

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

July 28, 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: William Wilson, Chair; Will Berkley; Patrick Brewer; Mike Cravens; David Drake; Karen Mundy; Mike Owens; Carolyn Plumlee; and Joseph Smith.

Planning staff members present: Jim Duncan, Director; Bill Sallee; Traci Wade; Tom Martin; and Debbie Woods. Other staff members present were Captain Greg Lengal, Division of Fire and Emergency Services; Tracy Jones and Andrea Brown, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 9-0 (Penn, and Richardson absent) to approve the minutes of the June 23, 2016, meeting with the corrections on page 1, the opening paragraph, “The meeting was called to order” instead of “will be called to order” and on page 10, the adjournment, the chairman was Mr. Cravens instead of Mr. Owens.

- II. **POSTPONEMENTS AND WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

1. **DEVELOPMENT PLANS**

- a. DP 2016-65: KALUSKI PROPERTY (LEXAVE APARTMENTS) (9/4/16)* - located at 260 Lexington Avenue.
(Council District 3) (EA Partners)

Note: The Planning Commission postponed this item at their July 14, 2016 meeting.

The Subdivision Committee Recommended: **Postponement.** There are concerns about Fire and Solid Waste access.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Dimension proposed building and delete building envelope dimensions.
11. Identify tree preservation areas on plan.
12. Dimension landscape buffer width along northern property line.
13. Discuss water quality measures (for redevelopment), per the Engineering Manuals.

Development Plan Presentation – Ms. Galt presented the preliminary subdivision plan; she oriented the Planning Commission of the location on Lexington Avenue, parallel with Martin Luther King Street and between High Street and Maxwell Street. The applicant is proposing an apartment complex with 24 units with a driveway that will go around in a one-way direction and exit on the other side of the building. Traffic Engineering had concerns that the large garbage trucks will have issues accessing the dumpster with the one-way roadway. At this time, they have made an agreement with a private company. She said that the staff would like for them to identify the tree preservation area on the plan, to mention the landscaping buffer that goes along the property, and the water quality issue, which is to explain how they are going to do water quality on the property.

Petitioner Representation: Jacob Walbourn, attorney, was present representing the applicant. He said that he needed to clarify that this is not the plan that was presented at the Subdivision Committee or the one that they thought that the staff was evaluating. He said that he brought copies of the plan that he thought was the plan that was submitted. He said that he wasn't sure where the error occurred, whether he had submitted it and the staff didn't note it or he didn't submit it appropriately. He asked the Planning Commission if he could proceed with the case he wanted to seek approval on and that he would provide copies to the staff now.

Mr. Wilson said that the new plan hasn't been presented to the Committee. Mr. Walbourn said that it was presented to them, and this is the original plan that was subsequently amended.

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

Mr. Sallee said that the staff's recollection from three weeks ago at the Subdivision Committee meeting was that the plan presented was in the file that Mr. Martin and Ms. Galt ordinarily present to the Subdivision Committee members. The staff's recollection is that a plan was brought to that meeting and it was mentioned that it was different than the plan in the file. That plan was also reviewed by the Subdivision Committee however; it was never formally submitted to the staff. He suggested that a postponement of this item would be in order.

Mr. Walbourn asked for two weeks postponement and stated that the amendment will be filed today with the staff.

Citizen Comment - Amy Clark, resident of 628 Castle Road, felt that postponement was the correct decision to make since the citizens haven't had a chance to review the revised plan either.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Richardson, and carried 9-0 (Penn, and Richardson absent) to postpone DP 2016-65: KALUSKI PROPERTY (LEXAVE APARTMENTS) to the August 11, 2016, Planning Commission Subdivision Meeting.

2. ATLAS I, LLC, ZONING MAP AMENDMENT & SPRINGHURST SUBDIVISION, UNIT 2, LOTS 1 – 5 ZONING DEVELOPMENT PLAN

- a. MAR 2016-10: ATLAS I, LLC (AMD) (7/28/16)* – petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.62 net (0.92 gross) acre, for property located at 2090, 2094, and 2098 Harrodsburg Road.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The petitioner proposes rezoning the subject properties in order to build a series of commercial retail, restaurant, and other uses, and their associated off-street parking lots.

The Zoning Committee Recommended: **Postponement**.

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

1. The requested rezoning to a Neighborhood Business (B-1) zone is not in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. Theme A of the Plan: "Growing Successful Neighborhoods" emphasizes the infill, redevelopment and adaptive reuse of the urban area that respects the area's context and design features (Goal #2a.), and encourages striving for positive and safe social interactions in neighborhoods (Goal #3b.). In addition, the Goals and Objectives suggest that the community should "enable infill and redevelopment that creates jobs where people live" (Theme C, Goal #1d.); attract and retain high-paying jobs (Theme C, Goal #2c.); and to uphold the Urban Service Area concept by encouraging "compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs" (Theme E, Goal #1b.).
 - b. The Plan encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as protecting neighborhoods and residential areas from incompatible land uses. Policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, and compatibility of land uses. The proposed development is not compatible with these specific recommendations, which are overarching ideas of the Plan.
 - c. While promoting business expansion, improving quality of life and providing services to the community are generally important priorities, they must be balanced with the community's need for this type of highway-oriented development and its impact on nearby residential areas. In this case, the petitioner is requesting several auto-centric business uses at the entrance to a well-established neighborhood.
 - d. There is not a demonstrated need for additional retail zoning in this vicinity, as there are over 70 acres of contiguous B-1, B-3 & B-6P zones that can provide for the commercial needs of the surrounding properties. The Turfland Mall site, in particular, is a 44-acre B-6P site approved with over 500,000 square feet of retail zoning, much of which is approved but not yet developed.
2. As proposed, uses with an auto-centric commercial design may significantly impact the nearby neighborhoods within the area, especially those properties on Springhurst Drive and those immediately adjoining the subject properties, therefore making this B-1 zone inappropriate.
3. The existing Single Family Residential (R-1C) and Planned Neighborhood Residential (R-3) zones remain appropriate for the subject properties because together they can more fully support the adopted 2013 Comprehensive Plan goals and policies.

