs.

Mr. Martin presented the corollary zoning development plan, and stated that the petitioner is proposing several lots for the subject property, with various types of retail development totaling over 46,000 square feet of floor area, and nearly 300 parking spaces. One access is proposed to Sandersville Road, with two accesses each proposed for Georgetown Road and Atoma Drive. The Georgetown Road access furthest from the Sandersville Road intersection is proposed to have a deceleration lane; the nearest to the intersection is proposed to be right-in/right-out. Mr. Martin noted that there are no median controls in place on Georgetown Road, so the proposed right-in/right-out would require the cooperation of the Kentucky Transportation Cabinet (KYTC). The appropriate controls would be necessary to ensure that the intersection functions correctly. The petitioner has added a note to the plan, requesting that that issue be resolved at the time of a Final Development Plan for the property. In addition, the proposed right-in/right-out access would not meet the spacing requirements, so a waiver would be necessary.

Mr. Martin added, referring to the rendered development plan, that a portion of the subject property lies within the Royal Spring Aquifer. He said that higher development standards for runoff are in place to protect the aquifer in that area.

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

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1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Dimension buildings Denote floor area ratio in site statistics per Article 21-6 requirements.
7. Denote height of building, in feet.
8. Dimension sidewalks.
- 7.9. Delete Correct notes #5 #10, #12 and #13.
10. Clarify Atoma cul-de-sac right of way and property's lot line.
11. Correct parking statistics to denote required and provided numbers.
12. Denote area of site included in Royal Spring Aquifer recharge area.
- 8.13. Denote Division of Water Quality's approval of the Capacity Assurance Program.
14. Clarify proposed uses in each structure, and revise parking statistics accordingly.
15. Denote 20' building line on plan.
- 8.16. Discuss existing tree canopy relative to no TPAs proposed.
- 8.9.17. Discuss Resolve proposed access to Georgetown Road at time of Final Development Plan and compliance with Article 6 8(q)(3) of the Land Subdivision Regulations.
- 8.10. 18. Discuss Denote that improvements and/or right-of-way dedication to Sandersville Road will be resolved at time of the Final Development Plan.
- 11.19. Discuss pedestrian access, both internal and to the public right of way.

Mr. Martin stated, with regard to the revised conditions, that #8 refers to the considerable discussion that took place at the Subdivision Committee meeting two weeks ago about the need for dedication of right-of-way on Sandersville Road. He said that there was a great deal of concern about the Sandersville Road/Georgetown Road intersection, particularly with regard to appropriate vehicle stacking and turn lane depth. The staff does believe those issues can be successfully resolved at the time of a Final Development Plan for the property.

Traffic Impact Study Presentation: Max Conyers, Transportation Planning, presented the staff report on the required Traffic Impact Study (TIS). The staff reviewed the submitted TIS, and found that it met all the requirements of Article 6 of the Zoning Ordinance.

Mr. Conyers asked that the Planning Commission defer to the staff of the Division of Traffic Engineering and KYTC with regard to the previously expressed concerns about the proposed development plan. He noted that it will be important to maintain the integrity of Georgetown Road, which is a major arterial connecting Georgetown and Lexington-Fayette County. As accesses are added to arterials, their function often degrades; in some cases, service roads can be constructed to provide for additional access to individual lots.

Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioner, who contends that the existing I-1 zoning is no longer appropriate in the vicinity of the subject property, and the B-3 is appropriate. The petitioner is requesting the B-3 zone, rather than B-1, because the updated B-1 standards require that the building be located within 10 – 20 feet of the edge of the right-of-way. The petitioner did not believe that type of development would be appropriate on the subject property, due to its location on a five-lane, major arterial highway. The petitioner has proposed conditional zoning restrictions that would eliminate some of the more intense B-3 uses, based on discussions with residents in some of the nearby neighborhoods.

Mr. Murphy displayed an exhibit depicting existing industrial uses in the vicinity of the subject property. He said that the population within three miles of the property is 62,000, which is larger than the population of some cities in Kentucky. Also within three miles are approximately 15,000 jobs; however, there are very few retail and/or service businesses in the area to support those residents and employees. The petitioner conducted a survey to determine the nearest "meaningful" retail opportunity, which is Townley Center, 2.5 miles away on Leestown Road. Mr. Murphy said that, as part of a zone change in the area he worked on several years ago, he met with area residents who indicated that they would like to have a church and/or retail and service uses nearby to add to their neighborhood. The petitioner contends that the Konner Woods subdivision and Imani Baptist Church strengthened the area, and that the proposed development will as well.

Mr. Murphy said that the proposed development would include uses such as a pharmacy, bank, dry cleaner, beauty shop, and restaurants. Those businesses will support not only the residents of nearby neighborhoods, but the employees of the industrial uses in the vicinity as well. Companies in the area, including Big Ass Fans, which submitted a letter of support, have indicated that it would be helpful to have retail and service businesses on the subject property in order to serve their employees. Crown Lift Trucks and Kentucky Eagle Beer, which, combined with Big Ass Fans, have approximately 1,000 employees, also submitted letters in support of this request.

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Mr. Murphy stated that the petitioner had conducted a neighborhood meeting, after notifying the three nearest neighborhood associations as well as the Councilmember's office. Only four residents, who live nearest the proposed development across Georgetown Road, attended the meeting. They expressed their concerns to the petitioner, who attempted to address some of those issues via the proposed conditional zoning restrictions for the property. The petitioner has agreed to construct improvements on the north side of Sandersville Road, from Atoma Drive to Georgetown Road, including additional right-of-way and pavement, a right turn lane into the proposed development, and curbs, gutters, and sidewalks. The petitioner also agreed to provide additional screening for the property, and to limit all freestanding signage to 20 feet in height. Conditional zoning restrictions proposed include a prohibition of freestanding cocktail lounges and bars; under that restriction, only restaurants that derive more than 50% of their receipts from food would be permitted to serve alcohol. Carnivals and circuses, adult entertainment uses, billboards, and drive-in restaurants, such as Sonic Drive-in, would also be prohibited. Mr. Murphy noted that the petitioner also met with representatives of Imani Baptist Church, and that some of the conditional zoning restrictions were proposed to meet their concerns. Mr. Murphy said that the petitioner had also met with representatives of Commerce Lexington, who indicated that the subject property is too small to accommodate the types of uses they are targeting as part of their economic development efforts.

With regard to the history of the subject property, Mr. Murphy explained that it was purchased in 1998 by Magna International, a Canadian auto parts manufacturer. Following that purchase, the company decided to locate on a larger nearby parcel instead, so the property was sold to the Gibson Company, a local real estate firm. The subject property has remained vacant for the past 17 years, which, the petitioner contends, is an indicator of its inappropriateness for industrial use. The petitioner believes that the small size of the property, as well as the existing conditional zoning restrictions, might have contributed to its lack of development over the years.

Mr. Murphy said that storage, which is one of the permitted uses in the existing I-1 zone, would not be appropriate on the subject property. A storage facility is already located on an adjacent property, and would not be a desirable use to locate at a signalized intersection on one of the major arterials in Lexington-Fayette County. Shops of special trade would also be allowed in the I-1 zone, but the petitioner contends that would also be a "gross underuse" of the property. The proposed retail development could generate approximately 200 jobs, but a storage facility would generate very few.

