

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

November 17, 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; Carolyn Plumlee; Carolyn Richardson; and Joseph Smith. Absent was Patrick Brewer and Frank Penn.

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 Vaughan Adkins, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Tim Queary, Urban Forester; 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 8-0 (Brewer, Cravens, and Penn absent) to approve the minutes of the October 27, 2016.
- III. **POSTPONEMENTS AND WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

1. BALL HOMES, INC. ZONING MAP AMENDMENT & THE PENINSULA

- a. PLN-MAR-16-00016: BALL HOMES, INC (1/01/17)* – petition for a zone map amendment from Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 67.58 net and gross acres, and to a High Density Apartment (R-4) zone, for 22.01 net (22.18 gross) acres, located at 478 and 480 Squires 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 Plan encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Theme A, Goal #2a), providing well-designed neighborhoods (Theme A, Goal #3); protecting the environment (Theme B); working to achieve an effective and comprehensive transportation system (Theme D, Goal #1); providing for accessible community facilities and services to meet the health, safety and quality of life needs of residents and visitors (Theme D, Goal #2); protecting and enhance natural landscapes that give Lexington its unique identity and image (Theme D, Goal #3); compact and contiguous development within the Urban Service Area (Theme E, Goal #1); and encourages development of vacant and underutilized parcels (Theme E, Goal #3). Additional policy statements in the Plan are also relevant to the proposed zone change request.

The petitioner proposes a combination of Planned Neighborhood Residential (R-3) and High Density Apartment (R-4) zoning for the subject property in order to develop a mixture of single-family, townhouse and multi-family residential dwelling units, for a residential density of 7.11 dwelling units per acre. The subject site is also the location of a proposed middle school.

The Zoning Committee Recommended: **Postponement**.

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

1. The applicant has not demonstrated consideration of Comprehensive Plan recommendations related to connectivity to a school site; single-loaded streets along neighborhood focal points and open space/greenways; protection of the natural landscape along the water's edge or incorporation of a trail system. The staff recommends further consideration of these elements of the Comprehensive Plan prior to making a substantial recommendation.
 2. The staff would like to discuss the needs of Fayette County Public Schools, as a future owner, and Kentucky American Water, as the current owner of the site, and how those needs can be addressed while supporting the Comprehensive Plan and the community needs, as a whole.
- b. PLN-MJDP-16-00040: THE PENINSULA (1/01/17)* - located at 478 and 480 Squires Road.
(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 R-3 & 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.

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

4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Denote apartment building heights in feet.
9. Clarify contours on plan per Article 21-6(a)(4) requirements.
10. Denote typical lot size(s) in site statistics.
11. Complete typical townhouse development information proposed (group residential or fee simple).
12. Discuss possible phasing of development, and street location (Squires Road).
13. Discuss plan status of single family area of the proposed development.
14. Discuss street orientation to reservoir (per the Comprehensive Plan).
15. Discuss street orientation to school site.
16. Discuss possible tree preservation areas.
17. Discuss note #10 relative to single family area.

Petitioner Representation: Nick Nicholson, attorney representing the petitioner, said that the petitioner would like to request a postponement to the December 15, 2016 meeting.

Citizen Comment – Nathan Billings, attorney representing the neighbors, said that they would not object to a one-month postponement of this public hearing.

Action: A motion was made by Mr. Owens, seconded by Ms. Mundy, and carried 8-0 (Brewer, Cravens, and Penn absent) for postponement PLN-MAR-16-00016: BALL HOMES, INC.

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

- a. PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC. (12/1/16)* – 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

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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 independent 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.

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

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.
16. Discuss compliance with the Winburn Small Area Plan.

Petitioner Representation: Rory Kahly, representing the petitioner, said that the petitioner would like to request a postponement to the December 15, 2016 meeting.

Citizen Comment – There were no citizens present to comment on this application.