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

4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support the proposed development or requested B-1 zoning for the subject properties.

- b. ZDP 2016-49: SPRINGHURST SUBDIVISION UNIT 2, LOTS 1-5 (7/28/16)* - located at 2086, 2090, 2094, and 2098 Harrodsburg Road. (Abacus Engineering)

The Subdivision Committee Recommended: Postponement. There were questions regarding compliance with Articles 8-16 and 18 of the Zoning Ordinance for this plan.

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.
5. Addition of street cross-sections on plan.
6. Remove surface symbols and shading from plan to improve its clarity.
7. Provide exterior dimensions on all buildings shown on plan.
8. Denote pedestrian access from all buildings to sidewalks in public street rights-of-way.
9. Delete note #1.
10. Denote anticipated construction entrance locations on plan.
11. Delete legend information and Kentucky 811 information (Preliminary Plan).
12. Correct plan title.
13. Dimension drive aisles and provide typical parking space dimensions.
14. Remove plus/minus signs from site statistics.
15. Denote building coverage, floor area ratio and building heights on plan, per Article 21-6 of the Zoning Ordinance.
16. Addition of tree inventory.
17. Discuss proposed dumpster locations.
18. Discuss possible required improvements to Harrodsburg Road.
19. Discuss compliance with Article 18 landscaping requirements and the possible need for a variance, per the Zoning Ordinance.
20. Discuss compliance with B-1 setback requirements and need for a dimensional variance, per Article 8-16 of the Zoning Ordinance.

Petitioner Representation: Jacob Walbourn, attorney, present representing the petitioner, requested to withdraw a portion of the application and continue the remainder of it to the next Planning Commission meeting. He requested to withdraw 2100 and 2104 Harrodsburg Road from the application. He said that he has already made arrangements with the staff to handle notification letters.

Action: A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 9-0 (Penn, and Richardson absent) to withdraw 2100 and 2104 Harrodsburg Road from the plan MAR 2016-10 and ZDP 2016- 49.

Citizen Comment: No citizens spoke in opposition to this request.

Action: A motion was made by Mr. Owens, seconded by Ms. Plumlee, and carried 9-0 (Penn, and Richardson absent) to postpone MAR 2016-10 and ZDP 2016- 49 to the August 11, 2016, Planning Commission Subdivision Meeting.

3. FINAL SUBDIVISION PLANS

- a. PLAN 2016-68F: VIRGINIA SUBDIVISION, LOT 1 & HALF OF LOT 2 (AMD) (9/4/16)* - located at 1701 Clays Spring Lane. (Council District 5) (Vision Engineering)

Note: The Planning Commission postponed this item at their July 14, 2016 meeting. The purpose of this amendment is to subdivide one lot into four lots.

The Subdivision Committee Recommended: Postponement. There were some questions regarding the proposed access easement and sanitary sewer service.

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.

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

4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
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 note #3.
10. Denote all control monuments on plan, per Art. 6 requirements.
11. Discuss adequacy of the proposed access easement and the required finding by the Planning Commission.
12. Discuss the available public sanitary sewer service to the lots, and the possible need for a Preliminary Subdivision Plan.

Staff Representation: Mr. Martin said that staff has received a written request from the applicant to withdraw this plan.

Action: A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Penn and Richardson absent) to withdraw PLAN 2016-68E.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, July 7, 2016, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Mike Owens, Carolyn Plumlee, 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.

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. 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. PRELIMINARY SUBDIVISION PLANS

- a. PLAN 2016-47P: HILLENMEYER & SFH PROPERTIES (AMD) (7/31/16)* - located at 2373 and 2405 Sandersville Road. (Council District 2) **(EA Partners)**

Note: The Planning Commission postponed this item at their June 9, 2016, meeting and continued consideration of it at their July 14, 2016 meeting. The purpose of this amendment is to combine three previously adjacent preliminary subdivision plans and to revise the street alignment and lots.

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.
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.

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

7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Clarify cross-sections for cul-de-sac streets (Corsage, Calista, Cravat, etc.)
11. Addition of required landscape buffers adjacent to railroad and A-U zones.
12. Clarify note #13.
13. Addition of tree protection area along north property line (detention basin).
14. Resolve Sandersville Road improvements.
15. Resolve access to Lot 387 (1.04 ac. detention lot), and side yard setbacks on adjacent lots (66 & 67).
16. Resolve tree protection areas along property boundaries.
17. Resolve sinkhole note from PLAN 2006-250P.
18. Resolve note #17 from PLAN 2012-99P.

Development Plan Presentation – Mr. Martin presented the staff report on this preliminary subdivision plan, which involves a continuation of discussion from the June Planning Commission meeting. Using a rendering, he re-oriented the Planning Commission of the location of the plan at Sandersville Road and Greendale Road. He said that this plan is a combination of three preliminary subdivision plans that have already been approved, and more recently reapproved by the Planning Commission. It was brought back this time to combine three plans and for an amendment. The continuation was due to the prior discussion of how to treat Sandersville Road with coordinating the buffering, trees, and stonewall along the roadway. There was also discussion of the large loss of trees on the property as well as the lotting pattern in the area along Sandersville Road.

He said that the plan has been revised to more closely resemble what the staff has proposed along Sandersville Road with the number of lots and the impact that the revised street pattern may have. The staff had concern with how the trail would function and the pedestrian access. He said that the applicant has stated that they would prefer deeper lots in that area to address that concern.

He said that staff had met with Mr. Cauthen regarding Sandersville Road and there was considerable discussion of his concerns at the last meeting. Several notes have been added to the plan that addresses Mr. Cauthen concerns as well as some of the staff's and also on how Sandersville Road and Greendale Road will be landscaped. He said that the orientation of the new lots to Sandersville Road is complicated by numerous factors including; the level of improvements to Sandersville Road; the desire to protect the stone wall; the pedestrian facility; the trail system and the landscaping concerns that the neighbors have expressed to the Planning Commission.