With regard to the other available commercial properties in the vicinity of the subject property, Mr. Murphy stated that Meijer Stores has owned the large property at the intersection of Georgetown Road and Citation Boulevard since January of 2000, but it has not yet developed. That property and the parcel owned by the Gatton Trust, are not currently on the market. Even if those properties were currently for sale, there would still be a need for a smaller retail development, such as the petitioner is proposing. Those properties are intended to serve as large, 25+-acre regional shopping centers; the petitioner's goal is to serve nearby workers and residents, and the 30,000 drivers who pass the property on Georgetown Road each day. With regard to the property at the intersection of Citation Boulevard and Greendale Road, Mr. Murphy said that it is not located on a major arterial, and it will not have the same amount of traffic. He noted that, when the subject property was rezoned to I-1, the parcel across Sandersville Road, currently developed as the Konner Woods subdivision, was rezoned as well. Since that property has developed for residential use, the petitioner contends that the subject property would no longer be viable for industrial use.

Mr. Murphy stated that the 2013 Comprehensive Plan calls for "accessible facilities and services to meet the health, safety, and quality of life needs of Lexington's residents and visitors." The petitioner contends that the area around the subject property is vastly underserved by commercial service uses. In Objective E.1.b., the Comprehensive Plan "encourages compact, contiguous development, as guided by market demand." The petitioner believes that they have carefully studied the market, and that there is clearly a demand for the type of development proposed. Theme B, Goal 2, refers to reducing Lexington's carbon footprint; the proposed development could help to do so, by reducing the number and distance of car trips to reach retail services.

Mr. Murphy added, with regard to the required TIS, that all Levels of Service (LOS) in the area were projected to remain at Level "C" or better. Georgetown Road has a lower accident rate than other arterials in Lexington-Fayette County; and the petitioner contends that the proposed improvements to Sandersville Road could help to improve that situation, since most accidents in the area are at that intersection. The petitioner is requesting to defer the decision about the proposed right-in/right-out access to Georgetown Road until the filing of a Final Development Plan for the property, since KYTC will not review that access until that time.

Mr. Murphy noted that all of the floor area in the proposed development would be less than half the size of a typical Kroger store. He said that service and retail sector uses have developed on pace with the residential and industrial uses in the northern end of the county, and the petitioner contends that the proposed development will be beneficial to local residents and employees.

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Commission Questions: Mr. Wilson asked how many jobs were estimated to be created by the proposed development. Mr. Murphy answered that the petitioner estimated that approximately 150 – 200 jobs could be created. Mr. Wilson said that he understood the staff's reasons for their recommendation of disapproval of this request, but he thought the proposed development could be beneficial for the area. He added that he was very familiar with the Georgetown Road corridor, and was aware that retail developments in the area in the past had become havens for drug and criminal activities. Mr. Wilson asked if the petitioner had any commitments from prospective tenants for the property. Mr. Murphy responded that tenants do not typically commit to locate on a site until a property has been rezoned, although there have already been some discussions with potential tenants. He added that the petitioner intends to retain ownership of most of the proposed development, in order to "ground lease" the land and retain control of it. The petitioner made a private agreement with the neighbors to incorporate statements into each lease to discourage loitering and similar activities.

Citizen Support: Craig Johnson, owner of American Mini-Storage, stated that he supports the proposed development, since there are few retail services nearby for residents and employees in the area. He said that the intersection at Georgetown Road and Sandersville Road will need improvements, since the two ends of Sandersville are offset, and the intersection does not function very well.

Citizen Objection: Cheryl Butala, 1988 Sandersville Road, stated that her home is located diagonally across from the subject property, at the intersection of Georgetown and Sandersville Roads. She and her neighbors have had several discussions with Mr. Murphy, in order to inform the petitioner about their needs and concerns should the proposed development be approved.

Ms. Butala stated that she and many of her neighbors are concerned about traffic, particularly the speed limit on Georgetown Road, which is 55 miles per hour at the Sandersville Road intersection. She opined that the design of the intersection is poor, and its deficiencies are exacerbated by the lack of improvements on the other side of Sandersville Road. There have been many accidents at the intersection, to the extent that Ms. Butala contacted KYTC in 2010 in an attempt to have the speed limit reduced. Ms. Butala stated that the Planning Commission had just approved three new subdivisions on Sandersville Road, and she was concerned about the additional traffic those developments might generate, in addition to the proposed development. She asked that the Planning Commission initiate discussions with KYTC to re-evaluate the speed limit on Georgetown Road, and reduce it to 45 miles per hour in this location.

Lametta Johnson, 1992 Arbor Station Way, stated that there is a need for retail services in the area, but she is not sure that the proposed development will have enough retail space to meet those needs. She said that the area needs hospital and other medical services as well.

Ms. Johnson stated that she is also concerned about the increased traffic from the proposed development, noting that she agreed with Ms. Butala that the speed limit on Georgetown Road is too high. There is a great deal of truck traffic that serves the industrial uses in the area as well, which serve to exacerbate the existing dangerous situation. Ms. Johnson said that she would like the proposed development to be functional, and to serve the neighborhood well.

Petitioner Rebuttal: Mr. Murphy stated, with regard to the concerns about speeding on Georgetown Road, that the petitioner has agreed to serve as an advocate for reducing the speed limit from 55 miles per hour to 45. He opined that there is no reason for the speed limit to be 55 miles per hour at this location, and the petitioner will pursue reduction of it with KYTC, should the Planning Commission approve the requested rezoning. The petitioner will also commit to making improvements to Sandersville Road, which should help to mitigate the existing situation at its intersection with Georgetown Road.

Staff Rebuttal: Ms. Wade stated that the citizen comments regarding the proposed rezoning indicate that there is a demand for commercial development in the area, but the staff does not believe that the subject property is the appropriate location for that land use. There are multiple, planned locations for business uses in the area that have better access and will not need waivers to meet the access requirements. The Citation Boulevard/Georgetown Road intersection has been planned for years to be a significant commercial node, so the staff believes that the focus should be on encouraging quality development at that location, rather than possibly undermining it by locating small outlot type of developments in other areas along Georgetown Road.

Ms. Wade said that the Zoning Committee, at their meeting two weeks ago, had several questions about the necessity of the B-3 zone. Mr. Murphy's presentation spoke to the petitioner's reasons for not requesting a B-1 zone, but he did not address the staff's suggestion of the possibility for a B-6P zone for the subject property.

Ms. Wade reiterated that access to the proposed development does not meet spacing requirements. She said that the staff of the Division of Traffic Engineering has indicated that they will not endorse the access configuration as proposed, so it will need significant revisions.

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Petitioner Comments: Mr. Murphy said, with regard to Ms. Wade's comments about the B-6P zone, that the proposed conditional zoning restrictions were intended to make the B-3 zone similar to the requirements of the B-6P. He noted that the staff was asked, at the Zoning Committee, if their recommendation of disapproval would be different if the requested zone was B-6P, and the staff indicated that they would still recommend disapproval.

Ms. Wade stated that the uses in the B-6P zone mimic those in the B-1 and P-1 zones, which are more neighborhood-oriented than the proposed B-3 zone. Besides cocktail lounges, other uses in the B-3 zone that could be problematic for surrounding residents include establishments for the sale of cars, farm equipment, and contractor equipment; and hotels and motels.

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

Mr. Penn stated that he has observed development along Georgetown Road for 12 years, and many of the zone changes there have eliminated industrial zoning in favor of the B-3 zone. He said that the intersection of Citation Boulevard and Georgetown Road had been developed specifically to accommodate the types of uses proposed on the subject property, in a comprehensive fashion. He opined that providing 46,000 square feet of retail space on a 7.5-acre property is not a good use of industrial land.