Action: A motion was made by Mr. Owens, seconded by Mr. Smith, and carried 7-0 (Plumlee abstained, Brewer, Cravens, and Penn absent) for postponement PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC.

3. **ZOTA 2016-5: AMENDMENT TO ARTICLE 23A-10: SUPPORTIVE USES AS A SPECIAL PROVISION IN THE ECONOMIC DEVELOPMENT (ED) ZONE** – petition for a Zoning Ordinance text amendment to Articles 23A-10 for supportive uses within the Expansion Area.

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Text underlined indicates an addition to the existing Zoning Ordinance;
text ~~dashed through~~ indicates a deletion.)

OPTION 1

23A-10(j) SPECIAL PROVISIONS

12. Supportive uses shall be principal permitted uses, regulated subject to the following requirements:
 - a. Supportive uses shall only be developed and constructed either concurrently with or post-construction and occupancy of at least one other principal permitted use listed in 23A-10(b),
 - b. Supportive uses shall not exceed a maximum of twenty percent (20%) of the otherwise permitted floor area within a development, as identified on the associated final development plan.
 - c. Residential land uses shall not exceed a maximum of fifteen percent (15%) of the otherwise permitted supportive use floor area by 23A-10(j)(12)(b) above.
 - d. For tracts of ED zoned land under 10 acres, which are contiguous to or across the street from land designated or zoned ED, but which are under separate ownership and under a separate development plan, supportive uses shall be principal permitted uses, not subject to the provisions of Subsections 12(a), 12(b) and 12(c) above.

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

OPTION 2

23A-10(d) CONDITIONAL USES

5. Supportive uses, as further regulated by Article 23A-10(j).

23A-10(j) SPECIAL PROVISIONS

12. Supportive uses shall be principal permitted uses, regulated subject to the following requirements:
- Supportive uses shall only be developed and constructed either concurrently with or post-construction and occupancy of at least one other principal permitted use listed in 23A-10(b),
 - Supportive uses shall not exceed a maximum of twenty percent (20%) of the otherwise permitted floor area within a development, as identified on the associated final development plan.
 - Residential land uses shall not exceed a maximum of fifteen percent (15%) of the otherwise permitted supportive use floor area by 23A-10(j)(12)(b) above.
 - For tracts of ED zoned land under 10 acres, which are contiguous to or across the street from land designated or zoned ED, but which are under separate ownership and under a separate development plan, supportive uses shall be conditional uses, not subject to the provisions of Subsections 12(a), 12(b) and 12(c) above.

The Zoning Committee Recommended: **Postponement.**

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

- The proposed text amendment that has been drafted to Article 23A-10 is entirely dependent upon its predecessor being adopted by the Urban County Council. Since the Council has delayed consideration of the parent ZOTA, this request should be delayed until that outcome is known.

Petitioner Representation: Dick Murphy, attorney representing an interest party, said that they would like to request a postponement to the January 26, 2016 meeting.

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

Action: A motion was made by Ms. Mundy, seconded by Mr. Smith, and carried 8-0 (Brewer, Cravens, and Penn absent) for postponement ZOTA 2016-5: AMENDMENT TO ARTICLE 23A-10: SUPPORTIVE USES AS A SPECIAL PROVISION IN THE ECONOMIC DEVELOPMENT (ED) ZONE.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 3, 2016, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Will Berkley and Mike Owens. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: James Duncan; Bill Saltee; Tom Martin; Denice Bullock; Chris Bronczyk; Cheryl Gallt; 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

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.

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

- PLN-MJSUB-16-00014: BARBARA M & MASTEN CHILDERS II (1/1/17)* - located at 4390 Briar Hill Road.
(Council District 12) **(Randy Martin)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this plat is to plat a 15-acre lot. The Planning Commission postponed this item at their November 10, 2016 meeting.

