

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

March 24, 2016

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

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

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) to approve the minutes of the February 11, 2016, and February 25, 2016, meetings.

III. **POSTPONEMENTS AND WITHDRAWALS**

- a. PLAN 2016-16F: LEXMARK INTERNATIONAL, INC. (FKA: IBM) (AMD) (5/1/16)* - located at 361 Newtown Pike. (Council District 2) **(Vision Engineering)**

Note: The Planning Commission postponed this item at their March 10, 2016, meeting. The purpose of this amendment is to subdivide two lots into ten lots.

The Subdivision Committee Recommended: **Postponement**, due to the 30% infrastructure report not being submitted for Planning Commission review (as required by Article 4-5(b) of the Land Subdivision Regulations).

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Delete "section" information on all lots, and renumber lots.
10. Denote address of detention basin on plan.
11. Discuss Legacy Trail conflict with proposed access easement.
12. Discuss timing and location (i.e., storm water basin and sanitary sewer) of public improvements and possible need for a waiver.
13. Discuss need for Royal Spring Aquifer note.

- b. DP 2016-20: LEXMARK INTERNATIONAL, INC. (FKA: IBM) (5/1/16)* - located at 361 Newtown Pike. **(Vision Engineering)**
(Council District 1)

Note: The Planning Commission postponed this item at their March 10, 2016, meeting.

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the conflict between the private access proposed and the Legacy Trail; the access easement and the timing of required findings by the Planning Commission; and the unconventional internal intersection geometrics proposed.

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

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. Kentucky Transportation Cabinet's approval of access points to Newtown Pike.
12. Delete note #5 (duplicate).
13. Specify lots affected in note #15.
14. Identify existing use of building on Lot 3.
15. Discuss conflict between the private access proposed and the Legacy Trail.
16. Discuss timing and details for future Phase 2 development.
17. Discuss access easement and timing of required findings by the Planning Commission.
18. Discuss unconventional internal intersection geometrics proposed.

Petitioner Representation: Jihad Hallany, Vision Engineering, was present representing the petitioner. He requested a three-week postponement of PLAN 2016-16F and DP 2016-20 in order to allow the petitioner additional time to resolve some of their existing issues.

Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 10-0 (Brewer absent) to postpone PLAN 2016-16F and DP 2016-20 to the April 14, 2016, Planning Commission meeting.

- c. DP 2012-89: NEWMARKET PROPERTY, PHASE I, UNIT 10 (5/3/16)* - located at 1501 Deer Haven Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission postponed this item at their February 11, 2016, and March 10, 2016, meetings. This property requires the posting of a sign and an affidavit of such. The Planning Commission originally approved this plan on February 14, 2013, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Provided the Planning Commission makes a finding that the plan complies with the provisions of the EAMP.
9. Denote the area of storm water management improvements proposed for the adjacent Unit 6 property.
10. Addition of 10' tree protection areas on rear of Lots 30, 31, 33 and 34.
11. Delete duplicated note #15.
12. Revise lot numbering to relocate proposed Lots 147 and 148 (not between Lots 23 & 24).

This plan was certified on March 26, 2013, but that's been more than three years since the Commission's approval. Thus, the Preliminary Subdivision Plan portion of this combined plan has since expired. The applicant has requested a reapproval of this plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the following condition:

1. Addition of a second Planning Commission certification (referencing Planning Commission's reapproval date).

The Staff Recommends: **Postponement**. There has been a delay in posting of the notice sign on this property.

Staff Presentation: Mr. Sallee stated that the purpose of this final development plan is to continue residential development in the Polo Club Boulevard area, immediately south of the Brighton East Rail Trail. He said, with regard to the legal advertisement for this item, that it was not included as required; another plan was advertised erroneously in its place. However, the staff has determined that this plan has not yet expired. The petitioner still has today and one full day to submit improvement plans for this subdivision, since this plan is still "alive." The petitioner has indicated their intent to submit improvement plans for several other units in this development, but they do not intend to submit such plans at this time for the area covered by this development plan. Mr. Sallee said that the staff is recommending postponement of this item to the April 14th meeting, in order to allow the staff time to correctly advertise this plan.

Petitioner Representation: Rory Kahly, EA Partners, stated that the petitioner was agreeable to a three-week postponement. He said that the required sign posting would be updated to reflect the new meeting date.

Chair Comment: The Chair apologized for the incorrect legal notice.

Action: A motion was made by Ms. Mundy, seconded by Ms. Plumlee, and carried 10-0 (Brewer absent) to postpone DP 2012-89 to the April 14, 2016, Planning Commission meeting.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, March 3, 2016, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Mike Owens, Will Berkley, Carolyn Plumlee and Joseph Smith. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Jim Duncan, Director; Bill Sallee; Tom Martin; Cheryl Gallt; Denice Bullock; Kelly Hunter; Dave Jarman; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

- A. CONSENT AGENDA** – Following requests for postponement or withdrawal, items requiring no discussion were considered.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At the request of the Chair, Mr. Sallee identified the three remaining development plan items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval for these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. DP 2004-67: KINGSTON HALL, UNIT 2 (EAST BRIDGEFORD LAND & DEVELOPMENT COMPANY) (5/3/16)* - located off Newtown Pike. (Council District 12) **(EA Partners)**

Note: The Planning Commission postponed this item at their February 11, 2016, and March 10, 2016, meetings. This property requires the posting of a sign and an affidavit of such. The Planning Commission originally approved this Preliminary Subdivision Plan/Preliminary Development Plan on September 9, 2004, and granted a one-year extension on September 8, 2005, 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 parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of greenspace, greenways and bike/pedestrian facilities.
6. Department of Highways' approval of access and improvements to Newtown Pike.
7. Clarify plan title.
8. Provide fencing and the A-R landscape buffering prior to construction of infrastructure.
9. **Denote:** Temporary access from the boulevard to the 20-acre tract (Lot 1) will be abandoned at the time of the connection of the boulevard to the adjoining property.

The Planning Commission reapproved this item on September 13, 2012, subject to the original conditions, adding the following conditions:

10. Denote area designated for the regional pump station per the EAMP to the approval of the Division of Water Quality and relocate detention basin on Lot 1, as necessary.
11. Identify location of as-built detention basin on Lot 2.
12. Delete Section "H-H" from Lot 1 & Lot 2, prior to certification.

This plan was certified on March 26, 2013, but that's been more than three years since the Commission's approval. Thus, the Preliminary Subdivision Plan portion of this combined plan has since expired. The applicant has requested a reapproval of this plan.

The Subdivision Committee Recommended: Reapproval, subject to the following condition:

1. Addition of a second Planning Commission certification (referencing Planning Commission's reapproval date).

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The Staff Recommends: **Postponement**. There has been a delay in posting of the notice sign on this property.

2. DP 2007-141: NEWMARKET PROPERTY, UNIT 8 (4/18/16)* - located at 1501 Deer Haven Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission postponed this item at their February 11, 2016, and March 10, 2016, meetings. This plan requires the posting of a sign and an affidavit of such. This plan was approved by the Planning Commission at its December 13, 2007, meeting, 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 parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffer.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Solid Waste's approval of refuse collection.
7. Approval of street names and addresses per e911 staff.
8. Addition of sanitary sewer force main easement.

On December 13, 2007, the Planning Commission made a finding that this development plan complies with the EAMP Compliance report, for the following reasons:

1. The proposed single family development is an allowable use, and is within the density recommended by the EAMP.
2. The applicant has designed this development to be consistent with previously approved plans fronting Polo Club Boulevard in this and adjoining units.
3. The EAMP requires Polo Club Boulevard on the subject property, which has been built and dedicated, as required.

On July 14, 2011, this plan was reapproved by the Planning Commission, subject to four conditions:

1. Addition of second Planning Commission certification (referencing today's date).
2. Correct note #4.
3. Revise limits of plan to permit construction of street stub in right-of-way.
4. Addition of proposed overhead electric utility easement.

Note: The Plan was certified on May 14, 2008, but the Preliminary Subdivision Plan portion of this property has since expired. The applicant is now requesting a reapproval of that portion of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to one condition:

1. Addition of a second Planning Commission certification (referencing Planning Commission's reapproval date).

The Staff Recommends: **Postponement**. There has been a delay in posting of the notice sign on this property.

3. DP 2012-80: NEWMARKET PROPERTY, PHASE 1, UNIT 6 (AMD) (4/18/16)* - located at 1501 Deer Haven Lane (a portion of). (Council District 12) **(EA Partners)**

Note: The Planning Commission postponed this item at their February 11, 2016, and March 10, 2016, meetings. This property requires the posting of a sign and an affidavit of such. The purpose of this amendment is to amend the lot standards and increase the number of lots by 28. The Planning Commission originally approved this plan at their October 11, 2012, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Delete either note #9 or #16 (redundant).
9. Correct note #4 to reference Article 16 of the Code of Ordinances.
10. Revise amendment note to include lot increase and development standards.
11. Resolve note #13 relative to new school development across Polo Club Boulevard.

Note: The Plan was certified on January 31, 2013, but the Commission's approval of the Preliminary Subdivision Plan portion of this plan has since expired. The applicant is now requesting a reapproval of that portion of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to one condition:

1. Addition of a second Planning Commission certification (referencing Planning Commission's reapproval date).

The Staff Recommends: **Postponement**. There has been a delay in posting of the notice sign on this property.

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Mr. Sallee stated that the staff had received the required affidavits of sign posting for these three plans, which he entered into the record. He noted that the staff had provided to the Commission members copies of the staff's EAMP Reports/memos indicating that DP 2007-141 and DP 2012-80 are in compliance with the Expansion Area Master Plan. In conclusion, Mr. Sallee said that the items identified on the Consent Agenda could be considered for reapproval at this time by the Commission, as was recommended by the Subdivision Committee, unless there was a request for an item to be removed from consideration by a member of the Commission, or the audience, in order to permit further discussion.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee and staff.

B. DISCUSSION ITEMS – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee 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 OR 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)
- Commission discusses and/or votes on the plan.

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 meeting. The Chair will announce his/her decision at the outset of the hearing.

1. DEVELOPMENT PLANS

- a. DP 2004-66: KINGSTON HALL, UNIT 1 (4/18/16)* - located at 2175 & 2301 Russell Cave Road.
(Council District 12) **(EA Partners)**

Note: The Planning Commission postponed this item at their February 11, 2016, and March 10, 2016, meetings. This property requires the posting of a sign and an affidavit of such. The Planning Commission originally approved this Preliminary Subdivision Plan/Preliminary Development Plan on September 9, 2004, and granted a one-year extension on September 8, 2005, 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 parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of greenspace, greenways and bike/pedestrian facilities.
6. Department of Highways' approval of access and improvements to Russell Cave Road.
7. Clarify plan title.
8. Urban Service Area fencing and landscaping as required by zone-to-zone screening and A-R buffering be provided prior to construction of infrastructure.
9. Minimum setback to Russell Cave Road to be no less than 50 feet.

On September 13, 2012, the Planning Commission reapproved this development plan, subject to the original conditions, and added the following condition:

10. Denote cemetery location and "50' No Disturbance" zone per Article 3-7 of the Zoning Ordinance.

Note: This plan was certified by the Commission's secretary on February 1, 2013, and the Commission's approval has since expired. The applicant has recently requested a reapproval of this plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions.