Mr. Penn said that, if a grocery store intended to locate in the vicinity of the subject property, it would already have developed. He indicated that he did not support the development of a "strip mall" on the subject property, since he believed that the Georgetown Road corridor was intended to be used for job creation. Mr. Penn opined that the proposed development will not be beneficial for the community, and he would not vote in favor of it.

Ms. Plumlee stated that, if all of the I-1 land is "given away," there will be no land left to accommodate industrial uses. She said that our community needs to decide if it is going to focus on residential developments and service businesses, rather than the type of manufacturing and industrial uses that could support economic development. Ms. Plumlee stated that she would support the staff's recommendation of disapproval.

Mr. Drake asked if the property at the intersection of Citation Boulevard and Georgetown Road was Bluegrass Business Park. Ms. Wade referred to the rendered zoning map, noting the location of Bluegrass Business Park (to the north) on Innovation Drive. Mr. Drake asked how that development is zoned, to which Ms. Wade responded that it is all zoned I-1. She noted that only one parcel of that development was vacant as of July, 2015. That parcel is owned by Big Ass Fans, and the staff is aware that the company intends to expand their operation to include it.

Mr. Drake said that he began his career in economic development, and he believes that there is merit in the staff's argument. He noted, however, that, over the years, the character of general manufacturing has changed. He researched data for Bluegrass Business Park, and found that it produces approximately 15 jobs per acre; the petitioner has indicated that the proposed development could generate approximately 21 jobs per acre. The Bluegrass Business Park information indicates that average salary in that development is just under \$40,000 per year, while the proposed development could have a mix of higher and lower-paying jobs. Mr. Drake opined that the intensity of employment is as strong an argument in this instance as it could be in other circumstances. He said that there have been some compelling arguments made about the necessity of some of the services that could be provided in the proposed development, so he is conflicted about how to proceed.

Mr. Smith stated that he, too, was conflicted about this rezoning. He said that he is very familiar with Georgetown Road and the adjoining residential subdivisions, and there is a lack of services for the residents of the area, but he is not sure if the proposed development is the answer. Mr. Smith opined that there are a number of existing issues in the Georgetown Road area that should not be allowed to impact an area that is in a growth pattern.

Ms. Mundy echoed her fellow commissioners' comments, noting that she, too, believes that the area around the subject property is underserved with regard to retail uses. There is a need for pharmacies and other medical uses in the vicinity, which could choose to locate there if other facilities are provided. Ms. Mundy said that the area is, however, very congested, and she does not believe that the situation should be exacerbated.

Mr. Cravens stated that it would be difficult to "make land stay I-1 if it doesn't want to be I-1." He said that the subject property is small, and might not accommodate much of an industrial use. He said that he would be willing to vote in favor of this request, because it could provide a number of useful services to the community.

Zoning Action: A motion was made by Mr. Drake, seconded by Mr. Wilson, and carried 5-3 (Penn, Plumlee, and Smith opposed; Brewer, Owens, and Richardson absent) to approve MAR 2015-23, for the following reasons:

1. The existing Light Industrial (I-1) zone is no longer appropriate for this property and the proposed B-3 zoning is appropriate for the following reasons:

- a. This is a parcel which is not well-suited for industrial use. It was purchased, then passed over in the past by an industrial use, and it has remained vacant for all the time it has been zoned I-1, about 17 years.
- b. There is a population of about 62,000 residents living within three miles of this property. There are also around 20,000 jobs in that radius. There is a lack of commercial and service business, which this zone change would provide to the area.
- c. Retail and service industries are needed in this corridor to serve the employment and manufacturing facilities in addition to the residential.
- d. The intersection of Georgetown Road and Sandersville Road is fully signalized. A traffic impact study was performed, which indicated that the rate of traffic accidents on Georgetown Road is one-half of other highways in Kentucky. The developer will construct the deceleration lanes which are indicated in the traffic study, and the developer will construct improvements to Sandersville Road.

Mr. Drake's motion for approval included the proposed conditional zoning restrictions, as provided by the petitioner: The following uses shall be prohibited from the subject property under conditional zoning restrictions:

- a. Free-standing cocktail lounges or bars; that is, sale of alcoholic beverages by the drink shall be limited to establishments in which sales of food account for 50% or more of gross receipts.
- b. Carnivals or circuses on a temporary or permanent basis.
- c. Adult arcades, massage parlors, adult book stores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- d. Billboards.
- e. Drive-in restaurants.

Development Plan Action: A motion was made by Mr. Drake, seconded by Mr. Wilson, and carried 5-3 (Penn, Plumlee, and Smith opposed; Brewer, Owens, and Richardson absent) to approve ZDP 2015-102, subject to the revised conditions as recommended by staff, adding the development plan conditions recommended by the petitioner.

Note: Vice-Chairman Cravens declared a brief recess at 3:54 p.m. The meeting reconvened at 3:59 p.m.

2. JEFFREY STUART MORGAN ZONING MAP AMENDMENT & THE TOWNHOMES AT JEFFERSON STREET (PRESTON SUBDIVISION)

- a. MARV 2015-26: JEFFREY STUART MORGAN (1/31/16)* - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone, for 0.355 net (0.542 gross) acre, for property located at 500-506 Maryland Avenue (a portion of). Dimensional variances are also being 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's Goals and Objectives recommend identifying opportunities for infill, redevelopment and adaptive reuse that are respectful of an area's context and design features (Theme A, Goal #2a.); providing for well-designed neighborhoods and communities (Theme A, Goal #3); providing entertainment and other quality of life opportunities that will attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.); and encouraging mixed-use sustainable development within the Urban Service Area (Theme E, Goal #1b.). The subject property is located within the *Downtown Master Plan* boundary, a 2005 planning effort of the Lexington Downtown Development Authority (DDA).

The petitioner proposes to rezone the property to the B-1 zone in order to construct one or more restaurants at the corner, with parking to the rear of the lot. The corollary development plan depicts an associated 16-unit townhouse development in an R-4 zone, which will share access to Jefferson Street. The petitioner is also requesting dimensional variances to reduce the off-street parking requirement by 50% and to reduce the rear yard for the townhouses.

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

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

1. The requested Neighborhood Business (B-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Goals and Objectives recommend: 1) identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A., Goal #2a.); and 2) providing a well-designed neighborhood and community (Theme A, Goal #3). This redevelopment project will be in keeping with the neighborhood character and will support the pedestrian-oriented Jefferson Street corridor.

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- b. The Goals and Objectives encourage providing entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.). The applicant is proposing to further the resurgence of the Jefferson Street corridor by including a restaurant/pub in the plan for redevelopment, which is in keeping with the other establishments within the immediate area.
- c. The Goals and Objectives encourage compact, contiguous and/or mixed use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs (Theme E, Goal #1b.). The proposed mixed-use development will, in its own small way, help alleviate pressure to expand the Urban Service Area in the future.
- d. The Goals and Objectives of the 2013 Comprehensive Plan are supported by the applicant's requested rezoning, and the requested B-1 zone is compatible with the adjacent zoning along Jefferson Street.
- 2. This recommendation is made subject to approval and certification of ZDP 2015-119: The Townhomes at Jefferson Street (Preston Subdivision), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- 3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:
 - a. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
 - b. Medical and dental offices, clinics and laboratories.
 - c. Automobile service stations, gasoline pumps, and automobile and vehicle refueling stations.
 - d. Drive-through facilities.
 - e. Uses requiring or utilizing overhead doors.
 - f. Outdoor live entertainment and/or dancing.

