

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

March 23, 2017

- I. **CALL TO ORDER** – The meeting was called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: William Wilson, Chair; Will Berkley; Patrick Brewer; Mike Cravens; David Drake; Karen Mundy; Mike Owens; Frank Penn; Carolyn Plumlee; Carolyn Richardson; and Joseph Smith.

Planning staff members present: Jim Duncan, Director; Bill Sallee; Traci Wade; Tom Martin; Cheryl Gallt; Chris Bronczyk; and Debbie Woods. Other staff members present were Vaughan Adkins, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Susan Plueger, Division of Environmental Services; Lieutenant Joshua Thiel, Division of Fire and Emergency Services; Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Richardson, and carried 11-0 to approve the minutes from the February 23, 2017 and March 9, 2017 meetings.

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

1. TAYLORMADE REAL ESTATE, LLC ZONING MAP AMENDMENT & WYNNDALE SUBDIVISION ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC (5/7/17)*- petition for a zone map amendment from a Town-house Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 3.77 net (4.80 gross) acres, for property located at 1580 Higbee Mill Road (a portion of). A conditional use permit is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The Comprehensive Plan encourages identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2); providing for accessible community facilities (Theme D, Goal #2); and encourages the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to construct a childcare center. A conditional use permit for this use has also been submitted in association with the requested rezoning.

The Zoning Committee Recommended: **Approval.**

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

1. A restricted Planned Neighborhood Residential (R-3) zone at this location would be in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3). In addition, the staff would note that the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.).
 - b. Although not explicitly considered a "community facility" by the 2013 Comprehensive Plan, childcare centers and after-school care for children are a necessary service in support of the community's public school system, which is a designated community facility. Locating such uses near residential neighborhoods is appropriate to provide services to the immediate area in a convenient manner.
 - c. The proposed development will utilize vacant property along Man o' War Boulevard, and such higher intensity of use is appropriate along minor arterial corridors, where the direct impact on established neighborhoods can be minimized.
 - d. By improving and utilizing the existing crossing for the South Elkhorn Creek and its floodplain, rather than modifying the FEMA floodplain, the natural features of the property can be protected in a more thorough and comprehensive manner. The proposed child care center is located outside of the FEMA 100-year floodplain, and its associated setback and riparian buffer.

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2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00011: Wynndale Subdivision, Lot 2B, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is recommended via conditional zoning for the subject property:
 - a. Multi-family residential dwelling units shall be prohibited.

This restriction is appropriate because it has been offered by the applicant in order to protect the adjacent residential properties to the north of the subject property.

- b. REQUESTED CONDITIONAL USE – Child care center.

The Zoning Committee Recommended: **Approval**.

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

- a. Granting the requested conditional use will not harm the public health, safety or welfare, and will not adversely affect the character of the subject or surrounding properties. The proposed use will be situated along Man o' War Boulevard, and screened from the nearest residential uses north of that arterial by a number of trees and some vegetation currently located in and adjacent to the existing floodplain and creek which traverses the property.
- b. This use is intended to allow an existing facility in the general area to relocate and expand on the subject site. Most traffic to and from this center will utilize Man o' War Boulevard, given existing travel patterns to the CCN facility located in the Millpond Shopping Center on Boston Road by its clientele.
- c. On-site parking will be provided on the subject site, as will a very large outdoor play area for children being cared for at this child care center.
- d. All necessary public services and facilities are available and adequate to the subject site, provided sidewalks are installed as currently proposed. Sanitary sewers, fire & police protection and all public utilities are provided in this portion of the Urban Services Area, and available to this location.

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. The subject property shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
3. The proposed use shall be operated in accordance with the submitted application provided by the applicant.
4. All necessary permits, including a Zoning Compliance Permit, Fence Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy of this child care center.

- c. PLN-MJDP-17-00011: WYNNDAL SUBDIVISION, LOT 2B (5/7/17)* - located at 1580 Higbee Mill Road.
(Vision Engineering)

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

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. Clarify TPP to match 55% canopy to be provided (denote tree removal area).
8. Complete tree inventory information (tree diameters required by Article 26 of the Zoning Ordinance).
9. Addition of pedestrian access to the cross-section CC.
10. Resolve emergency access during 100-year flood event.
11. Resolve future maintenance of 20' access easement.

Petitioner Representation: Nick Nicholson, representing the petitioner, said that the petitioner would like to request a postponement to the April 13, 2017 meeting in order to conduct a traffic study.

Citizen Comment: Janet Cabiness, represent of the Stonewall Neighborhood Homeowner Association, said that they do accept the request of postponement. She said that she would like more advance notice of postponements in the future. She also asked for some kind of clarification to be written in the 2018 Comprehensive Plan regarding this.

Action: A motion was made by Ms. Mundy, seconded by Ms. Richardson, and carried 11-0 for postponement of PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC to the April 13, 2017 meeting.

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2. **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: Copies are available from the staff.

OPTION 1

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 principal permitted uses, not subject to the provisions of Subsections 12(a), 12(b) and 12(c) above.

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 made no recommendation on the proposal.

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, representing the Miller family, said that they would like to request a one month postponement to the April 27, 2017 meeting.

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

Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 11-0 for postponement of ZOTA 2016-5: AMENDMENT TO ARTICLE 23A-10: SUPPORTIVE USES AS A SPECIAL PROVISION IN THE ECONOMIC DEVELOPMENT (ED) ZONE to the April 27, 2017 meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, March 2, 2017, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Joe Smith, 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: Jim Duncan; Bill Sallee; Tom Martin; Traci Wade; Denice Bullock; Chris Bronczyk; Cheryl Gallt; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

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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, March 2, 2017, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Patrick Brewer, Mike Cravens, David Drake, Carolyn Richardson, and Bill Wilson. The Committee members reviewed applications and made recommendations as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

~~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. **ATCHISON HELLER CONSTRUCTION, LLC ZONING MAP AMENDMENT & HARPER WOODS DEVELOPMENT PLAN**

- a. PLN-MAR-17-00002: ATCHISON HELLER CONSTRUCTION, LLC (4/6/17)* – petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 11.37 net (11.76 gross) acres, and from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 0.13 net (0.25 gross) acre, for properties located at 2311 Armstrong Mill Road and 3539 Kenesaw 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. In addition, the Comprehensive Plan has established six themes and goals and objectives to support each of the themes, which include: growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D), maintaining a balance between planning for urban uses and safeguarding rural land (Theme E) and implementing the plan for Lexington-Fayette County (Theme F).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to develop a mix of single-family and townhouse residential dwelling units. The petitioner proposes 41 dwelling units for the site, for an average density of 3.57 units per net acre.

The Zoning Committee Recommended: **Postponement**.

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

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1. Additional information is necessary regarding the environmental protection measures intended and required for the site, prior to the staff making a substantial recommendation to the Planning Commission.
2. The petitioner does not currently depict the connection of Beringer Drive on the corollary development plan. There is a final record plat that makes a right-of-way reservation for the extension of the roadway, which has not been address to-date. The transportation system is considered incomplete when stub streets are not extended when new development of like character and density are proposed.