He said there was a memorandum that was received from Susan Plueger, Division of Environmental Services, and handed out to the Commission. The staff had met with the Division of Environmental Services to discuss the issue regarding the trees that were mistakenly removed. The Division of Environmental Services has recommended that the Planning Commission request that those significant trees that were removed be replaced with significant trees at a two-to-one ratio. Nine trees were lost; thus eighteen trees should be re-planted. These replacement trees will be counted towards the required thirty percent tree canopy. He said that the real loss here is not canopy coverage, but the loss of the significant species, and that is the point of the replacement ratio.

Petitioner Presentation – Al Gross, EA Partners, said that the plan had been amended to provide extra 10-feet of greenspace along Sandersville Road to create a corridor for tree preservation, tree planning, screening, and the bike path. He said the detail on the plan shows the creation of a 24-foot pathway from the face of the stonewalls that exist along Greendale Road and Sandersville Road to encompass preserving existing trees, planting a new vegetation, the creation of sidewalks on Greendale Road, and a multi-use path along Greendale Road. This area will be located between the right-of-way, the stonewalls of these two roads, in the rear of the future lots. There will be no private ownership of this area; it will either be an HOA or city owned property. The utilities of these lots that back up to Greendale Road and Sandersville Road will be on the lotted property, not in the greenspace corridor.

Nick Nicholson, attorney representing the petitioner, said there was a lengthy discussion with Doug Cauthen and that they are all in agreement with this plan.

Citizen Comments - David Royce, attorney representing Doug Cauthen, said that Mr. Cauthen has met with representatives from Ball Homes and with Tom Kimmerer, their consultant. They have worked out some commitments by Ball Homes that Mr. Cauthen believes will protect the view shed and the surrounding properties with appropriate buffering and trees and also enhance the development. He said that Mr. Goodwin had forwarded a letter to him summarizing the commitments that Ball Homes has made to Mr. Cauthen and also for the benefit of the public.

He asked the Planning Commission to take into the consideration the commitments that Ball Homes has been willing to make to Mr. Cauthen. He said that these commitments are agreeable to Mr. Cauthen, who is in full support of the proposal that has

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

been presented subject to the commitment that has been made by Ball Homes. He also asked the Planning Commission to make the approval conditional on their compliance with the commitments they have made.

Commission Comments – Mr. Owens asked Mr. Nicholson to clarify that the applicant is in agreement with the letter from Mr. Goodwin. Mr. Nicholson said Mr. Cauthen is in agreement. Mr. Owens also asked if they are in agreement with the Division of Environmental Services recommendations. Mr. Nicholson said they are in full agreement with them also.

Mr. Owens asked Mr. Martin what the difference is in the lot pattern between what they are offering and what's there on the plan. Mr. Martin said that there isn't a lot of space difference with what they are proposing with that particular lotting. There is also a HOA lot proposed along that frontage with that lotting pattern. He said that in terms of the space needed to accommodate what is planned for this development, the key to this pattern is the single loaded street. Mr. Sallee added that the handout describes the staff's concept for a single loaded street rather than new lots backed into Sandersville Road. However, the applicant preferred to have lots backing to Sandersville Road and that's the difference in the two drawings, otherwise there is very little difference in the number of lots.

Ms. Plumlee asked Mr. Query, Environmental Services, to clarify the definitions from Article 26, as it defines the diameter at breast height of a tree and also the definition of a tree, which states that a tree has a DBH of four inches. Ms. Plumlee said the recommendation from Environmental Services is requesting trees be planted with three inch caliper, how does three inch caliper compare to DBH. Mr. Query replied that any tree that is to be protected on a development site is shown at four inches in diameter and above. Any tree that is below four inches in diameter does not have to be protected, or shown on the inventory. A three inch caliper tree, at planting, is very large for nursery stock. The Planning Commission could request larger diameter trees to be planted but Environmental Services is comfortable with them planting three inch diameter trees because that's what is readily available in nurseries. Ms. Plumlee asked how many inches DBH is a three inch caliper tree. Mr. Query said it's about 2½ inch in diameter. Nursery stock is measured differently than a tree that is standing. Ms. Plumlee said that by Article 26, that isn't a tree because the diameter would have to be four inches. Mr. Query said that for the purpose of displaying a tree on a plan for protection, it has to be at least four inches and that doesn't count toward trees that are being planted. He said the definition of a tree is a woody, plant material that is fifteen feet tall; the definition given in an ordinance that is to protect trees on development sites has a different definition. A tree by definition of nursery stock is measured by caliper, which is six inches above the root ball. A tree that is standing in the forest is measured at four and half feet above ground, which is diameter at breast height. It depends on how the tree is being used, the definition can vary. He said that when Article 26 was first drafted, they recognized that a tree below four inches in diameter is not really significant, no matter what the species is. However, as Mr. Martin mentioned earlier, by replacing a significant size bur oak with another smaller bur oak, you're using significant species to replace a significant species that has been removed.

Ms. Mundy asked Mr. Query if bur oaks are readily available at a nursery or are they difficult to come by. Mr. Query said that bur oaks are readily available, and they are very common.

Mr. Owens said that he would like to hear from Ms. Plueger considering the seriousness of the loss of these trees and how to move forward. Ms. Plueger said they have met with the Division of Planning and are going to make improvements to the internal process. The Tree Board had written a letter requesting that the division review how trees are handled during the planning process to make sure they follow the zoning ordinances correctly and provide the Planning Commission the information needed to make the correct decisions. She said they will be creating a process to improve the tree inventory map at the time of filing. It's critical that the division knows what is on the site in order to apply the ordinance correctly. She believes that will be a great improvement and they will begin to work their way through the process and submit information back to the tree board for their requests and also to the Planning Commission to let them know where they are in the process.

Mr. Wilson asked the staff to address the first paragraph the letter from the Fayette County Neighborhood Council. The Fayette County Neighborhood Council (FCNC) believes the destruction of the nine (9) bur oaks on the part of the developer for Plan 2016-47P on Sandersville Road without the approval of the Planning Commission to be a serious violation of Article 26 of the Zoning Ordinance. Mr. Sallee said that had the trees been in an identified tree protection area, that statement would have more connection. However, from the existing plans that are on file for that area, they were not identified as a tree preservation area. On the original plans, it was shown as canopy, showing a tree line there, but the individual species and sizes of trees were not identified on that portion of the property, as Mr. Martin has looked extensively into that. Mr. Sallee believe that difference, the fact that they were shown on an approved plan but not designated as a tree preservation area is the difference in it being a violation of the ordinance, or not.