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

b. REQUESTED VARIANCES

- 1. Reduce the required rear yard for eight of the interior townhouse units from 20% of the lot depth to 15%.
- 2. Reduce the parking in the B-1 zone to 50% of the otherwise required parking.

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

The Staff Recommends: **Approval** of the requested rear yard and parking variances, for the following reasons:

- a. Granting the requested variances should not adversely affect the public health, safety or welfare, create a nuisance to the general public, nor will it alter the character of the general vicinity. The setback variance along the rear lot line is very minor in scope, and the parking variance is not inconsistent with other developments in this general vicinity.
- b. Approval of the variances will not result in an unreasonable circumvention of the Zoning Ordinance, as the proposed development has rights to utilize parking in the adjoining West Jefferson Place parking lot. The granting of these variances will allow the construction of a mixed-use redevelopment, replacing a front-facing parking lot with a context-sensitive commercial development.
- c. The special circumstance that applies to the subject property justifying the variances is its location on the pedestrian-oriented Jefferson Street corridor, in addition to the availability of parking and the juxtaposition of the adjacent 3-story office building.
- d. Strict application of the requirements of the Zoning Ordinance would likely result in a larger surface parking lot and less residential development, which would neither be in character with the surrounding area nor result in nearly as efficient of a use of these properties.
- e. The circumstances surrounding this request are not the direct result of actions taken by the applicant, but are more of a result of the pre-existing built environment. This has led to a design response that is in context with the surrounding vicinity.

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

- 1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of these variances is null and void.
 - 2. 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).
 - 3. Prior to construction and occupancy, the applicant shall obtain all applicable permits, including but not limited to zoning compliance permits and building permits, as well as Certificates of Occupancy from the Divisions of Planning and Building Inspection.
- c. ZDP 2015-119: THE TOWNHOMES AT JEFFERSON STREET (PRESTON SUBDIVISION) (1/31/16)* - located at 500 - 506 Maryland Avenue. **(CMW, Inc.)**

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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 that compliance with Article 15-7(a) of the Zoning Ordinance shall be determined at the time of the Final Development plan.
6. Provided the Planning Commission grants the requested variances.
7. Remove all copyright information from plan.
8. Discuss details of the required 15' landscape buffer between B-1 and R-4 properties.
9. Discuss proposed uses for 2nd and 3rd floors of commercial building(s).
10. Discuss use of compact spaces (25% limit) along 22' drive aisle.

Zoning Presentation: Ms. Wade presented the staff report for this rezoning request, noting that the staff had received one letter of objection from an adjacent property owner. She distributed the letter to the Commission for their review.

Ms. Wade stated that the subject property, which is approximately 0.5 acre in size, is located on the western corner of Maryland Avenue and Jefferson Street. The parcel is currently used as a parking lot for an R-4 property to the south-west, which was formerly occupied by an athletic club. She briefly oriented the Commission to the location of the subject property, noting that the general vicinity along Jefferson Street is occupied primarily by B-1 uses. The cross streets are characterized by mostly residential uses, including R-2, R-3, and R-4 zoning. Part of Maryland Avenue, however, has been downzoned to the R-1E zone. The B-1 zone adjacent to the subject property is known as West Jefferson Place, which is primarily occupied by Professional Office uses. Across Jefferson Street are several lots zoned B-4, which include an Adaptive Reuse project known as The Apiary.

Ms. Wade stated that, in recent years, there has been a resurgence in the Jefferson Street area, with several new businesses and restaurants now located there. The petitioner is proposing to rezone the subject property to B-1 in order to construct a restaurant at the corner of Maryland Avenue and Jefferson Street, with associated parking. The development plan also includes a 16-unit townhouse development on the adjacent R-4 property, which is under the same ownership. The subject property is located in close proximity to the Western Suburb and Northside Historic Districts, although it is not located within either of those districts. Ms. Wade displayed the following photographs of the subject property: 1) a view of the subject property, noting its current use as a parking lot; and 2) a view from the north, noting the nearby Ballard Towers facility. She stated that the petitioner is also requesting two variances: first, to reduce off-street parking by 50% for the proposed business use; and second, to reduce the rear yard setback for one bank of the proposed townhomes.

Ms. Wade stated that the petitioner contends that the proposed rezoning is in agreement with the recommendations of the 2013 Comprehensive Plan, citing several Goals & Objectives that could be furthered if the property was rezoned and redeveloped. The Goals & Objectives cited include: Theme A, Goal 2.A; Theme A, Goal 3; Theme C, Goal 2.D; and Theme E, Goal 1.B, which refer to providing infill, redevelopment and adaptive reuse; providing for well-designed neighborhoods; providing entertainment and quality of life opportunities to attract young professionals; and encouraging compact, contiguous and/or mixed-use, sustainable development. The staff does agree that each of these Goals & Objectives would be furthered by the petitioner's request to rezone the subject property in order to create a mixed-use development that would be consistent with the character of Jefferson Street. The Jefferson Street corridor was designated in the Downtown Development Authority's (DDA) downtown development study as a commercial mixed-use corridor, with residential uses located along side streets. Ms. Wade noted that the staff agrees with the petitioner's contention that the proposed rezoning is in agreement with the 2013 Comprehensive Plan. The staff is recommending several conditional zoning restrictions for the subject property, primarily to mitigate parking issues along with the busy pedestrian corridor. The conditional zoning restrictions would limit some of the higher-intensity traffic-generating uses, including drive-through facilities, automobile service stations, medical and dental offices, and financial institutions; as well as uses that could cause excessive noise, including overhead doors and outdoor live entertainment or dancing. Ms. Wade said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented a rendering of the corollary zoning development plan, explaining that the petitioner is proposing to construct two new restaurants on the subject property, in one building. One restaurant will be two stories in height, and the other will be one story, with a rooftop patio. Two accesses are proposed to Jefferson Street, with off-street parking surrounding the building.

Mr. Martin stated that the petitioner is also proposing to construct 16 townhouses, which are part of this preliminary development plan but are not included in the zone change (to B-1). Those townhouse units will have frontage on Maryland Avenue, with an access easement to serve the interior of the development. The petitioner is proposing to

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construct a gate between the two properties, to allow vehicular access to residents of the townhouses only. Full access to the townhouses is proposed along Maryland Avenue.

Mr. Martin said that this rendered plan is a revision to the original submission. There was considerable concern at the Subdivision Committee meeting about providing emergency access to the proposed townhouses, but the revised plan has addressed those concerns. The staff is now recommending approval of the 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 that compliance with Article 15-7(a) of the Zoning Ordinance shall be determined at the time of the Final Development plan.
6. Provided the Planning Commission grants the requested variances.
7. Remove all copyright information from plan.
8. Denote that details of the required 15' landscape buffer between B-1 and R-4 properties will be resolved at time of Final Development Plan.
9. ~~Discuss proposed uses for 2nd and 3rd floors of commercial building(s).~~
10. ~~Discuss use of compact spaces (25% limit) along 22' drive aisle.~~

Mr. Martin stated that condition #8 refers to the landscape requirement between the B-1 and R-4 zones. It will require that the buffer be addressed in detail at the time of a Final Development Plan for the property.

Commission Questions: Mr. Drake asked if the reciprocal parking agreement, to which the opposition letter referred, is related to the development plan. Mr. Martin answered that, if the requested parking variance is granted, a reciprocal agreement will not be necessary. Ms. Wade added that the letter refers to a reciprocal parking agreement with an adjacent property, which the petitioner's attorney would address in his presentation.