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

- Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
- Urban County Traffic Engineer's approval of street cross-sections and access.
- Building Inspection's approval of landscaping.
- Addressing Office's approval of street names and addresses.
- Urban Forester's approval of tree protection area(s).
- Addition of utility easements as required by the utility companies.
- Denote non-buildable areas on plan, if any.
- Addition of control monument information per Article 6 requirements.
- Denote lot frontage in site statistics.
- Complete adjoining property information (owners, deeds, etc.).
- Denote Health Department approval of septic system in agricultural zone prior to plan certification.

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

12. Increase font size of all plan text.
13. Delete side and rear setback information shown (leaving 300' B.L.).
14. Addition of street cross-section information.
15. Denote: The geometry of this lot is partly the result of subdivision activity in the past involving all surrounding property (See P.C. K, SI 98).
16. Resolve dedication of right-of-way.

Development Plan Presentation – Mr. Martin presented the staff report on this plan. He said there is a concern regarding the right-of-way boundaries.

Petitioner Presentation – Jacob Walbourn, attorney, said that the property owners are unable to obtain a building permit without a platted lot and there must be an approved plat prior to a building permit being obtained.

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

Action – A motion was made by Ms. Mundy, seconded by Ms. Plumlee, carried 9-0 (Brewer and Penn absent) to approve PLN-MJSUB-16-00014: BARBARA M & MASTEN CHILDERS II, for the reasons provided by the staff.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, November 3, 2016, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Patrick Brewer, Mike Cravens, 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. CAPKY BLUEGRASS PROPERTIES, LLC, ZONING MAP AMENDMENT & STOREY BUSINESS SUBDIVISION, LOT 6

- a. PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC (11/17/16)* – 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.

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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.

b. REQUESTED VARIANCES

1. Reduce the required open space from 20% to 15%.
2. Reduce the required front yard from 20 feet to 8 feet.
3. Reduce the minimum required parking from 150 spaces to either 123 or 112 spaces (depending upon #2).

The Zoning Committee Recommended: **Approval**.

The Staff Recommends: **Approval of the requested variances, and a reduction in off-street parking to 123 spaces**, for the following reasons:

- a. Granting these requested variances will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity; and will not cause a hazard or nuisance to the public. In fact, granting the variance will help to maintain the existing character of the entire subject property, as only limited physical improvements or changes are contemplated or required, other than possibly some additional vehicular use area landscaping and a small number of parking spaces.
 - b. Granting these requested variances will not result in an unreasonable circumvention of the Zoning Ordinance, because the existing setbacks and off-street parking areas for the building are to be maintained, generally "as is," which should serve to maintain the existing character of the property, and fit into the existing neighborhood.
 - c. The existing parking arrangement along the frontage of the subject site, and the close proximity of its pavement to the right-of-way of Waller Avenue, are special circumstance that applies to this site that do not generally apply to other land in the R-5 zone. These conditions are more common to P-1 and B-1 properties along this corridor.
 - d. In this instance, a strict application of the requirements of the Zoning Ordinance would pose a hardship to the applicant, because it would either require the removal of existing off-street parking on the site, require a reduction in residential density, or require the need for building demolitions in order to meet the more routine off-street parking or open space requirements for this proposed site redevelopment.
 - e. The circumstances surrounding the requested variance are not the result of actions taken by this applicant. The applicant has not started construction on the project, and is requesting these variances prior to any construction activities commencing on the subject site.
- c. PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6 (11/17/16)* - located at 353 Waller Avenue.
(EA Partners)

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

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.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change. She displayed aerial photographs of the subject property. She summarized the staff recommendations of the proposed zone change and stated that the Zoning Committee recommended Approval.

Development Plan Presentation – Mr. Martin presented the updated staff report on this development plan, which was handed out to the Commission with 12 total conditions, as follows:

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

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 if proposed.
6. Dimension building.
7. Dimension court yards.
8. Dimension all walkways.
9. Document compliance with interior landscape and tree canopy requirements of the Zoning Ordinance, prior to certification.
10. Delete note #13.
11. Provided the Planning Commission grants the requested variance for the open space.
12. Provided the Planning Commission grants the requested variance for the off-street parking.