The Staff Recommends: **Postponement**. There has been a delay in posting of the notice sign on this property.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Staff Comment: Mr. Sallee stated that this plan was recommended by the Subdivision Committee for reapproval, and it would have qualified for the consent agenda. However, the Joyland Neighborhood Association requested postponement of this plan, due to an error in the required legal advertisement for the property. The plan was advertised in the *Lexington Herald-Leader*, along with several other plans. In the ad, however, the plan was described with "24 residential lots." These properties are zoned ED, which does not currently permit residential uses. The staff communicated that information with the neighborhood residents after the ad was published, but they continued to request postponement due to the incorrect advertisement.

Mr. Sallee stated that the Commission has reapproved the property just to the west of the subject property, which is located near Interstate 75 and the Russell Cave Road bridge. The Joyland neighborhood is located to the south and east of the subject property. The plan depicts two new streets, one of which is an exacted collector street, and two streets which will stub into the Unit 1 development. The proposed lot sizes vary between seven and 16 acres, and are zoned for Economic Development uses. Mr. Sallee said that the plan was certified on February 1, 2013, subject to the 10 conditions as listed on the agenda. The plan has since expired, because it is also a preliminary subdivision plan, which allows the applicant to submit plans to the Division of Engineering to begin the infrastructure development on the property.

With regard to the legal advertisement issue, Mr. Sallee said that the staff had reviewed the Ordinance more closely. The staff found that a legal advertisement is required for final development plans, but not for preliminary development plans, in the Expansion Area. Although the advertisement included incorrect language, the staff believes that it does not affect the Commission's ability to consider this item, because it was not actually required to be advertised. The staff is recommending one condition, as listed on the agenda, should the Commission choose to reapprove this plan.

Chairman Comment: Mr. Owens apologized for the legal advertisement error. Mr. Sallee noted that the staff had also apologized in writing to the representatives of the Joyland Neighborhood Association about the inaccuracy.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He stated that there had been no changes proposed to the plan, and he requested approval.

Commission Question: Ms. Plumlee asked, with regard to condition #9, if a 50' setback would be adequate should Russell Cave Road be widened at some point in the future. Rory Kahly, EA Partners, answered that the building setback is standard for the area, and it should not need to be increased for a roadway widening that is, at this point unplanned.

Action: A motion was made by Mr. Penn, seconded by Mr. Wilson, and carried 10-0 (Brewer absent) to reapprove DP 2004-66, subject to the nine original conditions as listed, adding #10 as recommended by staff.

- b. DP 2016-23: SAMS PROPERTY & LARKIN PROPERTY (AMD) (5/1/16)* - located at 1510 Greendale Road and 2440 Innovation Drive. (Council District 2) **(Element Design)**

Note: The Planning Commission postponed this item at their March 10, 2016, meeting. The purpose of this amendment is to add floor area and parking on Lot 2.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
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. Kentucky Transportation Cabinet's approval of access to Greendale Road (KY 1978).
12. Denote lot coverage, floor area ratio and building height in site statistics, including applicable lot coverage and floor area (provided) information from previous plan (DP 2008-87).
13. Addition of required erosion control note referencing Chapter 16 of the Code of Ordinances.
14. Denote construction access on plan.
15. Denote Royal Spring Aquifer Committee's recommendation prior to certification.
16. Denote street cross-sections along all property frontages.
17. Darken and improve clarity of existing development plan information (from DP 2008-87) on plan.
18. Discuss possible improvements to Greendale Road and Spurr Road.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

19. Discuss provision of sanitary sewer service to Lot 1 & Lot 2.
20. Discuss St. Claire spring protection measures.

Staff Presentation: Mr. Martin presented this development plan, briefly orienting the Commission to the location of the subject property at the intersection of Greendale Road and Spurr Road. Lot 2 of the property includes the Kentucky Eagle Beer distribution facility, which has access to Innovation Drive. The subject portion of the property includes a structure that, for many years, was used as a recording studio; it has since been donated to the University of Kentucky for its use. Mr. Martin said that the petitioner is proposing to construct a building with a mix of warehouse and office space on Lot 1 of the subject property, with associated parking. Two access points are proposed to Greendale Road, as well as a parking lot access to Lot 2. Two detention basins are also depicted on the plan to serve the existing and proposed development.

Mr. Martin explained that this plan was postponed at the Commission's March 10th meeting, although it was recommended for approval by the Subdivision Committee, subject to the 20 conditions as listed on the agenda. There were several discussion items, including #19, which refers to the provision of sanitary sewer service on the property. The petitioner has a couple of options, including tying into an existing trunk line across Spurr Road, or adding onto the Kentucky Eagle Beer property's lift station. The petitioner is currently in discussions to determine the best option. The existing structure on Lot 1 currently is on a septic tank system; one of the requirements of this plan is that sanitary service must be provided to that structure as well. The petitioner indicated to staff that the University of Kentucky is communicating with the petitioner to address that issue. The staff is aware, however, that, although the petitioner is currently working on the sewer issue, a new design concept has not yet been fully vetted and approved by the Division of Engineering.

Mr. Martin said that condition #18 refers to improvements to Spurr and Greendale Roads, which are old rural cross-sections. The Commission approved a record plat for the subject property a couple of years ago that dedicated right-of-way, but improvements were not required at that time, due to a requested waiver. The nature and extent of any necessary roadway improvements also has not been vetted with the Division of Traffic Engineering or KYTC at this time. The staff would prefer the completion of full improvements; at a minimum, the staff would anticipate that widening would be required.

Condition #20, Mr. Martin explained, pertains to the existing spring on the property, and the spring-fed pond. Some environmental assessments have been done on the site, including an evaluation of the condition of the pond; but the staff has not received a full report on this issue. The spring is depicted on the plan as being covered with heavy-duty concrete in order to serve the proposed warehouse use. Mr. Martin said that a springbox might be appropriate at this location, but the staff will require further information in order to make that determination.

Mr. Martin reiterated that the Subdivision Committee recommended approval of this plan. He said that the petitioner has briefly conferred with staff about some of the discussion items, but none of the outstanding issues have been fully vetted with Planning or any of the other pertinent government divisions.

Commission Questions: Mr. Penn asked why access is proposed to Lot 2, and if the property was under the same ownership. Mr. Martin answered that the property is under the same ownership. He added that the staff has no issues with the concept of the shared access, as it would allow drivers to use Innovation Drive as another outlet for the subject property. There are issues with the geometrics of the access point, as the Division of Fire and Emergency Services staff has indicated that its turning radii are insufficient for use by their trucks. Mr. Penn asked if an access easement would be necessary, since both properties are owned by the same entity. Mr. Martin responded that no access easement is depicted on the plat for the property. Mr. Penn asked if an easement would be necessary if one of the lots changed hands. Mr. Martin answered that, from the staff's perspective, the issue could be handled via the development plan, with statements requiring reciprocal parking and access.

Mr. Owens asked if this was a final development plan, since there are items which have not been properly vetted at this point, to which Mr. Martin responded affirmatively.

Petitioner Representation: Evan McDaniel, Element Design, was present representing the petitioner.

Commission Question: Mr. Owens asked where the petitioner stood at this point with regard to addressing the discussion items on this plan. Mr. McDaniel answered that the petitioner would prefer to use the existing sanitary sewer lift station on Lot 2. He said that the properties have now been consolidated and share the same ownership, so the proposed warehouse would be a leased space. Mr. Owens asked how the petitioner proposed to address the issues of road improvements and protection of the St. Claire spring. Mr. McDaniel responded that the petitioner has applied with KYTC for a permit with regard to roadway improvements, but they have not received a response. The petitioner is concerned about being required to provide curb, gutter, and sidewalks, and how that would relate to drainage issues and roadway pollutants. With regard to the spring, he explained that it would be difficult to decide the best

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course of action until the grading on the property has been finalized. The petitioner believes at this time that a spring-box would be the best option. Mr. McDaniel noted that Palmer Engineering completed an environmental report, indicating that the spring is ephemeral, and does not run constantly.

Commission Comments: Mr. Owens stated that he did not believe that the discussion items had been sufficiently vetted to allow this plan to progress at this time. Mr. McDaniel added, with regard to the Division of Fire and Emergency Services staff's concerns, that the petitioner had slightly altered the turning radius of the shared access in order to address the situation.

Captain Greg Lengal, Division of Fire and Emergency Services, stated that he had received a template indicating the changes to the layout of the proposed access, but he had not actually seen a revised plan. He said that the proposed changes could possibly work, but he would not sign off on the current configuration of the access point. Mr. McDaniel indicated that he had changed the drawings to reflect Captain Lengal's concerns, and that he could supply those drawings to Captain Lengal.

Mr. Owens said that he would not be comfortable with moving this plan forward at this time.

Mr. Penn opined that his plan should be postponed for 30 days to allow the petitioner time to address the issues.

Mr. Owens stated that the Subdivision Committee had recommended approval of this plan, but they did so with the understanding that the discussion items would be resolved. With the additional two weeks gained from postponing the plan, there should have been time for the petitioner to make corrections and submit a revised plan.

Action: A motion was made by Mr. Penn, seconded by Mr. Smith, and carried 10-0 (Brewer absent) to continue consideration of DP 2016-23 to the April 28, 2016, Planning Commission meeting.

V. ZONING ITEMS - The Zoning Committee met on Thursday, March 3, 2016, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Patrick Brewer, Mike Cravens, David Drake, 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)

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.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

1. **MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST ZONING MAP AMENDMENT & BRIGHTON PLACE SHOPPES, PHASE II (GILLIS PROPERTY) ZONING DEVELOPMENT PLAN**

- a. MAR 2016-5: MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST (5/1/16)* – petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Neighborhood Business (B-1) zone, for 0.43 net (0.46 gross) acre, for property located at 3080 Old Todds 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 Neighborhood Business (B-1) zone in order to expand the available off-street parking for the adjoining Todds Center, a neighborhood shopping center, by approximately 48 spaces.

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

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

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan state that the community should work to achieve an effective and comprehensive transportation system by making pedestrian and other transportation connections (Theme D, Goal #1); that infill and redevelopment should respect an area's context and design features (Theme A, Goal #2a); and that underutilized and vacant land should be utilized to encourage compact and contiguous development within the Urban Service Area (Theme E, Goal #1).
 - b. The proposed zoning is compatible with the adjoining shopping center, which is predominantly zoned B-1, as well as most other commercial uses in the vicinity. Additionally, the landscape buffer for the proposed parking lot, along with the adjacent entrance drive, will provide an adequate land use buffer from the townhouses to the west to the shopping center.
 - c. The proposed rezoning will encourage the continued success of a neighborhood commercial node that serves this portion of the Urban Service Area.
 - d. The proposed expansion will not adversely impact the adjoining residential land use and will allow for pedestrian access along Old Todds Road.
 - e. The proposed development of the subject property will put an underutilized tract to a productive use in support of existing businesses in the community.
 2. This recommendation is made subject to approval and certification of ZDP 2016-21: Brighton Place Shoppes, Phase II, (Gillis Property), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2016-21: BRIGHTON PLACE SHOPPES, PHASE II (GILLIS PROPERTY) (5/1/16)* - located at 3080 Old Todds Road. **(Midwest Engineering)**

The Subdivision Committee Recommended: **Postponement**. There are some questions regarding the lack of required information on the plan (per Article 21 requirements) and the timing of consolidation to the adjoining property.

On March 1st, the applicant provided a revised submission of this plan to the staff. It has addressed several conditions identified by the Technical Committee at their February 24th meeting. However, there are still several discussion issues that the applicant has not addressed. However, the staff can now offer a revised listing of possible conditions for this zoning development plan.