Variance Presentation: Mr. Sallee presented the staff's report on the requested variances to 1) reduce the required rear yard from a minimum of 20% to a minimum of 15% of the lot depth; and 2) to reduce the off-street parking requirement in the B-1 zone from 50% of the normally required amount. Referring to an aerial photograph of the property, he noted that the requested parking variance will refer to the parking required for the proposed restaurant. The rear yard requirement variance refers to the adjacent R-4 parcel, which is part of the development plan for this property.

Mr. Sallee displayed a rendered version of the development plan depicting the two requested variances. With regard to the rear yard variance, he said that the Infill & Redevelopment Area regulations require a stricter rear yard than other areas of the community. In the past, front and side yard setbacks were generally reduced in the Infill & Redevelopment Area, with the intent of promoting more compatible residential development in the central area of Lexington-Fayette County.

Mr. Sallee said that the second variance is to the amount of off-street parking for the proposed restaurant building. When the staff reviews a parking variance, there are usually three issues that are taken into consideration: the general walkability of the area; the parking generator of the proposed use; and the general availability of off-street parking in the vicinity. In this case, the proposed development meets both the walkability and off-street parking availability criteria. The general vicinity is very pedestrian-friendly, and there is ample parking in the same block for non-residential uses.

Mr. Sallee said that the reciprocal parking agreement Mr. Drake mentioned refers to the parking area associated with West Jefferson Place, as well as the parking on the subject property. The petitioner has indicated their ability to use a parking area to the west of the proposed townhouses, but it exceeds the 300' spacing required by the Zoning Ordinance for use by a nearby business.

With regard to the requested rear yard variance, Mr. Sallee explained that the required yard is 12.4 feet at minimum; the petitioner is requesting a 9.3' rear yard, although the development plan depicts a 10' yard will be provided. The staff believes that the difference between 10' and 12.4' would be almost imperceptible once the proposed development is constructed. The location of the rear wall of the West Jefferson Place development serves as an unusual circumstance in this case that warrants the requested variance. That wall is located in such close proximity to the rear yard of the proposed townhouses that it would have no setback at all. The staff concludes that granting the two requested variances would not have an adverse effect on the public health, safety or welfare; nor will it alter the character of the area. For that reason, the staff and the Zoning Committee recommend approval of the requested variances, for the reasons as listed in the staff report and on the agenda, and subject to the three conditions also listed.

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Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioner. He said that the petitioner, who formerly owned a masonry company, is the developer of the Jefferson Davis Inn (JDI) on South Broadway. The proposed development will be similar in appearance to the JDI project, with a restaurant building fronting on Jefferson Street, and 16 townhouses intended to sell for approximately \$330,000. The townhouses will be constructed first, with the existing parking lot used as a staging area; the restaurant building will be built once the residential portion is complete. The petitioner has received feedback from owners of the townhouses adjacent to JDI that they appreciate having a good dining option so nearby. He believes that the proposed restaurant will provide additional dining options for the Jefferson Street corridor, and the townhouses will help to support the restaurant. The property owner indicated that, in the past, he had received development proposals for six-story towers, but the petitioner contends that the proposed development will be much more in keeping the character of both Jefferson Street and Maryland Avenue. Mr. Murphy noted that the petitioner anticipates that the smaller restaurant facility will be occupied by a small deli or bakery.

Mr. Murphy said that the petitioner had met with the board of the Northside Neighborhood Association. The board decided not to take an official position on this request, but they are aware of the proposed development.

With regard to the reciprocal parking agreement discussed previously, Mr. Murphy said that the building that currently occupies the property was formerly the YMCA. It has been vacant for two years, and is proposed to be removed. At one time, the subject property was combined with the parcels currently occupied by West Jefferson Place and the Christian Care Communities facility. Before the owner of that single parcel sold the property, a reciprocal parking agreement was created to serve all the uses there. That property has since been subdivided into three parcels, but the reciprocal parking agreement remains, allowing parking anywhere on the property for any of those three uses. The petitioner has spoken with the representative of the individual who submitted an objection letter, indicating his intent to modify the parking agreement in order for the proposed development to provide its own parking. In order to do that, however, the petitioner will need approval of the zone change, along with the renegotiation of the parking agreement. Mr. Murphy noted that the proposed development cannot go forward unless the parking agreement can be resolved.

Mr. Murphy stated, with regard to the requested parking variance, that the petitioner is confident that there will be sufficient parking for the residents of the proposed townhouses. He noted that the parking variance applies only to the restaurant portion of the property.

Mr. Murphy said that the petitioner would like to request, with regard to the conditional zoning restrictions, that the staff remove the proposed restriction against outdoor live entertainment. That restriction would preclude any type of performance (such as acoustic guitar) in the outdoor seating area for the proposed restaurant. He noted that any type of live entertainment requested by the petitioner would require the approval of the Board of Adjustment as a conditional use, along with notice requirements to neighborhood associations and residents within 500' of the property. Mr. Murphy explained that, if the conditional zoning restriction is approved, the petitioner would not have the ability to ask the BOA to allow such entertainment.

Mr. Murphy stated that the petitioner's development on South Broadway proves his good track record. He believes that the proposed development will similarly enhance the neighborhood surrounding the subject property. In addition, the proposed development is completely in agreement with the recommendations of the 2013 Comprehensive Plan.

Citizen Comments: Rebecca Rigney, 535 West Second Street, was present representing her mother, who owns West Jefferson Place. She stated that her family and the petitioner have not reached an agreement about reciprocal parking on the property, and her family is concerned that the petitioner is requesting a variance to reduce their parking by 50%. Ms. Rigney said that West Jefferson Place already provides after-hours parking for many nearby restaurants, including the Apiary, for their businesses.

Ms. Rigney said that her mother is also concerned that the West Jefferson Place building is attached at the rear to the structure on the R-4 property, which is proposed to be demolished. She wants to ensure that damage is kept to a minimum when the buildings are detached, and that any problems are properly repaired. In addition, the alley at the rear of West Jefferson Place currently serves as dumpster access for that facility, as well as the Christian Care Communities building. Those tenants are concerned that that area must remain open during the construction of the proposed townhomes.

Ms. Rigney noted that her family supports the proposed development, but they want to ensure that their concerns are considered as part of the rezoning process.

Citizen Support: Robert Garrison, 497 West Third Street, stated that he wholeheartedly supports the proposed development.

Ray Dickison, Christian Care Communities, stated that his organization is working with the petitioner with regard to maintaining the parking and access easement that his facility requires. He said that Christian Care Communities does support the proposed development.

Citizen Objection: Susan King, 533 Maryland Avenue, stated that she is concerned about overflow parking on her street, since many of the small houses there have no driveways. She said that events at Rupp Arena and the Opera House often overwhelm her street with parking, leaving residents with no place to park.

Ms. King said that she would not be in favor of the development of a six-story building on the subject property, but she would appreciate the Commission's consideration of the parking problems faced by area residents.

Sean McLaughlin, 535 Maryland Avenue, stated that, in addition to the many homes on his street that do not have parking, there is also a church that has no off-street parking. He said that there are 45 houses on Maryland Avenue, which share only 12 driveways.

Mr. McLaughlin said that the Maryland Avenue neighborhood has been undergoing a resurgence, which he appreciates; however, residents are concerned about absorbing additional parking and traffic from the proposed development. The increase in the number of restaurants on Jefferson Street has exacerbated the existing parking problems, since many of those businesses do not provide parking spaces for their staff. Mr. McLaughlin opined that, at some point, Maryland Avenue residents might be forced to pursue a residential parking permit program.

