

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

September 28, 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: Bill Wilson, Chair; Headley Bell; Will Berkley; Patrick Brewer; Mike Cravens; Larry Forester; Karen Mundy; Mike Owens; and Frank Penn.

Planning staff members present: Jim Duncan, Director; Traci Wade; Tom Martin; Cheryl Gallt; 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, Department of Law.

- II. **APPROVAL OF MINUTES** - A motion was made by Ms. Mundy, seconded by Mr. Owens, and carried 8-0 (Penn abstained; Plumlee and Richardson absent) to approve the minutes of the August 24, 2017 meeting.
- III. **POSTPONEMENTS AND WITHDRAWALS** - No requests for postponement and withdrawal were presented.
- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, September 7, 2017 at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Carolyn Plumlee, Will Berkley and Headley Bell. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering; Staff members in attendance were: Traci Wade; Tom Martin; Cheryl Gallt; Chris Bronczyk; Denice Bullock; Captain Greg Lengal and Joshua Thiel, Division of Fire & Emergency Services; and Andrea Brown, Department of Law. Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission:

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

1. FINAL SUBDIVISION PLANS

- a. PLN-MJSUB-17-00050: GREER-HANCOCK FARM, LLC (11/1/17)* - located at 2100 Muir Station Road.
(Council District 12) **(Foster-Roland)**

Note: This plan requires the posting of a sign and an affidavit of such.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Addressing Office's approval of street names and addresses.
3. Department of Environmental Quality's approval of environmentally sensitive areas.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Correct surveyor's certification.
6. Correct spelling in Health Department note.
7. Denote: Access to this property is provided by an access easement located in Bourbon County.
8. Denote: This plat approved by the Planning Commission, per the requirements of KRS.100.292
9. Provided the Planning Commission grants a waiver to Article 6-6(a) of the Land Subdivision Regulations.
10. Provided the Planning Commission grants a waiver to Article 6-4(c) of the Land Subdivision Regulations.

Staff Presentation - Mr. Martin said that this plan requires posting of a sign and an affidavit to that effect. He said that the applicant isn't present at this time in order to document that it has been completed. He said that if the applicant isn't here to document that part of the ordinance that they may need to postpone. At that time, Myke Robbins, the applicant's representative arrived but didn't have the affidavit. Mr. Martin said that he will return with it and asked the Chairman if this item could be delayed to later on the agenda.

(Myke Robbins returned with the affidavit)

Mr. Martin presented the staff's rendering of this plan and a revised staff report on the final subdivision plan and said that this property is unique because it is located in Fayette County and Bourbon County. He said that this land is over 12 acres in size and was created by deed. He said that the owner was under the impression that all of the property was located within Fayette County until a survey was completed for a PDR program and discovered that only 7.2 acres are located in Fayette County and a little over 3 acres are located in Bourbon County.

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

Mr. Martin said that since this property is divided over two counties, that two waivers are needed, and staff has submitted a waiver report. He said that the first waiver is for the size of the lot located in Fayette County because a septic tank will be required. The second one is for the lack of Fayette County frontage, which is a Zoning Ordinance requirement.

Commission Questions – Mr. Penn asked if the lots were platted and not deeded. Mr. Martin that they were actually deeded and not platted. He said the required platting process was not followed and without the subdivision plat, the applicant won't be able to obtain a building permit.

Mr. Owens asked if the subject property originally had Muir Station Road frontage. Mr. Martin said that it did in the past.

Applicant Presentation - Myke Robbins, was present representing the applicant. He submitted the affidavit for the notice sign on the property.

He said the applicant is in agreement with the staff's recommendations, but said that the two waivers seem to need approval before the plan can be approved. Mr. Wilson clarified that the Final Development Plan will be approved then the waivers will be approved, which are contingent on the approval of the plan.

Commission Questions – Mr. Penn asked the applicant if they had the option to do this plan in Bourbon County instead of Fayette County. Mr. Robbins replied that the applicant is doing the same process in Bourbon County as well. Mr. Penn also asked which county will provide the address. Mr. Robbins said that Emergency Services should dictate the address of the property. Mr. Martin conferred with the Division of Fire and Emergency Services and it was recommended that this property have a Bourbon County address.