Citizen Comments in Opposition – Walter Gaffield, President of the Fayette County Neighborhood Council (FCNC), said that he wasn't opposing this plan but he is concerned about how it all came forward. It may not be illegal to take down trees listed as canopy on a plan but it is incumbent on the developer to submit an accurate plan. Then the staff has to review it and make sure it is accurate. If the plan isn't submitted accurately then that is a type of a violation. He believes that this situation has caused FCNC to take a look at the tree ordinance and there may need to have some changes made to it. He said that it is difficult for the Planning Commission to do their job and represent the community if they're looking at inaccurate plans. He feels that something needs to be done about that. Ball Homes is very well known developer and they make mistakes like the smaller developers do. He said that in his mind, that raises questions and makes the Commission's job much harder.

Ginny Daily, resident of 136 Burley Avenue, said that she travels and looks at other developments in other areas. She was recently in Nashville and saw an article in their local newspaper on how Nashville residents are dealing with trees that are being cut down; copies of the newspaper article were distributed to the Planning Commission. She said that the residents of Nashville are having similar frustration with the developers, the city regulation, and the resulting loss of tree canopy. She said their ordinance requires that, for removal of borderline trees, one must secure permission from the property owners on both sides of a property line. If you don't, the trees must remain. She also said in Nashville, citizens are successfully suing for damages. She said that she is sharing this newspaper article as a precautionary tale; she doesn't want our community to become so frustrated with unlawful tree removal and the city's complacency that we need to resort to lawsuits over this issue. She said that the Planning Commission sits in a powerful position to mitigate both the positive and negative outcomes out of development in Lexington's future. She said she wants to 1.) encourage them to prevent clear cutting of valuable trees and loss of canopy in the development process, 2.) to "double-down" on the inclusion and review of required tree inventories and tree preservation plans before approving zone changes or development plans, and 3.) to work with the planning staff to do the same thing and to recommend new ordinances as needed.

Ms. Daily mentioned the problem is with the tree inventory that does not recognize the trees that the developers are planting as real trees, and there is a significant problem when those two things don't meet up. She wants to encourage the Planning Commission to do more work like this and get in line with other city initiatives on preserving and rebuilding our city's tree canopy. She said that citizen frustration is at a boiling point on this matter. She doesn't want anyone to see litigation over trees. She asked the Planning Commission to take this seriously and get out in front of this problem in any way possible.

Amy Clark said that her neighborhood has old oak trees that are street trees and they have different protections. She said that there is a solution to Mr. Penn's question of how do we make the punishment fit the crime and how we find something with dissuasive force so that this kind of error or omission doesn't re-occur. We can't use the kind of tree inventory that was furnished in this case, as it is not adequate and the Planning Commission needs to decide how the site should be treated as well as any other proposed development there. She said that a three inch caliper tree isn't even a tree yet pertaining to Article 26. She said there was a zoning violation here and the trees were not on the inventory so they were not in the protection plan - therefore they were cut down. If there was a violation of the Zoning Ordinance there, isn't that a \$500.00 per day fine, - so do we fine them until we have trees the size they used to be? This just wouldn't be possible.

She said that her concern is that the Planning Commission gets information adequately from the developer that is submitting as application as well as from the staff who offer professional advice. She suggests to the Planning Commission to ask for an independent tree inventory and preservation plan for the entire site. She said that there are also steep slopes and standing water in a detention basin area. She said that Mr. Queary stated that there had been discussion at the Technical Committee of both the environmentally sensitive area and tree protection needs. She also believed that the Planning Commission should ask for expert documentation and advice on preserving the stone walls. The stone wall ordinance says that it must be left as is, and that you may make it better and that there are regulations for doing so. She believes an additional requirement to that ordinance should be to preserve the trees in the perimeter of a stone wall. It is not in the City's power to dictate the condition or the improvement of the stone walls. She said that the information that was received with this application was deficient; that this might be a remedy of a sort of indemnification to make the whole site better according to what the loss was.

Ms. Clark said that the Planning Commission has the option of voting for approval or disapproval of this plan, and try to make some amendments. The option to continue has past, the ninety days is up, however the applicant could request a continuance. She believes that there isn't enough information yet to make this a good plan and grant it approval. She said the trees are gone and can't be saved; it's an important opportunity to look at how this happened and the fact that it happened again. She mentioned the two instances where the process has failed in the past. One of these instances involved the elm tree at Kingston Hall, which was granted a tree protection area; it had a trunk of 48 inches diameter and received a tree protection for only a 50-foot radius, where the tree protection ordinance states that a tree of that size should have 75-feet of tree protection area. The point is that the Planning Commission took the advice of the staff of what the applicant had furnished and they did their best with it. The other instance involved a bur oak tree that was part of a zone change that was voted approval without any knowledge of the trees that were on the site. There was a condition on the approval for the Urban Forester to sign off on the tree inventory. The applicant furnished the tree inventory before the plan was certified and the staff signed off on it and the no one took account of the bur oak tree standing in the middle of a designated parking area. She believes that two things are needed and asked the Planning Commission to consider very strongly appointing a committee to work in collaboration with Environmental Services and Planning Services, to look closely at the process of plan review, and plans should not be accepted until they are complete.

Ms. Clark said that she has great concern for the staff when the Planning Commission signs off on a plan and there may be as many as 20 conditions to meet before a plan can be certified. When the Commission signs off on a plan with a long list of conditions that are left to the staff responsibility, they lose the discretionary power that is necessary to make these plans what they ought to be before they are granted approval. This committee could look at the review process so that you have the information that is needed so that the staff are not burdened beyond what they are permitted. She feels that sometimes the staff is constrained not to follow their best professional judgment when they speak before the Planning Commission. The Commission's the one's that need to exercise that discretion.