Dimensional Variance – Mr. Sallee presented the staff report on the variances for this development and discussed the three requested variances.

Petitioner Presentation – Richard Hopgood, Wyatt Tarrant & Combs, LLP, was present representing the petitioner and said that they agree with the staff's recommendations. He stated that they had several discussions with Mr. Walbourn who represents the neighbor to the west and also the property owner across the street from the subject property. Mr. Hopgood submitted an agreement stating three conditional uses that the petitioner agreed to not pursue, should the property be rezoned to R-5.

Citizen Comment - Mr. Walbourn, attorney representing some area property owners, said in regard to the agreement submitted, that his clients do agree to the zone change and the conditional approval of the variances.

Commission Comments – There was concern expressed in regard to the legal terms of the conditions submitted by Mr. Hopgood; should these conditions be specified as prohibited uses. Ms. Jones replied that the language may need to be changed to read "prohibited uses" in a conditional zoning context.

Ms. Wade said that there is a finding proposed with the conditional zoning restriction, and this finding shall read:

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:

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

- a. Community centers;
- b. Boarding or lodging houses, assisted living facility, hospitality house, or rehabilitation homes;
- c. Day shelters.

These restrictions are necessary and appropriate in order to ensure compatibility of the property with the adjoining residential land use to the west and north of this location.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Owens, and carried 9-0 (Brewer and Penn absent) to approve PLN-MAR-16-00002: CAPKY BLUEGRASS PROPERTIES, LLC, for the reasons provided by the staff, including the additional conditional zoning restrictions and its findings.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 9-0 (Brewer and Penn absent) to approve PLN-MJDP-16-00009: STOREY BUSINESS SUBDIVISION, LOT 6, for the reasons provided by the staff.

Requested Variance Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 9-0 (Brewer and Penn absent) to approve the requested variances, for the reasons provided by the staff, and noting the reduction of required parking spaces to 123.

4. FORTUNE BUSINESS CENTRE, LLC ZONING MAP AMENDMENT & FORTUNE BUSINESS CENTER, LOT 3

- a. PLN-MAR-16-00008: FORTUNE BUSINESS CENTRE, LLC (12/1/16)* - a petition for a zone map amendment from a Professional Office (P-1) zone to a Wholesale and Warehouse Business (B-4) zone, for 3.91 net (5.18 gross) acres, for property located at 2300 Fortune 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 petitioner proposes a restricted Wholesale and Warehouse Business (B-4) zone in order to permit land uses more in keeping with the character of the area.

The Zoning Committee Recommended: **Approval.**

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

1. The requested Warehouse and Wholesale Business (B-4) zone is appropriate, and the existing Professional Office (P-1) zone is inappropriate at this location, for the following reasons:
 - a. The Fortune Drive corridor is characterized by warehouse and wholesale business land uses, with few stand along office uses. The proposed B-4 zone is compatible and consistent with the existing character of the area.
 - b. The existing transportation and infrastructure improvements that exist on the property will be able to serve the proposed use. A shared access easement, parking and a regional detention basin are in place to serve the subject property.
 - c. Although adjoined by residential zoning to the immediate east, a regional detention basin exists along the shared zoning boundary. This creates a physical boundary that is an appropriate land use buffer and creates a land use transition between the business and residential uses.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-16-00031: Fortune Business Center, Lot 3, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:
 - a. Shops for major and minor automobile and truck repairing or electroplating.
 - b. Laundry, clothes cleaning or dyeing shop.
 - c. Ice plant.
 - d. Tire re-treading and recapping.
 - e. Machine shop.
 - f. Processors of agricultural products.
 - g. Establishments and lots for the display, rental, sale and repair of farm equipment; contractor equipment; automobiles; trucks; mobile homes; recreational vehicles, such as mini-bikes, motorcycles, and bicycles; boats or supplies for such items.
 - h. Truck terminals and freight yards.
 - i. Automobile service stations, and automobile and vehicle refueling stations.
 - j. Establishments for the display and sale of pre-cut, prefabricated or shell homes.
 - k. Circuses and carnivals.