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

Action – A motion was made by Mr. Cravens, seconded by Mr. Forester, and carried 9-0 (Plumlee and Richardson absent) for approval of PLN-MJSUB-17-00050: GREER-HANCOCK FARM, LLC, for the reasons provided by the staff.

Waiver Action - A motion was made by Mr. Cravens, seconded by Mr. Forester, carried 9-0 (Plumlee and Richardson absent) for approval of the FINDINGS FOR PETITION FOR WAIVER OF LAND SUBDIVISION REGULATIONS PLN-MJSUB-17-00050: GREER-HANCOCK FARM, LLC, for the reasons provided by the staff.

V. **ZONING ITEMS** - The Zoning Committee met on Thursday, September 7, 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, Larry Forester, 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.

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

1. SCW NEWTOWN, LLC ZONING MAP AMENDMENT & LITTLE & POWELL PROPERTY ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00031: SCW NEWTOWN, LLC (11/1/17)*- petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.44 net (0.60 gross) acres, for property located at 757 Newtown Pike.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The subject property is also located within the 2009 Central Sector Small Area Plan boundary, an adopted element of the 2013 Comprehensive Plan.

The petitioner proposes to rezone the property in order to construct a 12,000 square-foot warehouse, and incorporate the site into the adjacent warehouse and storage facility.

The Zoning Committee Recommended: **Approval**.

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

1. The existing Highway Service Business (B-3) zone is inappropriate for the subject property because despite having frontage along Newtown Pike, there is poor vehicular access to the property, which is located entirely on the adjacent Space Center Storage site. Poor vehicular access is not conducive to successful development of a B-3 zoned property.
2. The proposed Wholesale and Warehouse Business (B-4) zone is appropriate for the subject property because the proposed warehouse use is less intense than what could be developed on the property, with no Planning Commission review, in close proximity to an existing elementary school and residential neighborhoods. In addition, a restricted B-4 is compatible and consistent with the surrounding zoning, land use and development pattern along this portion of the Newtown Pike corridor.
3. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00086: Little and Powell Property, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, this property shall be subject to the following use restrictions via conditional zoning:

PROHIBITED USES:

- a. Major automobile and truck repair.
- b. Laundries and drying shops, and laundry pick-up stations.
- c. Ice plant.
- d. Tire re-treading and re-capping.
- e. Machine shop.
- f. Establishments and lots for display, rental, repair or sale of farm equipment, automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats, and supplies for such.
- g. Truck terminals and freight yards.
- h. Automobile service stations.
- i. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- j. Circuses and carnivals.
- k. Retail sale of building materials, hardware-related items and lumber.
- l. Pawnshops.
- m. Parking lots and structures as principal uses.
- n. Outdoor speakers and public address systems.
- o. Mining of non-metallic minerals.

These land use restrictions are appropriate and necessary at this location to ensure that the proposed commercial development of the subject property will not negatively impact the nearby elementary school and residential neighborhoods in this area, and to be consistent with the restrictions in place for other B-4 sites along the Newtown Pike corridor.

- b. PLN-MJDP-17-00086: LITTLE & POWELL PROPERTY (11/1/17)* - located at 757 Newtown Pike.
(MLH Civil Engineers, PLLC)

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

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval 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. 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. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Addition of record plat designation.
8. Denote: Review by Royal Springs Aquifer Committee required at the time of final development plan.

Staff Zoning Presentation – Ms. Wade presented the staff report and recommendations for the zone change. She displayed photographs of the subject property and aerial photographs of the general area. She said the subject property is currently occupied with a closed car wash facility and the applicant is proposing to redevelop the property with a warehouse.

Ms. Wade stated that the applicant believes that this rezoning is in agreement with the 2013 Comprehensive Plan and Central Sector Small Area Plan, but the staff couldn't find that this proposal is in agreement with either of them. She said that the applicant also cited that the current zoning is inappropriate and the proposed zone is appropriate at this location and the staff does agree with that justification. She said that the subject property could be incorporated into the adjacent B-4 warehouse facility, which will be consistent with the existing zoning in the area.