The Staff Recommends: **Postponement**. There are some questions regarding the timing of consolidation to the adjoining property and Old Todds Road improvements.

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

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.

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5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
- ~~6. Addition of graphic scale on plan.~~
- ~~6. 7. Correct note #3.~~
- ~~8. Denote final record plan information or owners' names for adjoining property.~~
- ~~9. Denote zoning for adjoining property on plan.~~
- ~~10. Denote existing and proposed zoning for subject property, in site statistics.~~
- ~~11. Denote construction access location on plan.~~
- ~~12. Replace tree preservation plan with tree inventory information per the requirements of Articles 21 & 26 of the Zoning Ordinance.~~
- ~~13. Denote that there shall be no access to Todds Road from this property.~~
- ~~14. Clarify property's location on vicinity map.~~
- 7.15. Denote 20' building line from Todds Road on plan.
- ~~16. Revise plan title.~~
- ~~17. Identify interior landscape area (3180 s.f.) on plan.~~
- ~~8.18. Discuss timing of consolidation of property to the adjoining property.~~
- ~~9.19. Discuss width of landscape screening adjacent to R-3 property, and possible need for a variance.~~
- ~~10.20. Discuss timing of Todds Road right-of-way dedication.~~
- ~~11.21. Discuss storm water management requirements for new impervious surface.~~
- ~~12.22. Discuss parking lot access and circulation relative to Todds Road access and drive-through.~~

Zoning Presentation: Ms. Wade presented the staff report on this rezoning request, briefly orienting the Commission to the location of the subject property on the south side of Old Todds Road, near its intersection with Liberty Road and Man o' War Boulevard. The subject property is currently zoned A-U; it is bounded to the west by a townhouse development, and the Todds Center shopping center to the east, with the Cadentown Historic District located to the north. The petitioner is requesting the B-1 zone in order to provide additional parking for the shopping center. Their intent is to consolidate the subject property into the shopping center parcel, and to provide approximately 50 additional parking spaces for that use. This would help to ease the parking situation in the center at peak times, and would allow the property owners more flexibility in leasing to tenants.

Ms. Wade displayed several photographs of the subject property, noting that the single-family residence that had been located there has since been removed. She noted that Todds Road along the subject property has not yet been improved, and it lacks sidewalks. There is a significant pin oak tree located on the front of the property, but it has been identified as diseased by the Urban Forester, and will be removed.

Ms. Wade stated that the petitioner contends that the proposed rezoning is in agreement with the 2013 Comprehensive Plan, because it will provide support for the existing shopping center, and the zoning will be compatible with the B-1 use. The petitioner also contends that developing the subject property as a parking lot will provide pedestrian connectivity in the area via the construction of sidewalks, and that it will allow for an underutilized parcel to become productive without negatively impacting the adjoining residential use.

Ms. Wade said that there had been some concerns about landscaping for the subject property; specifically, what type of buffer would be provided along the shared property line with the adjoining multi-family residential development. The petitioner is required to provide a 15' buffer between residential and business zoning, with trees every 40 feet, and shrubs. The petitioner could also reduce the buffer width by providing a solid screening fence. Ms. Wade explained that the staff did not believe that additional landscaping would be necessary at this location, because the portion of the multi-family property immediately adjacent to the subject property contains only a drive aisle; the residential units are located further away from the subject property. 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 the corollary zoning development plan, noting that the staff had recommended revised conditions, which were distributed to the Commission members.

Mr. Martin explained that this is a preliminary development plan, depicting approximately 48 parking spaces. With the revised plan, the petitioner addressed several of the issues originally raised at the Subdivision Committee meeting three weeks ago. The circulation pattern on the property has been revised slightly to provide two-way access in some areas, with one-way traffic near the entrance to the parking lot to avoid conflict between vehicles. The shopping center that will be served by the parking lot includes a busy drive-through liquor store, so staff was concerned about the functionality of the drive aisles, and the entrance conflict.

With regard to the conditions for approval, Mr. Martin said that condition #10 refers to the need for stormwater management, given the addition of impervious surface to the property. Condition #9 would require the petitioner to denote on the plan the timing of right-of-way dedication on Old Todds Road, which will be necessary for the construction of road improvements. Mr. Martin noted that the Commission will see a Final Development Plan for this property, as well as a

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consolidation plat, at some point in the future. He said that the staff is recommending approval of this plan, 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: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Correct note #3.
7. Denote 20' building line from Todds Road on plan.
8. ~~Discuss~~ Denote timing of consolidation of property to the adjoining property on plan.
9. ~~Discuss width of landscape screening adjacent to R-3 property, and possible need for a variance.~~
- 9.10. ~~Discuss~~ Denote the timing of Todds Road right-of-way dedication on plan.
- 10.11. ~~Discuss~~ Denote that storm water management requirements for new impervious surface shall be determined at the time of a Final Development Plan.
12. ~~Discuss parking lot circulation relative to drive-through.~~

Commission Question: Mr. Owens asked if the staff had received additional information about the proposed landscape buffer on the property. Mr. Martin answered that the staff was initially concerned about the petitioner's ability to provide the required 15' landscape buffer. However, with the revised plan, the petitioner is now demonstrating the ability to meet the Article 18 requirements of a 5' buffer with a fence. He reiterated that there will be a Final Development Plan on the property, which must also demonstrate compliance with Article 18 requirements.

Petitioner Representation: Richard Hopgood, attorney, was present representing the petitioner. He stated that the shopping center with which the subject property is proposed to be consolidated is family-owned. It was constructed in 2000, and currently needs additional parking. The subject property became available, so the petitioners placed it under a purchase contract, subject to approval of the zone change.

Mr. Hopgood said that the shopping center currently has a mix of tenants, including an insurance agency; a karate studio; Penn Station and Buffalo Wild Wings restaurants; a nail salon; a barber shop; a cocktail lounge; a liquor store; and a piano store. Due to a number of high-traffic uses, the petitioner believes that providing additional parking will alleviate congestion and the need for patrons to park across Old Todds Road. The subject property is only approximately 50' in width along the Todds Road frontage, so the petitioner contends that it would be unsuitable for agricultural use.

Mr. Hopgood said that the petitioner is planning to extend the existing sidewalk along Old Todds Road to the shopping center, in order to improve pedestrian connectivity in the area. The petitioner is also proposing to construct a sidewalk alongside the parking lot, so that pedestrians will not be required to walk through moving traffic. In order to address concerns from the Division of Traffic Engineering staff, the petitioner revised the entrance configuration to eliminate internal vehicular conflicts with the existing access to Todds Road. Mr. Hopgood noted that an area near the front of the property will be maintained as greenspace, in order to help meet the tree canopy requirement for the property. The subject property will be consolidated with the shopping center, and it will not have its own dedicated access to Old Todds Road. Stormwater will be directed toward the existing detention system in the shopping center.

Mr. Hopgood stated that the petitioner has met with owners in the adjoining Mapleleaf Townhomes, and plans to construct a 6' privacy fence and 5' of landscaping all along the entirety of the shared boundary in order to provide a buffer between that property and the proposed parking lot.

Mr. Hopgood said that the petitioner contends that the proposed zone change is in agreement with the 2013 Comprehensive Plan, and he requested approval.

Commission Question: Mr. Owens asked if the proposed fence would be 6' in height, which Mr. Hopgood answered affirmatively. He added that property owners in the Mapleleaf Townhomes development requested a fence, all along the property line. He noted that the petitioner had also spoken with the head of the Cadentown Neighborhood Association and the pastor of the Cadentown Missionary Baptist Church, who were not opposed to the proposed zone change.

Citizen Support: Holly Bauman, owner of the barber shop located in the existing shopping center, stated that the additional parking would benefit all of the businesses in the center. She said that, during peak times, overflow parking is required to locate across Old Todds Road, and patrons must cross the street to access the shopping center.

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Gatewood Gay, property owner in Mapleleaf Square townhomes, stated that the HOA is in favor of the proposed zone change, but the residents would like for as much of the existing treeline as possible to be maintained as a natural buffer between the two properties. Residents are also concerned about mitigation of lighting from the subject property.

Donna Culver, manager of Cocktails Bar and Grill, stated that her business has sometimes lost customers due to insufficient parking in the shopping center during evening hours. She said that she supports the proposed zone change.

Citizen Opposition: There were no citizens present in opposition to this request.

Petitioner Rebuttal: Mr. Hopgood stated that the petitioner would work with the Mapleleaf Square property owners to identify existing trees to be maintained as part of the landscape buffer, and would denote those trees on the Final Development Plan for the property. He added that there is old wire fencing along the property line, which the petitioner will clean up, along with the removal of some scrub trees.

Staff Rebuttal: Ms. Wade stated that the staff would not suggest regulating the landscaping via conditional zoning since the situation is somewhat irregular, with the neighbors involved in requesting the maintenance of some trees. The staff could draft a conditional zoning restriction related to lighting, however, if the Commission so chose.

Commission Question: Mr. Penn asked if the Commission could include a conditional zoning restriction to require that lighting on the subject property be diffused. Ms. Wade answered that staff would typically recommend a restriction requiring that lighting be directed away from any residential uses, and placing a 20' or 25' height limit on any lighting. Mr. Sallee displayed on the overhead the staff's draft conditional zoning restriction language:

1. Any lighting shall be directed downward and away from any residential zone adjacent to this location.

This restriction is necessary to protect the adjacent neighborhoods from potential light pollution.

Mr. Sallee noted that this should be added to the findings in the staff report and on the agenda, and listed as item #3.

Mr. Hopgood indicated that the petitioner would be agreeable to the addition of the proposed conditional zoning restriction.

Zoning Action: A motion was made by Mr. Cravens, seconded by Mr. Berkley, and carried 10-0 (Brewer absent) to approve MAR 2016-5, for the reasons provided by staff, subject to the conditional zoning restriction as proposed by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve ZDP 2016-21, subject to the conditions as listed in the revised staff recommendation.

Note: Chairman Owens declared a brief recess at 2:38 p.m. The meeting reconvened at 2:42 p.m.

2. ANDERSON-VILLAGE AT GREAT ACRES, LLC, ZONING MAP AMENDMENT & GREATHOUSE PROPERTY (VILLAGE AT GREAT ACRES) ZONING DEVELOPMENT PLAN

- a. MARV 2016-6: ANDERSON-VILLAGE AT GREAT ACRES, LLC – petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 5.80 net and gross acres; from an Agricultural Urban (A-U) zone to a Highway Service Business (B-3) zone, for 7.79 net (8.64 gross) acres; from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone, for 15.59 net (16.40 gross) acres; from a Single Family Residential (R-1D) zone to a Highway Service Business (B-3) zone, for 1.33 net (1.64 gross) acres; and from a Single Family Residential (R-1E) zone to a Planned Neighborhood Residential (R-3) zone, for 20.30 net and gross acres, for property located at 2731 and 2751 Leestown Road (a portion of). A dimensional variance is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The petitioner proposes a mixed-use development including commercial land uses near Leestown Road and along the proposed Lucille Drive entrance from Leestown Road. Commercial uses are proposed in the requested Highway Service Business (B-3) zone. A combination of townhouses and multi-family residential dwelling units is contemplated within a Planned Neighborhood Residential (R-3) zone for the remainder of the subject properties. A total of 569 dwelling units are proposed, which equates to a proposed residential density of 13.49 dwelling units per net acre of residential land area.