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- b. PLN-MJDP-16-00031: FORTUNE BUSINESS CENTER, LOT 3 (AMD) (12/01/16)* - located at 2300 Fortune Drive.
(Midwest Engineering)

The Subdivision Committee Recommended: **Approval**, subject to the conditions listed on today's agenda.

The Staff 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Improve legibility of cross-sections.
7. Denote adjacent property information.
8. Denote location of existing trees, on plan.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations on the proposed zone change. She displayed some photographs of the subject property.

Development Plan Presentation – Ms. Gallt presented the staff report on the corollary zoning development plan.

Petitioner Presentation – Tom Miller, attorney, was present representing the petitioner. He 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. Plumlee, and carried 9-0 (Brewer and Penn absent) to approve PLN-MAR-16-00008: FORTUNE BUSINESS CENTRE, LLC, for the reasons provided by the staff with the conditional zoning restrictions.

Development Plan Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, carried 9-0 (Brewer and Penn absent) to approve PLN-MJDP-16-00031: FORTUNE BUSINESS CENTER, LOT 3 (AMD), for the reasons provided by the staff.

5. LEX PROPERTIES, LLC ZONING MAP AMENDMENT & WINDING CREEK AT MONTICELLO

- a. PLN-MAR-16-00015: LEX PROPERTIES, LLC (1/01/17)* – petition for a zone map amendment from Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 10.14 net and gross acres, located at 3455 Saybrook 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 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A) by expanding housing choices (Goal #1), supporting infill and redevelopment (Goal #2) and providing well-designed neighborhoods (Goal #3). It also recommends protecting the environment (Theme B) by supporting the community's green infrastructure program (Goal #3) and by implementing the adopted environmental policy (Goal #2.a.). Lastly, the Plan advocates for compact, contiguous and/or mixed-use sustainable infill development to accommodate future growth needs and sustain the Urban Service Area concept (Theme E, Goal #1.b.)

The petitioner proposes to develop 15 detached single-family dwelling units and 17 attached single-family dwelling units (townhomes) on the site, which would yield a residential density of 3.16 dwelling units per acre.

The Zoning Committee made no recommendation on the proposal.

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

1. The requested R-3 zone is not in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Comprehensive Plan recommends infill and redevelopment that is compatible with and context-sensitive to its environment, and, in this case, with two established single-family neighborhoods.

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- b. The Plan also states that infill development can have a positive impact on neighborhoods, but only if it respects the scale, massing and size of surrounding buildings.
 - c. Although the petitioner is proposing a residential land use, generally compatible with the surrounding neighborhood, some of the smaller proposed lot sizes (allowable in R-3) are not compatible, nor are the townhomes lining one side of a lengthy cul-de-sac.
 - d. The 2013 Plan recommends single-loaded streets when development is adjacent to greenways and open space throughout the community. The applicant intends to locate townhomes along the floodplain and within the greenway around the creek; thus, not meeting this policy recommendation related to improving desirable communities (Theme D).
2. The existing Agricultural Urban (A-U) zone remains appropriate for the subject property because the intent of the A-U zone is to be a holding zone until appropriate urban development is proposed.
 3. The proposed Planned Neighborhood Residential (R-3) zone is not appropriate for the subject property, for the following reasons:
 - a. An R-1D zone would be more appropriate in that it would provide lots that are more in character and similar in size to those in the adjoining neighborhood.
 - b. The site is located interior to two established low density residential neighborhoods, and there is no R-3 zoning in either surrounding neighborhood, nor are any townhomes present in the immediate area.
- b. PLN-MJDP-16-00036: WINDING CREEK AT MONTICELLO (1/01/17)* - located at 3455 Saybrook Road.
(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 R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of Article 21-6 information as required for all development plans.
8. Discuss stormwater detention proposed.
9. Discuss townhome area status as a group residential project (Art. 9 requirements).
10. Discuss townhome driveway location(s).
11. Discuss resolving sanitary sewer conflict with proposed townhome.
12. Discuss HOA maintenance of common areas.
13. Discuss plan status (Preliminary Subdivision Plan).

