

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

October 27, 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; Mike Cravens; David Drake; Karen Mundy; Mike Owens; Frank Penn; Carolyn Plumlee; Carolyn Richardson; and Joseph Smith. Absent was Patrick Brewer.

Planning staff members present: Jim Duncan, Director; Bill Sallee; Traci Wade; Tom Martin; Cherly Gallt; Chris Bronczyk; and Debbie Woods. Other staff members present were Jimmy Emmons, Vaughan Adkins, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Lieutenant Joshua Thiel, 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 10-0 (Brewer absent) to approve the minutes of the September 22, 2016.

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

1. **CAPKY BLUEGRASS PROPERTIES, LLC, ZONING MAP AMENDMENT & STOREY BUSINESS SUBDIVISION, LOT 6**

- a. PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC – a petition for a zone map amendment from a Professional Office (P-1) zone to a High Rise Apartment (R-5) zone for 3.05 net (3.29 gross) acres, for property located at 353 Waller Avenue. Dimensional variances are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E).

The petitioner proposes to re-use the existing structure (former nursing home facility) for a multi-family residential development. The petitioner proposes to renovate the structure to accommodate 100 dwelling units, with the intention of marketing such units to students and faculty at the University of Kentucky. Dimensional variances are also requested with the zone change application.

The Zoning Committee Recommended: **Approval.**

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

1. The proposed High Rise Apartment (R-5) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The residential zoning and proposed efficiency apartment units will expand housing choices by providing an uncommon dwelling unit type within the immediate area (Theme A, Goal #1). Although dwelling units exist to the north and west, most are single family homes or two bedroom apartment units.
 - b. The renovation of an underutilized structure on the subject property will support infill and redevelopment that is respectful of the area's context and design features (Theme A, Goal #2.a.) since little will be altered on the property, and since this will also support adaptive re-use in the community (Theme D - Improving a Desirable Community).
 - c. The additional dwelling units within the Waller Avenue corridor will allow for employees and students of the University of Kentucky, as well as two nearby hospitals, to live near their jobs, thereby encouraging infill and redevelopment that creates jobs where people live (Theme C).
 - d. The petitioner will provide new sidewalks along a portion of their property frontage and work to create a transit line along Waller Avenue in order to help a viable network and effective transportation system for residents (Theme D) and improve accessibility between neighborhoods and shopping (Accessibility - page 15).
 - e. The proposed R-5 zone is compatible with the adjoining High Density Apartment (R-4) zone to the west and will serve as a transition between the commercial uses along Waller Avenue and the single family residential areas to the north of this location, due to the existing building's low height and profile.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-16-00009: Storey Business Subdivision, Lot 6, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

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

b. REQUESTED VARIANCES

1. Reduce the required open space from 20% to 15%.
2. Reduce off-street parking requirement from a minimum of 150 spaces to a minimum of 112 spaces.

The Staff Recommends: **Postponement of the requested open space variance**, for the following reason:

- a. The applicant has not demonstrated to the staff, via the corollary development plan submitted with this request, that the existing site can even provide as little as 15% of its area for open space. This should be accomplished before the Commission considers the true variance that is needed.

The Staff will report at the public hearing regarding the variance for parking.

c. PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6 (9/29/16)* - located at 353 Waller Avenue.
(EA Partners)

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the transit stop parking reduction, the required open space, parking in the front yard and lack of tree canopy information.

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

1. Provided the Urban County Council rezones the property **R-5**; 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. Dimension compact parking spaces.
6. Dimension building.
7. Dimension court yards.
8. Dimension all walkways.
9. Document compliance with interior landscape and tree canopy requirements.
10. Delete the transit stop parking reduction and revise parking.
11. Discuss emergency access at rear of property.
12. Discuss water quality requirements, per the Engineering Manuals.
13. Discuss the open space provided versus what is required.
14. Discuss parking proposed in the required front yard, and overall compliance with off-street parking requirements.
15. Discuss plan status.

Petitioner Representation: Richard Hopgood, attorney representing the petitioner, said that the petitioner would like to request a postponement to the November 17, 2016 meeting.

Action: A motion was made by Ms. Mundy, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) for postponement PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC.

2. **LEXMARK INTERNATIONAL, INC. ZONING MAP AMENDMENT & LEXMARK INTERNATIONAL CORPORATION**

- a. PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC. – petition for a zone map amendment from a Light Industrial (I-1) zone to a Professional Office (P-1) zone, for 25.50 net (29.22 gross) acres of property, located at 740 W. New Circle Road and from an Agricultural Urban (A-U) zone to a Professional Office (P-1) zone, for 4.56 net and gross acres of property, located at 1180 Newtown Pike (a portion of).

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 property is located within the boundary of the recently adopted Winburn & Russell Cave Neighborhoods Small Area Plan (WRCN SAP), which is generally south of Interstate 75, west of Newtown Pike, north of New Circle Road and east of Russell Cave Road. The Plan identifies seven guiding principles for the area that should be further considered by the Planning Commission.

The petitioner proposes a Professional Office (P-1) zone in order to bring the site into conformity with the Zoning Ordinance. Currently, the site is part of the larger Lexmark headquarters property which crosses New Circle Road, and is considered an accessory use to their principal industrial use. The petitioner is proposing to transfer the subject properties for an independ-

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ent professional office use; therefore, the facilities can no longer be considered accessory, and must comply with the zone requirements for an office building.

The Zoning Committee Recommended: **Approval**.

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

1. The requested Professional Office (P-1) zone is appropriate for the site, as it has historically operated as an office building in support of the petitioner's industrial land use to the south of New Circle Road. The right-of-way of New Circle Road and the proposed sale of the property necessitate the use now being a principal use, which is not permitted in the existing zones.
 2. The existing Light Industrial (I-1) zone and Agricultural Urban (A-U) zone are no longer appropriate at this location, for the following reasons:
 - a. The site has never been utilized for manufacturing, compounding, assembling, processing or packaging of finished products.
 - b. The existing structure was designed and constructed as an accessory office building, indicating its intended use.
 - c. The site is not viable for traditional agriculture nor other uses permitted in the A-U zone. A portion of the site is located within a FEMA floodplain, and is surrounded by the Legacy Trail, a private access roadway and the utility substation.
 3. The proposed zone change for Professional Office (P-1) zoning is supported by the Winburn & Russell Cave Area Neighborhoods Small Area Plan, an adopted element of the Comprehensive Plan, and is consistent with the SAP's recommendations. It will bring about opportunities to infill the site.
 4. This recommendation is made subject to approval and certification of PLN-MJDP-16-00027: Lexmark International Corporation, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-16-00027: LEXMARK INTERNATIONAL CORPORATION (12/01/16)* - located at 740 W. New Circle Road and 1180 Newtown Pike.
(EA Partners)

The Subdivision Committee Recommended: **Postponement**. The required tree inventory map has not been provided.