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

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

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

1. A Planned Neighborhood Residential (R-3) zone, and a restricted Highway Service Business (B-3) zone at this location are in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan encourage expanding housing choices (Theme A, Goal #1); supporting infill and redevelopment within the Urban Service Area (Theme A, Goal #2); identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); providing for well-designed neighborhoods (Theme A, Goal #3); expanding options for mixed use throughout Lexington (Theme A, Goal #3a.); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.); providing quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.); developing a viable network of accessible transportation alternatives (including transit, bicycles, walkways and greenways) (Theme D, Goal #1b.); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3).
 - b. The Comprehensive Plan also states that higher density development should be encouraged near greenways and public parks, if possible (pages 43 & 44); building green infrastructure and trails throughout the community should be accomplished (page 88); utilizing single-loaded streets adjacent to greenways will provide improved access to the community's open space (page 91); and placemaking standards outlined in the Growing Successful Neighborhoods chapter are ideal (page 39).
 - c. The proposed development permitted by this rezoning meets the placemaking standards set forth in the 2013 Comprehensive Plan, which include: inviting streetscape, varied housing choice, abundant private and public open space, neighborhood focal points, and quality connections with parks, schools and stores. The proposed development incorporates the existing floodplain as a greenway (open space) that will connect to Masterson Station Park to the west and commercial areas to the east. The proposal provides townhouses and multi-family residential units near the proposed neighborhood commercial focal point, with the existing single-family residential uses located a greater distance away. It also provides important multi-modal neighborhood connections and an inviting streetscape along the extension of Lucille Drive.
 - d. The proposal expands the existing housing choices within the vicinity to include multi-family residential and townhouses. These types of residential land use are either limited or do not currently exist. The proposed neighborhood node is bordered by the higher density residential, with townhouses proposed nearest existing single-family residential along Leesway Drive and Masterson Station Drive.
 - e. The proposal will utilize the existing floodplain for greenway improvements and connections between existing and proposed trail systems in this portion of the Urban Service Area. The petitioner also proposes single-loaded local streets so that the greenway will remain accessible for the public.
2. This recommendation is made subject to the approval and certification of ZDP 2016-22: Greathouse Property (Village at Great Acres), 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 use restrictions are recommended via conditional zoning for the B-3 zone on the subject property:

PROHIBITED USES

- a. Establishments and lots for the display, rental, sale, service and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Indoor amusements, such as billiard or pool halls; dancing halls; skating rinks; miniature golf or putting courses; theaters or bowling alleys.
- c. Drive-in restaurants.
- d. Tattoo parlors.
- e. Carnivals and circuses.
- f. Pawn shops.
- g. Adult arcades, massage parlors, adult book stores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- h. Advertising signs as regulated under Article 17 of the Zoning Ordinance (billboards).
- i. Hotels and motels.
- j. Cocktails lounges and nightclubs as principal uses.
- k. Outdoor recreational facilities, including go-cart tracks; archery courts; skate-board and roller skating tracks; trampoline centers; rifle and other firearm ranges; water parks; and other similar uses.

These restrictions are appropriate in order to protect the adjacent residential properties from the possible negative impacts of the most intense business uses permitted in the B-3 zone, and to more fully implement the 2013 Comprehensive Plan.

b. REQUESTED VARIANCE

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

1. Eliminate the B-3 to R-3 zone-to-zone screening requirements internal to the site where a private access easement or driveway serves as the boundary line on properties located at 2731 and 2751 Leestown Road.

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

- a. Granting the requested landscape 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. The variance is requested because providing the required landscaping between the B-3 and R-3 zones would be contrary to the applicant's intent to integrate the mix of commercial and residential uses, utilizing the commercial area as a focal point for an integrated walkable mixed-use neighborhood.
- b. Granting the requested landscape variance will not result in an unreasonable circumvention of the Zoning Ordinance because zone-to-zone screening is designed to "require buffering between incompatible land uses," and the proposed mix of land uses will be more compatible (rather than incompatible) compared to other local developments. Landscaping will be provided by the developer throughout the property with little to no elimination of tree plantings, that will accomplish the purpose of the intent of Article 18 without impairing the mixed-use development concept associated with this proposal.
- c. The special circumstance that applies to this property that does not generally apply to land in the general vicinity is that the private access easements and driveways will serve the function of typical local public streets, and would have been exempt if the access easements were to be public. Furthermore, the zone-to-zone screening variance that is requested is for areas that are internal to the proposed mixed-use neighborhood, and all external boundaries of the property will meet or exceed the requirements of the Zoning Ordinance.
- d. Strict application of the requirements of the Zoning Ordinance would deprive the applicant of a reasonable use of the property and would create an unnecessary hardship because the use of internal screening hedges, walls or fences would be contrary to the concept of an integrated mixed-use development.
- e. Although the circumstances surrounding the requested variance are associated with the proposed zone change, the variance is requested in an effort to accomplish an efficient design and place the landscaping in more appropriate locations on the property. No development has commenced on the property, and the need for the variance was recognized during the normal development review process.

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

1. Provided the Urban County Council rezones the property B-3 & R-3; otherwise, any Commission action of approval of this variance is null and void.
 2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
 3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
 4. Prior to obtaining an Occupancy Permit, the applicant shall obtain a Zoning Compliance Permit from the Division of Planning.
 5. The final Landscaping Plan, submitted to the Division of Building Inspection for review, shall also be submitted to the Division of Planning, for placement in the appropriate record file.
- c. ZDP 2016-22: GREATHOUSE PROPERTY (VILLAGE AT GREAT ACRES) (5/1/16)* - located at 2731 and 2751 Leestown Road.
(Integrated Engineering)

Note: The purpose of this amendment is to add a commercial development and increase residential density.

The Technical Committee and Staff Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3 & 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Clearly delineate floodplain and 25' setback.
8. Dimension all structures per Article 21 requirements.
9. Provide total lot coverage and floor area ratio per Article 21 requirements.
10. Correct note #8 to reference Chapter 16 of the Code of Ordinances.
11. Clarify tree protection areas along property perimeters.
12. Denote construction access on plan.
13. Addition of floodplain information and denote building encroachment (along Summerfield Drive).
14. Dimension parking spaces and drive aisles or label as typical.
15. Denote there will be no restaurant in "commercial building" I & II, or revise off-street parking site statistics accordingly.
16. Discuss zone-to-zone screening.
17. Discuss compliance with the Greenway Master Plan.

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18. Discuss transitions for Lucille Way right-of-way, and "B-B" (50/28) cross-section proposed.
19. Discuss proposed entrance and access control into proposed convenience store.
20. Discuss potential for drive-through facility and extent of pavement shown at proposed convenience store.

Zoning Presentation: Ms. Wade began the staff's presentation on this rezoning request by noting that the staff had received two emails in support, and 22 in opposition, as well as a petition. She briefly oriented the Commission to the location of the subject property on Leestown Road, outside of New Circle Road, and to the southeast of Masterson Station Park. The property is surrounded primarily by single-family residential uses in the Masterson Station, Leesway, McConnells Trace, Marehaven, Spicewood, and Bracktown subdivisions, with a few townhouses existing in the Masterson Station subdivision. Within ¼ mile of the subject property along Leestown Road, from Robinson Way to the south, the primary land use transitions to a mix of commercial, industrial, and agricultural, as well as two educational facilities.

Ms. Wade said that the majority of the subject property was rezoned to R-1D in 1997; at that time, 12 acres were left in the A-U zone in order to maintain the Great Acres plant nursery. That zone change request proposed a connection from Lucille Drive to Leestown Road, as well as a greenway system; those proposals are also included in this request. Ms. Wade displayed several photographs of the subject property and surrounding area, noting the location of the Great Acres nursery; the proposed B-3 area; an existing stub street, Summerfield Drive, which is proposed to be extended; the existing access to Leestown Road, directly across from Chestnut Ridge Drive in the Spicewood subdivision; the dedicated turn lanes from Leestown Road into the subject property, constructed as part of the recent widening project; the existing greenway system in the vicinity; and the existing street stub at Lucille Drive.

Ms. Wade explained that the petitioner is requesting a combination of the R-3 and B-3 zones in order to construct a mixed-use development with approximately 53,000 square feet of commercial area, near where Leestown Road is proposed to intersect with Lucille Drive, and approximately 42 acres of residential space. The residential area is proposed to include 570 dwelling units, in a combination of townhouse and multi-family buildings, representing a density of 13.67 units per acre.

Ms. Wade said that the petitioner contends that the proposed zone change is in agreement with the 2013 Comprehensive Plan, specifically with eight Goals & Objectives related to expanding housing choices; supporting infill and redevelopment within the Urban Service Area (USA); identifying opportunities for infill that respect an area's context and design features; providing for well-designed neighborhoods; expanding options for mixed use throughout the community; providing quality-of-life opportunities that attract young professionals; developing a viable network of transportation alternatives; and encouraging the development of underutilized property within the USA boundary. The staff believes that the proposed rezoning would also support Theme A, Goal #3d., which refers to minimizing the disruption of natural features in building new communities, and Theme B, Goal #3a., which indicates the importance of identifying and protecting natural resources and landscapes before development occurs. Ms. Wade said that the petitioner also cited several policy statements from the Comprehensive Plan that they believe support the proposed development, including that it meets the placemaking standards set out in the Plan. The placemaking standards pull several of the Goals & Objectives together, encouraging the creation of inviting streetscapes; abundant open space; varied housing choices; neighborhood focal points; and quality connections to amenities such as parks. Ms. Wade stated that the staff believes that the petitioner is meeting the Comprehensive Plan Goals & Objectives and policy statements in several ways, such as incorporating the floodplain into the greenways, and using it as an amenity; facing townhouses toward the existing pond; creating a focal point in the commercial development; and providing multi-modal connections via the greenways.

Ms. Wade said that, in their evaluation of the proposed B-3 zone, the staff had some concerns, due to the number of highway-oriented business uses permitted in that zone. The staff is recommending the restriction of some of those uses via conditional zoning. The petitioner provided a proposed list of conditional zoning restrictions, to which the staff is proposing to add several more uses, in order to better protect existing neighborhoods. The proposed conditional zoning restrictions are listed in the staff report and on the agenda. Ms. Wade stated 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 the corollary preliminary development plan, noting that a revised staff report with modified conditions had been distributed to the Commission members prior to the start of the hearing. He noted the location of the proposed extension of Lucille Drive, which would intersect with Leestown Road. Summerfield Road, an existing stub street, is also proposed to extend through the subject property. The plan depicts the location of the existing pond on the site, which is intended to be used for detention, as well as the proposed greenway trail that would tie into the existing neighborhood trail system.

Mr. Martin explained that the commercial portion of the development, which would be located near the intersection of Lucille Drive and Leestown Road, is proposed to include several commercial buildings, including a convenience store with gas pumps; a drugstore; a bank; and two unspecified commercial buildings. The commercial buildings are oriented toward the proposed plaza/open space area in the center of the development. The entrance is depicted as a wide, boulevard-type

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access, which originally caused some concern among the staff due to possible conflicts with the gas station access. That access has been redesigned, however, as a right-in/right-out.

Mr. Martin noted that Lucille Drive is a collector street, which will eventually connect to Spurr Road. The staff was concerned that the original plan did not depict Lucille Drive at full collector standards; however, the revised plan now includes the full residential collector street cross-section. Since Lucille Drive will likely carry a significant amount of traffic between the new development and the existing adjoining neighborhood, the petitioner is proposing to construct a traffic circle as a central feature of the commercial area in order to slow traffic. The plan also depicts Lucille Drive as being gently curved, rather than straight, also in an attempt at traffic calming.