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

Citizen Rebuttal - David Royce, said that he wanted to clarify that a letter was attached to the packet that was added into the record earlier. It includes the initial report and staging plan for tree preservation and the buffer by Ball Homes that Mr. Kimmerer has prepared. He said that he and Mr. Cauthen reviewed it and discussed it with both Mr. Kimmerer and Ball Homes and that is a part of that letter. He also asked that compliance with that be made a condition.

Requestor's Rebuttal - Mr. Nicholson said that he wanted to clarify that there isn't anything wrong with the plan. This plan meets every single requirement of the Subdivision regulation. He said that a mistake was made on a previous plan that was approved. This plan doesn't require a tree inventory but there is a tree protection plan that is going to be reviewed as part of the sign off process. Mr. Kimmerer will prepare it and then it will go to the City to be reviewed as part of this approval process. He said that he just wanted to make sure that was very clear. He said that the plan being displayed today is a vast improvement from what we could pull permits on if this plan is turned down. It represents a plan with 96 less lots and far larger lots than what is currently approved. There is significantly more open space, and it's a full unit per acre less dense. He said that there has been a lot of testimony today about the miscommunication that the applicant has been taken to task for and we acknowledge responsibility there.

Opposition's Rebuttal - Mr. Gaffield said that Mr. Nicholson stated that he already had an approved plan and that would be if it were a minor amendment to a plan but this is a consolidation of a large area. He said that he believes this is a violation to do anything on the property without the approval of the Planning Commission.

Amy Clark said that this is not proposing a minor amendment; this is a new plan with a new application. The applicant is welcome to return to the old plan if they wish, but this is a new one. She said that in her observation, it looks like the former plan for the area where the bur oaks were removed with the detention basin, the former plan had a larger area that wasn't part of individual private house lots and the current plan pinches that area further.

Staff Rebuttal - Mr. Sallee displayed the applicable provision of the Zoning Ordinance from Article 26. He said that this is an amended preliminary subdivision plan and at the time of filing of such a plan, a tree preservation plan is required. The initial plan filing from the applicant does have a tree preservation plan; it is also on the revised plan document that has been submitted and presented today. He said that he wanted to make it clear for the record that the staff didn't accept this plan without this information, although the quality of the information has clearly been debated. He wanted the Planning Commission to know that the staff did what the Zoning Ordinance requires on this plan.

Chairman's Comments - Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion.

Ms. Plumlee asked for clarification of the 30 percent canopy; and at what stage of the tree's life it is counted. Mr. Sallee replied that the Zoning Ordinance requires canopy to be met at the time of maturity of the growth of the trees, not at the time of the initial tree planting. Ms. Plumlee stated that it will be many years before we realize that 30 percent canopy. Mr. Sallee said that it will depend on the number of new trees planted. There are sites that currently have that amount of canopy, but to obtain the required 30 percent, one will need to preserve that much. If not, new plantings can't be done with large caliper trees. Ms. Plumlee said that the bur oaks that were there had a large canopy. She suggested that the canopy requirement should be increased from 30 to 35 percent now to compensate for the bur oaks because it will be many years before we see a canopy such as what may have there today.

Mr. Owens said that with all the discussion of the significant trees and loss of them is serious; we need to look forward and be more proactive.

Action - A motion was made by Mr. Owens, seconded by Mr. Brewer, to approve PLAN 2016-47P: HILLENMEYER & SFH PROPERTIES (AMD), for the reasons provided by the staff with the recommended amendments to the restrictions; adding three other conditions:

19. Comply with the language from Director Plueger and the staff for the replacement of the trees at a 2:1 ratio shown in the memorandum dated July 27, 2016.
20. Comply with the written the agreement between the applicant and Mr. Cauthen as written and has been provided to the Planning Commission July 28, 2015.
21. Amend the Development Plan as the staff has recommended as to lotting shown that was displayed to the Planning Commission with the single loaded street.

Commission Discussion to the Motion - Mr. Cravens said that condition number 21 is being based on an amateur plan and you don't want single loaded streets if it can be helped. On the revised plan, the applicant moved the lots up to leave some vacant spaces in the neighborhood. You want them all divided into lots so that someone is responsible for them. He asked for an amendment to Mr. Owens' motion, condition number 21 to use the engineers lotting pattern as presented to the Planning Commission.

Mr. Owens said that he doesn't wish to revise his motion to include Mr. Cravens' statement. He said that the applicant has a single loaded street already on the map in the lower right corner and it's not the fact that it will be vacant land sitting there; it will still be lotted off. The staff has said that there is significantly no difference between the two plans, just the fact that one is

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

a single loaded street and the other isn't. Mr. Cravens said that there is a difference and that some of the lots on the plan are not even buildable. The sketch drawing was not completed by an engineer or a landscape architect. Mr. Duncan stated that the staff's sketch was completed by a registered landscape architect.

Action Amendment - A motion was made by Mr. Cravens, seconded by Mr. Drake, to amend the original motion to remove condition number

21. Amend the Development Plan as the staff has recommended as to lotting shown that was displayed to the Planning Commission with the single loaded street.

Commission Discussion to the Motion – Mr. Drake asked what the precise lot difference is between these two plans. Mr. Martin replied that there is one lot difference. Mr. Drake also asked what the difference is with responsibility for the maintenance of the common areas, if any. Mr. Gross said that the diagram is a sketch and isn't to scale, it shows a loss of one lot. It could be the loss of three lots; it could be significant to the relative of what this community is trying to do within the Urban Service boundary. He said that he would advocate for it if there was a good reason to do it that way. He said that there will not be a difference maintenance issues or responsibility relative to the two plans; one is a single loaded street. He said that he is concerned about the eight asterisk marked lots; he said that those are buildable. He believes that the loss of lots is much greater than one.

Mr. Cravens asked if the plan was taken off the development plan that was submitted or from the previous plan, before developer moved all the lots. Mr. Martin said that Ms. Cindy Deitz, Greenspace Planner did an overlay on the existing plan to come up with the alternative on the previous plan, not on the amended plan. Mr. Cravens said that doing that could trash the entire plan; it will need to be redone for the amended plan. Mr. Martin said that there are consequences on the design and lot sizes.