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

1. Provided the Urban County Council rezones the property P-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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Addition of walkways (and their dimensions) on the site.
9. Denote construction access point on plan.
10. Label access easement to proposed parking.
11. Denote tree protection areas.
12. Denote proposed and required parking.
13. Denote the approval from the Royal Springs Aquifer Committee prior to certification of Final Development Plan.
14. Discuss location of parking lot in tree stand.
15. Discuss conflict between Legacy Trail easement and new parking lot

Petitioner Representation: Rory Kahly, representing the petitioner, said that the petitioner would like to request a postponement to the November 17, 2016 meeting.

Action: A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 10-0 (Brewer absent) for postponement PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, October 6, 2016, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Joe Smith, Carolyn Plumlee and Mike Owens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Saltee; Tom Martin; Denise Bullock; Chris Bronczyk and Cheryl Gallt; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Tracy Jones and Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.

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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.

V. **ZONING ITEMS** - The Zoning Committee met on Thursday, October 6, 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.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

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

The procedure for these hearings is as follows:

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

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

1. **ERFAN M. ALAMI (AMD) ZONING MAP AMENDMENT**

- a. **MAR-2015-25: ERFAN M. ALAMI (AMD)** – an amended petition for a zone map amendment from a Neighborhood Business (B-1) zone to an Agricultural Rural (A-R) zone, for 3.24 net (3.76 gross) acres, for property located at 5898 Old Richmond Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. The 2013 Comprehensive Plan also recommends supporting the agricultural economy, horse farms, general agricultural, and the character of the Rural Service Area (Theme E, Goal #2).

The Rural Land Management Plan, adopted by the Planning Commission in 1999, recommends Core Agricultural and Rural Land (CARL) use for the subject property.

The petitioner proposes to down zone the parcel in order to make renovations to the existing, non-conforming residence on the subject property.

The Zoning Committee Recommended: **Approval.**

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

1. The requested Agricultural Rural (A-R) zone is in agreement with the 2013 Comprehensive Plan and the 1999 Rural Land Management Plan, for the following reasons:

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- a. The 2013 Comprehensive Plan Goals and Objectives recommend supporting the agricultural economy and the character of the Rural Service Area. Since the subject property has been utilized as a single-family residence since 1935, retaining the residence in a conforming manner will better preserve the rural character of the immediate area.
- b. The Rural Land Management Plan recommends Core Agricultural and Rural Land (CARL) future land use for the subject property. The property is located within the Rural Service Area; is not served by typical urban services, such as sanitary sewers, storm sewers, solid waste collection or curb/gutter/sidewalks; and the A-R zone is intended to implement the Plan's future land use recommendation for this location.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change. She summarized the staff report and recommendations of the proposed zone change.

She stated that there is a residence on the parcel that the applicant wishes to improve. Because this is a non-conforming structure, this is not permitted under the B-1 zone. The petitioner had originally proposed to rezone a portion of the property, but they have amended their application to rezone the entire 3.24 acres of land.

Commission Comments – There was a comment that there have already been improvements at this location. Ms. Wade stated that the applicant was unaware that they couldn't perform any improvements because it's a non-conforming structure. The owner was notified that they couldn't proceed with their improvements because they involved expansion in terms of square footage of the residential structure, which initiated the zone change request.

Petitioner Presentation – Jake Michul, Morgan & Pottinger, P.S.C., was present representing the petitioner. He said that he believes the applicant is in agreement with the staff's recommendations.

Commission Comments – There was a question in regard to the old structure at the corner of Old Richmond Road and Jacks Creek Pike on the property. Mr. Michul stated that the petitioner will be removing that structure within the next three years. It is an accessory structure in the A-R zone and will serve as a storage area during the improvements.

Citizen Comments – There were no citizens present to comments on this application.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve MAR-2015-25: ERFAN M. ALAMI (AMD), for the reasons provided by the staff.

2. TAYLORMADE REAL ESTATE, LLC (AMD), ZONING MAP AMENDMENT AND ETHINGTON & ETHINGTON PROPERTY ZONING DEVELOPMENT PLAN

- a. PLN-MAR-16-00003: TAYLORMADE REAL ESTATE, LLC (AMD) – an amended petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Neighborhood Business (B-1) zone, for 5.79 net (7.88 gross) acres; Agricultural Urban (A-U) zone to a Townhouse Residential (R-1T) zone, for 2.38 net and gross acres; Agricultural Urban (A-U) zone to a Single Family Residential (R-1D) zone, for 6.72 net and gross acres; Townhouse Residential (R-1T) zone to a Single Family Residential (R-1D) zone, for 1.49 net (1.88 gross) acres; Townhouse Residential (R-1T) zone with conditional zoning restrictions to a Townhouse Residential (R-1T) zone without conditional zoning restrictions, for 1.49 net (1.93 gross) acres; and Single Family Residential (R-1D) zone to a Townhouse Residential (R-1T) zone, for 0.26 net and gross acres, for property located at 4145 and 4235 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 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. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes a rezoning to construct a small neighborhood business area, bordered by townhouses and single family residences.

The Zoning Committee Recommended: **Referral** to the Full Planning Commission.

The Staff Recommends: If construction of Madrone Way is not part of the proposal, Postponement, for the following reasons:

- 1. According to Article 8-4(a) of the Zoning Ordinance, "In order to avoid premature or improper development, land should remain in this zone until public facilities and services are or will be adequate to serve urban uses."

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The Staff Recommends: If construction of Madrone Way is part of the proposal, Approval, for the following reasons:

1. The proposed combination of Neighborhood Business (B-1) zoning, Townhouse Residential (R-1T) zoning and Single Family Residential (R-1D) zoning is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan encourage an expansion of housing choices and housing near employment/commercial areas (Theme A, Goal #1); support infill and redevelopment as a strategic component of growth (Theme A, Goal #2); maintain the urban forest (Theme A, Goal #3.d.); and provide compact, contiguous and/or mixed-use sustainable development to accommodate future growth needs (Theme E, Goal #1.b.).
 - b. The applicant proposes a mixed-use development, with pedestrian connectivity throughout and to the adjoining Palomar neighborhood to the northwest and northeast of the subject site. The development also provides a variety of housing types that are located near existing and proposed employment/commercial areas.
 - c. The applicant is proposing a residential density of 3.92 dwelling unit per acre, which within the range recommended for the site by previous Comprehensive Plans, in addition to neighborhood commercial opportunities.
 - d. The applicant intends to preserve many significant trees on the subject properties in order to maintain the minimum tree canopy requirements for this development.
2. The proposed development generally meets the Complete Streets concept (with the exception of the Almond Way termination), which includes the design and use of the right-of-way for vehicles, bicycles and pedestrians, as recommended by Theme D, Goal #1.a. of the 2013 Comprehensive Plan. The connection of local and collector streets with the subject properties is of vital importance to ensure the proposed development functions as a part of the neighborhood it is proposed to serve. Without these vital connections, the development cannot meet the goals established in "Chapter 6: Improving a Desirable Community" for reduced traffic congestion and connectivity of adjoining land uses for a complete street network.
3. This recommendation is made subject to approval and certification of PLN-MJDP-16-00008: Ethington & Ethington Property, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. PLN-MJDP-16-00008: ETHINGTON & ETHINGTON PROPERTY (9/26/16)* - located at 4145 and 4235 Harrodsburg Road.
(Vision Engineering)

The Subdivision Committee Recommended: Postponement, There were some questions regarding lack of Regional Information per Article 21 and Compliance with Article 8-16.