Ms. Wade said that the proposed subject property has frontage on Newtown Pike, but not direct access. She said that access is shared on the adjacent warehouse facility. She said that a warehouse at this location is less intense than some of the other uses that are permitted in the B-3 zone. She said the staff is recommending approval and the Zoning Committee also recommended approval.

Development Plan Presentation – Ms. Gallt presented a rendering of the preliminary development plan associated with the zone change. She said that a traffic signal is being installed at the intersection of the subject property. She identified the proposed building and access to the building and parking lot. She said that staff has a few sign-off conditions and the applicant will need to submit a final development plan. She also stated that the applicant needs approval from Royal Springs Aquifer and to denote the conditional use restrictions as approved by the Planning Commission.

Applicant Presentation – Nick Nicholson, attorney representing the petitioner. He said the applicant is in agreement with the staff's recommendations and is available for questions.

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

Zoning Action – A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 9-0 (Plumlee and Richardson absent) to approve PLN-MAR-17-00031: SCW NEWTOWN, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 8-0 (Penn abstained; Plumlee and Richardson absent) to approve PLN-MJDP-17-00086: LITTLE & POWELL PROPERTY, with the conditions provided by the staff.

2. FRM LAWSON PROPERTY ZONING MAP AMENDMENT & LEESTOWN INDUSTRIAL PARK ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00032: FRM LAWSON PROPERTY (11/1/17)*- petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Light Industrial (I-1) zone, for 0.71 net (1.14 gross) acres, for property located at 300 Alexandria 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 to incorporate the subject property into the Leestown Industrial Park for light industrial land use. Short-term gravel vehicle storage is proposed for the adjoining large vehicle repair facility.

The Zoning Committee Recommended: **Approval**.

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

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

1. A Planned Neighborhood Residential (R-3) zone is no longer appropriate and a Light Industrial (I-1) zone is appropriate at this location, for the following reasons:
 - a. A major electric transmission line, transmission tower and 75-foot wide easement occupy appropriately one-half of the subject property along its northwestern property boundary and closest to the existing Marehaven Subdivision. Such major public service facilities make the site generally incompatible for residential development.
 - b. Any potential residential use of the site under the existing R-3 zoning would be required to be located in close proximity to existing industrial uses within the adjacent Leestown Industrial Park. Residential development of the subject site would not be compatible with the surrounding land uses.
 - c. The subject property is bordered on three sides by industrial or public facilities land uses, which makes I-1 zoning more compatible and appropriate than the existing R-3 zone. Alexandria Drive, and its right-of-way, creates an appropriate land use boundary between the residential subdivisions on the north side of Alexandria Drive and the subject property.
 - d. The site is located within the Urban Service Area, currently vacant and considered underutilized. The site can be successfully incorporated into the adjacent parcel on Over Drive in order to support an existing business in Fayette County.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00090: Leestown Industrial Park, 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 buffer restriction is recommended via conditional zoning on the subject property:
 - a. A fifteen-foot (15') wide landscape buffer shall be maintained along the northwestern property line. Within the landscape buffer a six-foot (6') tall hedge, wall or berm shall be established.
This restriction is appropriate in order to diminish the visibility of the subject property from Alexandria Drive.
- b. PLN-MJDP-17-00090: LEESTOWN INDUSTRIAL PARK (11/1/17)* - located at 300 Alexandria Drive.
(2020 Land Surveying)

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

1. Provided the Urban County Council rezones the property I-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. Denote as general note #4: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Addition of walkways on plan.
7. Denote conditional zoning restrictions for landscape buffer along Alexandria Drive.
8. Resolve closure of Alexandria Drive access point at time of final development plan.
9. Resolve paving of parking lot for water quality issues at time of final development plan.

Staff Zoning Presentation – Ms. Wade presented the staff report and recommendations for the zone change, and displayed photographs of the subject property and aerial photographs of the general area. She said the subject property can be accessed along Over Drive through an adjacent lot, but the existing frontage is along Alexandria Drive. She said the subject property is encumbered with a transmission power line and its associated tower on the frontage of Alexandria Drive and a 75' easement along this frontage.