Evelyn Knight, 513 West Third Street, stated that she shares other residents' concerns about parking. However, her primary issue with the proposed development is that the Jefferson Street area has become a "destination," while the intent of the B-1 zoning in the area to serve the needs of the surrounding residential area. Ms. Knight does not believe that having more restaurants will add to the experience of the residents living in the area.

Ms. Knight said that she would prefer for the subject property to be developed for mixed use, with attractions for young professionals other than alcohol and food. She opined that infill is important, and the community should be focused on maximizing available land; however, she does not believe that the proposed development will be a good addition to the neighborhood.

With regard to Mr. Murphy's comments, Ms. Knight stated that she does not believe that the comparison to the petitioner's development on South Broadway is appropriate, since the West Third Street area is quiet and historic. She said that she and her neighbors are looking for a sense of community, and she is concerned that the residents of the proposed townhouses will be set apart from the rest of the neighborhood, with the rear sides of their homes facing outward.

Petitioner Rebuttal: Mr. Murphy stated that the petitioner will maintain the easement that currently serves the dumpster area for West Jefferson Place and Christian Care Communities, and will expand the area to serve the new restaurants. The construction area will be staged from the front of the property, rather than the rear.

With regard to the concerns about parking, Mr. Murphy said that the townhouse development will be constructed so that all residents will park on the interior of the development, specifically to alleviate the parking problems on Maryland Avenue. He explained that the townhomes on Maryland Avenue will have two front facades, so that rear sides will not be visible to area residents.

Mr. Murphy stated that the proposed development will be mixed use, with restaurant uses in the front and townhomes to the rear. The petitioner intends to provide design elements so that the development will have the appearance of a "modern take on the existing 19th century architecture in the area." The petitioner contends that the addition of new restaurants and residences on the subject property will contribute more to the vitality of the community than the existing parking lot does.

Staff Rebuttal: Ms. Wade stated that the staff would be agreeable to the petitioner's request to remove outdoor live entertainment from the list of proposed conditional zoning restrictions, since BOA approval would be required for any such proposal, following notification to neighbors and .

Zoning Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens, and Richardson absent) to approve MARV 2015-26, for the reasons provided by staff, removing item "f. Outdoor live entertainment and/or dancing" from the list of proposed conditional zoning restrictions.

Variance Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens, and Richardson absent) to approve the requested variances, for the reasons provided by staff, subject to the three conditions as recommended by staff.

Development Plan Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens, and Richardson absent) to approve ZDP 2015-119, subject to the eight conditions as listed in the revised staff recommendation.

C. PUBLIC HEARING ON ZONING ORDINANCE TEXT AMENDMENT REQUEST

- a. **ZOTA 2015-8: AMENDMENT TO ARTICLE 17 FOR SIGNAGE FOR HOSPITALS AND REGIONAL MEDICAL CAMPUSES (AMD.)** – an amended Zoning Ordinance text amendment to allow additional wall-mounted and free standing signage for a hospital or a regional medical campus.

REQUESTED BY: Baptist Hospitals, Inc.

PROPOSED TEXT: Underlined text indicates an addition to the current Zoning Ordinance.

ARTICLE 17: SIGN REGULATIONS

17-7(e) Professional Office Zone (P-1) and Mixed Use 1: Neighborhood Node (MU-1) – Permitted signs may be either free standing or wall mounted, as specifically noted; signs shall be non-illuminated, indirectly illuminated, or internally illuminated unless otherwise specified. No free standing sign shall exceed ten (10) feet in height, with the exception of hospitals, as regulated below.

(12) In addition, and within a hospital campus or Regional Medical Campus (as generally defined in 23A-10(b)(9)), only:

- (a) Project identification signs, maximum three per campus, free standing or wall mounted; not exceeding one hundred and fifty (150) square feet in area and twenty (20) feet in height along a street classified as a collector or arterial and not exceeding seventy-five (75) square feet and fifteen (15) feet in height along a street classified as a local.
- (b) Project entrance identification signs of permanent construction, free standing or wall mounted; not exceeding one hundred (100) square feet in area; not exceeding ten (10) feet in height; no more than two per entrance along a street classified as a collector or arterial; not more than two entrances to be identified
- (c) Three wall-mounted identification or business signs for buildings with two street frontages, located on separate wall faces, not to exceed five percent (5%) of the wall area to which the signs are attached. Signs not located on a street frontage shall not be placed on a building face directly adjacent to any residential zone.

17-7(n) Office, Industry and Research Park (P-2) zone

(3) Project entrance identification signs shall be permitted and regulated under Section 17-7(e)(~~6~~10)(c) above.

17-7(q) Expansion Area Zones

(2)(a) Project entrance identification signs shall be for Professional Office ~~Parks~~ Projects, as specifically regulated under Section 17-7(e)(~~6~~10). All free-standing identification or business signs shall be monument type.

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

The Staff Recommends: **Approval of the staff alternative text**, for the following reasons:

1. Hospitals often have multiple entrances, a need to help identify these entrances with additional free-standing signs, and a desire to assist visitors in arriving at these facilities quickly and safely.
2. The staff alternative text will ensure that this addition to the sign regulations will be consistent with other sign provisions in Article 17.

Staff Presentation: Ms. Wade presented the staff report on this requested text amendment, noting that the petitioner had submitted revised text to the staff a week prior to this hearing. She said that the purpose of this text amendment is to modify Article 17 of the Zoning Ordinance to provide for additional signage for hospitals and regional medical campuses. For the Commission's reference, the staff prepared and distributed a table comparing the allowable signage for a standard building in a P-1 or MU-1 zone to the allowance for a Professional Office Project, as well as the petitioner's proposals for hospitals and regional medical campuses.

Ms. Wade stated that the petitioner is requesting more and larger signs than are currently permitted in the P-1 zone, for hospitals and regional medical campuses. The staff met with the petitioner prior to the filing of their application, to try and find a way to meet their signage needs without a text amendment. However, the petitioner has several non-conforming signs that were installed prior to the adoption of the sign ordinance in 1983, and they have been re-facing them periodically for more than 30 years. The petitioner would like to keep the existing square footage, but they are no longer able to re-face the old signs, so they hope to update their signage in conjunction with the renovation of the Nicholasville Road campus.

Ms. Wade said that the signs for hospitals are not currently regulated differently than for other uses, so the existing signage on the property more or less complies with the standard P-1 text. That provides for one freestanding sign, up to 40 square feet in

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size, per building. There are 10 hospitals in Fayette County; most are located within a P-1 zone. The University of Kentucky hospitals are exempt from zoning, and are currently located in an R-4 zone. The Leestown Road campus of the Veterans Affairs Medical Center is located in an A-U zone, and the Eastern State Hospital is in a P-2 zone.

With regard to the proposed text, Ms. Wade explained that the petitioner would like to provide for additional project identification signs, project entrance signs, and additional wall signage. All signage that does not fit into those categories would remain in compliance with the standard P-1 signage regulations. The petitioner is proposing to allow up to three project identification signs per campus, which would identify the campus. One of those three project identification signs could be 150 square feet in size, and up to 20' tall if located along an arterial or collector street. The remaining signs could be 75 square feet in size and 15 feet tall, if located along a local street. Ms. Wade added that the petitioner's proposal for project entrance signs would permit up to two such signs per entrance, with a maximum of two entrances; at 100 square feet per sign, and limited to a maximum of 10' tall, and permitted only along an arterial or collector street. The proposed text would also permit a third wall-mounted sign on buildings within the campus; the petitioner did agree with the staff recommendation to limit those signs so that they are not adjacent to residential zones.