Staff Zoning Presentation – Ms. Wade summarized the staff report and staff recommendations of the proposed zone change. She said that an exhibit packet had been distributed to the Planning Commission, which contained a staff report of the zone change from last year; minutes from that hearing; a staff report from a 1994 zone change proposal; and an environmental report that the applicant submitted last year. She also circulated a packet of letters received from citizens in opposition and a petition in opposition to the zone change.

She displayed some photographs of the subject property and stated that only a third of the property is developable because most of the subject property is located in the 100-year floodplain. She said that an R-1D zone would be more appropriate and compatible for this property, in the staff's view.

Commission Comments – There was a question of the dimension of the building line of the subject property and another regarding the number of units allowable in a R-1D zone, which would yield approximately 22 lots instead of the 32 units possible in the R-3 zone.

Development Plan Presentation – Mr. Martin presented the staff report on the corollary development plan. He said that a new tree inventory map had been provided, which addresses the minimum Zoning Ordinance requirements. He also said that there is a building conflict proposed with the existing sewer/sanitary line, which will need to be relocated.

Commission Comments – Mr. Owens had a question regarding the lack of stormwater detention, and it will not be known if it's needed until the subdivision's design is completed and its proximity to the creek is determined. Mr. Martin displayed a map displaying the existing stormwater system in the subject area, and said that there isn't any detention provided in this immediate area and that it hasn't been required over time.

Petitioner Presentation – Jacob Walbourn, attorney, was present representing the petitioner. He believed that this application is in agreement with the Comprehensive Plan. He said that the applicant would be happy to do what the prior application proposed, which was 27 single family lots (R-3 zone), but since the Planning Commission rejected that proposal he asked the ap-

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applicant to try something else that may be in accord to the Comprehensive Plan. He said that the floodplain will remain on one lot and will be maintained by the owner of that lot with the townhouses (as a group residential project).

He said that the R-1D zone would only give them 21 lots without seeking variances, which doesn't make this project financially viable. He believes that the 27 units that were proposed last year and this application would be, however.

Commission Comments – There was a question regarding the residential lots, and if they are proposed meet all the R-1D zone requirements with the exception of frontage, which is 60'. Mr. Walbourn replied that the proposed lots are 40' in width.

The following citizens were present in opposition to this application:

Evan Belt, 3439 Saybrook Road, representing the Monticello Neighborhood Association, said that they don't want the extra traffic in their neighborhood. He doesn't believe that the soil is safe and it may be contaminated. It was disturbing as to what could turn up there.

Janet Piechowski, 3451 Saybrook Road, said that they had maintained the entrance into the property until the "no trespassing" signs were posted. She said that she is opposed to this zone change and that she doesn't trust the developer because currently, the area is being neglected and unmaintained.

Walt Gaffield, President of the Fayette County Neighborhood Council, speaking on behalf of the Stonewall Community Association, said that he agrees with the staff's recommendations on this zone change.

Robin Young, 3525 Berwin Court, President of the Robinwood Homeowners Association, displayed photographs of the creek and of the path on the site. She said that she is supportive of infill but was concerned that this zone change may not have the best interest of this community.

Amy Clark, 628 Kastle Road, distributed a handout and said that she believes this area should be rezoned to R-1E zone, as said she is concerned with the density and the parking. She said that the required tree inventory hasn't been updated by the applicant.