- b. PLN-MJDP-17-00004: HARPER WOODS (FKA FEATHERSTONE PROPERTY, TRACT A, LOT 2) (4/6/17)* - located at 2311 Armstrong Mill Road and 3539 Kenesaw Drive. **(EA Partners)**

The Subdivision Committee Recommended: Postponement. There are questions regarding the reserved right-of-way of Beringer Drive and street improvements (per the Final Record Plat) and the utilization of access easements.

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. Provide detail information on significant trees per Article 26 requirements.
8. Addition of pedestrian facilities for the townhouse development.
9. Discuss reserved right-of-way per recorded final record plat.
10. Discuss construction of street improvements per recorded final record plat.
11. Discuss proposed street system (public or private) and use of access easements.
12. Discuss conceptual stormwater detention proposed for this development.
13. Discuss proposed townhouse conflict with reserved right-of-way for cul-de-sac.
14. Discuss landscaping needed along property edges along access easements.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report on this zone change. She submitted to the Planning Commission a letter of correspondence from Victory Baptist Church related the extension of Beringer Drive. She also distributed a packet of historical information from previous Board of Adjustment and Planning Commission decisions, and a revised staff report to the Planning Commission. She displayed aerial photographs of the subject property, which is mostly agricultural. There is a creek running through the subject property and detailed study of the FEMA floodplain was not completed, which will be completed by the developer, if the zone change is approved.

Ms. Wade said that the applicant is proposing this zone change in order to develop a mixture of 32 single-family dwelling units and 8 residential townhouse units. She said that the applicant contends that the 2013 Comprehensive Plan is being met with this application as sited in their justification. She said that the staff asks the Planning Commission to consider several other goals and objectives specifically related to the existing drainage area that crosses the property and the creek that is in it, and the existence of the stub street.

Ms. Wade said the staff report from February recommended postponement to the Zoning Committee. She said the staff believed that the requirements for the requested zone change and the associated Development Plan were not being met. The Development Plan also didn't meet parts of the Zoning Ordinance and the Land Subdivision Regulations, and there is a lack of an appropriate termination of Beringer Drive. She mentioned the exhibit packet, which was distributed to the Planning Commission, that contains Board of Adjustment cases from 1990-2001 and a final record plat recorded in 1991, after being approved by the Planning Commission. A subsequent minor subdivision plat was also included in the staff exhibit packet. These decisions established the lots for the church and Featherstone farm. She said that at that time a cul-de-sac reservation was made for the extension of Beringer Drive. She said that the access easements for detached single family residential, which the applicant is proposing to build without any evidence required by the Subdivision Regulations, need to be approved by the Planning Commission. These access easements will create numerous lots where pavement is located on three sides of proposed single family residences.

Ms. Wade said that the applicant did meet with the staff in mid-February and they submitted a revised Development Plan, which didn't resolve the issues that the staff was concerned about. She said that the staff of the Division of Planning, Division of Engineering, and the Division of Traffic Engineering, all agrees that a cul-de-sac would appropriately terminate Beringer Drive, which was proposed in the early 1990's. She said that rather than a cul-de-sac the applicant is proposing a parking lot at the end of Beringer Drive.

Ms. Wade said that the creek, the greenway, and the riparian area also need to be identified on the Development Plan. She said that it's difficult for the staff and the Planning Commission to assess if a plan is protecting an environmental resource if

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they're not identified on the Development Plan. The LFUCG Greenway Master Plan recommends a trail along the frontage of Armstrong Mill Road and Kenesaw Drive, which is also not designated on the Development Plan. She also said that the staff doesn't believe that the proposed project will foster "well-designed neighborhoods", respect the existing character of the area, create an effective and comprehensive transportation network, or protect natural resources, all of which are recommended in the 2013 Comprehensive Plan.

Ms. Wade said that the staff is recommending disapproval of this zone change because the applicant hasn't provided enough information to meet the design specifications of the 2013 Comprehensive Plan, the Land Subdivision Regulations, nor the Zoning Ordinance.

Commission Questions – Mr. Drake asked if there is a dedicated easement for the cul-de-sac and if there is, does part of the current structure encroach on it. Ms. Wade replied that there isn't an easement, but rather a reservation of land that was acknowledged when the property was subdivided, which expresses the intent to build the cul-de-sac. Mr. Drake then asked if that has the same legal binding as an easement. Ms. Jones said that if it is on the plan, the applicant would need to comply with it. Mr. Drake also asked if any of the existing structures encroach on the reserved right-of-way. Ms. Wade referred to the 1991 plan (in staff exhibit) that shows the cul-de-sac with a forty foot right-of-way and the required setback of twenty feet from the right-of-way line. The Board of Adjustment approval indicated that the building would be located forty-five feet from the property line and the applicant's Development Plan shows the building at forty feet from the property line. She said that the only conflict area will be the playground, which was not approved by Board of Adjustment.

Mr. Berkley said that the letter from Victory Baptist Church stating that they don't want the cul-de-sac. He said that other streets in the area don't end in cul-de-sacs; who will be affected if the cul-de-sac isn't approved. Ms. Wade replied that the public will be affected because of safety, the response time of the emergency vehicles and waste vehicles being able to reach these proposed dwelling units.

Mr. Owens said that when the Subdivision Committee met, they primarily focused on the cul-de-sac and there wasn't much said of the floodplain. He asked to confirm that the staff hasn't met with the applicant since February. Ms. Wade said that the staff offered to meet with the applicant and received no response. Mr. Owens said that these discussion items should have been resolved before this meeting.

Mr. Cravens asked if this is a Preliminary Development Plan. Ms. Wade confirmed that it is. Mr. Cravens said that since it is Preliminary that it has enough information on it. Ms. Wade said that the staff doesn't believe that it does and that the Division of Engineering has asked for additional information regarding the floodplain and said that there wasn't a response from the applicant either. He said that the map doesn't show a floodplain. Ms. Wade said that the applicant is responsible for doing the additional engineering work required to delineate any floodplain.

Development Plan Presentation – Mr. Martin presented a revised staff report of the rendering of the proposed Preliminary Development Plan for the subject site, with these conditions as follows:

The Staff Recommended: Postponement.

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. Provide more detailed information on significant trees per Article 26 requirements.
8. Addition of pedestrian facilities on plan for the townhouse development.
9. Discuss Addition of reserved right-of-way, per recorded final record plat, or shorten the cul-de-sac in accordance with the Land Subdivision Regulations.
10. Discuss construction of street improvements per recorded final record plat.
11. Discuss proposed street system (public or private) and Resolve the use of access easements at the time of the Final Development Plan/Preliminary Subdivision Plan.
12. Discuss Addition of conceptual stormwater detention proposed for this development prior to certification.
13. Discuss proposed Remove townhouse conflict with reserved right-of-way or for cul-de-sac prior to certification.
14. Discuss Identify landscaping needed along property edges and along access easements in accordance with Article 18 requirements.

Mr. Martin identified the access road proposed and the need for a cul-de-sac. He said that the applicant is proposing to build 32 single-family dwelling units and eight townhouses. He identified the environmentally sensitive area and the drainage area. He said that this area is strongly impacted by this drainage area; whether or not it is actually floodplain has not yet been de-

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terminated. He also identified easement areas on the plan. He said that there are a lot of significant trees sprinkled throughout the property, which need to be defined on the plan by both size and species. He said that on the recorded final record plat, the reservation is shown, and it states that Beringer Drive will be built when these properties are developed. The plat also shows the cul-de-sac.