Ms. Wade said the applicant contends that the current zoning is inappropriate and the proposed zone is appropriate at this location. She said the staff believes that there should be a buffer established along the Alexandria Drive frontage. She said the staff is recommending a conditional zoning restriction for a six foot hedge and no trees at this location. She said the staff and the Zoning Committee both recommended approval.

Development Plan Presentation – Ms. Gallt presented a rendering of the preliminary development plan associated with the zone change. She said that an access easement has been depicted to provide connectivity to the adjacent lot. She said that staff has a few sign-off conditions, which are to denote the conditional zoning restrictions, as approved by the Planning Commission. She also said that the Subdivision Committee was concerned with the access to Alexandria Drive, and the paving of the parking lot for water quality issues. These concerns need to be resolved by the time of the final development plan.

Commission Question – Mr. Penn said that since this is a preliminary development plan access to Alexandria Drive will not be limited. Ms. Gallt said that will be resolved at the time of the final development plan.

Applicant Presentation – Justin Drury, representing the petitioner. He said the applicant is in agreement with the staff's recommendations and will resolve the access concerns that the staff has and is available for questions.

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

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

Zoning Action – A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 9-0 (Plumlee and Richardson absent) to approve PLN-MAR-17-00032: FRM LAWSON PROPERTY, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 9-0 (Plumlee and Richardson absent) to approve PLN-MJDP-17-00090: LEESTOWN INDUSTRIAL PARK, with the conditions provided by the staff.

3. CORE LEXINGTON 685 LIMESTONE, LLC ZONING MAP AMENDMENT & THE HUB AT LEXINGTON II ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00033: CORE LEXINGTON 685 LIMESTONE, LLC (11/1/17)*- petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 1.36 net (1.80 gross) acres, for properties located at 119, 121, 123, and 131 Virginia Drive; 665, 685, and 693 S. Limestone; and 662 Maxwellton Court. 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.

In addition to the Comprehensive Plan mission statement, the Goals and Objectives of the Plan also address the five major themes of the Plan: 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 a Neighborhood Business (B-1) zone in order to construct a mixed-use building at the northwest corner of S. Limestone and Virginia Avenue. The petitioner proposes 190 residential dwelling units, 11,800 square feet of commercial space, and an associated parking structure. The petitioner also proposes utilizing the form-based project option of the B-1 zone, which is a recent addition to the Zoning Ordinance.

The Zoning Committee Recommended: **Approval.**

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

1. The proposed Neighborhood Business (B-1) zone and form-based neighborhood business project are in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. Theme A "Growing Successful Neighborhoods" recommends expanding housing choices, with emphasis on mixed-use and higher density development to address a variety of community needs (Goals 1b. and 1d.). The Plan recommends supporting infill and redevelopment as a strategic component of growth, with focus on context-sensitive design (Goal 2a.), and providing well-designed neighborhoods through mixed-use, multi-modal transportation connections and minimizing disruption of natural features when building new communities (Goals 3a., 3b, and 3c.) The petitioner's proposed project will provide additional housing options for the S. Limestone and Virginia Avenue corridors in a context-sensitive manner, while offering multi-modal transportation connections (vehicular, bicycle, pedestrian and transit).
 - b. Theme B "Protecting the Environment" recommends reducing the community's carbon footprint through sustainable and transit-oriented development (Theme B, Goal 2c.). This development will provide sustainable development in the form of an urban mixed-use project near the University of Kentucky, one the community's largest employment areas, along existing transit routes.
 - c. Theme E "Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land" also encourages the infill or redevelopment of underutilized land inside the Urban Service Area (Goal 1a.), and building in a compact, contiguous, and/or sustainable manner (Goal 1b.). The petitioner is redeveloping an underutilized parking lot near one of the main entrances to the University of Kentucky campus in a highly dense manner, thus fulfilling the intent of the Comprehensive Plan.
2. The proposed B-1 zone permits mixed-use development, and the form-based project option allows flexibility in the zone requirements if a project developer completes the area character and context study requirements. The petitioner has conducted the requisite study, evaluating the nearby area, and creating a project that respects the existing urban environment.
3. This recommendation is made subject to approval and certification of PLN-MJDP-17-00089: The Hub at Lexington II, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

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

4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended for the subject property:

PROHIBITED USES

- a. Automobile repair, service stations, and gasoline pumps.
- b. Automobile and vehicle refueling stations.
- c. Animal hospitals or clinics.
- d. Self-service car washes.
- e. Drive-thru facilities.

