

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

June 23, 2016

- I. **CALL TO ORDER** – The meeting will be called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.
- II. **APPROVAL OF MINUTES** – The minutes of the April 28, 2016, meeting will be considered at this time.
- III. **POSTPONEMENTS AND WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.
- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, June 2, 2016, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Mike Owens and Joe Smith. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee; Tom Martin; Cheryl Gallt; Denice Bullock; Kelly Hunter; Dave Jarman; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.
- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, June 2, 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)
 - (d) 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.

1. DENNIS R. ANDERSON ZONING MAP AMENDMENT & BERRYCREST SUBDIVISION, LOT 1 ZONING DEVELOPMENT PLAN

- a. **MARV 2016-16: DENNIS R. ANDERSON** – petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.34 net (0.40 gross) acres, for property located at 151 Pasadena Drive. A dimensional variance is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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

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 Plan's 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 rezoning to a Neighborhood Business (B-1) zone in order to construct a retail establishment, approximately 2,560 square feet in size, and associated off-street parking. A dimensional variance to increase the front yard from 20 feet to 75 feet has also been requested by the petitioner.

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

The Staff Recommends: **Approval**, for the following reason(s):

1. The proposed Neighborhood Business (B-1) zone is appropriate and the existing Single Family Residential (R-1C) zone is inappropriate, for the following reasons:
 - a. The proposed retail establishment and B-1 zone are generally compatible with the B-1, B-6P and P-1 zoning that exists within the immediate area.
 - b. Existing residentially zoned land in this area is generally suited to a future commercial land use and is awaiting redevelopment.
 - c. This portion of Pasadena Drive has converted from a rural single-family area to a commercial corridor between the Norfolk-Southern railroad to the west of this location, and Nicholasville Road to the east, which was encouraged by Comprehensive Plans dating back to 1988. At that time, the Plan's Land Use Element recommended a mix of professional office and retail trade future land. Again in 2001, the Plan recommendations for the north side of Pasadena Drive were changed by the Planning Commission and incorporated into the Land Use Element of the 2001 Comprehensive Plan, which has allowed for the adjoining Pasadena Plaza to be approved by the Commission and developed into the existing shopping center.
 - d. Historic land use decisions and previously adopted Comprehensive Plans have collectively encouraged a higher intensity of land use and a commercial character for the area to the point where the existing single-family residential zoning is no longer compatible or desirable in this location.

b. REQUESTED VARIANCE

Increase the maximum allowable front yard in the B-1 zone from 20 feet to 75 feet.

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

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

1. Granting the requested variance to allow a maximum front setback of 75 feet will not adversely affect the public health, safety or welfare. It will not impact the essential character of the general vicinity because buildings on other nearby properties have been developed at a similar setback many years before the B-1 zone was limited to a front yard maximum of 20 feet from a street's right-of-way.
2. The special circumstances associated with the subject property are the existing shopping center located immediately to the west of this location, and the noticeable slope associated with the subject property. Incorporation of the subject site into the adjacent center can't be accomplished without the approval of such a variance. These features do not apply generally to most B-1 zoned properties in this area.
3. Strict application of the Zoning Ordinance would require the subject site to be developed independently of the adjacent center, or to appear to be more like an outlot to that development. Either scenario could have the effect of providing less opportunity for vehicular circulation to all types of vehicles, including larger service and delivery vehicles, and could exacerbate current stacking problems experienced in front of this site on Pasadena Drive during peak travel times.
4. The requested variance is not an unreasonable circumvention of the Zoning Ordinance, because there are many B-1 zoned properties with a front yard setback greater than 20 feet, and because the setback on the subject site will be consistent with the Pasadena Plaza property next door.
5. This variance is not the result of prior actions taken by this applicant, as no new construction has yet occurred on the subject site. The elevation difference between the site and Pasadena Drive is the result of the widening and elevation of Pasadena Drive by the local government several years ago.

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

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

c. ZDP 2016-56: BERRY CREST SUBDIVISION, LOT 1 (7/31/16)* - located at 151 Pasadena Drive.