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

1. Provided the Urban County Council rezones the property B-1, R-1T & R-1D; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Addition of all statistical information per Article 21.
9. Addition of all notes per Article 21.
10. Delete symbols and line type legends.
11. Dimension drive aisles, parking spaces and entrances.
12. Revise townhome offsets per Article 8-10 of the Zoning Ordinance.
13. Denote sidewalk access from townhomes to internal street system.
14. Discuss termination of Almond Way or possible waiver to the Subdivision Regulations.
15. Discuss pedestrian connections from commercial area to existing and proposed neighborhood.
16. Discuss proposed access from Harrodsburg Road.
17. Discuss status ownership and maintenance of internal street system.
18. Discuss compliance with Article 8-16 requirements and possible variance.
19. Discuss timing and responsibility for offsite road improvements to Madrone Way.
20. Discuss architectural details for buildings along Harrodsburg Road frontage.
21. Discuss need for sidewalk improvements to Harrodsburg Road (Higbee Mill Road to Palomar Blvd.).
22. Discuss driveway locations to Syringa Drive and other townhouses.
23. Discuss stormwater management concept for the site.
24. Discuss significant trees and development conflicts in the proposed B-1 and townhouse areas.
25. Discuss B-1 area orientation and integration with proposed and existing residential areas.

Staff Zoning Presentation – Mr. Sallee presented the staff report on this zone change. He stated that this is an amended application because the most recent revision added an existing R-1T zoned parcel that has conditional zoning restrictions to it. He said that the staff has received 21 letters of correspondence in opposition to this zone change, and he distributed those to the Planning Commission at this time.

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Mr. Sallee said that during a previous zone change some significant trees were recommended for protection via conditional zoning. The applicant is willing to consider some tree preservation, but prefers to do so through the development plan process and not to do so through conditional zoning. He said the staff is in agreement with that and that the tree preservation plan does need to be a component of the development plan.

Mr. Sallee also said that a traffic impact study has also been submitted with this application.

Development Plan Presentation - Mr. Martin presented the updated staff report on this development plan, which was handed out to the Commission. He pointed out on the map the trees that will be preserved. The applicant is proposing a right-in, right-out into the proposed commercial area of Harrodsburg Road. He said that the townhouses will have access through an access in the rear of the buildings.

Mr. Martin stated that South Elkor Church and the applicant have reached an agreement and they will have control of the property and will be able to build Madrone Way.

Mr. Martin also stated that a waiver request had been distributed to the Planning Commission. This request is for Almond Way to leave it as is with a pedestrian and bikeway into the subject property. He said that staff has recommended disapproval of the waiver request.

Traffic Impact Study – Mr. Emmons presented the Transportation Planning staff's report on the revised Traffic Impact Study, for this development and said that the petitioner is in agreement with this report and the overall development recommendations. He said that there are only two entrances and exits to the Palomar Subdivision and that is why the Madrone Way connection is so important. The original Comprehensive Plan from 1986 was planned as a collector street and has been built to those standards. This will give the subdivision two signalized intersections, providing relief to the two current entrance/exit intersections.

Mr. Emmons said that the transportation staff recommends that Madrone Way be constructed in the first phase of development and that the rest of the development is dependent upon that connectivity.

Petitioner Presentation – Nick Nicholson, Stoll Keenon & Ogden, PLLC, was present representing the petitioner. He said that he believes the applicant is in agreement with the staff's recommendations. He said that agricultural zoning is no longer appropriate at this location.

Mr. Nicholson said that the petitioner is requesting removal of the conditional restrictions because it was put in place for a separate parcel which is now being combined for this one project. He said that there are significant trees that will need to be preserved and the petitioner will meet with the Tim Queary, Urban Forester to change their development to do so.

Mr. Nicholson submitted letters of support from the neighborhood to the Planning Commission.

Commission Comments – There was a question in regard to the pedestrian access if the connection does not go through. Mr. Nicholson replied that it is to have a trail system.

The following citizens were present in favor of this case:

Yvette Childress, 2125 Mangrove Drive, said that she agrees with the developer and the plan to make the area a pedestrian friendly neighborhood.

Scott Johnson, 2109 Mangrove Drive, said that he would to suggest making Madrone Way exit only and would like to preserve the pine trees between Mangrove Drive and the proposed property.

The following citizens were present in opposition to this case:

Joe Clabes, 4033 Palomar Blvd., Vice-Chair of the Palomar Hills Association Board, said that he has concerns about the impact to the neighborhood with the opening of Madrone Way; the increased traffic flow and speed of vehicles.

Commission Comments – There was a question regarding the traffic flow. Mr. Clabes said that the neighbors don't favor the proposed connection to Harrodsburg Road. They are in favor the development, just not the connection to the Palomar Subdivision. They would prefer traffic calming to slow traffic. He said that a crash gate could be a possible solution.

Mr. Clabes also stated that the neighbors agree with the way that Almond Way is presented in the development.

Prescott Hill, Mangrove Drive, said that he doesn't know of anyone in the neighborhood that is in favor of this connection. There is currently a lot of cut-thru traffic and the congestion at Lyon Drive is already heavy. He suggested that the connection not be made to the Palomar subdivision. He also said that he would like preserve the trees between the two neighborhoods.

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Petitioner Rebuttal – Mr. Nicholson said that the tree line on Mangrove Drive is in the proposed tree protection area.

Commission Comments – There were concerns regarding the tree protection line on the northwest section of the subject property. There was concern that if the rezoning be granted; the agreement of the church will need to be finalized at either the preliminary subdivision plan or the final development plan. There was also a comment regarding the staff's recommendation of Almond Way to only be extended 140 feet instead of through the entirety of the property.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, and carried 10-0 (Brewer absent) to approve PLN-MAR-16-00003: TAYLORMADE REAL ESTATE, LLC (AMD), for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, carried 9-1 (Brewer absent) to approve PLN-MJDP-16-00008: ETHINGTON & ETHINGTON PROPERTY, for the reasons provided by the staff

Waiver - A motion was made by Mr. Cravens, seconded by Ms. Richardson, carried 10-0 (Brewer absent) to approve PLN-MJDP-16-00008: ETHINGTON & ETHINGTON PROPERTY, for the following reason:

1. The applicant has demonstrated that the extension of Almond Way presents a special circumstance as it is a dedicated public road, serving only two driveways. The termination of Almond Way cannot be accomplished with a cul-de-sac or dedicated public road in the Palomar Hills subdivision and connectivity will be achieved with pedestrian connection.