OTHER USE RESTRICTIONS

- a. A residential component shall be required to create a mixed-use development on the subject property.

These use restrictions are appropriate and necessary to ensure that future development will be compatible with the character of the adjoining area by prohibiting certain uses that would be contrary to its urban mixed-use character, and to ensure compliance with the Goals and Objectives of the Comprehensive Plan.

b. REQUESTED VARIANCES

1. Reduce the minimum off-street parking requirements by 18.5%, from 205 spaces to 160 spaces.
2. Reduce the minimum yard along the rear of 135 Virginia Avenue from 10 feet to 0 feet.
3. Reduce zone-to-zone perimeter screening requirements from 15 feet to 0 feet and eliminate the requirement for trees and shrubs.

The Zoning Committee recommended: **Approval** and **Postponement** per the staff recommendations.

The Staff Recommends: **Approval** of the requested parking and setback variances, for the following reasons:

- a. Granting the requested variances should not adversely affect the public health, safety or welfare, nor will it alter the character of the general vicinity. The applicant has supplied adequate parking, based upon its experience in building mixed-use/residential development in a number of other university communities across the country in similar near-campus locations. In addition, there will be no hazard or nuisance to the public because the purpose of the setback variance is to allow enough room to provide a safe exit from the parking garage onto Maxwellton Court.
- b. Approval of the variances will not result in an unreasonable circumvention of the Zoning Ordinance because the ordinance allows for reduction of parking inside the Infill and Redevelopment Area, this mixed-use project will be drawing more pedestrian traffic than automobile traffic.
- c. A special circumstance that applies to the subject properties that serves to justify the variances is that a form-based neighborhood business project is planned, which will be pedestrian-oriented and within walking distance of the University of Kentucky campus and medical facilities.
- d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship for the applicant. It would likely lead to excess parking that is not needed or desired, and would take up valuable space that can be utilized for retail or residential purposes. Additionally, the project would not have adequate access to the public right-of-way on Maxwellton Court if required to match the adjacent yard requirements near Maxwellton Court.
- e. The circumstances surrounding this request are not the result of actions taken by the applicant since the adoption of the Zoning Ordinance. This project is not yet under construction, and its design is based on past experience of the applicant in similar situations and settings.

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by either 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 variances that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
4. The rear yard and parking variances are conditioned upon the mixed-use project being constructed, as planned for with the form-based neighborhood business project and as depicted on the development plan. Any new structures built on the property not in compliance with the form-based neighborhood business project shall comply with the required yard restrictions per Article 15-3 of the Zoning Ordinance.

The Staff Recommends: **Postponement** of the requested zone-to-zone landscape screening variance, for the following reason:

- a. The Landscape Review Committee has not yet had an opportunity to review the requested variance. The next scheduled meeting is on September 19, 2017; and if a quorum is present, a recommendation on the requested variance will likely be made. Although the staff is supportive of the request, until that meeting occurs, it is best to defer a substantive recommendation.

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

- c. PLN-MJDP-17-00089: THE HUB AT LEXINGTON II (11/1/17)* - located 665, 685 & 693 S. Limestone; 119, 121, 123 & 131 Virginia Avenue; and 662 Maxwellton Court. **(Carman)**

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Delete 5' building line on adjacent properties.
7. Addition of record plat and owner's information on adjacent properties.
8. Denote building dimensions, per Art 21.
9. Denote metes and bounds designation of the property.
10. Dimension loading dock, trash area and M.E.P.
11. Denote front yard building line on plan.
12. Provided the Planning Commission grants the requested variances.
13. Discuss stormwater management detention and water quality.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for the zone change. She displayed aerial photographs of the subject property and general area. She said the applicant is proposing over 11,000 square feet of commercial space on the first floor with 190 residential units above it, and an attached parking structure.