Mr. Martin said that there are significant concerns with the Beringer Drive extension. If it is not properly extended, it could harm the provision of public services. He said that staff is very concerned about compliant street termination. He said that once the study of the drainage area is complete, it could have a significant impact on the design of this plan, which is why the staff is requesting more information on this plan. He identified many of the proposed home sites on the subject property that are not compliant with the subdivision regulations because of the access easements. He said that the staff is recommending postponement of this development plan.

Commission Questions – Mr. Berkley asked for clarification of the access easement issue. Mr. Martin replied that the staff is not opposed to access easements, but the applicant needs to bring an appropriate justification.

Mr. Cravens asked if the main street will be a public or private street. Mr. Martin said that the applicant is intending for it to be a public street.

Mr. Owens verified that the staff hasn't met with the applicant since the committee meeting, which was March 2, 2017. Mr. Owens asked about the revised staff report. Mr. Martin replied that it was completed based on the revised Preliminary Development Plan that was submitted on February 23, 2017.

Petitioner Presentation – Al Gross, E.A. Partners, was present for the petitioner. He said that there have been two subdivision committee meetings, and they had met with the staff, on February 16, 2017, after the first Committee meeting. Present at that meeting were himself; Traci Wade and Tom Martin, Division of Planning; Vaughan Adkins, Division of Engineering; Kristen Curry, Division of Environmental Services; Jacob Walbourn; Rory Kaly; and John Atchison. He said that they had discussed the riparian way, the floodplain, the Beringer Drive cul-de-sac, and the overall standing of the development plan with the staff. He said that Ms. Wade expressed concern about the redevelopment of church property and how it could redevelop if there wasn't direct access available to Beringer Drive.

Mr. Gross said at that meeting that they had presented a design sketch with the concept of how Beringer Drive could be turned and extended through the church property for redevelopment, remain a public street and have the cul-de-sac extend and approach Armstrong Mill Road, which would serve the needs of the public and of the church, if it were to ever redevelop. If the church didn't redevelop, the stub street would continue to act in the same form and fashion that it has since it was built.

Mr. Gross said at that meeting they also had discussed the stream that runs through the property. He said that they know what their requirements are regarding the stream. He said that it is an intermittent stream and there is a fifty foot buffer to provide around the center line of the stream, with the ability to modify this one hundred-foot width, to reduce it on one side and increase on another. He said that they could also evaluate the stream, the riparian way for the development. It was discussed that one side of the riparian way is steep and the other is plateaued. He said that they left that meeting with the understanding that those details could be resolved with the Preliminary Subdivision Plan or the Final Development Plan. He said that they did not resolve the situation relative to Beringer Drive, but it was resolved that they need to abide by the Stormwater Manual, which he said wasn't presented to them. He said that he hasn't seen this Development Plan recommendation until this afternoon's meeting.

Jacob Walbourn, attorney, was present representing the petitioner. He said that after the meeting with the staff on February 16, 2017, he anticipated a discussion regarding Beringer Drive. He said that Mr. Gross addressed the riparian area and he believes that would be more appropriately dealt with at the time of the Final Development Plan. He also said that he wasn't aware of the Man o' War trail until he received the staff report, seven minutes before the start of the Planning Commission meeting. He believes that the layout of their plan would be sufficient to accommodate any trail, along the Armstrong Mill Road right-of-way. He said that if it had been brought to their attention before, they would have addressed it.

Mr. Walbourn believes that their application contends with the Comprehensive Plan and that the R-3 zone is appropriate for this property. He said that the Agriculture Urban zone is intended to be a holding zone until public facilities are available, which this site is ready for development. He said that Beringer Drive has ended in a stub street for thirty years. He said that there is a house on the stub street that went before the Board of Adjustment, in the mid to late 90's, to be converted into classroom space for the church. He said that the Victory Baptist Church doesn't want the extension of Beringer Drive.

Mr. Walbourn said that Immanuel Baptist Church applied for the conditional use permit, to the Board of Adjustment, to establish the church in 1990. At that time there was a note on the plan stating the access points to the subject property from Armstrong Mill Road and Beringer Drive be reviewed and approved by the Urban County Traffic Engineering. He displayed aerial photos and plans of the subject property depicting an abundance of parking; an aerial from 1993 showing no progress on the site. He said in 1997, there was a second BOA hearing to modify the plan, to consolidate the house on Beringer Drive, there

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was a building but it didn't compare to the 1990 plan. He also said in the 1997 hearing there was neither mention of Beringer Drive nor the cul-de-sac and not depicted on the plan. He said that the church playground is located within the reserved right-of-way and will need to be moved. He said that Victory Baptist Church doesn't want the cul-de-sac because it conflicts with what is currently on the ground.

Mr. Walbourn said that the applicant's original plan was to leave the existing neighborhood and the church alone and not to connect to them. He said that the Division of Traffic Engineering told them that the connection of Beringer Drive to Kenesaw Drive is not required and that the Planning staff disagreed.

Mr. Walbourn mentioned the meeting with the staff on February 16, 2017. He said that the environmental issues were addressed and resolved to their satisfaction. He said that they were not informed that they were not resolved. He said that they submitted the amended plan that does have an effective termination of Beringer Drive and suggested several alternatives. He said that he believes staff doesn't like this plan, which isn't a standard to evaluate zone changes.

Mr. Walbourn also said that Mr. Gross has sent Ms. Wade an email, after the March Subdivision Committee meeting, asking the staff report to be revised. Ms. Wade replied to this email stating that the staff wanted a full connection or full cul-de-sac; didn't like their mix of units; and don't like private access easements (Mr. Walbourn introduced this email into the record). He said that he followed up with an email on March 8, 2017, to Mr. Sallee and Ms. Wade, asking again that staff report be revised. He did receive a response that directed him to Ms. Wade's previous email. (Mr. Walbourn introduced his email into the record).

Mr. Walbourn said that the Comprehensive Plan calls for a mix of housing units in new and existing neighborhoods. He believes that this plan provides this, as well as, preserves many of the significant trees on the property. He said that the proposed project will also develop a parcel in a desirable area of town without impacting the adjacent uses. He said that the applicant is also able to provide 3 ½ acres of open space with the project.

Mr. Walbourn read the definition of a "Preliminary Development Plan" from the Zoning Ordinance and reminded the Planning Commission that it doesn't require a lot of design work. He said that a floodplain study is not a requirement of the Preliminary Development Plan. He also said that there isn't a regulatory floodplain on the proposed property, but there is an intermittent stream, which has required setbacks. He said that to undertake a floodplain study as part of the Preliminary Development Plan is the definition of "final design work", and is out of the norm at this level. He said that this plan is not exact and they know that they will not be able to build exactly what is shown. He distributed to the Planning Commission "Facts of Findings and Conclusions of Law."