Mr. Martin said that the total square footage proposed in the development is over 587,000 square feet; 535,000 square feet of that amount is residential, with just over 53,500 square feet within the commercial area. The plan includes 938 parking spaces to serve the commercial and residential development.

Mr. Martin noted that floodplain area does exist on the subject property, and one portion of it will have to be modified by a FEMA Letter of Map Revision (LOMR.) The petitioner will be required to obtain the necessary permits from several different agencies, as well as FEMA, in order to begin construction of Summerfield Drive. The revision of the floodplain area will remove conflicts that currently exist on the plan with two of the proposed residential buildings, which will have to be reconciled prior to the construction of the structures. The plan also includes a potential floodplain mitigation area near the existing pond, which would impact approximately 100-150' of the creek.

Mr. Martin stated that this plan was recommended for approval by the staff and the Subdivision Committee, subject to the following revised conditions recommended by the staff:

1. Provided the Urban County Council rezones the property R-3 & 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. ~~Clearly delineate floodplain and 25' setback.~~ Correct note #15 to meet Engineering Manual requirements.
8. Dimension all structures per Article 21 requirements.
9. ~~Provide total lot coverage and floor area ratio per Article 21 requirements.~~
10. ~~Correct note #8 to reference Chapter 16 of the Code of Ordinances.~~
11. ~~Clarify tree protection areas along property perimeters.~~
9. ~~12.~~ Denote construction access on plan. FEMA LOMR shall be resolved at time of Final Development Plan.
13. ~~Addition of floodplain information and denote building encroachment (along Summerfield Drive).~~
14. ~~Dimension parking spaces and drive aisles or label as typical.~~
10. ~~15.~~ Denote there will be no restaurant in "commercial building" I & II, or revise off-street parking site statistics accordingly.
11. ~~16.~~ ~~Discuss zone-to-zone screening~~ Provided the Planning Commission grants the requested variance to Article 18.
12. ~~17.~~ ~~Discuss~~ Resolve compliance with the Greenway Master Plan at the time of the Final Development Plan.
13. ~~18.~~ ~~Discuss transitions for~~ Denote Lucille Way right-of-way, and "B-B" (50/28) cross-section proposed as "C-C" cross-section.
19. ~~Discuss proposed entrance and access control into proposed convenience store.~~
20. ~~Discuss potential for drive-through facility and extent of pavement shown at proposed convenience store.~~

Variance Presentation: Mr. Emmons presented the staff report on the requested dimensional variance, explaining that all of the streets in the proposed development other than Lucille Drive and Summerfield Drive are private access easements. The petitioner has requested a variance to eliminate some of the required zone-to-zone screening, internal to the development, between the B-3 and R-3 zones, where the private streets serve as boundaries. There are six such street segments, and where an access easement provides a zone boundary, the petitioner is requesting that the variance apply to those four segments. Mr. Emmons displayed a graphic depicting the locations of the four areas where the variance would apply.

Mr. Emmons stated that the petitioner contends that the access easements in the proposed development will serve the same function as private streets, with which the staff agrees. He noted that all required zone-to-zone screening would be provided along the perimeter of the proposed development, which is not requested for a variance. The intent of the Ordinance in requiring zone-to-zone screening is to buffer incompatible uses; the design of the proposed development, however, is intended to closely integrate the uses in the B-3 and R-3 zones.

Mr. Emmons said that the Landscape Review Committee did review this request, and recommended approval. The committee felt that it was important to note that the proposed development does not include any locations where a residential

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building faces the rear of a commercial structure, which should provide for a pleasing design for residents. The staff is recommending approval of the requested variance, for the reasons as listed in the staff report and on the agenda, subject to the conditions as listed.

Commission Questions: Mr. Penn asked if changes to the development plan would result in changes to the requested variance as well. Mr. Emmons answered that the variance was worded so that it serves as more of a performance standard. The zoning boundaries will not change; so, if the development plan changes, it will be required to meet the performance standard that has been set. If it does not meet the performance standard, it must meet the regular landscape requirements.

Mr. Owens stated that many of the citizen emails referred to concerns about development of Masterson Station Park. He asked how far the park is located from the subject property. Ms. Wade answered that the park is located $\pm 700'$ to the northwest of the property, and it has no shared property boundaries; so the proposed development should have no direct impact on the use of the park.

Traffic Impact Study Presentation: Mr. Sallee presented the staff report on the Traffic Impact Study, which was required by the Zoning Ordinance for the proposed development. The study, which was conducted by Integrated Engineering, anticipates a full build-out of the proposed development in 2024.

Mr. Sallee explained that Leestown Road is classified as a minor arterial, which was recently widened. The traffic counts performed as part of the study were all performed prior to the widening project. Outside of the Urban Service Area, to the north and west of Ruffian Way, which serves as the primary entrance to Masterson Station Park, traffic counts indicated 9,586 daily trips. On the urban portion of Leestown Road, to the southeast of the proposed development, the 2013 count noted 23,336 daily trips. The trip generation from the proposed development is estimated at 2,148 daily trips. If all of that traffic was to access Leestown Road, it would result in approximately a 10% increase in traffic on that roadway. Of those new estimated daily trips, 935 are projected in the morning peak hour, and 1,213 in the afternoon peak hour. Mr. Sallee said that the MPO staff, in their report, concluded that the traffic study met the requirements of Article 6 of the Zoning Ordinance.

Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioner. He said that the proposed development was a collaborative effort between the petitioner and Steve Austin, former executive director of Bluegrass Tomorrow, who served as a consultant on the project. The first draft of the plan was drawn up by Mr. Austin; Integrated Engineering then took that draft, and incorporated it in the development plan as proposed today.

Mr. Murphy said that the petitioner is proposing a mixed-use development, with commercial uses, townhouses, and apartments. One of the most important amenities of the proposed development is the multi-use trail system, which will tie into the existing city trail system in the Masterson Station subdivision. That trail accesses the system in Masterson Station Park, which continues across Leestown Road into the McConnells Trace subdivision and the Town Branch Trail. The petitioner is also proposing to retain the existing farm pond as an amenity for the development. Many of the comments submitted to the Commission in opposition to this request mentioned concerns about the pond, and the potential loss of habitat for the wildlife that lives there and uses the area as part of a migratory route. The community commercial center is proposed to be located at the intersection of Leestown Road with Lucille Drive, and will include coffee shops, a drugstore, restaurants, dry cleaners, and other neighborhood-oriented facilities. Lucille Drive and Summerfield Drive will provide needed street connectivity with the Masterson Station subdivision.

Mr. Murphy explained that the plan was developed with a step-down density approach, with three-story apartment buildings in the center of the development and two-story townhouses around the perimeter, nearest the existing single-family residences. The townhouse units adjacent to the Masterson Station subdivision were rotated, so that the view for residents will not be the back side of the units. The petitioner hopes to retain the existing log cabin on the property, for use as a clubhouse for the development.

With regard to pedestrian and vehicular connectivity, Mr. Murphy stated that the plan includes sidewalks throughout for pedestrian access, as well as the trail system. Traffic calming is proposed along Lucille Drive, with gentle curves to slow traffic and buildings directly adjacent to the roadways, which has been shown to slow traffic as well. A traffic circle is proposed to serve as a central feature in the development, as well as an additional traffic calming device. Mr. Murphy said that one of the development plan notes refers to the need to account for restaurant parking, noting that the parking calculations included at least 8,000 square feet of restaurant uses for the development.

The proposed development is modeled on Townley Center, Mr. Murphy explained, which includes a variety of housing types along with commercial development. He displayed several photographs of the townhouses and apartments in that development, as well as the townhomes in the McConnells Trace subdivision. The lack of property maintenance responsibilities has become an important feature in this type of development, appealing to millennials and retirees who would prefer not to spend their time on the responsibilities of lawn upkeep. When Townley Center was initially proposed 15 years

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ago, there were many similar concerns about the mixing of uses; however, that development has won several awards and proven to be popular with residents.

Mr. Murphy reiterated Ms. Wade's comments that Masterson Station Park is not located contiguous to the subject property, which is privately owned. No development will take place at the park, and the proposed development should have no direct impact on it. The subject property has been used as a garden center for the past 20 years, until the owner decided recently to close the business.

With regard to the 2013 Comprehensive Plan, the petitioner believes that it was "written for this development," which was planned specifically to meet its recommendations. The proposed development was designed to create a sense of place, which was successful in Townley Center. Mr. Murphy noted that the Comprehensive Plan singles out Townley Center and its relationship to the Meadowthorpe subdivision, indicating that the two developments complement each other very well. In its recommendations for growing successful neighborhoods, the Comprehensive Plan mentions public greenspace; the petitioner has committed to providing 11 acres of greenspace in the existing pond area and other locations scattered throughout the development. The petitioner is following the Plan's recommendations to provide higher-density housing near public greenspace by connecting to the existing trail system, and by creating a single-loaded street directly adjacent to the trail. The single-loaded street will eliminate the fenced-off back yards that often restrict access to trails, in order to allow access for all residents. Mr. Murphy noted that the proposed development will also further the Plan's recommendation's with regard to street connectivity. The proposed development supports many of the Comprehensive Plan's Themes, including walkability; green infrastructure; using infill throughout the Urban Service Area; encouraging economic investment in established communities, and providing pedestrian-scale transportation facilities. The petitioner contends that the Comprehensive Plan's Goals & Objectives are also being furthered, such as planning for housing that addresses the market needs of the community, including providing mixed-use development and housing near employment. The proposed development will not be designated as affordable, but will be market-rate, and should meet the needs of older residents particularly well, the petitioner contends.

Mr. Murphy stated that the subject property was designated for Medium Density Residential land use in the 1996 Comprehensive Plan, and the Masterson Station subdivision was recommended for Low Density development. The Medium Density land use recommendation allowed for apartments, townhouses, and duplexes, as well as single-family residences. Based on those recommendations, the petitioner contends that the subject property was always planned for a mix of uses and housing types.

With regard to citizens' concerns about the possible effects of the proposed development on property values, Mr. Murphy cited two national studies, conducted by respected institutions. A 2005 study by MIT found that large rental developments do not negatively impact the sale prices of nearby single-family homes, while a 2006 Harvard study concluded that working communities with multi-family dwellings actually have higher property values than other types of working communities. That study also concluded that, for residents in neighborhoods near proposed property development, it is important to understand that multi-family rental developments do not generally lower property values in surrounding areas. Mr. Murphy said that these studies are nationally recognized, but the results have also been borne out locally in Townley Center, where property values in Meadowthorpe remained high even after the multi-family development was complete. Property values in the McConnells Trace subdivision, which has a mix of housing types, have also remained strong.

Mr. Murphy said, with regard to concerns about traffic, that the petitioner's Traffic Impact Study (TIS) indicated that the wait time at the Leestown Road/Masterson Station Drive intersection would be increased following build-out of the proposed development. The petitioner contends, however, that any development on the subject property would likely increase that wait time as well. Mr. Murphy noted that the TIS results based the signal timing on the current roadway conditions on Leestown Road, rather than the future configuration, which will include a new signal at the Lucille Drive intersection. Once the development is complete and that signal is functional, the signal at the Leestown/Masterson Station intersection should be adjusted, and wait times should be much shorter than indicated by the TIS.