3. 1321 W. MAIN, LLC, ZONING MAP AMENDMENT & FULLER ET. AL. PROPERTY & MEADOWTHORPE COMMERCIAL BUSINESS CTR., UNIT 1

- a. PLN-MAR-16-00009: 1321 W MAIN, LLC – petition for a zone map amendment from a Neighborhood Business (B-1) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.75 net and gross acres, for property located at 1315 and 1353 W. Main.

LAND USE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan no longer makes a specific land use recommendation for each and every parcel in Lexington-Fayette County, but *Chapter 1: Goals and Objectives* does recommend “supporting infill opportunities as a strategic component of growth.”

The applicant is requesting this rezoning in order to develop a self-storage warehouse facility on the subject properties.

The Zoning Committee Recommended: **Approval.**

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

1. The requested Wholesale and Warehouse Business (B-4) zone is appropriate for the subject properties, for the following reasons:
 - a. The site has been used for commercial storage for an engineering firm for more than four decades. No retail, restaurant or office uses have supplanted this use during this time period.
 - b. Development of the site for self-storage warehouses will not require the highway visibility that most neighborhood-oriented commercial uses would require.
 - c. This use will provide a complimentary use to those in the established neighborhood of Meadowthorpe.
 - d. The Plan supports improvement of our community through infill development opportunities, such as that proposed.
 2. The existing Neighborhood Business (B-1) zone is no longer appropriate for the subject properties since the site is so inaccessible from Leestown Road, unlike most all other commercial properties in Meadowthorpe.
 3. This recommendation is made subject to approval and certification of PLN-MJDP-16-00032: Fuller, Et Al & Meadowthorpe Commercial Business Center, Unit 1, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-16-00032: FULLER, ET. AL. PROPERTY & MEADOWTHORPE COMMERCIAL BUSINESS CTR, UNIT 1 (12/01/16)* - located at 1315 and 1353 W. Main Street. **(Abbie Jones, PE)**

The Subdivision Committee Recommends: **Approval**, subject to the following requirements:

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. Clarify use behind 1315 W. Main Street building (B-1) zone (grass, paving etc.).
6. Clarify proposed lot coverage in site statistics (B-4 zone).
7. Resolve “apparent” easement and purpose of same to the approval of Division of Law.

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

Staff Zoning Presentation – Mr. Sallee presented an aerial photograph of the subject property from 1977, and one from 2016. He summarized the staff report and recommendations of the proposed zone change. He stated that this parcel is not visible from Main Street. The staff agrees that this will be a difficult area to conceive of a viable retail or restaurant type of use because of the very limited visibility of this site.

Development Plan Presentation – Ms. Gallt presented the staff report on the development plan and said that the applicant has cleaned up many of the conditions of the plan as reviewed by the subdivision committee. She stated that this is a preliminary developments plan.

Ms. Gallt passed out a copy of an email from the property owners stating that the access between the two properties is no longer being used; thus condition #7 can be changed to a “resolve” condition.

Petitioner Presentation – Abbie Jones, PE, was present representing the petitioner. She said that the applicant is in agreement with the staff’s recommendations.

Citizen Comments – There were no citizens present to comments on this application.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve PLN-MAR-16-00009: 1321 W MAIN, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, carried 10-0 (Brewer absent) to approve PLN-MJDP-16-00032: FULLER, ET. AL. PROPERTY & MEADOWTHORPE COMMERCIAL BUSINESS CTR, UNIT 1, for the reasons provided by the staff.

4. LEXINGTON HOME OWNERSHIP COMM II, INC. ZONING MAP AMENDMENT & BRADLEY SUBDIVISION (GLEN ARVIN TOWNHOUSES)

- a. PLN-MAR-16-00010: LEXINGTON HOME OWNERSHIP COMM II, INC. (AMD) – an amended petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a High Density Apartment (R-4) zone for 0.48 net (0.58 gross) acres of property, located at 366 and 370 Glen Arvin Avenue.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan recommends planning for safe affordable and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A., Goal 1); supporting infill and redevelopment as a strategic component of growth, including compact and contiguous growth (Theme A., Goal 2 and Theme E., Goal 1b); providing for a variety of housing types in all neighborhoods (Chapter 3: Growing Successful Neighborhoods); and encouraging affordability in housing for all citizens and encouraging infill opportunities outside of downtown (Chapter 7: Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land).

The petitioner proposes an R-4 zone in order to develop 11 townhomes and off-street parking on the subject property, which is in excess of the existing conditional zoning (residential density) restrictions approved for this site in 2006. They desire to provide affordable housing options within the community with this development.

The Zoning Committee Recommended: **Approval.**

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

1. The requested High Density Apartment (R-4) zoning for the subject property is in agreement with the 2013 Comprehensive Plan, and its Goals and Objectives, for the following reasons:
 - a. The Goals and Objectives recommend expanding housing choices and planning for affordable and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A., Goal #1 and #1.c. and Chapter 3: Growing Successful Neighborhoods). This development will provide attached single-family residential dwelling units, which will provide for a mixture of types of housing in the immediate area, and the Housing Authority will maintain the units within their inventory as subsidized rental units for utilization by eligible low-income residents.
 - b. The Goals and Objectives support infill and redevelopment of a compact and contiguous nature as a strategy for community growth (Theme A., Goal 2 and Theme E., Goal 1b). The applicant is proposing to add 11 dwelling units, at a density of 22.9 dwelling unit per acre, on property that has been identified as part of a vacant land survey.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00025: Bradley Subdivision (Glen Arvin Townhouses), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

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- b. PLN-MJDP-16-00025: BRADLEY SUBDIVISION (GLEN ARVIN TOWNHOUSES) (AMD) (12/01/16)* - located at 366 and 370 Glen Arvin Avenue. **(Barret Partners)**

Note The purpose of this amendment is to remove the conditional zoning restrictions and revise the development.

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

1. Provided the Urban County Council rezones the property R-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. Division of Waste Management's approval of refuse collection locations.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Addition of date in Planning Commission certification.
8. Revise note #11 timing element to include approval of Zoning Compliance permit.
9. Denote compliance with tree canopy requirements (30% required).
10. Resolve dumpster location.

Chairman Wilson disqualified himself from the meeting for this case because of a conflict of interest. He turned over the chairmanship to Mr. Penn, Vice-Chair.

Staff Zoning Presentation – Ms. Wade presented the staff report and recommendations of the proposed amended zone change.

Development Plan Presentation - Mr. Martin presented the staff report on the development plan and said that the staff was concerned with note #8; the storm water drainage may require off-site easements. Another concern is the public service vehicles having access to this site.