Paul Crosmer, 3447 Saybrook Road, said that he is also concerned that once the soil is stirred up that the environmental agencies may find something different. He was concerned that developers are proposing R-3 with promises, and he suggested a legally binding agreement.

Otto Piechowski, 3451 Saybrook Road, said he concerned with the waste that was once in this ground and that the ground is still contaminated. He would like more soil testing to be provided.

Petitioner Rebuttal – Mr. Walbourn said that the subject property was tested in preparing a Phase 2 environmental study, which found no significant contaminants in this area. He said that applicant has every incentive not to increase flooding in the area. He said that single-family residential was requested and denied in the past and stated that the applicant would agree to building single-family homes on the subject property.

Citizen Rebuttal – Ms. Clark spoke on behalf of the neighborhood and suggested the applicant give the floodplain area to the city. She also said that more communication needs to be done between the developer and the neighbors.

Mr. Belt said that changing a zone based on one's economic ability is not planning. He agreed with the staff's concerns in terms of what is consistent with the neighborhood aesthetics.

Mr. Piechowski said that the developers should meet with the neighbors.

Staff Rebuttal – Ms. Wade said that the applicant is willing to restrict the uses permitted in this zone change. She said the staff's main concern is that townhouses are not compatible with this neighborhood because it is located within two neighborhoods and doesn't have the access that is needed.

Commission Comments – There was a question regarding Article 9 and the number of owners of each townhouse unit. Ms. Wade said that Article 9 provides for minimum setbacks from the exterior of the property, as well as between the buildings. There was a comment regarding the number of units that would make this project economically feasible. Mr. Walbourn said that the applicant has stated that the breaking even point of this project would be 27 lots. There was also a comment regarding the zoning restriction offered, and if the applicant would be willing to add a limitation for this project to single-family, duplex, and townhouses. Mr. Walbourn agreed and said they could also prohibit all the R-3 uses that are not single-family, townhomes, or duplexes, for the site.

Mr. Walbourn displayed the applicant's conditional zoning restrictions that were included in the application:

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"We recognize the unique nature of these sites as being in an existing single family neighborhood. In order to protect the neighborhood from uses that are too intensive or out of character with the existing area, we propose the following conditional zoning restrictions:

Prohibited principal uses:

- Multi-family dwellings
- Dormitories
- Boarding or lodging houses
- Community residences

Conditional uses:

- Hospitals and nursing homes or orphanages
- Community centers
- Sorority or fraternity houses
- Boarding or lodging houses, assisted living facilities, and hospitality houses
- Bed and breakfast facilities
- Athletic club facilities".

There was a question regarding the Findings for Approval that Mr. Walbourn had submitted. Ms. Brown said that principle prohibited uses and conditional uses that are prohibited have been presented, and that the Planning Commission can impose those restrictions.

The applicant offered the following findings:

1. The proposed Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The residential zoning and proposed mix of single family housing will expand housing choices in an existing neighborhood by providing an uncommon dwelling unit type within the immediate area (Theme A, Goal #1). Although the adjacent area has existing residential zoning, the options are entirely limited to single family dwelling units.
 - b. The proposed development of undeveloped property inside the Urban Service Boundary will support the goals of infill and redevelopment. (Theme A, Goal #2). The proposal respects the area's context and design features by proposing single family residential use that abuts existing single family residential use (Theme A, Goal#2a).
 - c. The proposed development exhibits a commitment to mixed-type housing in an area of Fayette County where the variety of housing options are currently uniform (Theme A, Goal #3a).
 - d. The proposed development provides for additional density in a desirable neighborhood near retail shopping and employment opportunities, which will assist in reducing Lexington-Fayette County's carbon footprint (Theme B, Goal#2).
 - e. The proposed development helps to uphold the Urban Services Area concept as it encourages compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b).
2. This approval is made subject to the approval and certification of PLN-MJDP-16-00036: Winding Creek at Monticello, prior to forwarding a recommendation of the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the property:
 - a. Multi-family dwellings
 - b. Dormitories
 - c. Boarding or lodging houses
 - d. Community residences
 - e. Hospitals and nursing homes or orphanages
 - f. Community centers
 - g. Sorority or fraternity houses
 - h. Boarding or lodging houses, assisted living facilities, and hospitality houses
 - i. Bed and breakfast facilities
 - j. Athletic club facilities.