Ms. Wade noted that the petitioner's proposal is generally consistent with the additional types of signs that are permitted in a Professional Office Project, which has a minimum size of 10 acres. The petitioner's medical campus is approximately 25 acres in size; most of the existing hospitals in Fayette County are that size or larger. The petitioner contends that the larger signs are needed in order to provide better direction for drivers approaching their facility. The staff is generally in agreement with the petitioner's proposal, but they did recommend alternative text, which the petitioner incorporated into their revisions. Ms. Wade said that the staff is recommending approval of the revised text as submitted, for the reasons as listed in the staff report and on the agenda.

Petitioner Presentation: Nick Nicholson, attorney, was present representing the petitioner. He said that the petitioner is nearing the end of a major renovation project that has been in progress on their campus for many years. As part of that project, they have been able to study how the major changes to the traffic pattern on the site, including relocating some medical services and shifting drive aisles, have impacted drivers. The petitioner determined that the existing signage is no longer adequate to provide direction to drivers. In particular, drivers were unable to determine which of the three entrances was most appropriate for the medical service they were seeking. The first attempt to resolve those issues was to install identifying letters to each of the buildings on the site, and to list those letters on the signage along Nicholasville Road. That effort caused more confusion for drivers, and had a negative impact on traffic on Nicholasville Road itself. Mr. Nicholson said that, in an attempt to find a solution, the petitioner met with the staff of the Division of Building Inspection. It became apparent to the petitioner, during those conversations, that there was no way to address the problem of sign visibility and clarity under the existing Zoning Ordinance.

In the Zoning Ordinance, Mr. Nicholson explained, hospitals are treated the same as other P-1 or MU-1 uses with regard to signage. The petitioner contends that hospitals need more signage to serve the public safety, which is one of the major tenets of the Ordinance, than do other uses in those zones. The petitioner believes that it is more important for drivers to be able to easily locate the appropriate entrance to a hospital, especially in an emergency situation, than to find a typical office use. The petitioner worked extensively with the staff to draft the proposed text amendment, because of how the sign ordinance addresses many uses that get special treatment. The petitioner opined that if hotels, shopping centers, and movie theaters have special provisions for signage, then hospitals deserve special treatment as well.

Mr. Nicholson said that the staff and the petitioner agreed that it would be appropriate for the proposed text to mirror the special provisions for Professional Office Projects. After the Zoning Committee meeting two weeks ago, where several nearby residents shared their concerns about the size and number of proposed signs, the petitioner met with the staff again to address those issues. Mr. Nicholson noted that it is very rare, at this point in the text amendment process, for the petitioner and the staff to agree on one text; typically, in complicated cases such as this, the staff drafts an alternative to the text as originally presented.

Mr. Nicholson explained that the petitioner is first proposing to allow project identification signs, which would be located in front of the project to allow drivers to know that they have reached the hospital campus. The petitioner originally proposed that project identification signs be allowed up to 150 square feet in size and 20 feet in height, to be located at the front entrance to the campus. The neighborhood residents were very concerned, however, that a sign of that size could be erected along Hiltonia Park near the hospital's emergency room. Based on those concerns, the petitioner revised their text to indicate that those signs will be located along a main thoroughfare, rather than local streets. The petitioner also agreed that any such sign along a local street should be much smaller than what was originally proposed. Mr. Nicholson said regional shopping centers can have signs up to 150 square feet in size and 25 feet in height, so the petitioner contends that their proposal is appropriate and deserving for a hospital.

With regard to the proposed project entrance identification signs, Mr. Nicholson said that they are intended to serve a function similar to subdivision signs. They would be installed along the entrance to the campus, internally to the property, in order to stress the location of the main entrance. The petitioner originally requested a larger size for these signs as well; however, after

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discussions with the neighbors, the petitioner reduced the proposed square footage from 150 to 100, and to allow such signs at only two entrances along arterial or collector streets.

Mr. Nicholson stated that the proposed text related to wall signs was copied directly from what is allowed in Professional Office Projects. The intent of this proposal is not to increase the amount of wall signage on the campus, but to help drivers locate particular buildings. The only difference between this proposed language and that of the P-1 zone is that wall signage would be allowed on buildings more than three stories tall.

Mr. Nicholson said that, in discussing the proposed text amendment with neighborhood residents, they indicated a need to include a definition in the Zoning Ordinance for "hospital campus." The petitioner does not believe that it is necessary to define hospitals in the Zoning Ordinance, because hospitals are among the most heavily regulated uses. The Kentucky Administrative Regulations (KAR) include a six-page list of uses that must be met in order for a medical facility to be considered a hospital. The petitioner does not believe that it is necessary to include such a list in the Zoning Ordinance, but they would agree to provide a definition of "hospital campus" if the Planning Commission deems it necessary. Mr. Nicholson noted that the opposition's attorney was concerned that a freestanding medical office could claim entitlement to additional signage based on identification as a hospital, if the proposed text amendment is approved.

Citizen Opposition: Nathan Billings, attorney, was present representing the Southern Heights Neighborhood Association and several individual residents. He opined that the use of "hospital campus," rather than "hospital" as a term for the petitioner's property, is disingenuous. If the property is defined as a "hospital," then the petitioner should follow the regulations of the Kentucky Administrative Regulations (KAR) for hospitals. Mr. Billings opined that the use of the term "hospital campus" is a "bait and switch," about which the opposing neighbors have not been able to get an adequate answer.

Mr. Billings said that there have been four iterations of the draft text for this text amendment. He agreed that a text amendment is an appropriate means to deal with hospital signage, since hospitals are an important and necessary part of the community. However, his clients believed that it is important to determine between the importance of internal and external wayfinding, which is addressed by the proposed text amendment.

Mr. Billings stated that his clients have been unable to determine whether the proposed text amendment is intended to serve the petitioner's existing property on Nicholasville Road, or some future hospital. The petitioner indicated that this text amendment was proposed in order to address existing problems on the Nicholasville Road site, but that need is based on evidence that the opposing residents have not seen. The petitioner also indicated that they proposed this text in order to address future signage on their property in the ED zone on Winchester Road. Mr. Billings opined that that could be a "huge mistake," with unintended consequences.

Mr. Billings' clients do not believe that the proposed text amendment will address the concerns about signage that exist on the petitioner's Nicholasville Road campus. He believes that the primary consideration of this text amendment should be to determine which entrance on a hospital campus the public should use; the identification of buildings is not appropriate. Mr. Billings opined that the bulk of the responsibility for directing traffic to the appropriate entrance should fall to the individual medical providers, who could rely on correspondence prior to scheduling appointments.

Mr. Billings displayed several photographs of the existing signage on the petitioner's property, explaining that his clients believe that part of the reason the existing signs lack visibility is that the landscaping on the site is too large for the signs. In addition, they believe that the hospital name portions of the signs are too large, while the wayfinding information is too small to be easily visible from those traveling along Nicholasville Road. Mr. Billings opined that signs for internal wayfinding, which would not be affected by the proposed text amendment, are actually much more important than signs designed to be visible to the general traveling public.