Commission Questions – Mr. Cravens commented on the reserve for the cul-de-sac and asked if it's an easement. Mr. Walbourn said that there is a note on the 1990 and a 2001 plat. He said that it's not an easement; it's reflective of the intent to construct the cul-de-sac at the time of future development. Mr. Cravens asked if the approval of this plan would cancel the reservation of the note on the previous plans. Mr. Walbourn said that he believes it could be resolved with a Preliminary Subdivision Plan.

Ms. Mundy said that she doesn't have an issue with layout but that she is concerned that even though the neighboring properties have expressed that they don't want the cul-de-sac, there was a commitment made on the Final Record Plat, Tract D from 1991, and states that the right-of-way is reserved. She reiterated that it was agreed to in 1991 and is still reserved. Mr. Walbourn replied that the applicant had submitted alternatives for the termination of Beringer Drive and wants to respect the neighborhood.

Mr. Brewer said that he has concern with the lack of communication between staff and the applicant. He asked what would be the harm of postponing this application to get all of these details taken care of. Mr. Walbourn replied that he believes that the current plan is able to be approved and the harm would be delay and additional resources. He said that he knew of the issues of Beringer Drive and was "blind-sided" with the other issues, at the February 16, 2017 meeting; he received the staff report seven minutes prior to this public hearing. He agreed that communication is important and that it's a two-way street. He said that they were open to alternatives and brought in sketches to try to find a reasonable compromise. He said that they sent several emails asking for revised staff recommendations, and received no responses. He was unaware that there were still several issues that needed to be resolved.

The following citizens were present in opposition to this application:

Allen Moore, 1549 Springfield Dr., displayed aerial photos of his property, treeline, and the creek. He is concerned about the floodplain issue and his property getting flooded. He is also concerned with the traffic at Beringer Dr. and the safety of the intersection. He said that he has water pressure issues and doesn't believe the area can handle more homes using the water.

Debra Grant, 1564 Springfield Dr., said that she has concerns regarding the drainage issues of the neighborhood. She said that she had to have steel piers placed on their property due to her foundation slipping. She also has concerns about the farm fence line.

Staff Comments - Casey Kaucher, Division of Traffic Engineering, said that they want to see the cul-de-sac at Beringer Dr. constructed and that it would serve the public's need for a turn around. She said that it is not an option to place the public traffic on a private parking lot to make their turn around. She said that the issue with their plan is that Traffic Engineering doesn't control private parking lots, and then the government will have limited control with enforcement of parking issues and maintenance issues. She also said that the cul-de-sac is a compromise because the ideal was for connection from Beringer Drive, through the property, to Kenesaw Drive.

Commission Questions – Mr. Owens said that if the applicant wants to shorten the length of the cul-de-sac and place it on their property, that it wouldn't create much of a hardship. Ms. Kaucher said that it is possible to design that. She said that not all cul-de-sacs are circular, they can be modified. Mr. Owens asked if it will be possible to move the cul-de-sac to the applicant's property with the amount of right-of-way available on Beringer Dr. Ms. Kaucher replied that she believes that a portion of the church property will still be needed to design any cul-de-sac.

Staff Comments - Vaughan Adkins, Division of Engineering, said that they had met with the applicant and the Division of Planning on February 16, 2017. At that time, everyone had agreed to not cross the riparian area and the stream with the roadway connection. She said that the applicant is capable of completing a drainage study to determine the floodplain in the area. She identified on the development plan the location of the existing FEMA floodplain. She stated that there will be 50 acres that will be draining into the floodplain and with the proposed development there will be significant increase to that drainage.

Petitioner Rebuttal – Mr. Walbourn said that the applicant is mindful that the stream outlet is on the subject property and that it does get backed up with debris. He said that they are required to comply with the Stormwater Manual, which will be evaluated at the time of the Final Development Plan. He said that with regard to a Traffic Impact Study, it was not required. He also said that with regards to the utilities, the applicant has met with the Technical Committee and there were no issues identified by either Kentucky American or Kentucky Utilities. He said in regard to the cul-de-sac, and that the applicant knows that it is ideal, but they believe that it serves nobody. He said that the stub on Beringer Drive has been present for thirty years and there haven't been any problems of turnaround traffic; there is no incentive to go down the street. He said that the applicant does intend to complete a drainage study and that they are expensive.

Citizen Rebuttal - Mr. Moore, said that he is concerned about the floodplain issue that is under his house. He said that there is supposed to be 15' right-of-way on both sides and said that it isn't there. This will cause more issues for him and wants to know if he will be taken care of as a citizen. He said that he also concerned about the increase traffic.

Staff Rebuttal – Ms. Wade said that the staff expressed a concern about the environmental protection, with the applicant, at the February 2, 2017 Zoning Committee meeting. She said that at the meeting on February 16, 2017, there may have been an expression by the engineer that they could deal with the problem, but that doesn't excuse the applicant complying with the Zoning Ordinance. She identified the requirements in Article 21, which states that floodplains, environmentally sensitive areas, tree inventory has to be located on the Preliminary Development Plan. She identified in Article 26, which states that the location of environmentally sensitive areas, steep sloped, sink holes, floodplains, and other areas as defined by the Land Subdivision Regulations. She also identified in Article 19 that the Preliminary Subdivision and Preliminary Development Plans require that "in order to protect the floodplain during infrastructure construction, a preliminary subdivision plan and/or a preliminary development plan shall indicate the location of a vegetative buffer zone." She stated that a floodplain, vegetative buffer or any environmentally sensitive areas was identified on the plan. She said that the Planning Commission cannot evaluate where the buildings and parking should be located if the applicant and their design professionals don't provide the appropriate information. She said that the applicant asked the staff to revise their staff report, but with the lack of communication, it couldn't have been done. She stated that the one hammer head cul-de-sac drawing depicted as an alternative termination of Beringer Drive., was never shared with the Planning Staff.

Mr. Martin said that the street connections and regulations are rooted in public health and safety and are considered because they do serve the public. He said that they are necessary to a well-designed transportation system so that different services that the government provides function safely.

Commission Question – Mr. Berkley asked if there is a regulatory floodplain. Ms. Wade replied that there isn't a FEMA floodplain and that a floodplain analysis would have to occur to determine if there is one. Mr. Berkley said that the applicant is willing to complete a floodplain study and that the staff is asking for something that is over and above and not necessary. He also said that the applicant was willing to postpone and resolve the termination of Beringer Drive. Ms. Wade replied that if the staff changes these conditions to "resolve"; how would this comply with the Comprehensive Plan? She said that the Comprehensive Plan doesn't state that zone changes can be made without meeting the zone ordinance requirements. Mr. Berkley also asked for clarification of a regulatory floodplain and floodplain. Ms. Adkins replied that the regulatory floodplain is at the lower end of the subject property where the floodplain is unmapped, but is the area of the stream. After the floodplain analysis, the regulatory floodplain will need to be identified on a revised development plan.

Mr. Berkley then asked if the zone change can be voted on and the development plan postponed. Ms. Jones said that a zone change and the development plan need to be acted on together but conditions can be addressed when they are provided at

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the time of the Final Development Plan. She believes that there isn't enough information noted on the Preliminary Development Plan to put conditions to address at the next phase. She also said that the cul-de-sac on Beringer Drive and the right-of-way reservation, which is on both the church property and the subject property, was a condition of approval for the conditional use that was granted by the Board of Adjustment. The condition states as follows:

That the cul-de-sac extension to Beringer Drive be constructed in accordance with Final Record Plan 90-204F: Featherstone Property, or as amended by the Planning Commission.