These restrictions are necessary and appropriate in order to protect the neighborhood from uses that are too intensive or out of character with the existing area.

Zoning Action – A motion was made by Ms. Plumlee, seconded by Mr. Owens, to disapprove PLN-MAR-16-00015: LEX PROPERTIES, LLC, for the reasons provided by the staff. The motion failed 3-6 (Berkley, Cravens, Drake, Mundy, Richardson, Smith opposed; Brewer and Penn absent).

Commission Discussion – After much discussion, the Planning Commission asked the applicant if they would agree to adding restrictions that only single family use could be provided on each lot. Ms. Wade said that a clarification would be needed to

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specify if the units would be single family detached or attached. Mr. Walbourn said that the applicant would be agreeable to the R-3 zone with detached single family restrictions.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Cravens, and carried 8-1 (Plumlee opposed; Brewer and Penn absent) to approve PLN-MAR-16-00015: LEX PROPERTIES, LLC, for the following findings of fact, restricting the uses to single family detached and the findings as provided by the applicant, with the deletion of restrictions a. and c, as follows:

1. The proposed Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan for the following reasons:
 - ~~a. The residential zoning and proposed mix of single family housing will expand housing choices in an existing neighborhood by providing an uncommon dwelling unit type within the immediate area (Theme A, Goal #1). Although the adjacent area has existing residential zoning, the options are entirely limited to single family dwelling units.~~
 - a. ~~b.~~ The proposed development of undeveloped property inside the Urban Service Boundary will support the goals of infill and redevelopment. (Theme A, Goal #2). The proposal respects the area's context and design features by proposing single family residential use that abuts existing single family residential use (Them A, Goal#2a).
 - ~~c. The proposed development exhibits a commitment to mixed type housing in an area of Fayette County where the variety of housing options are currently uniform (Theme A, Goal #3a).~~
 - b. ~~d.~~ The proposed development provides for additional density in a desirable neighborhood near retail shopping and employment opportunities, which will assist in reducing Lexington-Fayette County's carbon footprint (Theme B, Goal#2).
 - c. ~~e.~~ The proposed development helps to uphold the Urban Services Area concept as it encourages compact, contiguous development to accommodate future growth needs (Theme E, Goal #1b).
2. This approval is made subject to the approval and certification of PLN-MJDP-16-00036: Winding Creek at Monticello, prior to forwarding a recommendation of the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted to detached single-family residential land use only.

These restrictions are necessary and appropriate in order to protect the neighborhood from uses that are too intensive or out of character with the existing area.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Ms. Richardson, carried 8-1 (Plumlee opposed; Brewer and Penn absent) to postpone PLN-MJDP-16-00036: WINDING CREEK AT MONTICELLO, with the conditions by the applicant.

VI. COMMISSION ITEMS - (CONT.)

- A. CANCELLATION OF COMMISSION WORK SESSION ON DECEMBER 22 - The staff requested the Commission vote to cancel their previously scheduled work session for Thursday, December 22, 2016.

Action - A motion was made by Mr. Owens, seconded by Ms. Mundy, and carried p-0 (Plumlee abstained; Brewer and Penn absent) to approve CANCELLATION OF COMMISSION WORK SESSION ON DECEMBER 22.

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. MEETING DATES FOR January, 2017

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January	5, 2017
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	January	5, 2017
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	January	12, 2017
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	January	26, 2017
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January	25, 2017
Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	January	19, 2017

- X. ADJOURNMENT - There being no further business, Chairman Wilson declared the meeting adjourned at 4:28 p.m.

TLW/TM/WLS/dw

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