Mr. Billings said that his clients do not believe the proposed text amendment will address the petitioner's issues with their existing signage. Since the only changes depicted on the sign schematics provided by the petitioner is the addition of entrance numbers, the neighboring residents believe that it would be more appropriate to change the existing signs to reflect that information. They do not believe the petitioner needs additional size or number of signs in order to provide that information. Mr. Billings also opined that the petitioner is confused with regard to the difference between identification and entrance signage.

Commission Question: Mr. Drake asked Mr. Billings to identify his clients' primary issue with the proposed text amendment. Mr. Billings answered that the proposed text amendment would significantly increase the number and total square footage of project signs allowed on the petitioner's property. His clients contend that the result would be an additional allowable 450 square feet of advertising signage along a main arterial, and they believe that evidence should be presented to support the petitioner's claims of need for that much additional signage. Mr. Billings' clients would like for the allowable square footage of each sign to be reduced, and for signage to be directed away from the Hiltonia neighborhood.

Mr. Drake asked who would be harmed by the increase in signage. Mr. Billings responded that the neighborhood residents would be harmed, because they would have "significant sign pollution" directly adjacent to their homes. Mr. Billings said that the Zoning Ordinance states specifically that signage should not be allowed "to detract from the overall aesthet-

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ics of the Urban County area.” Referring to several photographs of sign prototypes provided by the petitioner, he said that his clients contend that the signage proposed by this text amendment would detract from their neighborhood, since it is not required to identify the emergency entrance to the hospital. They would request that project identification signs only be allowed at the entrance to the project. The petitioner has identified the intersection of Hiltonia Park and Nicholasville Road as an entrance to the hospital campus, but that is actually the neighborhood entrance; the emergency room access is located further down Hiltonia Park. Residents are also concerned about the impact of this proposed text amendment on other hospitals in Lexington-Fayette County.

Citizen Opposition (cont.) Mr. Billings asked that the Planning Commission consider either postponing this text amendment, or adopting his proposed text language.

Mr. Billings stated that the petitioner is identifying five parcels along Nicholasville Road as the “hospital,” although some of those parcels are not adjacent and/or contiguous. He said that the Planning Commission needs to consider the possible impact of allowing those non-contiguous parcels to have the same type and amount of signage as a hospital.

Mr. Billings said that his clients are concerned about sign pollution, including the number, size, location, and height of signs. They are also concerned about the significant increase in signage size as proposed. They believe that project identification signs should not be allowed along local streets; no more than two project entrance signs should be permitted; and signage facing residential zones should be set back 250’.

Mary Bradshaw, 130 Shawnee Place, stated that there is no competition for the signage on the petitioner’s property, since it is surrounded by historic neighborhoods. She said that she does not believe that the petitioner needs signage as large as could be permitted for a shopping center.

Nancy Stengel, 114 Arcadia Park, stated that she has lived in the immediate vicinity of Central Baptist Hospital for 60 years. She said that the petitioner’s property is currently surrounded by mostly residential uses, and she does not believe that additional external signage would be appropriate there. She believes that internal signage is more useful for directing motorists, opining that it could be dangerous to encourage drivers to read large signs while they are in the flow of traffic on Nicholasville Road.

Ms. Stengel asked the Planning Commission to consider whether the petitioner has an actual need for an increase in the size of their signage, given the very close proximity of the property to the residences on Hiltonia Park. She said that the construction on the petitioner’s property has already negatively impacted the surrounding residents, and opined that the proposed text amendment could set a negative precedent for other hospitals in Lexington-Fayette County. Ms. Stengel added that she does not believe that a hospital should need as much signage as a shopping center.

Petitioner Rebuttal: Mr. Nicholson said, with regard to the photos to which Mr. Billings referred, that they involved examples on other Baptist Health properties. The petitioner cannot make changes to their existing signage, as Mr. Billings suggested, because they are too old to be modified structurally without being removed entirely. Since the existing signs are non-conforming, the petitioner would then not be able to replace them with signage of equal size. Mr. Nicholson agreed that the landscaping on the property can partially obscure some of the signs, but nearby residents are typically in favor of more landscaping, rather than less.

Mr. Nicholson stated that all of Mr. Billings’ statistics, as well as his proposed text, were based on an earlier version of the proposed text amendment. He said that Mr. Billings had the current information for more than a week, and opined that his use of old numbers at this point was disingenuous.

With regard to the concerns about the use of the term “campus,” Mr. Nicholson said that it was used because the Zoning Ordinance refers to a “regional medical campus.” He said that he believes that the Division of Building Inspection, which has the authority to enforce the sign ordinance, is well aware of the area to which the term “hospital campus” refers, and that it does not include every property owned by the petitioner.

Mr. Nicholson said that he referred to the exceptions in the sign ordinance, not to indicate that the petitioner deserves an exception, but to note that they exist and are not unusual.

Commission Question: Mr. Drake asked if the petitioner is in agreement with the staff’s recommendation. Mr. Nicholson answered in the affirmative. He added that the petitioner has agreed to limit the size of all signage from the amount that they proposed in their original text, and to eliminate project entrance signs on local streets entirely.

Opposition Rebuttal: Mr. Billings said that his sign examples were prepared based on the latest version of the proposed text. He added that his proposed text was based on the staff report, because he believes that the staff’s version “is headed in the right direction.” However, his clients contend that it would be more appropriate to require that project identification signs be located only at the hospital entrance. Mr. Billings said that his clients are concerned about the identification

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of the intersection of Hiltonia Park and Nicholasville Road as a hospital entrance, because a large sign could be placed there. They also believe that this text amendment, as proposed, could have unintended consequences for the other hospitals in Lexington-Fayette County.

Staff Rebuttal: Ms. Wade said that the staff had received the opposition's proposal one day prior to this hearing, so they did not have time to hold a staff meeting to review it. She agreed that some of Mr. Billings' points were valid, and the staff could work some of them into the draft if the Commission so desired. Ms. Wade noted that the staff could attempt to do so at this hearing, or Commission consideration of this item could be continued.

Commission Comments: Mr. Penn said that, if the proposed text was site-specific for the petitioner, he believed that it would be appropriate. However, since it is a text amendment that would apply to the entire county, he is concerned that there could be some unintended consequences. Mr. Penn stated that he did not see sufficient urgency to debate about the text at this hearing, particularly since the staff had not had the opportunity to review the opposition's proposal. He suggested that the Commission continue this item so that the staff can work on the proposed text, possibly at a work session. Mr. Duncan noted that the Commission does not have a full work session scheduled until March, adding that text amendments are not under the same time limits as zone changes. Mr. Penn suggested that the staff work on the text and present it to the Commission at a future meeting.

Mr. Wilson asked if the staff was comfortable with doing some additional work on the proposed text. Ms. Wade responded that the staff could perform such work on the text, adding that there might also be some general misunderstandings that could be addressed as well.

Mr. Wilson asked if the petitioner would be agreeable to continuing this hearing. Mr. Nicholson answered that the petitioner would be agreeable to continuing this item to the Commission's January public hearing.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 7-0 (Brewer, Owens, Richardson, and Smith absent) to continue consideration of ZOTA 2015-8 to the January 28, 2016, Planning Commission public hearing.

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 January, 2016**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 7, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	January 7, 2016
Subdivision and ND-1 Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 14, 2016
Work Session, Thursday, 1:30 p.m., 3 rd Floor, Phoenix Building	January 21, 2016
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 27, 2016
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers	January 28, 2016

X. **ADJOURNMENT** – There being no further business, Vice-Chairman Gravens declared the meeting adjourned at 5:58 p.m.

TLW/TM/CT/BJR/BS/src