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(Barrett Partners)

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

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. Provided the Planning Commission grants the requested variance to Article 8-16(h).
6. Revise note #6 to the approval of the Division of Water Quality.
7. Resolve cross access to adjacent parking area on adjoining B-1 property.

2. URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT

- a. MAR 2016-17: URBAN COUNTY PLANNING COMMISSION – petition for a zone map amendment to a Neighborhood Design Overlay (ND-1) zone, for 23.33 net (29.81 gross) acres, for properties located at 201-540 Clinton Road.

Proposed Design Standards:

1. **Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

2. **Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

3. **Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

4. **Building Heights**

Maximum of 30 feet to highest ridge line (excludes new additions which may exceed 30 feet in order to match existing ridge lines).

5. **Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

6. **Landscaping**

Front yard fences shall be limited to 36" in height. Allowable materials for front yard fences are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18" above the unbalanced fill in the front yard.

7. **Rear Yard Setbacks**

Rear yard setback shall be measured 40 feet from the rear property line, excluding accessory structures.

8. **Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

9. **Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan no longer makes a specific land use recommendation, but *Chapter 1: Goals and Objectives* does recommend "enabling existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expanded options for mixed-use and mixed-type housing throughout Lexington-Fayette County." (emphasis added)

The Planning Commission has initiated a zone change request to add a Neighborhood Design Character Overlay (ND-1) zone in order to regulate front yard building setbacks; lot widths; floor area ratio (FAR); building height; exterior building

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materials; landscaping; rear yard building setbacks; accessory structures; and building orientation, regardless of the underlying zoning for 55 residential lots on Clinton Road.

The Zoning Committee Recommended: **Approval of the staff alternative.**

The Staff Recommends: **Approval of the ND-1 overlay zone with the Staff Alternative Design Standards**, for the following reason:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Goals & Objectives of the Plan recommend "providing well-designed neighborhoods and communities" (Theme A, Goal #3) and "protecting and enhancing the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image" (Theme D, Goal #3). Theme A, Goal #3.a. more specifically recommends enabling existing neighborhoods to flourish through expanded opportunities for neighborhood character preservation. This will be enhanced with this zoning overlay for Clinton Road.
 - b. The implementation of a Neighborhood Design Character (ND-1) overlay zone is in agreement with the Comprehensive Plan's Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, independent of the underlying zoning.
 - c. The Clinton Road residents have completed a design character study, defined the existing character of their neighborhood area, developed preservation goals, and proposed appropriate neighborhood design standards (in need of only slight modification), thus meeting the requirements of the ND-1 zone.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

Alternative Design Standards (Note: Additions are identified by an underline, and deletions are identified by a ~~strike through~~.)

1. Building Setbacks

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

2. Lot Widths

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

3. Floor Area Ratio

The Floor Area Ratio (excluding basements) may not exceed 0.33.

4. Building Heights

Maximum of 30 feet to highest ridge line (excludes new additions, which may exceed 30 feet in order to match existing ridge lines).

5. Exterior Building Materials

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

6. Landscaping

Front yard fences and free-standing walls shall be limited to a maximum of 36" in height. Allowable materials for front yard fences and walls are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18" above the unbalanced fill in the front yard.

7. Rear Yard Setbacks

Rear yard setback shall be a minimum of ~~measured~~ 40 feet, as measured from the rear property line, excluding accessory structures.

8. Accessory Structures

Maximum footprint of 800 square feet for all accessory structures per lot.

9. Building Orientation

The front plane and front entrance of the principal structure shall face Clinton Road.

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These restrictions are appropriate, given the extensive study undertaken to identify the existing neighborhood character by the Clinton Road residents, and are necessary to maintain that existing character in the future.

VI. **COMMISSION ITEMS**

VII. **STAFF ITEMS** – The staff will report at the meeting.

A. **Zoning Enforcement Activity Report**

A total of 61 new zoning compliance complaints were handled in May. When combined with the 36 unresolved cases carried over from April, a total of 97 cases were investigated. Ten of the new cases were determined to not involve any valid zoning compliance concerns. A total of 42 cases were resolved, meaning that necessary actions were taken by a property owner or occupant to fix a zoning compliance problem. During May 49 conditional uses were inspected, and all were determined to be in substantial compliance.