Commission Comments – There were questions in regard to waste services accessing private property to have permission to turn around.

Petitioner Presentation – Darby Turner, Bingham Greenbaum Doll, LLP, was present representing the petitioner. He said that the applicant is in agreement with the staff's recommendations.

The following citizens were present and spoke in favor of this application:

Jeremiah Myers, 700 E. Loudon Avenue, behalf of Habitat for Humanity, said that he is in support of affordable housing in the area and of this zone change.

The following citizens were present and spoke in opposition to this application:

John Dawson, 374 Glen Arvin Avenue, said that he concerned with the congestion and the small space for 11 units. The public and emergency services need to back their vehicles down Glen Arvin since there isn't a turn-around area at the end of the street.

Charles Robinson, 384 Glen Arvin Avenue, said that he is concerned that if an emergency occurs with the senior citizens, the response team will be unable to get their vehicles in the small space.

Yvonne Jones, 415 Glen Arvin Avenue, said that she is also concerned with the congestion and the lack of parking.

Charles Smith, 424 Glen Arvin Avenue, said the area is currently residential and doesn't like the idea of apartments in the area.

Cecil Wolfal, 385 Glen Arvin Avenue, said that he is also concerned with the congestion and the lack of parking.

Petitioner Rebuttal – Mr. Turner said that the development will have approximately the same number of bedrooms as the prior approved development. He said that there will be 16 off-street parking spaces and the neighborhood's concern regarding the congestion and inability to turn around will be solved.

Staff Rebuttal – None.

Commission Comments – There was concern of the emergency units traveling down the congested street. Mr. Greg Lengal, Division of Fire and Emergency Services, said that the road is narrow with parking allowed on both side of the street. They currently need to back out and he hopes this change will relieve that issue.

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Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Smith, and carried 9-0 (Wilson disqualified, Brewer absent) to approve PLN-MAR-16-00010: LEXINGTON HOME OWNERSHIP COMM II, INC. (AMD), for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Mr. Smith, and carried 9-0 (Wilson disqualified, Brewer absent) to approve PLN-MJDP-16-00025: BRADLEY SUBDIVISION (GLEN ARVIN TOWNHOUSES) (AMD), for the reasons provided by the staff.

5. LEXINGTON SENIOR HOUSING 2, LLC ZONING MAP AMENDMENT & COON'S PROPERTY, UNIT 11 (HIGHGROVE COTTAGES – INDEPENDENT LIVING HOMES)

- a. PLN-MAR-16-00011: LEXINGTON SENIOR HOUSING 2, LLC – petition for a zone map amendment from a Neighborhood Business (B-1) zone to a High Density Apartment (R-4) zone for 2.56 net (3.0 gross) acres, and from a Professional Office (P-1) zone to a High Density Apartment (R-4) zone for 2.22 net (2.42 gross) acres or property, located at 4268 Saron Drive.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The Comprehensive Plan, as it relates to the proposed zone change, generally focuses on land use compatibility; well-designed neighborhoods; improving a desirable community; making the best use of land inside the Urban Service Boundary for the protection of the surrounding rural areas; varied housing choices, and infill and redevelopment.

The petitioner proposes to construct 32 dwelling units (senior living cottages), for a residential density of 6.7 dwelling units per acre.

The Zoning Committee Recommended: **Approval.**

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

1. The requested High Density Apartment (R-4) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan are supported by the requested zone change, including: expanding housing choices (Theme A, Goal #1); planning for housing that addresses market needs for all Fayette County residents, including, but not limited to mixed-use and housing near employment and commercial areas; supporting infill and redevelopment as a strategic component of growth, (Theme A, Goal #2); encouraging compact, contiguous and/or mixed-use sustainable development, as guided by market demand, to accommodate future growth needs (Theme E, Goal #1); and developing vacant and underperforming land within the Urban Service Area to safeguard rural land.
 - b. The proposed senior living cottage housing type, proposed as duplexes and four-plexes, is generally not available in this portion of the Urban Service Area; thus, it will allow for expanded housing choices. The proposed use will also provide housing options for seniors that do not require healthcare services and are fully independent, but would like to utilize the services that modern independent living facilities provide.
 - c. The property has remained vacant for an extended period of time, even with multiple zone changes made in the last 15 years in an attempt to improve potential development opportunities. The proposed residential development will put an underperforming site to use, and the development will serve as an appropriate land use transition between the commercial uses to the north and the residential uses to the south and east.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00020: Coons Property, Unit 11 (Highgrove Cottages – Independent Living Homes), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-16-00020: COON'S PROPERTY, UNIT 11 (HIGHGROVE COTTAGES – INDEPENDENT LIVING HOMES) (12/01/16)* - located at 4268 Saron Drive.
(Rich Design Studios)

Note: The purpose of this amendment is to rezone the property and develop an independent living homes.

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

1. Provided the Urban County Council rezones the property R-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.

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4. Urban Forester's approval of tree inventory map.
5. Denote location of required 5' or 15' landscape buffer, per the zone-to-zone (P-1/R-4) requirements.
6. Addition of conditional zoning restrictions, on plan.

Staff Zoning Presentation – Ms. Wade summarized the staff report and recommendations of the proposed zone change. She said that this property originally had a zone change in the 1990's and a few more after that and is now proposing to return to R-4 zone.

Development Plan Presentation – Ms. Gallt presented the staff report on the development plan and said that there is a required landscape buffer between the proposed property and the neighboring P-1 property. She has passed out copies of a map displaying this buffer.

Petitioner Presentation – Kevin Rich, Rich Design Studios, was present representing the petitioner. He said that he believes the applicant is in agreement with the staff's recommendations.

Zoning Action – A motion was made by Ms. Richardson, seconded by Mr. Drake, and carried 9-0-1 (Penn abstained; Brewer absent) to approve PLN-MAR-16-00011: LEXINGTON SENIOR HOUSING 2, LLC, for the reasons provided by the staff.

Citizen Comments – There were no citizens present to comments on this application.

Development Plan Action – A motion was made by Ms. Richardson, seconded by Mr. Drake, carried 10-0 (Brewer absent) to approve PLN-MJDP-16-00020: COON'S PROPERTY, UNIT 11 (HIGHGROVE COTTAGES – INDEPENDENT LIVING HOMES), for the reasons provided by the staff.

6. BOONE CREEK PROPERTIES, LLC ZONING MAP AMENDMENT, BOONE CREEK PROPERTIES & H.G. EARLY SNYDER FAMILY FARM, LLC PROPERTY & CONDITIONAL USE

- a. PLN-MAR-16-00013: BOONE CREEK PROPERTIES, LLC - a zone change from an Agricultural Rural (A-R) zone to an Agricultural Natural Areas (A-N) zone, for 41.74 net (43.44 gross) acres of property, located 8291 & 8385 Old Richmond Road, and 8385 Durbin Lane.