Zoning Action Amendment - The vote for the amended motion carried 6-3 (Owens, Plumlee, and Smith opposed; Penn and Richardson absent) to delete condition number 21 from the original motion.

Final Action – The vote for the motion carried 8-1 (Plumlee opposed; Penn and Richardson absent) to approve PLAN 2016-47P: HILLENMEYER & SFH PROPERTIES (AMD), for the reasons provided by the staff with the recommended amendments to the restrictions and with the addition of conditions.

19. Comply with the language from Director Plueger and the staff for the replacement of the trees at a 2:1 ratio shown in the memorandum dated July 27, 2016.
20. Comply with the written agreement between the applicant and Mr. Cauthen as written and has been provided to the Planning Commission July 28, 2015.

- 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, 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

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

- (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.

1. JAMES CLAY WALLER ZONING MAP AMENDMENT & BOBBIE & SYLVIA WALLER PROPERTY (SHADOWLAWN SUB-DIVISION) ZONING DEVELOPMENT PLAN

- a. MAR 2016-18: JAMES CLAY WALLER (9/4/16)* – petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Wholesale and Warehouse (B-4) zone, for 0.88 net (1.26 gross) acres, for property located at 1500 & 1502 N. Limestone and 101 Rosemary Avenue.

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 subject properties are located within the Central Sector Small Area Plan boundary, an adopted element of the Comprehensive Plan. More specifically, it is located within Sub-Area D, where the North Limestone corridor was designated a "focus area" and its intersection with New Circle Road was designated a major gateway into the Central Sector.

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

The Staff Recommends: **Approval of a B-4 zone for 1500 & 1502 N. Limestone**, for the following reasons:

1. The existing Single Family Residential (R-1C) zoning is inappropriate, and the proposed Warehouse and Wholesale Business (B-4) zoning is appropriate for the following reasons:
 - a. The property shares a boundary with the existing warehouse development to the immediate northeast, and the proposed rezoning will enable the façade improvements to continue along the North Limestone corridor to a more appropriate land use transition – the intersection of Rosemary Avenue.
 - b. The proposed warehouse structures with façade improvements will be compatible with the adjoining B-4 development, as well as the commercial development directly across North Limestone from the site. The existing single family residences are no longer as compatible along this portion of the North Limestone corridor.
 - c. The development of small warehouses with accessory offices will enhance the land use transition between the unrestricted B-3 properties to the north and the residential neighborhood to the south. The buffer will provide a less intensive land use in terms of uses, business hours, noise and traffic.
2. This recommendation is made subject to approval and certification of ZDP 2016-70: Bobbie & Sylvia Waller Property (Shadowlawn Subdivision) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction(s) should be applied to the subject properties:

PRINCIPAL PERMITTED USES

- a. Wholesale establishments, wholesale establishments with warehouses, storage and warehousing.
- b. Shops of special trade and general contractors, such as plumbing; heating; carpentry; painting; plastering; printing; publishing; lithographing; engraving; electrical; sign painting; upholstery; tile, mosaic and terrazzo work; electroplating; and interior decorating.
- c. Parking lots and structures.
- d. Animal hospitals or clinics, provided that such structures or areas used, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
- e. Offices of purchasers, processors and handlers of agricultural products, limited to administrative uses only.
- f. Sales of feed, grain or other agricultural supplies.
- g. Garden centers.
- h. Establishments and lots for the sale of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles, such as mini-bikes, motorcycles, boats or supplies for such items.
- i. Establishments for the sale of precut, prefabricated, or shell homes.
- j. Retail sale of building materials and lumber.
- k. Mail order business.
- l. Office uses, limited to a maximum square footage of 60% of the floor area in the building in which the use is located.
- m. Office/warehouse mixed-use project, as further regulated by Article 8-21(o)(3).

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

- n. Adaptive Reuse Projects, as further regulated in Article 8-21(o)(4).

OTHER RESTRICTIONS

1. Outdoor music or sound systems and call boxes shall be prohibited.
2. Lighting shall be shielded and directed downward and away from residentially zoned properties.
3. The following landscape and buffering restrictions shall apply:
 - a. There shall be a 20' open space and landscape buffer along property boundary where it adjoins any residential dwelling unit. An 8' tall solid wood fence shall be placed along the length of the open space/buffer area. Within this open space/buffer area, the developer shall plant and maintain 8' evergreen trees planted 15' on center.
 - b. There shall be a 50' setback along the front of the property which shall contain a landscape/open space buffer. Within the landscape/open space buffer, the developer shall plant and maintain 8' tall deciduous trees planted 15' on center, and 3' shrubs interspersed with the trees.

These restrictions are necessary and appropriate to provide an aesthetically pleasing gateway feature to the North Limestone corridor, and to protect the adjoining residential neighborhood from the potential negative effects of more intensive uses that could occur in the B-4 zone without restriction.

The Staff Recommends: **Disapproval of a B-4 zone for 101 Rosemary Avenue**, for the following reasons:

1. The requested rezoning to a Wholesale and Warehouse Business (B-4) zone cannot be found to be in agreement with the 2013 Comprehensive Plan, or the Central Sector Small Area Plan (an adopted element of the 2013 Comprehensive Plan) for the following reasons:
 - a. The Goals and Objectives of the 2013 Comprehensive Plan recommend protection of existing neighborhoods (Theme D, Goal #3c.). The Plan also encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as protecting neighborhoods and residential areas from incompatible land uses. Policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, and compatibility of land uses. The proposed rezoning along Rosemary Avenue is not compatible with these specific recommendations, which are overarching ideas of the Plan.
 - b. The Central Sector Small Area Plan recommends as one of its four guiding principles to "provide adequate and equitable housing" for the area. The Rosemary Avenue neighborhood should continue to provide convenient and affordable housing for residents, as it has done for decades.
2. The proposed Wholesale and Warehouse Business (B-4) zone is inappropriate for 101 Rosemary Avenue because:
 - a. The type of truck traffic associated with warehouses and shops of special trade (i.e. general contractors, plumbers, painters, major auto and truck repair) is too intense for a local residential street.
 - b. Encroachment of B-4 zoning along Rosemary Avenue is not compatible with the existing single-family residential character of the area and could negatively impact the residents that live in the area, both along Rosemary Avenue and other local streets within the neighborhood.
3. The existing Single Family Residential (R-1C) zone remains appropriate at this location, as the existing residence is located at the entrance to an affordable neighborhood and should not be unduly impacted.
4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support an argument for B-4 zoning for property along Rosemary Avenue.