Nearly 75% of the new cases related to illegal business activities in residential areas, signage and sight triangle issues. Recurring problems with landscaping and roofing businesses continued throughout May, and accounted for much of the effort devoted to addressing businesses that are operating out of residential areas. Many of the signage issues were for temporary signs such as banners and yard signs that had been placed at unauthorized locations. Sight triangle obstructions, such as overgrown bushes and tree limbs at street intersections, are common during spring and summer, and have to be dealt with promptly for public safety reasons.

Staff received a citizen complaint in May regarding new streamers and pennants signage that was installed at a used car dealership on East New Circle Road. This type of signage is specifically prohibited in all zones throughout Lexington-Fayette County, but that provision in Article 17 of the Zoning Ordinance has not been 'aggressively' enforced over the years. In response to this complaint, all property owners/business operators along New Circle Road with this type of signage were put on notice that the signage had to be removed by June 15th in order to avoid having to go through a more formal enforcement process. To date nearly all of these businesses, primarily used car dealerships, have complied.

B. **Long Range Planning Activity Report**

Winburn and Russell Cave Neighborhoods Small Area Plan – Staff and consultants hosted the final public input meeting and reviewed the draft recommendations for the plan.

Rural Land Management Plan – Staff and the RLMP board met to discuss the upcoming update to the Rural Land Management Plan. They continued to review the goals, objectives, and recommendations made in the 1996 RLMP, as well as inventory.

APA-KY Conference – Staff attended the 2016 Spring APA-KY conference in Bowling Green, KY. The theme of the conference was "Synergies between Cities and Colleges (or Town & Gown): discovering the physical, social, and financial benefits."

Bluegrass Area Development District Regional Planning Council – Staff attended this meeting to discuss regional issues and receive training on web based water quality/flood mapping resources in Kentucky.

Courthouse Area Design Review Board – Staff met with applicants to discuss proposals, drafted a staff report for the review board, and attended the CADRB's public hearing. Two applications were reviewed and approved for work to be conducted within the Courthouse Area Design Overlay. This work included an addition of a sidewalk café with moveable planters and seating, and an addition of a new storefront on an existing façade.

Design Excellence – Staff, along with Jeff Fugate of the LDDA, presented to the Planning & Public Safety Committee the proposal from the Design Excellence Subcommittee. The Planning Division has assisted in the exploration of options for implementing Design Excellence since early 2016. The proposal covered the following: the proposed ZOTA, Design Guidelines language, process overview, and a Design Excellence Reference Guide. The PPS Committee voted to move this proposal to Council to be referred to the Planning Commission for further review and approval. On June 14th, at Council's work session, Council voted against moving Design Excellence forward to the Planning Commission.

Kresge Foundation's Drawing on Detroit Forum – Staff and other Lexington community leaders were asked by the Bluegrass Community Foundation to attend The Drawing on Detroit forum which attracted more than 175 representatives from 16 cities across the country. The gathering explored insights that emerged from Kresge's work in Detroit and the city's journey to bankruptcy and back. The importance of the philanthropic community's catalytic role, the significance of partnerships among all sectors including government, and how it took cues directly from the community and employed a "whatever-it-takes" leadership approach to urban revitalization, were all discussed during the forum. Following the convening, the Lexington delegation submitted for a \$30,000 grant from the Kresge Foundation. If awarded, the grant funds would support staffing to lead social

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media and public outreach initiatives to complement the Comprehensive Planning process to be underway by the Division of Planning in 2017.

Work Activities – Using GIS, and Census data, staff created maps and data sets for the Urban County Council, other LFUCG Departments, and agencies and officials outside the government. Staff also attended LFUCG-sponsored trainings and Webinars.

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

IX. **MEETING DATES FOR July, 2016**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	July 7, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	July 7, 2016
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	July 14, 2016
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	July 27, 2016
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	July 28, 2016
Unofficial Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	September 29, 2016

X. **ADJOURNMENT**

TLW/TM/BJR/WLS/dw

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