COMPREHENSIVE PLAN AND PROPOSED USE

The subject properties are located within the Rural Service Area, which encompasses 200 square miles and about 70% of Lexington-Fayette County. The 1999 Rural Land Management Plan was developed to guide resource management and planning for this portion of the County, and the Plan recommends the subject properties be utilized for Natural Area (NAT) land use.

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

The petitioner proposes to rezone the properties to an Agricultural Natural (A-N) zone, and is also requesting a conditional use to operate agritourism and ecotourism activities, including a tree canopy tour, guided hiking trails, equine trails, canoeing and kayaking launch sites with recreational outfitters, environmental and agricultural education classes, historic and active farm tours, and a farm gift shop (limited to 500 square feet in size). The petitioner plans to maintain the existing conditional use permit for an outdoor recreational facility – the Boone Creek Angler's Club – which was approved as a private club by the Board of Adjustment in 2000.

The Zoning Committee Recommended: **Approval.**

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

1. The requested Agricultural Natural (A-N) zoning for the subject properties is in agreement with the Rural Land Management Plan's recommendations for Natural Areas (NAT) land use at this location.
2. The 2013 Goals and Objectives also encourage the development of appropriate attractions and supporting uses that promote and enhance tourism (Theme C, Goal 1, Objective e), support the agricultural economy, horse farms, general agricultural farms, and the rural character of the Rural Service Area (Theme E, Goal 2), and protect the environment (Theme B).
3. This recommendation is made subject to approval and certification of PLN-MJDP-16-00029: Boone Creek Properties and H.G. Early-Snyder Family Farm, LLC Property prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

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b. REQUESTED CONDITIONAL USE

Ecotourism and Agritourism activities – including a tree canopy tour, guided hiking trails, equine trails, canoeing and kayaking launch sites with recreational outfitters, educational classes, farm tours and a farm gift shop.

The Zoning Committee Recommended: **Approval**.

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

1. There is an unresolved legal issue associated with the current request for Planning Commission consideration of a Conditional Use Permit at this location. The staff would like to hold a discussion of this issue with the Department of Law prior to the Planning Commission's public hearing for this application.
2. A postponement would allow time for the applicant to complete some site plan details about certain aspects of the proposed conditional use.

c. PLN-MJDP-16-00029 BOONE CREEK PROPERTIES & H. G. EARLY-SNYDER FAMILY FARM, LLC PROPERTY (9/29/16)* - 8291 & 8385 Old Richmond Road and a portion of 8385 Durbin Lane. (**Barrett Partners**)

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

1. Provided the Urban County Council rezones the property **A-N**; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Expand note #9 to include tree diameter approximations.
9. Revise note #15 to indicate timing and type of paving and landscaping to be provided.
10. Discuss proposed caretakers apartment compliance with Article 8-3(c)8 of the Zoning Ordinance.
11. Discuss required setback (300' vs. 50') for the welcome center and other site improvements.

Staff Zoning Presentation – Mr. Sallee stated that the staff has received several letters of correspondence related to this zone change; 3 in favor and 2 in opposition.

Mr. Sallee presented the staff report and recommendations on this zone change. He said that most of the activities proposed require conditional use permits.

Mr. Sallee said that in 2014 this area was considered for a zone change, and since then there has been a Zoning Ordinance Text Amendment (ZOTA), which has revised many of the recreation land uses that are permitted in the Zoning Ordinance as conditional uses in the Agricultural, Residential and Commercial zones.

Mr. Sallee said that the staff's recommendation is made subject to approval and certification of the development plan that has been filed in conjunction with this request.

Commission Comments – There were questions in regard to the owners of the three different addresses listed and if any of these properties will be considered a split zoning. Mr. Sallee replied that two of the three properties have the same owners, listed as Boone Creek Properties, LLC, which are located at 8291(20.15 net acres) and 8385 Old Richmond Road (14.85 net acres). The owner of 8385 Durbin Lane is listed as H.G. Early Snyder Farm (6.84 net acres). He said that only a small portion of 8385 Durbin Lane is proposed for rezoning. There was also a question regarding approving conditional uses across property lines. Mr. Sallee replied that it isn't common, but it isn't prohibited by the Zoning Ordinance.

Development Plan Presentation - Mr. Martin presented the revised conditions (yellow handout) of the development plan.

The Staff Recommends: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property **A-N**; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.

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7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Discuss Denote that the proposed caretakers apartment shall comply compliance with Article 8-3(c)(8) of the Zoning Ordinance.
9. Discuss required setback (300' vs. 50') Denote non-conforming status for the welcome center structure and other site improvements in front of the 300' building line.
10. Denote any approved activities specific to areas of this plan.
11. Clearly denote canopy tour route on plan, prior to certification.

Mr. Martin said that the plan needs to show specific areas of activities on the Final Development Plan.

Commission Comments – There was a question of how many activities are being planned and what they are going to be. Mr. Martin said that will be outlined in the conditional land use report. There will be canopy tours, historic and active farm tours, educational programs and training, and natural recreational areas among other activities. There was a question regarding the number of uses being identified after the subdivision meeting. Mr. Martin stated that this a preliminary development plan and that the applicant can further answer that.

Conditional Use – Ms. Wade presented the staff report and the staff's recommendations for the conditional uses requested for this development. She said that these uses were added to the Zoning Ordinance through the recreation and tourism text amendment that was for eco-tourism and agri-tourism activities. The uses that the applicant is requesting are components of the overall use.

Ms. Wade distributed exhibits to the Planning Commission. The first staff exhibit is the existing (new) text from Article 7-6 of the Zoning Ordinance related to the Board of Adjustment's specific powers when they consider a conditional use; powers that also apply to the Planning Commission. The second staff exhibit is KRS 247.238, which is related to the "aerial recreational facilities," now definitely by state law.. The third staff exhibit is an email addressed to Ms. Wade from Dewey Crowe, Director of Building Inspection, which states that they have reviewed the Kentucky Building Code in reference to zip lines, the associated tree platforms, and the children's rope walks, and that no changes have occurred since their initial review. In that review, it was determined that the platforms attached to the tree are not considered structures and they do not require a building permit.

Ms. Wade said that in terms of the conditional use, the eco-tourism and agri-tourism activities will be tree canopy tours, which include zip lines; sky bridges; floating staircase; a repel station; ladders; and platforms located in numerous trees on the property; ropes challenge course; outdoor recreation/education area; guided hiking and equine trails; historic and active farm tours (which will utilize the old wagon road); canoe and kayak launch sites; environmental and agricultural educational classes; and a farm gift shop. The locations of some of the uses are known, while other areas have not yet been determined and will need to be identified on the Final Development Plan, or do not have specific locations, such as educational classes.

Ms. Wade showed photographs of the subject property, showing some of the platforms and what remains of the old sulfur well structure. She said that one of the zip line cables does cross the county boundary and that the applicant has permission from the adjacent property owner to do so.