Ms. Wade said the petitioner submitted along with their application, a detailed Area Character and Context Study as mentioned in the Zoning Ordinance. She said that the applicant cited several Goals & Objectives of the 2013 Comprehensive Plan that they believed they met. She said this development will provide sustainable development in the form of an urban mixed-use project near the University of Kentucky (UK). She said the petitioner also proposes to provide additional housing and offer multi-modal transportation connections for the South Limestone and Virginia Avenue corridors.

Ms. Wade said that the Comprehensive Plan strongly supports this type of mixed-use development. She said the staff agrees with the applicant's justification, but is recommending conditional zoning restrictions for the property to remain in agreement with the Comprehensive Plan. She said that the staff is recommending approval of this zone change.

Development Plan Presentation – Mr. Martin presented a rendering of the preliminary development plan, and he handed out an updated staff report to the Commission with revised conditions, as follows:

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Delete 5' building line on adjacent properties.
7. Addition of record plat and owner's information on adjacent properties.
8. Denote building dimensions, per Art 21.
9. Denote metes and bounds designation of the property.
10. Dimension loading dock, trash area and M.E. P.
11. Denote front yard building line on plan.
12. Provided the Planning Commission grants the requested variances.
13. Discuss Resolve stormwater management detention and water quality at the time of final development plan.
14. Denote: The lot yard, height, and setback requirements established on the development plan are consistent with the Preliminary Area Character and Context Study for a form-based neighborhood project.
15. Denote: At the time of a Final Development Plan an Area Character and Context Study shall be submitted in compliance with the requirements of Article 8-16(o) of the Zoning Ordinance. The study should substantially comply with the study presented to the Planning Commission at the time of the Preliminary Development Plan.

Mr. Martin pointed out the different layouts of the interior building and the parking garage, which are displayed on the plan. He said the proposed building is six-stories in height, 76 feet tall. He said the open space requirement will be met with courtyards, pool and pool terrace on the roof of the building. He said access to the property will be off of Virginia Avenue and a full access point will also be on Maxwellton Court. He said that a right turn lane on South Limestone onto Virginia Avenue will be added

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along, with large sidewalks. He said that Ms. Wade mentioned, there is an Area Character and Context Study required at the time of the final development plan, which has already been submitted to the staff. The staff didn't prepare a report for that analysis at this time.

Mr. Martin said there are three variances requested for the Maxwellton Court access and the number of parking spaces. He said the applicant is required to have 202 parking spaces for this development, which has 190 units, with 574 beds. He said the residences will be utilizing the bus transit stops and the bicycle facilities, which reduced their parking requirement to 202 parking spaces and they are providing 167.

Mr. Martin said that there are standard conditions on the plan, including the addition of the record plat and owner's information on the adjacent properties and to denote the metes and bounds description of the property. He said the staff and the Subdivision Committee recommended approval of this preliminary development plan.

Commission Question – Mr. Wilson asked for clarification of the number off-street parking spaces required. Mr. Martin said that the staff was using the numbers that the applicant has on their development plan.

Mr. Owens asked about the total buildout of the lot, will any of the six stories be setback in any way. Mr. Martin said the applicant has an architectural rendering and are not required to step back on the upper stories.

Requested Variances - Ms. Wade presented the staff report and the staff's recommendations for the three requested variances for the property that is being requested to change to the B-1 zone.

Ms. Wade said the first variance is to reduce the minimum number of off-street parking spaces required from 202 spaces to 160 spaces. The development plan shows the applicant will provide 167 spaces, but they are asking to reduce that number to 160 spaces.

Commission Question – Mr. Wilson asked for clarification of the number of parking spaces. Ms. Wade said that the development plan states that it's 202 spaces and the applicant is requesting the variance for 42 spaces.

Ms. Wade the staff considers three factors with parking variances, which are 1) what the parking generator is; 2) what is the walkability in the immediate area; and 3) the availability of other parking areas in the immediate area. She said the applicant has 22 of these types of developments and their residents use parking for longer than average periods of time, they use their vehicle one to two times a week. She said this development will be student oriented and they will not necessarily need a vehicle.