Ms. Jones stated that her concern is that the Planning Commission is now being asked to modify this conditional use, as it was rendered by the Board of Adjustment, which the Planning Commission doesn't have the authority to do. She believes that there needs to be an amended plan indicating alternatives for the cul-de-sac, which is the condition, which could then be voted on by the Planning Commission. She said that this preliminary development plan can't change the condition that was granted as part of the conditional use. She said that a condition could be added to this plan, but this issue has been avoided at this hearing. She also said that this plan requires action by April 6, 2017 unless the applicant agrees to postpone or continue.

Mr. Berkley asked if the applicant would consider to postponement or to continue with this application. Mr. Walbourn said regarding the concern raised by Ms. Jones; to leave condition #12, which states to remove the conflict with the reserved right-of-way or cul-de-sac, and then the applicant would need to comply with it.

Note: Commission member Karen Mundy left the meeting at 4:00 p.m.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion. Commission members discussed their thoughts at this time. There was intense discussion regarding the lack of communication between the staff and the applicant and the strong negative staff report. There was a discussion to allow the applicant to postpone their request.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Plumlee to support the staff's recommendation of disapproval of PLN-MAR-17-00002: ATCHISON HELLER CONSTRUCTION, LLC, for the reasons provided by the staff.

Commission Discussion – There was discussion to allow the applicant to postpone. Mr. Walbourn replied that the applicant would like to postpone or continue. The Chairman asked if the Mr. Owens would like to take his motion off the table. Mr. Owens said that he wants to let his motion stand, seconded by Ms. Plumlee.

Zoning Action – The motion was made by Mr. Owens, seconded by Ms. Plumlee and carried 6-4 (Berkley, Cravens, Drake, and Richardson opposed; Mundy absent) to support the staff's recommendation of disapproval of PLN-MAR-17-00002: ATCHISON HELLER CONSTRUCTION, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Ms. Plumlee, and carried 8-2 (Berkley and Cravens, opposed; Mundy absent) to indefinitely postpone consideration of PLN-MJDP-17-00004: HARPER WOODS (FKA FEATHERSTONE PROPERTY, TRACT A, LOT 2).

2. DAVID M. HARL AND JOSOPHIA D. HARL ZONING MAP AMENDMENT & UHLAN COURT SUBDIVISION ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00005: DAVID M. HARL AND JOSOPHIA D. HARL (5/7/17)* - petition for a zone map amendment from a Wholesale and Warehouse Business (B-4) zone to a Planned Neighborhood Residential (R-3) zone, for 0.34 net (0.43 gross) acres, for property located at 1251 Red Mile Road. A conditional use permit and 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 petitioner proposes to rezone to a Planned Neighborhood Residential (R-3) zone in order to maintain the existing structure on the site, and convert it to a fraternity house with associated off-street parking. A conditional use permit for a fraternity house and several dimensional variances has also been submitted with the requested zone change.

The Zoning Committee Recommended: **Approval.**

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

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

1. The request Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The Goals and Objectives of the Plan recommend expanded housing choices (Theme A, Goal #1); housing options that address the market needs of all citizens (Theme A, Goal #1b.); infill and redevelopment, as well as adaptive reuse of existing structures (Theme A, Goal #2); and calls compact, contiguous and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs (Theme E, Goal #1b.).
 - b. The proposed rezoning will allow adaptive re-use of an existing structure that already has a distinctively residential character. This will allow an additional housing option to address demand for residential Greek housing near the UK campus.
 - c. Multi-family residential dwelling units are common along both the Red Mile Road and South Broadway corridors. These residential developments are located in close proximity to the University of Kentucky and provide much needed housing for students and faculty near the university campus.
 - d. The proposed redevelopment is located within the Urban Service Area, is proposed in a compact and contiguous manner, and addresses future residential growth needs.
 - e. Residential zoning for a fraternity house in close proximity, especially within walking distance, of the University of the Kentucky serves to reduce vehicles miles traveled, as most students that live nearby walk or utilize public transit to campus.
 - f. Redevelopment opportunities exist near the intersection of South Broadway and Red Mile Road. Residential land use and redevelopment has historically been a harmonious land use in the immediate area.
2. This recommendation is made subject to approval and certification of PLN-MJDP-17-00010: Uhlan Court Subdivision, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

b. REQUESTED CONDITIONAL USE – Fraternity House.

c. REQUESTED VARIANCES

1. Reduce the minimum front yard from 20' to 4'
2. Eliminate the required 15' perimeter landscape buffer (zone-to-zone screening)

The Zoning Committee Recommended: **Postponement and Approval** (as recommended by the staff).

The Staff Recommends: **Postponement of the requested Conditional Use Permit**, for the following reason:

- a. All necessary public facilities and services are not currently available and adequate for the proposed use. Off-street parking proposed does not offer a sufficient option on the subject site for vehicular movements, without having vehicles maneuver in a planned open space (basketball court) area.

The Staff Recommends: **Disapproval (or Withdrawal) of the requested Front Yard Variance**, for the following reason:

- a. Article 3-2 of the Zoning Ordinance does not require the existing building to meet the 20' minimum setback from Red Mile Road and Uhlan Court. No structural changes are proposed to the exterior of the principal building on this lot, so the building may be converted regardless of its setback from the adjoining streets.

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

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood or neighboring properties from this variance. The existing building and off-street parking lot will remain as it has been for the past 32 years, and only one single family residence is located within 250' of the subject site.
- b. The unusual circumstance surrounding this proposed R-3 property or to other land in this vicinity is that the height of the existing fence and landscape material will almost completely comply with the Article 18 requirements, and materially comply with the need to buffer adjacent properties from this use. The site is bordered by another fraternity-owned land use to the north, and by a large parking lot immediately to the southwest, which necessitate little additional screening beyond that already in existence.
- c. Strict application of these Zoning Ordinance requirements would constitute an unnecessary hardship to the applicant, because it would necessitate a significant construction of privacy fencing along the northern property line amongst a significant tree stand along that property line.
- d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the applicant has committed to retain all of the existing landscaping on the site, which adequately screens the property from most of its neighbors.
- e. The variance has been requested by the applicant prior to the re-use of their property, and thus, there is no willful violation of any existing zoning regulation by the applicant.

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval of this variance is null and void.

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

2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The property shall be additionally screened by the installation of an 18"-3' high hedge along the northwest property line, between the end of the existing retaining wall and the rear property line.

d. PLN-MJDP-17-00010: UHLAN COURT SUBDIVISION (5/7/17)* - located at 251 Red Mile Road.
(Vision Engineering)

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

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. Division of Waste Management's approval of refuse collection locations.
6. Delete note #1.
7. Delete note #9 (duplicate).
8. Revise note #10 for the use of a gate to the approval of Fire and Emergency Medical Service.
9. Provided the Planning Commission grants the requested variances.
10. Discuss off-street parking layout, and loss of parking.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She said that the subject property currently has a residential looking building located on it and the applicant is proposing to re-use that building as a fraternity house with 25 beds, which is a conditional use in the proposed R-3 zone. She said that the applicant contends in their justification that this zone change is in agreement with the 2013 Comprehensive Plan. The staff agrees and recommends approval of the zone change.