With regard to neighborhood concerns about stormwater, Mr. Murphy explained that the petitioner is proposing to incorporate the existing pond into the stormwater system for the subject property. Stormwater from the proposed development will not be allowed to impact other properties; it will have to be managed according to the regulations. Mr. Murphy noted that the pond is part of a floodplain, and that, as such, the water level in the pond does sometimes fluctuate based on the amount of rain received. Floodplains are supposed to flood, however, which is why development in those areas is either not permitted, or significantly limited.

Mr. Murphy said that the requested variance is only needed because of the private streets within the proposed development. He emphasized that the petitioner is not requesting any variances to the required perimeter landscaping, where the required buffer will be provided.

Referring to the citizen petition submitted in opposition to the proposed development, Mr. Murphy noted that 38% of the signers are not residents of Lexington-Fayette County.

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Mr. Murphy noted that the petitioner has agreed to the proposed conditional zoning restriction prohibiting cocktail lounges on the subject property, but that would not prevent the sale of alcoholic beverages at restaurants in the proposed development. That restriction would pertain only to "freestanding" cocktail lounges, which do not serve food. He said, in conclusion, that the petitioner contends that the 2013 Comprehensive Plan calls for well-planned, mixed-use housing, close to community services, and that is exactly what the proposed development will provide. The petitioner has been successful with this type of development in the community, and believes that this development will be successful as well.

Citizen Support: Barb Stucker, president of the McConnells Trace Neighborhood Association, stated that she was originally concerned when the petitioner proposed to construct townhomes in her subdivision. She said that she and other residents believed that allowing multi-family residential use in their single-family neighborhood could drive down property values. However, residents have since found that property values have not gone down; rather, they have risen steadily over the years.

Ms. Stucker said that residents were also concerned that the construction of townhomes in the neighborhood would result in an increase in crime on the Town Branch Trail. That concern also proved baseless, due to the construction of the townhomes so that the trail is in the direct line of sight of the fronts of the buildings. Ms. Stucker was unaware of any safety issues that had occurred on the trail since the townhomes were constructed.

Residents were also apprehensive, Ms. Stucker explained, about having "renters" in their neighborhood, believing that non-permanent residents might not care for their properties. She said that tenants in the petitioner's developments, however, are required to adhere to a very strict set of rules, and the neighborhood has had no problems with the maintenance of the rental properties. In fact, Ms. Stucker added, her neighborhood could be improved if all the residents "were as well-behaved as the people who live in the townhomes."

Citizen Opposition: Michael Barnett, 156 Greenway Lane, submitted a letter from a resident on Leesway Drive, who was unable to attend today's hearing.

Mr. Barnett stated that he was present representing over 530 signatories of a petition in opposition to this request, most of whom reside in the Masterson Station, McConnells Trace, and Leesway subdivisions. He thanked the staff for their advice on how to present the opposition's arguments.

Mr. Barnett said that he and neighbors have several reasons for opposing this request; however, their primary concern is that the proposed development does not align with the recommendations of the 2013 Comprehensive Plan, or match with the character of the existing neighborhood. The surrounding subdivisions are all composed of two-story, single-family detached houses. Mr. Barnett said that the Comprehensive Plan indicates that infill in the Urban Service Area should include "...celebrating the character and context of the surrounding neighborhood; respecting the scale and massing of surrounding buildings; and maintaining roof lines in scale with the neighborhood."

With regard to Mr. Murphy's comments about similarities between the existing Townley Center and the proposed development, Mr. Barnett stated that one major difference between the two is the absence of single-family residences in Townley Center. Rather, Townley Center is surrounded by Meadowthorpe Shopping Center to the east; open space to the south; and the Meadowthorpe subdivision, which is located across Leestown Road. Neighborhood residents are also concerned that the proposed three-story apartment buildings in the center of the development could overshadow the area and obstruct sight lines to the greenspace.

Mr. Barnett said that the subject property adjoins Masterson Station subdivision, which is the largest neighborhood in the state of Kentucky. Residents are concerned that the proposed 570 apartment units would effectively increase the number of residences in the area by 25%, resulting in overcrowding and traffic in the area. There are also fire safety concerns, since the townhomes and apartment buildings are proposed to be located very close together, and the nearest fire station is over two miles away.

Among the residents' other concerns, Mr. Barnett explained, is stormwater runoff from the proposed development. The subject property adjoins the Bracktown Branch tributary of Town Branch Creek. The designated FEMA floodplain from that waterway runs through the Masterson Station neighborhood, with outflow toward the park. Flooding has been and remains a significant concern for residents, with many contributing photographs of flooded backyards taken following periods of heavy rain. Mr. Barnett displayed a photograph submitted by the resident of 156 Masterson Station Drive, depicting standing water within two feet of an electric junction box in her back yard. Residents believe that the proposed development, which contains 59% impervious area, could result in significant additional runoff in the surrounding neighborhood. Given the ongoing Environmental Protection Agency Consent Decree, residents believe that the proposed development should not be approved without having further water studies performed to determine the impacts of the additional runoff on surrounding homes. Mr. Barnett opined that disapproving this request would directly support the Goals & Objectives of the 2013 Comprehensive Plan, specifically Theme A, Goal #3c., which recommends that development should minimize the

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disruption of natural features such as Town Branch Creek; and Theme B, Goal #1, which indicates the importance of successful implementation of the Consent Decree.

Mr. Barnett said, with regard to the issue of loss of animal habitat, that the Kentucky Audubon Society's annual back yard bird count tallied hundreds of species in the area of the pond, including two rare songbirds; great blue herons; and black and white swans. In addition, flocks of migratory Canada geese make their home at the pond each winter. Neighborhood residents are concerned that the proposed development could negatively impact that habitat, and the Comprehensive Plan denotes that the community should "work to protect and preserve the habitat of animals within the 110 miles of streams and tributaries inside the Urban Service Area."

Mr. Barnett stated that, amongst petition respondents who chose to add comments, additional traffic through the neighborhood was the primary concern. The neighborhood residents believe that the new signal proposed at the Leestown Road/Lucille Drive intersection would further slow commuters inbound on Leestown, in an already heavily traveled area. Of particular concern to residents is the wait time to make a left-hand turn from Masterson Station Drive onto Leestown Road, which the TIS indicated could be doubled following development of the subject property. The TIS did not examine the estimated number of trips through the proposed development and into Masterson Station, which is also a cause of concern for residents. Mr. Barnett predicted that residents of the proposed development, using Lucille Drive to access Spurr Road on the way to Georgetown, could "tear through Masterson Station," failing to respect the existing 25-mile per hour speed limit and endangering children, pedestrians and cyclists. Theme D, Goal #1c. of the Comprehensive Plan refers to improving traffic operations; based on that recommendation, the neighbors of the subject property are requesting that this rezoning request not be approved without additional traffic studies to determine the amount of through traffic in the neighborhood.

With regard to Mr. Murphy's comments about petition respondents residing outside Lexington-Fayette County, Mr. Barnett indicated that that number represented only 12% of the total comments. Many of those respondents who live outside of Masterson Station subdivision were concerned about the fate of the park, specifically the equestrian programs there. Participants in the equestrian program are concerned about additional traffic through the park, as well as a potential large increase in the number of pedestrians on the trails there, since horses and riders share the trail system. Mr. Barnett said that several respondents also commented that they would not want to see the "degradation" of the greenspace on the subject property, while traveling to the park with their horses. He noted that the Comprehensive Plan speaks at length about preservation of greenspace. The proposed development would eliminate 317 existing mature trees, in order to replace them with 165 saplings, endangering the urban forest and wildlife habitat.

Mr. Barnett opined that, although Mr. Murphy attempted to compare the proposed development to Townley Center, the two projects are not at all similar. The proposed development would directly adjoin hundreds of houses in the Masterson Station subdivision, and would be located directly across from McConnells Trace, whereas Townley Center is not directly bordered by any residences. Mr. Barnett said that the studies Mr. Murphy cited addressed only national data, not local; therefore, neighborhood residents request that similar studies be submitted to show the local impact of the proposed development on home prices in the Masterson Station, Leesway, McConnells Trace, and Bracktown neighborhoods. The petitioner contended that the proposed development would be approximately 20% commercial; however, Mr. Murphy's comments indicated that less than 10% of the development, by square footage, would be designated for commercial use. Area residents agree that there is a need for certain types of restaurants in the area, but they do not believe that the proposed development would supply those uses. Mr. Barnett noted that the recommended conditions for approval require that the proposed development could be approved only if there were no restaurants in commercial buildings #1 and #2 without further revision to the plan.

Mr. Barnett asked that, on behalf of over 500 petition signees, the Planning Commission either recommend disapproval of this request, or withhold their approval until adequate studies have been provided to address the impact of the proposed development on the adjoining neighborhoods. They believe that this development would be wholly out of character with the surrounding neighborhoods, which are made up of one- and two-story, single-family detached residences.

Norene Ward, 160 Leesway Drive, stated that she believes that the proposed development is too dense, and will bring too much traffic to the area. She said that she is particularly concerned about the location of the proposed gas station on the property, which will be directly behind her residence. Ms. Ward said that gas stations are often the target of criminals, and she believes that could negatively impact the homes on Leesway Drive, in addition to the associated noise and lights. She commended the petitioner for the appearance of Townley Center, but opined that the proposed development should be downsized in order to be more compatible with the existing neighborhood.

Michael Masterson, 401 Meadow Valley Road, stated that very little notice of this development had been provided to neighborhood residents. He opined that the timing was "uncanny" that, just after the lengthy Leestown Road widening project was completed, the petitioner is proposing to add over 1,000 cars to the traffic there. Mr. Masterson said that he does not believe that the traffic impact has been properly considered, and he is concerned that the pond will not be sufficient to provide stormwater detention for the proposed development. He opined that the petitioner is "trying to sugarcoat this bitter pill," and he asked that the Planning Commission disapprove this request.

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Jeff Swain, 2904 Masterson Court, stated that he was a retired lieutenant colonel in the Army Corps of Engineers. He spoke to the Planning Commission previously, when he provided a detailed analysis of water retention in the area. The preliminary development plan that was approved at that time included a note that read: "No further development may be approved until a water retention plan has been reviewed by Mr. Jeff Swain of 2904 Masterson Court."

Mr. Swain said that he did not prepare a new water analysis for the proposed development, because it does not appear that anything has changed significantly from the previous plan, except an increase in impervious surface. He does not believe that the culvert on Masterson Station Drive and the downstream structures were designed large enough to accommodate a 100-year flood. In the mid-2000s, the area experienced a 1,000-year rainfall, during which some of the houses backing to the greenway were flooded within the structure. Even with the entirety of the subject property planted with grass, the downstream structures cannot handle the runoff; increasing the impervious surface on the property will only exacerbate the situation. Mr. Swain opined that, unless improvements are made to the water retention system in the area, there will be "extreme flooding."

Pat Lake, 2913 Summerfield Drive, stated that she and her husband chose to move to Lexington just over a year ago; her home directly adjoins the pond area. Displaying a photograph of her back yard, Ms. Lake explained that the debris depicted was the result of pond flooding during a heavy rainfall.

Ms. Lake said that she is also concerned about additional traffic in the neighborhood, since she already has difficulty making a left-hand turn onto the heavily traveled Masterson Station Drive.

Bob Peddenpohl, 148 Greenway Lane, said that the subject property provides "the first view of Lexington" on Leestown Road.