Ms. Wade said that the second variance is to reduce a yard setback to zero feet. She said the requirements for the rear yard in the R-3 zone is a 10 foot setback. She also said the third variance is to reduce the zone-to-zone perimeter screening requirements from 15 feet to zero feet and to eliminate the required shrubs and trees. She said the adjacent area is a parking lot and the staff believes that it isn't necessary to have the zone-to-zone screening between a two parking areas. She also said the restrictive width of Maxwellton Court frontage is thirty feet and there isn't enough space to provide the required 10 foot setback. She said the Landscape Review Committee met on September 19, 2017; however, they didn't have a quorum but those member present did agree with the staff that eliminating the landscaping in this location would have very little impact on this area.

Ms. Wade said the staff is recommending approval of all three of the requested variances related to this zone change.

Traffic Impact Study – Max Conyers presented the MPO staff report on the submitted Traffic Impact Study for this zone change. He said there are approximately 29,000 trips per day on this section of S. Limestone and increases to 41,000 near the University. He said the traffic counts were completed when school was not in session and the traffic counts had to be adjusted based on other counts from when school was in session. He said along with the high level of vehicular movement there is also a high number of pedestrians.

Mr. Conyers said the consultant analyzed the area as a whole and depicted several critical intersections in the area. He said that there are three bus routes that travel this corridor with bus stops on S. Limestone and on Virginia Avenue. He said that the state will be doing safety improvements at this intersection and the right turn lane into the proposed development will be critical for future transit operations.

Mr. Conyers said the staff agrees with the consultant's recommendations to make the entrance and exit, off of Virginia Avenue ADA compliant for the high volume of pedestrian traffic. He also that there will be a lot of coordination with the Divisions of Traffic Engineering and Engineering, LexTran, KYTC, and UK.

Applicant Presentation – Dick Murphy, attorney, was present representing the petitioner. He said their architect, Jeff Selisko, was distributing the Area Character and Context Study to the Planning Commission. He said that Core Spaces specializes in building high-end student oriented housing developments and they are currently in 22 cities. He said that Core Spaces has a

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contract to purchase this property from UK as a land swap. He also said that this development is exactly what the 2018 Comprehensive Plan is advocating. He said the Area Character and Context Study is not required at the preliminary development stage, but they wanted the Planning Commission to know exactly what they are looking at with this development. He said that his consultant's met with the staff and the design planner.

Jeff Selisko, Antunovich Associates, presented the Area Character and Context Study. He said displayed photographs of the proposed building and the materials that will be used. He said that they focused on having a residential corner of South Limestone and Virginia Avenue by significantly increasing the sidewalks. He said that there are setbacks on the building, which the parking garage is setback 10 feet from the property line and 5 feet from the base of the building, on the north and west side of the building.

Commission Questions – Mr. Bell asked for clarification of the right turn lane on Virginia Avenue. Mr. Selisko said that it's a right-in-right-out onto Virginia Avenue.

Mr. Penn commented on the turn motions from all directions and asked if there will be room for the stacking of vehicles. Mr. Selisko said that it will be a thirty-foot opening to accommodate semi-trucks. Mr. Penn asked about the backup of traffic of vehicles waiting to make a left turn onto S. Limestone. Mr. Selisko said that is where the exit onto Maxwellton Court will allow for that movement onto S. Limestone during peak traffic times.

Mr. Bell asked for clarification that a left turn movement onto S. Limestone is possible. Mr. Selisko said that vehicles will be able to crossover oncoming traffic. Mr. Bell said that it's will be challenging with the amount of traffic that gets backed up at the traffic signal.

Mr. Cravens asked if the parking lot will be for compact cars only or a mixture. Mr. Selisko said that they have 13% compact car spaces. Mr. Cravens asked if the entire garage was compact cars, would the applicant reach the parking requirement. Mr. Selisko said that they would only gain eight more parking spaces because of the spacing of the columns in the garage.

Mr. Owens asked if a right turn lane will be installed on S. Limestone to turn onto Virginia Avenue. Mr. Selisko said that space for a turn lane has been provided.

Mr. Bell asked how the resident parking will be managed. Mr. Selisko said the residents will rent an assigned parking space.