Ms. Wade said that the applicant will be expecting 50-90 visitors a day for the nine months of operation. They will have operating hours beginning at 10:00 am until dusk, with the last tour beginning 2 hours prior to dusk. The training and educational classes will be limited based on the availability of the on-site parking. Stables will not be on the site and private horses will not be permitted; the applicant will be bringing equine in from another farm.

Ms. Wade said the staff is now recommending approval based upon 21 conditions and she summarized those conditions, the main condition of the approval is provided the subject properties are rezoned A-N by the Urban County Council otherwise any Planning Commission action of approval is null and void.

Commission Comments – There was a comment regarding the conditional uses that the Board of Adjustment or whomever is hearing the case "shall consider." There was a comment of the number of uses listed on the Development Plan, but there are only 3-4 primary uses and those areas are marked on the plan. There was also a comment of the agricultural tours and farming operations and that this land was not farmable in the past and that one of the conditions was to not permit retail sales in a farm gift shop. Ms. Wade clarified that the farm gift shop is an accessory retail facility, limited to a maximum of 500 square feet in size that offers for sale farm products grown or raised on the premises, and/or memorabilia representative of the farm products grown or raised on the premises, such as hats, shirts and souvenirs.

Petitioner Presentation – Dick Murphy, Murphy & Clendenen, PLLC, was present representing the petitioner and said that he believes the applicant is in agreement with the staff's recommendations with some clarifications on a few of the conditions. He said that the state of Kentucky has passed a law setting the safety standards for ziplines. This statute requires the use of the Association for Challenge Course Technology (ACCT) or the American Society for Testing Standards

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(ASTM). The ACCT approval is the more difficult one to obtain and the one that has been selected by the petitioners. He said that this is active, not passive, tourism and it's the kind of tourism that is encouraged in the Comprehensive Plan.

Mr. Murphy distributed a handout of the applicant's exhibits. He said that the Durbin property will be in the same ownership, if this is approved. Mr. Carey has an option to purchase those six acres as Boone Creek Properties. He showed a presentation of photos of the site and also a video. He said that the trees are not harmed when the platforms are attached and gives the trees room to grow. Dave Leonard, Dave Leonard Arborist, inspects the trees annually.

Mr. Murphy said he has some requested revisions to the conditions proposed by the staff. The public driveways and parking lots will be the only areas that will be paved (#5). School groups will have a different scheduling of tours than the general public (#11). The use of all-terrain vehicles will only be used for emergencies. The petitioner would like to add that security and maintenance be permitted to use all-terrain vehicles (#13). The sale of food and services; they are required to sell water and snacks for medical uses (#19). The caretakers are remodeling the house and will comply with the staff.

Mr. Carey submitted a notebook of exhibits to the record.

Sarah Smith, Smith Management Group, consultant to analyze the environmental aspects of the property and the project, presented her findings and recommendations.

Burgess Carey, owner of Boone Creek Properties; Tony Barrett, Barrett and Partners were also present, and discussed the aspects of the proposal.

Commission Comments – There are concerns about safety and concern about quitting the tour early. Mr. Burgess Carey replied that the staff is trained to evacuate the trail within 4 minutes for weather purposes. He said that there is a weight limit of 70 lbs. so the zip liners don't get stuck halfway through a tour. Part of the educational experience will occur on the platforms. The braking is taught in the ground school before the tour. There are also back-up brake systems on every platforms that the guides are trained to use. If one guest wants off the tour, there will be a guide on the ground to assist with their exit and the rest of the group can proceed with their tour.

Opposition Comments – Mr. Don Todd, attorney, was present representing the citizens that are in opposition and said that he believes that there are some serious issues with the conditional uses proposed.

Mary Diane Hanna, 6398 Old Richmond Road, President of the Old Richmond Road Neighborhood Association, distributed a handout and displayed several photos and maps. She said that the development plan is incorrect and that some of the tree canopy business is built on neighboring land at 8151 Old Richmond Road.

Melissa Brown, 823 McCalls Mill Road, President of the Boone Creek Neighborhood Association, distributed a handout. She described past violations of the Boone Creek Property owners.

Dr. Lisa Gannoe, 7525 Old Richmond Road, distributed a handout. She said what is requested under the Zoning Ordinance is already built and it was built before the development was approved and before the required permits were obtained.

Jim Griggs, 600 McCalls Mill Road, distributed a handout. He questioned of the legality of having multiple principle structures on a single property.

Alsten Kerr, 5660 Old Richmond Road, distributed a handout. She commented on the maximum square feet permitted for structures proposed for such uses and questioned the ones proposed for this use.

Alex Martin, 7041 Grimes Mill Road, distributed a handout. He commented on the violations of the compliance and the conditional uses.

Cabby Boone, 1451 Walnut Hill Road, distributed a handout. She commented about agri-tourism, stated and that Boone Creek Properties is recreational, not agricultural.

Chaz Martin, 7416 Grimes Mill Road, distributed a handout. He commented on the adverse effects of the proposed and that the platforms are bolted to the trees.

Mr. Todd summarized the comments that the constituents had made. He also asked the Planning Commission to verify that the zip lines are not on the adjacent property, which has a PDR easement. He also stated the zoning text is different for these types of structures.

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The following citizens were present, and spoke in favor of this case:

Jane Snyder, 8385 Durbin Lane, owns the property that is under contract with Mr. Carey. She is in support of this project, and has given permission to rezone a portion of her land.

Sarah Brown, 8152 Old Richmond Road, represents the Clays Ferry Neighborhood Association. She is in support this project.

Jacob Roan, employee of Pine Mountain State Park in Pineville, KY, stated that he was involved with a tree canopy tour in the state park and worked with Mr. Carey there.

Ben Hoskins, Pineville, employee of Mr. Carey at Pine Mountain Canopy Tour, said that he is happy to assist with any questions regarding the constructions, attachments of the platforms, and safety. He said that the bolts for the platforms are only about 2 inches into the tree, which does not damage the trees

Duane Hoskins, Pineville, employee of Mr. Carey at Pine Mountain Canopy Tour, offered his support and to answer questions.

Ashley Payne, Pineville, employee of Mr. Carey at Pine Mountain Canopy Tour, offered to answer questions regarding safety of the canopy tours.

Zach Tabor, Pineville, Certified Horticulture Designer, Soil Consultant, and arborist, offered to answer questions regarding the ecology of the area.

The following citizens were present, and spoke in opposition of this case:

Walter Gaffield, 2001 Bamboo Drive, President of the Fayette County Neighborhood Council, stated that he is concerned with the zone change being based on the Rural Land Management Plan. He believes that the agricultural natural zone recommends that it be a PDR project with no commercial business on it. He said that he is also concerned with safety issues.