Mr. Peddenpohl stated that he, too, is concerned about additional traffic in the neighborhood, since he and his son often cross Masterson Station Drive on foot. He added that he does not believe the petitioner's contention that young professionals will want to locate in the proposed development, so far outside of New Circle Road.

Michael Lay, 144 Greenway Lane, stated that he purchased his home two years ago, because he was attracted by the greenspace on the subject property. He understood that the property would be developed at some point, but he thought that any development would be single-family residential similar to his own home, since the property was zoned for single-family use. Mr. Lay said that he would lose a great deal of the privacy in his back yard once the subject property is developed.

Mr. Lay opined that it was not fair to compare the proposed development to Townley Center, since the surrounding area is very different. He does not believe that the character of the development will match well with the existing residential neighborhood.

Mr. Lay added that the area around the subject property is lacking in commercial services; but the Citation Village development has been zoned for commercial use for several years, and it already has good access to Leestown Road and Citation Boulevard.

Margaret Gordon, 408 Meadow Valley Road, disagreed with the petitioner's assertion that young professionals will want to live in the proposed development, since there will be nothing there for them to do. She opined that the development would be a "big waste of beautiful greenspace."

John Stewart, 2016 Greenway Court, said that all of the development to the north of Robinson Way is residential; and, as such, he does not believe that it would be appropriate to develop any of that area for commercial use. He noted that he had assumed that the property would develop at some point, but with single-family residences and a comparable density to the existing neighborhood.

Mr. Stewart stated that he is concerned about light and noise pollution, as well as trash, from the proposed development. He appreciates the petitioner's proposal to develop additional greenways, but he is apprehensive about flooding, noting that he had experienced flooding from the greenway just behind his property line; he showed a video of rushing water in the area proposed for the location of the trail.

Gregory Stapleton, 152 Leesway Drive, said that many of the residents on that street have lived there since the 1950s. He is concerned about the proposed commercial development on the property, since it would be located directly behind his residence. Mr. Stapleton opined that those commercial uses would be more suitable in the Citation Village development, which is undeveloped and already zoned for those uses.

Kate Tungate, 2828 Greenway Court, said that she was the first resident on her street, in 1997. When she purchased her property, she was informed by her realtor that the subject property would never be developed.

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Ms. Tungate said that all of the homes that back to the greenway were constructed with the bedrooms to the rear, facing the greenspace. She is concerned that the lights from all of the vehicles in the proposed development will shine directly into the bedroom windows in her home, particularly her son's room.

Ms. Tungate is also concerned about the proposed location of the trail near her back yard, and about her ability to allow her son to safely play alone near a public trail. She said that she is also concerned about pond flooding, and about the possibility that she might need to acquire flood insurance at some point.

Petitioner Rebuttal: Mr. Murphy said that the petitioner understands the residents' concerns, since the subject property has been very well maintained by the owners for many years. It is unreasonable, however, to think that the property would remain as greenspace forever, since it is in the Urban Service Area and has been zoned for residential development for nearly 20 years. If the subject property were to develop in exactly the same fashion as the surrounding neighborhood, traffic, stormwater, and impervious surface would all increase. Mr. Murphy stated that the petitioner believes, however, that developing the property under today's stringent stormwater standards could actually improve the existing issues, since all development must comply with the requirements of the Consent Decree. The petitioner will be required to adhere to all of the necessary permits of the LFUCG, the Kentucky Division of Water, and FEMA, including completing engineering studies as part of the LOMR process. Mr. Murphy noted that the amount of impervious surface for the R-1D development previously approved for the subject property would be similar to that in the proposed development.

Mr. Murphy said, with regard to the comments about the height of the proposed multi-family buildings, that the subject property could be developed with single-family homes that were three stories tall as well. The proposed development was designed with the taller buildings in the interior of the property, and two-story townhouses around the perimeter, in order to mitigate those concerns.

In response to concerns about the additional traffic from the proposed development, Mr. Murphy stated that any development on the subject property would generate traffic. That traffic was planned to accommodate the traffic from future development traffic. The petitioner believes, after discussing the issue with their engineers, that the proposed development will see more traffic from the Masterson Station subdivision, accessing the signalized intersection at Lucille Drive and Leestown Road, than will travel from the new development through the neighborhood toward Spurr Road.

Mr. Murphy stated that the proposed number of trees on the property will be modified, since street trees and vehicular use area landscaping are not typically delineated on preliminary development plans. The petitioner's rough estimate indicated that approximately 442 new trees will be planted, which is an increase over the current tree canopy on the property.

Mr. Murphy read the following excerpt from the 2013 Comprehensive Plan: "Encourage compact, contiguous, and/or mixed-use, sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs."

Citizen Rebuttal: Mr. Barnett said, with regard to Mr. Murphy's comments about the number of trees to be planted, that he obtained those numbers from the plans currently on file. He said that, regardless of the exact number, he believes that the proposed development will result in a reduction in the amount of urban forest on the site.

Mr. Barnett thanked the Planning Commission members for their time, and he asked that they disapprove this request.

Mr. Swain said, with regard to Mr. Murphy's comment about the amount of impervious surface in the previously approved R-1D development for the property, that the plan was never approved, because the issue of water retention was not addressed.

Staff Rebuttal: Ms. Wade stated that the staff appreciated Mr. Barnett's compliments, but would like to note that the staff provides information equally to any concerned citizen about any application that the Planning Commission reviews, because it is public information. However, that sharing of information should not be construed as support for their opposition of a particular request, since the staff is required to evaluate each application impartially and objectively, and provide an independent recommendation based on that evaluation.

With regard to Mr. Barnett's comments about the condition recommended by the Technical Committee to prohibit restaurants on the site, Ms. Wade said that the condition proposed by the staff would either not allow restaurants, or require that parking be provided to accommodate those restaurants. She stated that the staff's intent was to require appropriate parking for the proposed uses on the site, not to eliminate any restaurants.

Ms. Wade said that Mr. Barnett misquoted the Comprehensive Plan, noting that it does not promote protection of property values; rather, it promotes the use of good planning principles throughout the community. She displayed the correct text of from the Comprehensive Plan: "Neighborhood concerns about infill development and redevelopment take many forms, but are generally associated with the protection of the neighborhood's unique characteristics; protection of property rights, and

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protection of community character.” Ms. Wade explained that, in that excerpt, the Plan is reflecting the typical concerns of neighbors in land use cases in Lexington-Fayette County.

Commission Questions: Mr. Penn asked if, as part of their review of this plan, the staff was concerned about the proposed location of the gas station directly behind single-family residences on Leesway Drive. Mr. Martin answered that the staff did review the location of the gas station, in terms of the required setbacks and landscape buffering. In situations where they believe it necessary, the staff can recommend additional buffering, or that lights be shielded and directed away from neighborhoods. Mr. Martin noted that all of those issues could be revisited at the time of a Final Development Plan for the property. Mr. Penn asked if the petitioner could reconfigure the proposed development in order to move the gas station to the center, away from the existing residential area. He said that the most important concern with the proposed development is how best to situate the commercial area in order to reduce the impact on existing neighborhoods. Mr. Martin reiterated that those concerns are often addressed with landscaping, fencing, and lighting. Mr. Penn opined that, as someone who has always lived in a rural area, it is difficult for him to believe that residents need a gas station within walking distance of their homes. Mr. Martin added that this is a preliminary plan, and the use could change.

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

Ms. Plumlee thanked the citizens for expressing their concerns. She said that the proposed development has been termed as “progress,” but it appears to project a different lifestyle from that of most of the residents of the surrounding neighborhoods. Ms. Plumlee said that she does believe that the proposed development would change the character of the neighborhood.

Zoning Motion: A motion was made by Mr. Berkley and seconded by Ms. Mundy to approve MARV 2016-6, for the reasons provided by staff, including the proposed conditional zoning restrictions.

Discussion of Motion: Mr. Owens echoed Ms. Plumlee’s comments, opining that “everyone’s idea of progress is different.” He said that the subject property has been greenspace for a long time, and he understands the residents’ concerns about the proposed development.

Mr. Penn said that he was not necessarily opposed to the proposed development plan, but he had concerns about the location of the gas station. He explained that he intended to vote against the motion for approval, although he fully expected it to pass. The development plan is preliminary, Mr. Penn stated, and he had faith in the staff that, when a Final Development Plan is presented, many of the residents’ concerns will be addressed. He encouraged the neighborhood residents to continue to participate throughout the Final Development Plan process, and to discuss their ideas with the petitioner in order to create the best development possible.

Zoning Action: Mr. Berkley’s motion passed, 8-2 (Penn and Plumlee opposed; Brewer absent).

Variance Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 9-1 (Plumlee opposed), to approve the requested variance, for the reasons provided by staff, subject to the conditions as listed in the staff report and on the agenda.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 8-2 (Penn and Plumlee opposed) to approve ZDP 2016-22, subject to the 13 conditions as listed in the revised staff recommendation.

VI. COMMISSION ITEMS

A. CT 2016-2: PARALLEL TELCOM INFRASTRUCTURE V, LLC – an application for a 199-foot cellular tower at 7230 Turner Station Road.

Recommendation

The staff recommends approval. The proposed tower meets the yard/setback requirement on all sides and, in fact, greatly exceeds the requirement. No variances are needed or requested for this application, which meets all requirements of Article 25. An effort has been made by the applicant to site the proposed tower in the least conspicuous location possible in the Old Richmond Road corridor, while providing a level of service that meets the needs of both the applicant and the public. This complies with the Comprehensive Plan (Theme E) as it relates to maintaining a balance between urban and rural uses.

Conditions for Approval:

1. That the tower be located as shown on the site layout. If, for any reason, the tower height exceeds 200 feet, that it be lighted as required by the Federal Aviation Administration (FAA).
2. That the proposed tower meet all requirements of Article 25.

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3. That any applicable permits (e.g., grading, building and/or occupancy) be obtained prior to construction from the appropriate Divisions of the Urban County Government.

Staff Presentation: Ms. Rackers presented the staff report on this request for a new cellular tower, briefly orienting the Commission to the location of the subject property, off of Old Richmond Road near Interstate 75. Also located in the general vicinity are Floracliff Nature Sanctuary and the Vulcan rock quarry.

Ms. Rackers said that the petitioner is requesting a 199' cellular tower, with a 195' steel monopole and a 4' lightning arrestor. There is a growing need to provide cellular service in the area, for both the general public and the community's e911 system. That is especially true in high-traffic areas, such as the subject property, which is located very near Interstate 75.

Ms. Rackers stated that, once the area of need was identified, the petitioner met with property owners in and around the Old Richmond Road corridor, including members of the Old Richmond Road Neighborhood Association. The petitioners sought input from residents on the best location for the tower, where it could be as unobtrusive as possible and still provide the needed cellular service. The subject property is 437 acres in size, and it wraps around the Vulcan rock quarry. The property is zoned A-R, with a small portion of B-1 zoning along the road frontage. The tower is proposed to be located in the A-R portion, behind and downhill from the quarry. The proposed location is approximately 3,600' from Turner Station Road, and approximately one mile from the interstate. Ms. Rackers explained that the tower will be located within a 10,000 square-foot lease area, which has extensive existing vegetation. Even with the heavy vegetative cover, the petitioner intends to comply with the screening requirements of Article 25.

With regard to the tower itself, Ms. Rackers said that the petitioner is proposing to allow co-location for up to four carriers. It will have a very small profile for a tall tower, being approximately six feet across at the bottom, and three feet at the top. The lowest antenna will be set at approximately 150' on the tower.