Development Plan Presentation – Ms. Gallt presented a rendering of this development plan, which was displayed, and also handed out an updated staff report to the Commission with revised conditions, as follows:

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

On March 21st the applicant provided a revised submission to the staff addressing several conditions identified by the Subdivision Committee at their March 2nd meeting. The staff can now offer the Planning Commission a revised recommendation for this zoning development plan.

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

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. Division of Waste Management's approval of refuse collection location(s).
6. Delete ~~note #1~~ reference to "Variance 20' to 4'."
7. ~~Delete note #9 (duplicate).~~
8. ~~Revise note #10 for the use of a gate to the approval of Fire and Emergency Medical Service.~~
7. 9. Provided the Planning Commission grants the requested variances.
10. ~~Discuss off-street parking layout, and loss of parking.~~

She said that this is a Final Development Plan for this location because this is an existing building, and no infrastructure improvements are necessary. She said that there were some concerns regarding the parking and drive aisle. Since the Committee meeting, a revised plan has been submitted changing the layout of the parking and the drive aisle to allow two-way traffic.

Commission Question – Mr. Penn asked about the business on the corner of Uhlan Court and what will be done to discourage vehicles from entering this property for that business. Ms. Gallt replied that there is a significant grade change that will prevent vehicles from doing so. Ms. Wade added that there is a solid fence at the termination of Uhlan Court.

Requested Variance – Mr. Sallee presented the staff report and the staff's recommendations for the requested variances and the conditional use requested for this zone change. He said that the conditional use is for a fraternity house at this location. Mr. Sallee mentioned that a legal size sheet staff exhibit had been prepared, containing the findings previously distributed to the Planning Commission.

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Mr. Sallee said that there are two dimensional variances being requested for the subject property to allow the existing building to remain four feet from the right-of-way of Red Mile Road and four feet from the stub of Uhlan Court. He said that the applicant is also asking for the elimination of the perimeter landscaping requirements. He said that with the revised parking and the open space area for the residents, all of the required facilities are adequate for the proposed conditional use. He also said the staff doesn't believe that the variance for the building setback is required because there will not be any structural changes to the existing building. The only exterior changes that will be proposed are the addition of a handicap ramp and a fire escape.

Mr. Sallee said that there are two areas of the existing landscaping material that are not in compliance with the Article 18 requirements. He said, in the rear of the subject building on the property, there are a few trees missing along the fence line and on the northern property line, there isn't a double row of hedge material. There will also be an addition of one handicap parking space. He said that the landscape portion of this request was reviewed by the Landscape Review Committee, but they didn't have a quorum for that meeting. The discussion at that meeting was that the retaining wall should be augmented with a vehicular use planting from the end of the wall to the rear of the parking area, which was included in the staff's recommendation.

Mr. Sallee summarized the findings for the conditional use that appear on the staff's handout and said that the staff has made the following recommendations:

This recommendation of approval for this Conditional Use Permit is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval of this conditional use permit is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the conditional use that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The fraternity shall operate at this location in accordance with University of Kentucky regulations and requirements for Greek organizations, including its alcohol policy, and in accordance with the LFUCG Noise Ordinance.
5. The off-street parking spaces shall be separated from the basketball court area with curbing or wheel stops.

Mr. Sallee stated that the applicant is not in agreement with the curbing and wheel stops on condition #5. He said that staff has no objections to remove that for that condition to require the separation without those particular improvements to the site.

The Staff Recommends: **Disapproval (or Withdrawal) of the requested Front Yard Variance**, for the following reason:

- a. Article 3-2 of the Zoning Ordinance does not require the existing building to meet the 20' minimum setback from Red Mile Road and Uhlan Court. No structural changes are proposed to the exterior of the principal building on this lot, so the building may be converted regardless of its setback from the adjoining streets.

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

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood or neighboring properties from this variance. The existing building and off-street parking lot will remain as it has been for the past 32 years, and only one single family residence is located within 250' of the subject site.
- b. The unusual circumstance surrounding this proposed R-3 property or to other land in this vicinity is that the height of the existing fence and landscape material will almost completely comply with the Article 18 requirements, and materially comply with the need to buffer adjacent properties from this use. The site is bordered by another fraternity-owned land use to the north, and by a large parking lot immediately to the southwest, which necessitate little additional screening beyond that already in existence.
- c. Strict application of these Zoning Ordinance requirements would constitute an unnecessary hardship to the applicant, because it would necessitate a significant construction of privacy fencing along the northern property line amongst a significant tree stand along that property line.
- d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as the applicant has committed to retain all of the existing landscaping on the site, which adequately screens the property from most of its neighbors.
- e. The variance has been requested by the applicant prior to the re-use of their property, and thus, there is no willful violation of any existing zoning regulation by the applicant.

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.

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

3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The property shall be additionally screened by the installation of an 18"-3' high hedge along the northwest property line, between the end of the existing retaining wall and the rear property line.

Commission Question – Mr. Owens asked that since there are no windows on the side of the building which faces the closest residential uses on Uhlan Court, what is the process should the applicant choose to later add windows. Mr. Saltee replied that the applicant will not need to appear before the Planning Commission but will need to have that request reviewed by the Division of Building Inspection staff.

Petitioner Presentation – Dick Murphy, attorney, was present representing the petitioner. He said the applicant is in agreement with the staff's recommendations and is withdrawing the request for the front yard variance. He said that the parking and open space areas have been reconfigured, since the Subcommittee meetings. He said that he has met with Casey Kaucher, Division of Traffic Engineering, regarding the gate on the front of the subject property. He said that Traffic Engineering wanted to move that gate should Red Mile Road be widened in the future. He said that the following note will be added to the development plan:

PROPOSED ADDITIONAL NOTE FOR PLN-MJDP-17-000010: UHLAN COURT SUBDIVISION 1251 RED MILE ROAD

In the event that Red Mile Road is widened in the future, the gate shown on this plan may be relocated or eliminated, as determined by the Division of Traffic Engineering.

Mr. Murphy also said that with respect to condition #5; the applicant would like to suggest planters, which are higher in the field of vision. He suggested the following:

5. The off-street parking spaces shall be separated from the basketball court area with curbing or wheel stops or concrete planters or similar materials.

Commission Questions – Mr. Penn asked who will own this fraternity house. Mr. Murphy replied that Mr. and Mrs. Harl will retain ownership with a long term lease to the Housing Corporation.

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

Zoning Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer, and carried 11-0 to approve PLN-MAR-17-00005: DAVID M. HARL AND JOSOPHIA D. HARL, for the reasons provided by the staff.

Development Plan Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve PLN-MJDP-17-00010: UHLAN COURT SUBDIVISION, for the reasons provided by the staff.

The Motion was revised to include the revision of the staff recommendations. A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve PLN-MJDP-17-00010: UHLAN COURT SUBDIVISION, for the reasons provided by the staff and to add the note submitted by Mr. Murphy:

In the event that Red Mile Road is widened in the future, the gate shown on this plan may be relocated or eliminated, as determined by the Division of Traffic Engineering.