- b. ZDP 2016-70: BOBBIE & SYLVIA WALLER PROPERTY (SHADOWLAWN SUBDIVISION) (9/4/16)* - located at 1500 and 1502 North Limestone and 101 Rosemary Avenue. **(Midwest Engineering)**

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the impact of the existing conditional zoning restrictions on the proposed plan.

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

1. Provided the Urban County Council rezones the property **B-4**; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Denote construction entrance location on plan.
7. Denote building coverage and floor area ratio site statistics, per Art. 21-6(a)(13) requirements.
8. Correct owner's certification.
9. Denote building height on plan, per Art. 21-6(a)(7) requirements.
10. Relocate graphic scale on plan.
11. Denote that all approved and certified information for 1532 N. Limestone shall be added at the time of the Final Development Plan.

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

12. Depict existing tree locations on plan (for subject property).
13. Discuss building conflict with conditional zoning limitations.
14. Discuss timing of street improvements proposed to N. Limestone.
15. Discuss alteration of existing detention areas.
16. Discuss whether existing trees along N. Limestone will be retained/preserved.
17. Discuss whether sidewalk in front of adjacent buildings will extend to Rosemary Avenue.
18. Discuss need for front building restrictions, per those approved on adjacent buildings.
19. Discuss status of conditional zoning relative to this proposed plan.

Applicant – Steve Baker, engineer, stated that he would like to withdraw 101 Rosemary Avenue from the application, and continue consideration of rezoning the other two parcels.

Zoning Action – A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 9-0 (Penn and Richardson absent) to accept withdrawal of 101 Rosemary Avenue from the application.

Staff Zoning Presentation – Ms. Wade presented the staff report on this amended zone change for 1500 and 1502 N. Limestone and stated that this application is for a rezoning from R-1C to B-4 zone. The subject properties are located at the intersection of Rosemary Avenue and N. Limestone, which is approximately 1½ block from New Circle Road, which is to the northeast of the properties. Broadview Drive is across from the properties and Loneta Avenue has properties that border the warehouse area to the southeast of this location. The subject properties are currently single-family residential homes that are occupied. The area along N. Limestone is a mixture of commercial and residential uses. The business area is characterized by the warehouses that are located to the northeast of the subject property. Also nearby are a CVS Pharmacy, a daycare, a carwash, and restaurants at the corner of New Circle and N. Limestone.

Ms. Wade stated that the applicant is proposing the rezoning to the Wholesale and Warehouse Business zone for these two lots in order to expand the warehouse area along this frontage. Mr. Waller owns the warehouses to the northeast, which are currently occupied with shops of special trade and an indoor athletic facility. In 2010, he stated in their justification that they wanted to bring 50 jobs to this location and believe they have accomplished that goal.

Ms. Wade displayed an aerial view of the subject properties, the two residential structures. She displayed a photo of the properties showing two large pin oak trees in the front yards. Tim Queary, Urban Forester, did visit the site and determined that the tree on the left in the exhibit is not in good condition, but the tree on the right, (nearest the intersection) is still fairly healthy. She also displayed a photo of the existing warehouses to the northeast of the subject properties and said that they are setback about 50 feet from N. Limestone, which is what the applicant had agreed to in the 2010 zone change, and there is landscaping along the frontage, which is in agreement with the Central Sector Small Area Plan for this area.

Ms. Wade said that the 2007 Comprehensive Plan made a recommendation for residential land use at this location, but it was also marked for “special consideration” through the Small Area Plan for the Central Sector. N. Limestone was designated as a primary commercial corridor in this area, and the intersection of New Circle and N. Limestone was identified as the major entrance into this central sector. Through the Small Area Plan process, several principles were identified for redevelopment and investment within the area and the applicant believes that their project will encourage re-use of the property and additional jobs for the area.

Ms. Wade said that the applicant believes that they are in compliance with the 2013 Comprehensive Plan. They mentioned in their justification agreement with three goals; the first being to encourage small businesses; the second being complete streets (to complete sidewalk connectivity for one of the properties on N. Limestone); and the third goal was to complete façade improvements along the frontage of N. Limestone. The staff does not believe that their request agrees with the Comprehensive Plan, but they did find that the B-4 zone would be appropriate along N. Limestone and the R-1C would be inappropriate at this location. When the B-4 zone was requested in 2010, on the adjacent property, the developer proposed enhancements to the N. Limestone corridor, which included a 50-foot setback for their frontage and landscape improvements and a conditional zoning restriction around the exterior perimeter of the property (a 50-foot landscape buffer that is along any residential property that fronted onto Rosemary Avenue or Loneta Avenue). The 50-foot buffer does not impact the two residential properties that front onto N. Limestone.

Ms. Wade reported that the staff believes that the rezoning is appropriate because it continues the B-4 zone to a better land use transition at Rosemary Avenue rather than midblock. When considering this zone change, the staff believes that the building façade should be continued along N. Limestone, which is also supported by the Small Area Plan. Staff also believes that the 50-foot setbacks should be continued.

Ms. Wade said there was a lengthy discussion at the Zoning Committee meeting regarding the property on Rosemary Avenue, and the staff's recommendation of disapproval for that parcel and the possibility of re-working the two lots on N. Limestone so that they don't encroach into the residential area that is Rosemary Avenue. The applicant revisited that and withdrew the Rosemary Avenue parcel. The staff's recommendation for the conditional zoning restrictions remained the same, but the staff

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

would like to suggest to the Planning Commission a revision based on the applicant's revised plan. Staff originally proposed a 50-foot setback along the frontage and a 20-foot landscape buffer along any residential boundary.