Ms. Rackers stated that the current land use recommendation, for Core Agricultural and Rural Land Use (CARL), comes from the Rural Land Management Plan. That recommendation remained in place through both the 2001 and 2007 Comprehensive Plans, and it has not changed since that time. The 2013 Goals & Objectives are more generalized, but they support the Goals & Objectives of both the 2001 and 2007 Plans. One of the Objectives of the 2007 Plan is to "ensure that essential public and private facilities are available and equitable for all Fayette County citizens." Theme D, Goal #2 of the 2013 Comprehensive Plan, which is to "provide for accessible community facilities and services to meet the health, safety, and quality of life needs of Lexington-Fayette County's residents and visitors," supports that 2007 Objective. Theme E also applies to this application. Ms. Rackers said that it is important, when considering applications in the rural area, to strike a balance between providing essential services, and doing so in the most practical and the least obtrusive manner possible. The 2013 Plan states that protecting natural areas and the cultural landscape of Fayette County is desirable as a goal, but it also notes the need to expand Internet service within the county.

Ms. Rackers said that the subject property is the largest parcel in the general vicinity, and there are no immediately adjacent PDR easements. There are PDR properties in the general vicinity, but most are on the other side of the interstate. The Comprehensive Plan and the Zoning Ordinance both recommend co-location for cellular towers, which the petitioner is proposing to do on the subject site. That will help to reduce the need for additional towers in the area, thereby helping to preserve its rural character, particularly the scenic corridor of Old Richmond Road. The petitioner performed a balloon test in order to determine the visibility of the proposed tower from adjacent roadways, and found that, although it will likely be visible from the south and west, it should be only minimally visible from other areas, particularly the Old Richmond Road corridor. Ms. Rackers explained that, in that portion of the county, the nearest existing tower is located more than three miles to the north, on the south side of Athens-Boonesboro Road; the next tower is located approximately one mile to the north of that site. Ideal cellular coverage is one to two miles between towers, in order to reduce the incidence of dropped calls. Ms. Rackers displayed a current coverage map of the area, and a map depicting the expected coverage following the construction of the proposed new tower.

Ms. Rackers stated that the staff found that the proposed tower meets all of the Article 25 locational criteria and design standards. The Uniform Application states that it will not alter the character of the area, with which the staff generally agrees, since the tower will be sited in a location and manner so that it will not be visible at all from the north or east. According to the balloon test, it will not be visible at all from Old Richmond Road. In considering the zoning in the vicinity, which is nearly all agricultural with the exception of small B-1 portion at the front of the subject property, the staff believed that the tower would be much more visually obtrusive in the B-1 portion than in the proposed location in the A-R area. With regard to the requirements of Article 25, the staff found that the tower site will be located approximately 1,000 feet from each of the two floodplains on the property, which slopes downward toward the creek, so the floodplain should not be affected. The required 1:1 height-to-yard ratio will be met, and greatly exceeded, on all sides of the proposed tower area. Ms. Rackers stated that the staff is recommending approval of the requested tower, because it meets all of the requirements of Article 25, subject to the three conditions as listed in the staff report and on the agenda.

Petitioner Representation: Jacob Walbourn, attorney, was present representing the petitioner. He said that the petitioner was required to post a notice sign as part of this request, and present an affidavit of such; he entered the affidavit into the record of the meeting.

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Mr. Walbourn said the petitioner began the process of locating a site for a new tower in the summer of 2015. A dramatic coverage gap had been identified, and the petitioner began negotiations to locate the tower on another property. After considering the character of the area for the other site, a balloon test was performed to determine the visibility of the tower there. The balloon test consists of flying a very large balloon at the proposed tower height, then driving nearby roads and taking photos, to determine if the tower would be visible. That test revealed that the first site might have met the letter of the Ordinance, but Mr. Walbourn was concerned that it would not meet the spirit of the regulations. He then asked the petitioner to consider alternate locations. The petitioner identified six viable sites; four property owners had no interest, and the other site was determined to not be optimal for the placement of the tower. Mr. Walbourn said that the petitioner met with the Old Richmond Road Neighborhood Association preemptively, showing the neighbors both sites and soliciting their input as to which location would be the most appropriate. The residents were concerned about the possibility of the tower being visible from nearby roadways, so the petitioner announced the date and time of the next balloon test, which the neighbors could view for themselves.

Mr. Walbourn noted that this application required no variances; the proposed tower will offer co-location for up to four carriers; it has a monopole design; and no lighting will be required, since the tower is proposed to be less than 200' in height. He said that the petitioner contends that they have done everything possible to choose the most appropriate location for the tower, and he requested approval.

Commission Questions: Mr. Penn complimented the petitioner for being preemptive in meeting with the neighbors. He asked if the petitioner will allow co-location on the new tower. Mr. Walbourn answered that the Uniform Application indicates that the tower will allow for co-location of up to four additional carriers. The petitioner also submitted an environmental assessment, indicating that the proposed tower will have no negative impact on the environment.

Ms. Plumlee asked if the subject property is located near the Vulcan facility. Mr. Walbourn responded that the subject property abuts the Vulcan property, and runs behind it. Ms. Plumlee asked if the "tentacles" of the quarry operation could pose any threat geologically to the stability of the tower. Mr. Walbourn answered that every Uniform Application is required to include a full geotechnical survey, including soils, the ground under the tower, and the possible consequences of an earthquake. He said that geologists had reviewed the subject property on site, and had determined that the proposed tower should not be negatively impacted by operations at the Vulcan facility.

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

Citizen Opposition: Mike Quigley, 6050 Cedar Creek Lane, said that his property is located directly adjacent to the proposed tower location, and the tower will be visible there "from base to top." As the operator of For Pete's Sake Farm, Mr. Quigley is seeking organic certification for his operation, and he is concerned that the proposed tower could negatively impact his business and that certification. He said that, contrary to the staff's assertion, there are PDR farms in this vicinity, and two more PDR designations are pending.

Mr. Quigley stated that he would like to request that an additional balloon test be performed, on a Saturday with two weeks' notice, so that more residents would have the opportunity to view the results. He noted that he received a notice letter for this application, but it was sent certified mail, and he did not have the opportunity to pick it up at the post office in time for the meeting.

Mr. Quigley opined that there are many other sites in southern Fayette County where the proposed tower would be more appropriate. He believes that the tower could negatively impact the property values on Cedar Creek Lane, as well as pollinating insects, which could affect his farming operations. There are environmental concerns among area residents as well.

Mr. Quigley stated that the staff report includes incorrect information. He requested that the location requirements be recalculated to determine that the exact location of the site meets the distance requirements from Old Richmond Road directly, and to confirm in writing that the tower will not be visible from the Boone Creek Historic District. Mr. Quigley suggested that the tower should be located on the Vulcan property, which is an existing "eyesore" that would not be negatively impacted by the location of a tower there. He asked that the Commission disapprove this request.

Commission Questions: Mr. Owens stated that the Zoning Ordinance notes that "environmental effects on radio frequency emissions is considered irrelevant and shall not be permitted." He asked Ms. Jones to advise if that was applicable in this case. Ms. Jones answered that she did not believe that Mr. Quigley was referring to radio frequencies.

Mr. Quigley answered that radio frequencies have been proven to be disruptive to pollinators and beneficial insects.

Ms. Jones explained that, during the Commission's last cell tower hearing, she noted that, in order for the Commission to rely on information such as that presented by Mr. Quigley, they would need to have additional scientific evidence.

Charles Lisle, 642 Central Avenue, was an attorney present representing Christopher and Sarah Combs, who own property near the proposed tower site. He asked, with regard to the staff's conditions for approval, why the tower would need to exceed

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200'. Mr. Owens answered that the tower would need to be lighted if it were over 200' in height; lighting is not required for towers below that height. Mr. Lisle said that the tower is proposed to be 199' in height, but he was concerned that it might end up being taller than that, and that his clients are opposed to a lighted tower. Mr. Owens clarified that the tower would have to be constructed at the height proposed. Mr. Walbourn added that towers are very specifically engineered, and that the petitioner specifically proposed a 199' tower in order to have the tower remain unlighted. He said that only with the approval of the Planning Commission could the height of the tower be increased, and the petitioner has no intention of doing so.

Chairman Comment: Mr. Owens declared the hearing closed, and opened the floor for Commission discussion or a motion.

Commission Questions: Mr. Drake asked what the Commission's legal exposure would be if they disapproved a cellular tower request. Ms. Jones answered that it would depend on the basis for disapproval. She said that the Commission had recently disapproved a cell tower request, based on information that did not have solid evidence in the record. That case was appealed to federal court, and LFUCG lost the appeal. Ms. Jones stated that the Commission could recommend disapproval, but the statutes were clear that very strong evidence, which counters that presented by the applicant, must be presented in order for the disapproval to hold up in court on appeal.

Ms. Plumlee stated that she was concerned about Floracliff Nature Sanctuary, as well as Mr. Quigley's intent to pursue an organic farming certification near the proposed tower. She opined that those factors made this request different from any of the cell tower cases the Commission has previously considered.

Mr. Wilson said that the Commission had this discussion before, and the result was that citizens are not given enough information about the nature of the evidence needed to override the applicant's position in cell tower cases. He said that statements of concern about pollinators, etc., are not sufficient; scientific proof must be submitted. Mr. Wilson stated that, in effect, cell tower cases are almost ministerial in nature, unless the opposition comes armed with engineers and a great deal of scientific information to negate the applicant's case.

Mr. Penn opined that one of the keys to cell tower cases is allowing for co-location, and whether the petitioners will be lessees or leasers of that tower space. He said that, in the future, the Commission should require a signed statement from the applicant that co-location will be allowed. Mr. Wilson agreed with Mr. Penn's assessment.

Action: A motion was made by Mr. Wilson, seconded by Ms. Richardson, and carried 8-1 (Berkley and Brewer absent) to approve CT 2016-2, subject to the conditions as listed in the staff report and on the agenda.

Citizen Comment: Mr. Quigley stated that he appreciated Mr. Wilson's comments, and asked how that falls in line with the requirements for maintaining the character of the existing neighborhood. Mr. Owens said that he understood Mr. Quigley's concerns, and that he hoped that, someday, satellite service providers would render cell towers unnecessary.

Note: Mr. Berkley and Ms. Mundy departed the meeting at this time.

- B. INITIATION OF ZONING ORDINANCE TEXT AMENDMENT** – Ms. Wade stated that the staff was requesting Commission initiation of a Zoning Ordinance Text Amendment for Environmentally Sensitive Areas. She said that the Commission has discussed this issue several times at work sessions, and has discussed the results of an ad hoc work group that formulated the recommendations for changes to those areas. The proposed text amendment would affect Articles 7, 23 and 26 of the Zoning Ordinance. Ms. Wade explained that, if the Commission chooses to initiate the text amendment, the staff would begin the process of public notification, drafting staff reports, and preparing for the public hearing.

Mr. Owens noted that the ad hoc committee had been headed by Mr. Wilson, and he thanked everyone who participated in the process.

Action: A motion was made by Ms. Plumlee, seconded by Mr. Wilson, and carried 7-1 (Cravens opposed; Berkley, Brewer, and Mundy absent) to initiate a text amendment to Articles 7, 23, and 26 of the Zoning Ordinance relating to Environmentally Sensitive Areas.

- VII. STAFF ITEMS** – No such items were presented.
VIII. AUDIENCE ITEMS – No such items were presented.
IX. MEETING DATES FOR April, 2016

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

X. ADJOURNMENT

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