Conditional Uses - A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve the conditional uses recommended by the staff and with the addition to condition #5:

This recommendation of approval for this Conditional Use Permit is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval of this conditional use permit is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the conditional use that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. The fraternity shall operate at this location in accordance with University of Kentucky regulations and requirements for Greek organizations, including its alcohol policy, and in accordance with the LFUCG Noise Ordinance.
5. The off-street parking spaces shall be separated from the basketball court area with curbing or wheel stops or concrete planters or similar materials.

Requested Variance Action – A motion was made by Ms. Richardson, seconded by Mr. Brewer, carried 11-0 to approve the requested variances, for the revised reasons, and as recommended by the staff and the withdrawal of the front yard variance.

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

Note: Commission member Patrick Brewer and David Drake left the meeting at 4:30 p.m.

C. FULL PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. ZOTA 2016-7: AMENDMENTS TO ARTICLE 8-24 FOR THE OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE – petition for a Zoning Ordinance text amendment to Article 8-24 to allow additional uses in the P-2 zone.

REQUESTED BY: University of Kentucky

PROPOSED TEXT: Copies are available from the staff.

The proposal to modify the P-2 zone is directly a result of the UK Master Plan completed in 2009. The proposed changes are as follows:

- Modify the name of the zone to University Research Campus (P-2) Zone and update the intent of the zone accordingly;
- Add hospitals and veterinary/animal clinics and laboratories as principal permitted uses;
- Create a category of "Supportive Uses," which includes townhouses; multi-family residential; restaurants, brew-pubs and banquet facilities without live entertainment; hotels/motels; and designated retail sales and mixed-use areas;
- Move hotels and motels from a principal permitted use to a supportive use;
- Delete automotive service stations; gas pumps without an on-site employee; automobile and vehicle refueling stations; incidental residential dwellings (caretaker); and ecotourism activities as supportive, accessory or conditional uses;
- Clarify that the designated retail sales area may also be a mixed-use area;
- Add outdoor patio areas as an accessory use; add outdoor live entertainment as a conditional use;
- Adjust the list of prohibited uses based upon other use changes, add establishments for the storage, display, rental or sales of any type of vehicle as a prohibited use;
- Eliminate minimum lot requirements, reduce front yard requirement on collector and local streets within a park to 5', and reduce side yard requirement to 15';
- Reduce useable open space requirement to 40% across the entire P-2 zoned development;
- Increase maximum floor area ratio from 0.5 to 0.75;
- Increase maximum height of buildings to 120';
- Add parking standards for new uses;
- Provide more flexibility in landscaping requirements; eliminate requirement for 25 trees/acre; and provide for screening adjacent to residential structures;
- Require a summary report from the design committee in conjunction with any final development plan presented to the Planning Commission for consideration;
- Allow parking in required side and rear yards;
- Limit the allowable supportive use land area to a maximum of 15% of the overall P-2 development;
- Provide for phasing of supportive uses either concurrent or after construction of other principal permitted uses; and maintain 75%/25% ratio of uses until at least 250,000 square feet of other research campus uses are constructed.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval of the Staff Alternative Text**, for the following reasons:

1. The University of Kentucky has a proven track record of economic development, with over 1.3 million square feet of space that actively supports 56 organizations and over 2,000 employees in the Coldstream Research Campus. This text amendment will allow the University to more effectively compete with similarly situated research parks across the United States.
2. The proposed text amendment will allow for a higher intensity use of the research campus and allow additional supportive uses, such as a mixed-use village and residential dwelling units, while still providing significant areas of open space.
3. The proposed text amendment will rename the zone to the "University Research Campus (P-2) Zone" to support the university in implementing their Master Plan for the Coldstream Research Campus. After 25+ years, there is the only one in Lexington-Fayette County with this zoning designation.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this text amendment. She said this is a request by the University of Kentucky, specifically the Coldstream Research Park. She said that they are asking to amend portions of the P-2 zone, with the intent of increasing the land utilization, improve the open space, and create a live-work-play-learn environment. She gave a brief history of the property and the major changes requested for this amendment, which will be a name change of the zone, allow residential land uses, and modification of the lot, yard, and height requirements to allow greater utilization of the land. She said that another change would be a report to the Planning Commission, which would be completed for any new building on Coldstream, would go to their Design Review Board who would then make recommendations to the Planning Commission.

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

Ms. Wade also said that limitations and phasing would be appropriate for the supportive uses. She said that that applicant is proposing a limitation of supportive uses of 15% of the land area; and until a threshold of 250,000 square feet developed principle uses other than supportive uses is reached that there will be an 80%/20% split (measured in square footage). Once that threshold has been met, there will no longer be any limitations. She said the land will be distributed at 40% open space; 15% supportive uses; and 45% campus and research uses. She said that the supportive uses will be both residential and non-residential, including hotels, restaurants, banks, offices, retail sales, etc.

Ms. Wade referenced other "innovation districts" in other areas of the country and how well they are succeeding. These areas are located in the research triangle (North Carolina), MIT (Boston), and also St. Louis.

Commission Comments – Mr. Penn asked if the farm on the corner of Nicholasville and Man o' War Boulevard could also be considered. Ms. Wade replied that the P-2 zone would have to be requested at this location. Mr. Duncan said that the South Nicholasville Road Small Area Plan had been approved to include a mixed-use future land use for Southfarm, similar to the Fritz Farm and that UK would need to apply for a P-2 zone change for that area.

Mr. Owens asked if in the supportive use area, are there any open space requirements. Ms. Wade stated the P-2 requirements, which specify that no more than 60% of the land can be covered with buildings and parking, leaving 40% for open space, which can be grouped together.

Mr. Wilson asked how the supportive uses were handled in the other areas have been successful. Ms. Wade replied that she didn't research that specific information.

Ms. Wade distributed a letter of support to the Planning Commission from the Fayette Alliance.

Petitioner Presentation – Nick Nicholson, attorney, was present representing the petitioner. He said that the driver behind this text amendment is not supportive uses; it's about making a more efficient land use and better designed research park. He said that the design requirements are strict in P-2 zones and this application would fix those requirements.

Mr. Nicholson described the current P-2 restrictions and presented aerials of large tracts of land and large parking areas with no pedestrian activity between them leading to a disconnected campus. He said that UK has been studying other research innovation areas and they want connectivity, and want to create a place where young people want to live, play, work, and learn. He said that they want to create an urban village. There will be green space, social infrastructure and increased building density. UK will retain ownership of this land.

Mr. Nicholson said that the P-2 zone is already heavily restrictive. The P-2 zone requires 40% open space, 0.75 Floor Area Ratio, and the allowable uses, such as retail sales, hotels, and dormitories. They want people to live there, stay there, eat there, and buy things there.

Commission Questions – Mr. Penn asked if the 250,000 square foot ratio has already been met. Mr. Nicholson said that it has been met and that the phasing is in place for the next P-2 property to come along, to make sure that it won't be driven by supportive uses.

Mr. Cravens asked if new uses would be added to the large lots. Mr. Nicholson said the possibility is there to further subdivide several of the parcels.

Mr. Owens asked if college dormitories will be allowed on the subject property. Mr. Nicholson said that they are currently permitted.