Ms. Wade said that at this time staff is willing to make an adjustment to the conditional zoning restrictions so that there is a 30-foot setback along N. Limestone and at least a 10-foot landscape buffer along the adjoining residential property on Rosemary Avenue. More specifically, to change number 3.a. to a 10-foot landscape buffer along a boundary that adjoins any residential dwelling unit and an 8-foot fence, and a 30-foot setback along N. Limestone.

3. The following landscape and buffering restrictions shall apply:
 - a. There shall be a ~~20'~~ 10' open space and landscape buffer along property boundary where it adjoins any residential dwelling unit. An 8' tall solid wood fence shall be placed along the length of the open space/buffer area. Within this open space/buffer area, the developer shall plant and maintain 8' evergreen trees planted 15' on center.
 - b. There shall be a ~~50'~~ 30' setback along the front of the property which shall contain a landscape/open space buffer. Within the landscape/open space buffer, the developer shall plant and maintain 8' tall deciduous trees planted 15' on center, and 3' shrubs interspersed with the trees.

The staff is recommending approval of the two properties along N. Limestone to be rezoned because the B-4 zone is more appropriate and the R-1C is no longer appropriate at this location. The property already shares a boundary with a B-4 development to the northeast. These improvements are supported by the Small Area Plan and are similar to the adjoining property and a development with warehouse and office uses will enhance the land use transition between the unrestricted B-3, which is at New Circle Road and the residential neighborhood to the south.

Development Plan Presentation - Mr. Martin presented the staff report on this development plan. He said that this plan is a revised plan based on the withdrawal of the property on Rosemary Avenue. On the plan, he displayed the area for development, the trees that will remain and the location of the parking access off of Rosemary Avenue into the parking area. He said that there was a staff exhibit handout with the revised conditions showing that many are standard conditions for a preliminary plan. One important condition is that some verbiage had been added to the conditional zoning that is not included in the zone change, which will need to be removed.

Mr. Martin said that the condition of the 50-foot setback along N. Limestone frontage is extremely important from a practical aspect to the development of this property. On the original plan, the applicant could meet that setback, but it pushed the parking back on the site. In order for their parking to function properly, they needed to adjust the setback closer to N. Limestone and the staff supported this shift. This becomes even more important with the existing conditional zoning restriction, because the paved area in the middle of the plan will need to be removed because it cannot meet the requirement for a landscape buffer in this area. The parking area will have to function on its own to serve this building, which will be even more carefully reviewed at the Final Development Plan stage.

Mr. Martin said that there are also some clean up items listed in the staff handout; the improvements to N. Limestone, the alteration of the existing detention area, extension of a sidewalk, preserving trees in the front, which are design elements that will be determined through improvement plans at the time of the Final Development Plan. In the past, there had been some stormwater problems in this area that have been identified. There is a lot of detention provided on the property, which will need to be addressed to make sure that it continues to function properly and is adequate. The applicant is also claiming a reduction in their parking, which is important to them, with the loss of some spaces; they are claiming the benefit of being located within 300 feet of a transit stop which needs to be identified on the plan to claim that credit. (He said that the handout states "shot" should be "stop".)

- ~~10. 11. Denote that all approved and certified information for 1532 N. Limestone shall be added at the time of the Final Development Plan. Denote location of transit stop on the plan.~~

Mr. Martin said the Small Area Plan and the Gateway concept that Ms. Wade had mentioned; the applicant also agreed to architectural detail. There is a building design note on the plan, the staff wants to be sure and have it denoted that the architectural details will match the neighboring building.

Commission Comments – Mr. Wilson commented that condition number 16 should be deleted.

Mr. Owens would like to have condition number 15 removed. Mr. Martin said that staff will agree to keep "Denote" in place of "Discuss", that the applicant will meet the architectural details as previously approved. Mr. Wilson said that it would remain with "Denote" and be referred to the Final Development Plan. Mr. Martin said that will be appropriate, when the applicant gets the final permit.

- ~~15. 18. Discuss~~ Resolve the need for front building restrictions, per those approved on adjacent buildings.

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

Mr. Drake asked for clarification that the two parking lots could not be linked. Mr. Martin replied that due to the conditional zoning restrictions that were placed on the adjoining property; the center connection can't be made, so the lot for the subject property will need to function independently. Mr. Drake asked what the conditional zoning restrictions were. Mr. Martin said that it was a 50-foot landscape buffer that was imposed to protect the adjacent residential neighborhood from the warehouse development.

Mr. Owens clarified that in order to make vehicular traffic connection between the two lots,, the applicant would have to amend the conditional zoning restrictions. Mr. Martin confirmed that the applicant would need to request a zone change to modify the conditional zoning restrictions.

Petitioner Presentation - Steve Baker, Midwest Engineering, said that they agree with all of the staff's conditions as well as the revised zoning restrictions. He said that the applicant would like to connect the two parking lots but they feel that they can make them work independently as needed.

Mr. Clay Waller, developer, said that he was available for any questions that the Planning Commission may have.

Citizen Comments – There were no citizens present wishing to comments on the proposal.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Smith, and carried 9-0 (Penn and Richardson absent) to approve MAR 2016-18: JAMES CLAY WALLER., for the reasons provided by the staff with the amendments to the restrictions.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Mr. Smith, and carried 9-0 (Penn and Richardson absent) to approve ZDP 2016-70: BOBBIE & SYLVIA WALLER PROPERTY, for the reasons provided by the staff with the revised staff recommendations.

VI. COMMISSION ITEMS - No such items were presented.

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. MEETING DATES FOR August, 2016

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	August 4, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	August 4, 2016
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	August 11, 2016
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	August 24, 2016
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	August 25, 2016
Unofficial Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 29, 2016

X. ADJOURNMENT - There being no further business, Chairman Cravens declared the meeting adjourned at 3:16 p.m.

William Wilson, Chair

Carolyn Plumlee, Secretary

TLW/TM/WLS/dw