Amy Clark, 628 Kastle Road, said that the proposed land uses conflict with the recommendations of the Rural Land Management Plan. She says that Boone Creek Properties is an active recreation not a passive recreation.

Petitioner Rebuttal – Mr. Murphy said this is a brand new application for a conditional use permit under a brand new ordinance that was recently passed. He said that this application conforms with the new ordinance. He said that a professional survey was done and all the associated improvements are on Mr. Carey's property. He agreed to imposition of a condition that all improvements must be located on the subject property. He also commented that the issue of the multiple structures on a single property is not valid.

Opposition Rebuttal – Mr. Todd said that the photographs prove that the structures are located on Mr. Parks' property. He said that the aerial photos don't match the plans. He also said that the stable is on Mr. Parks' property and that he suggested a fence be installed between the PDR property and the commercial use property. He said that agri-tourism is not applicable here.

Staff Rebuttal – Ms. Wade said that agricultural use in the state of Kentucky is broadly defined. KRS 100 states that it must be at least 5 acres with a long list of products that can be grown or raised on the land. There is no limit on the number of livestock other requirement for it to constitute as an agricultural use. She said the platforms attached to the trees are not structures per the Zoning Ordinance or the Building Code. The Zoning Ordinance also doesn't restrict the number of conditional uses per parcel. She also stated that the Snyder's have given permission to Mr. Carey to prepare an application that uses their property, and such documentation has been submitted to the staff.

Tom Martin summarized the definition of a preliminary development plan and a final development plan clarifying that precise information is not required at this stage in the plan's process.

Commission Comments – There were questions if the final development plan is more detailed should the conditions be done at that time instead of at the preliminary development plan. Mr. Sallee said that the conditions associated with the requested conditional use permit can only be addressed by the Planning Commission at the hearing today. Ms. Jones said that the Planning Commission is standing in the shoes of the Board of Adjustment because the zone change and conditional use were filed together, which is permitted by KRS 100 and by the Ordinance. The petitioner will need to obtain their certificate of occupancy and zoning compliance permit prior to opening the facility after the approval of the Final Development Plan.

Discussion - Mr. Todd asked how the conditions could be approved without specific identification of structure locations. Ms. Jones replied that the structures have been identified. Mr. Todd said they are identified from only a conceptual point of view. There was discussion of the PDR program. Ms. Jones clarified that the Planning Commission does not have authority over the adjacent parcel in a PDR easement.

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

There was a question regarding the development plan that a new development plan will supersede any prior development plan. Mr. Martin replied that it does and the prior plan is no longer valid. There was a question regarding the changes to the conditional uses. Mr. Murphy clarified that the typical tour will be made by reservation only for 10 people; for school groups the facility will be closed to the public and the tours will be scheduled more continuously, with more guides.

There was a question regarding the equine animals and stable. Mr. Carey said that he resides on the other (north) side of Mr. Parks' property and keeps the animals there and the Snyder's have given permission to Mr. Carey to use their barn. He said that if he is unable to walk the animals down the road or across Mr. Parks' land, he will remove that proposal from the request. It was clarified that Mr. Carey will delete "equine trails" from the conditional use.

There was a question regarding the canoeing/kayaking; the take in and out point will naturally be near the lodge. Mr. Carey replied that the take out area will be at the Angler's Club and the put in spot is located at the Christian Camp or the Hunt Club, which is on state right-of-way. He stated that he is not currently having canoe rentals, but would like to in the future.

There was a comment regarding the proposed farm store; and there, the public would like to purchase memorabilia of their tour.

There was a question regarding the prior conditional uses that have been granted by the Board of Adjustment will remain in enforcement. Mr. Murphy said the conditional use for the Angler's Club is not related to this zone change.

There was a question regarding the setbacks from the neighboring properties. Ms. Wade said that the required building setback is 25' from all neighbors, including the Clark County line.

There was a question regarding the septic system and health department requirements not being on the development plan. Ms. Wade said that it is not a requirement on the development plan. Mr. Sallee said that issue should be noted as a conditional use restriction and merely not a development plan note.

There was a question regarding the paving of the driveway and the parking lot. Ms. Wade clarified that the parking lot at the visitor/welcome center will need to be paved. It was asked if the parking lot can hold the amount of visitors that are expected per day. Ms. Wade replied that the parking is based on the use and not the amount of people per day. She also said that with the tours being spaced out every thirty minutes the staff believes that the lot will be sufficient.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion. Commission member discussed their thoughts at this time.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Cravens, and carried 10-0 (Brewer absent) to approve PLN-MAR-16-00013: BOONE CREEK PROPERTIES, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Ms. Richardson, carried 9-1 (Plumlee opposed; Brewer absent) to approve PLN-MJDP-16-00029 BOONE CREEK PROPERTIES & H. G. EARLY-SNYDER FAMILY FARM, LLC PROPERTY, for the reasons provided by the staff with the addition of:

12. The Emergency Response plan shall be provided to the Planning Commission prior to approval of the Final Development Plan.

Conditional Use Action – A motion was made by Mr. Berkley, seconded by Ms. Richardson, carried 10-0 (Brewer absent) to approve the conditional uses, for the reasons provided by the staff, and to amend some of the conditions as follows:

5. The public parking lots and driveways shall be paved, with spaces delineated, and landscaped/screened along Old Richmond Road.
11. Each canopy tour shall include no more than ten (10) guests, with tours spaced at least thirty minutes apart throughout the day and no more than three tours underway at any given time. Any use of the tree canopy tour facility by members of the private anglers club (approved by the Board of Adjustment on August 25, 2000: ACV-2000-128) is subject to this limitation. Special provisions will be given for school or other group tours.
12. The last canopy tour on any given day shall begin at least two hours prior to dusk. All other conditional uses shall cease at sunset.
13. Any use of All Terrain Vehicles (ATV's) is strictly prohibited, except for the following uses: emergency response, direct transport of private club members to the angler's club lodge, security or maintenance of the property/facilities.
19. Outdoor lighting (other than for security purposes), loud speakers, ~~and or restaurants or food service~~ are not permitted. Food service will be permitted only through vending facilities.

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VI. **COMMISSION ITEMS**

- A. **INITIATION OF A TEXT AMENDMENT FOR MARKET GARDENS** – The staff will request that the Planning Commission initiate a text amendment to Articles, 1, 3, 8, 11, and 23 of the Zoning Ordinance to define and permit market gardens.

Action – A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 10-0 (Brewer absent) to initiate TEXT AMENDMENT FOR MARKET GARDENS, for the reasons provided by the staff.

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

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

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

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December	1, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	December	1, 2016
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	December	8, 2016
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	December	15, 2016
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December	14, 2016
Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	December	22, 2016

- X. **ADJOURNMENT** - There being no further business, Chairman Wilson declared the meeting adjourned at 8:50 p.m

William Wilson, Chair

Carolyn Plumlee, Secretary

TLW/TM/WLS/dw