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

Action – A motion was made by Mr. Owens, seconded by Mr. Smith, and carried 8-0 (Brewer, Drake and Mundy absent) to approve the staff alternative text for ZOTA 2016-7: AMENDMENTS TO ARTICLE 8-24 FOR THE OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE, for the reasons provided by the staff.

Note: Commission member Will Berkley left the meeting at 5:00 p.m.

3. **ZOTA 2017-2: BANQUET FACILITIES IN THE COMMUNITY CENTER (CC) ZONE** – petition for a Zoning Ordinance text amendment to Article 23A-9 to allow banquet facilities as a principal use in the CC zone.

REQUESTED BY: Joel Brown

PROPOSED TEXT: (Note: Underlined text indicates an addition to the current Zoning Ordinance; and ~~strikethrough text~~ indicates a deletion from the current Zoning Ordinance.)

23A-9 COMMUNITY CENTER (CC) ZONE**23A-9(b) PRINCIPAL USES**31. Banquet facilities.

The Zoning Committee Recommended: **Approval**.

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

1. The proposed text amendment will add banquet facilities as a principal permitted use in the Community Center (CC) zone. As long as outdoor live entertainment is not included, the use will complement the other principal permitted uses that are allowable in the zone.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this text amendment. She said this is a request by Joel Brown, to add banquet facilities as a use in the Community Center (CC) zone. She said that the applicant is asking for indoor live entertainment and they are not interested in expanding the use to include outdoor live entertainment within the CC zone. The staff is recommending approval of this zoning ordinance and the Zoning Committee also recommended approval.

Commission Comments – Mr. Penn said that Newtown Pike has a 200 foot setback, where will the people park at this location. Ms. Wade replied the staff hasn't considered the details yet. Mr. Penn also asked if they would be allowed to park in the view shed. Mr. Sallee replied that was an issue when the Expansion Area Plan was completed that there were a few renderings that parking be permitted on the Newtown Pike view shed, the way the ordinance is drafted that a paved parking lot will not be permitted.

Mr. Owens asked if the applicant would need to bring forward to the Planning Commission a Development Plan for their parking. Ms. Wade replied that they were to make any physical changes on the property; yes the applicant would need a Development Plan, which would go through the normal review process. She also said that if there are no physical changes then the applicant could obtain a permit through Building Inspection.

Petitioner Presentation – Dick Murphy, attorney, was present representing the petitioner. He said that the applicant is in agreement with the staff's recommendations. He said that the parking area for the use in question is located in the ED zone.

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

Action – A motion was made by Ms. Richardson, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Drake, and Mundy absent) to approve ZOTA 2017-2: BANQUET FACILITIES IN THE COMMUNITY CENTER (CC) ZONE, for the reasons provided by the staff.

VI. COMMISSION ITEMS

- A. PFR 2017-2: LEXINGTON BLUE GRASS AIRPORT** - a Public Facility Review to improve the existing Rental Car Facility at the Lexington Blue Grass Airport (LEX) with improvements of water quality areas, extending Air Freight Drive to add cul-de-sac for a turnaround point for service and emergency vehicles and to construct new buildings for office and other structures for accessory uses.

SUMMARY FINDINGS: - The improvements to the public facilities (redevelopment) for the car rental facilities at the Lexington Blue Grass Airport (LEX) will be consistent with this Rural Activity Centers other public uses land use recommendation (RLMP).

There are no Goals or Objectives of the Comprehensive Plan that are in opposition to the redevelopment for Lexington Blue Grass Airport (LEX) Rental Car Facility. Several Goals and Objectives, as well as the text of the Plan, support the project, as does *Destination 2040*. There is no longer a Land Use Element for the Comprehensive Plan; however, the previous Rural Land Management Plan recommended other public uses in this Rural Activity Center.

The redevelopment of this area will complement the Lexington Blue Grass Airport (LEX) with new structures and state of the art facilities. Once the project has been completed, the Rental Car Facility at the Lexington Blue Grass Airport (LEX) will benefit the city of Lexington with better service for the community and those that visiting our community.

Staff Presentation – Ms. Gallt presented the updated staff report on this development plan, which was displayed and handed out to the Commission with revised conditions. She displayed aerial photos of the property. This area is currently housing the rental car facility at the airport, which will be removed and the property redeveloped with new detention ponds, swales, and to extend Air Freight Drive and create a cul-de-sac at the end. They are proposing three-one-story buildings for the new rental

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car office buildings. She said they will also add buildings for maintenance and a car wash. Each of the rental agencies will have their own gas pumps, with above ground tanks. She said that they will also have parking for guest, staff, and fleet cars within a fenced in area.

Commission Questions – Mr. Penn asked why there is an entrance to the airport off of Versailles Road. Ms. Gallt is unsure why that entrance is there. Mr. Mark Day, Director of Engineering and Maintenance of the Blue Grass Airport, stated that the entrance off Versailles Road is a temporary construction entrance. He said that the median will be restored and that will no longer be an entrance but it will be a permanent exit for equine traffic and tenants that have hangers on the field. Mr. Penn asked if the current rental car parking garage will remain. Mr. Day replied that it will remain and only the rental office and maintenance facilities will be relocated and expanded.

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

Action – A motion was made by Mr. Owens, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Drake, and Mundy absent) to approve PFR 2017-2: LEXINGTON BLUE GRASS AIRPORT, for the revised reasons provided by the staff.

- B. INITIATION OF TEXT AMENDMENTS FOR THE TRANSFER OF COMMERCIAL LANDSCAPE ADMINISTRATION & ENFORCEMENT** – The staff will request that the Planning Commission initiate a text amendment to Articles 5, 8-1, 18, and 26 of the Zoning Ordinance, as well as Article 6-10 of the Land Subdivision Regulations to allow the LFUCG Division of Environmental Services to assume the duties of the former Landscape Examiner in the Division of Building Inspection. If initiated, the requisite public hearing would be scheduled sometime in the spring of this year.

Staff Presentation – Mr. Sallee said that this item was discussed at the previous week's work session. He distributed a memorandum from Susan Plueger, Director of Environmental Services, and a copy of the proposed text. He said the majority of the proposed changes are to Article 18, in the naming of the staff members and the division responsible for that going from Building Inspection to Division of Environmental Services.

Ms. Plueger said that this will transfer responsibility of the commercial landscape examiner from Building Inspection to Environmental Services.

Action – A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Drake, and Mundy absent) to initiate TEXT AMENDMENTS FOR THE TRANSFER OF COMMERCIAL LANDSCAPE ADMINISTRATION & ENFORCEMENT, for the reasons provided by the staff.

- VII. STAFF ITEMS** – Mr. Duncan said that there is a work session scheduled on March 30, 2017, which will be held in the Phoenix Building on the 3rd floor at 1:30 P.M.

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

- IX. MEETING DATES FOR April, 2017**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	April	6, 2017
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	April	6, 2017
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	April	13, 2017
Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	April	20, 2017
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	April	27, 2017
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	April	26, 2017

- X. ADJOURNMENT** - There being no further business, Chairman Wilson declared the meeting adjourned at 5:30 p.m.

William Wilson, Chair

Carolyn Plumlee, Secretary