Applicant Presentation – Mr. Murphy said the vehicle use is very low at other Core Spaces developments around the country. He said that some of the residents only move their vehicle 1-3 times per week and do not rely on their cars. He said that this is the attraction to these types of developments. He displayed a table to explain the parking variance, as follows:

PARKING

LOCATION	UNITS	BEDROOMS	PARKING SPACES	PARKING RATIO
Limestone at Virginia Avenue	190	574	133	23%
Tucson, Arizona	164	594	98	16%
Tucson, Arizona II	104	311	65	21%
Madison, WI	313	961	160	17%
Madison, WI The James	367	850	144	17%

UNIVERSITY OF KENTUCKY DORMITORIES

- 6,712 undergraduate residence hall beds are occupied
- 12.11% of those residents have parking spaces close to their residence hall
- 30.65% of those residents have stadium parking
- Our residents are also eligible for stadium parking

Mr. Murphy said that the table depicted the number of units, bedrooms, parking spaces (minus the required spaces for the retail shops), and the parking ratio of the residents can park in the garage. He said these parking numbers work in the other cities that have Core developments because most college students don't have cars. Mr. Murphy also showed UK undergraduate residents that live in the dormitories and their parking ratio would be 12.11%. He said that students are also eligible to get a K sticker and park at Kroger Field.

Mr. Murphy said the applicant is asking for the parking variance because less than half of the students have parking stickers and of those, only 12% park within walking distance of their dorm. He said that the proposed development is consistent with these numbers and this is the appeal to students that don't want to use a vehicle. They want to live there, to be close to campus and will be within walking distance.

Mr. Murphy displayed some photographs of the buildings being constructed across the street of the subject property, depicting the height differences in the area. He said that he believes proposed height is appropriate and the parking variance is supported by Core's experience in other cities. He said that their traffic study stated that there were 2,000 pedestrians per day in the area and UK showed 4,000 pedestrians per day. He said the retail on the first floor will mostly cater to the pedestrians. He said that since the building location has been moved on the development plan, the only variance that is now needed is for 28-feet off the property boundary so that the entrance/exit can be thirty feet wide, for safety purposes.

Mr. Murphy said the applicant would like to have a drive-thru window and an animal hospital, since there have been requests in some of the Core developments, in other cities. He said the applicant would like to strike drive-thru facilities and animal hospitals from the conditional zoning restrictions.

Commission Questions – Mr. Cravens asked what the need for a swimming pool on the roof is, if the students leave in May and return the end of August. Chad Matesi from Core Spaces agreed that it is a tremendous expense but it is also good for marketing.

Ms. Mundy said some universities do not permit undergraduates to have a vehicle on campus and if they did the school provided shuttles for them to park off-site. She asked if there would be shuttles to Kroger Field and if so would there be a stop near this development. Mr. Murphy said that the students can use the current UK shuttle system.

Mr. Bell asked how it will be determined which residents get parking spaces in the garage. Mr. Matesi said that parking will be on a first come, first serve with a wait list and that there will be an additional cost for parking.

Mr. Penn asked if pets will be permitted in the rooms. Mr. Matesi said that pets are prohibited. Mr. Penn then asked why the developer would want to have an animal hospital in the building. Mr. Matesi said that it is future marketability of the space. He said the typical tenant base is 75% restaurants, with the occasional bar, barber shop, tanning salon.

Mr. Berkley doesn't believe that UK's parking ratio is accurate since the undergraduates mostly live in the dormitories and don't have vehicles until they are juniors and seniors. He also expressed concern about the need of a wait list.

Mr. Wilson asked if the parking is permit only and where would guests be permitted to park. Mr. Matesi said there isn't any visitor parking.

Mr. Owens asked about the "Other Use Restrictions." Ms. Wade said the restriction provides some level of assurance that if this development doesn't go forward that a mixed-use development be created on the subject property.

Mr. Berkley asked for clarification of the hardship created by building excess parking. He asked how it was determined that there would be excess parking. Ms. Wade said that staff used the applicant's information provided that not all parking is utilized at their other facilities.

Mr. Wilson asked how the staff feels about striking animal hospitals from the prohibited uses. Ms. Wade said that if pets are not permitted in the building; she questioned the need for a veterinary clinic.

Ms. Mundy said that some students may manipulate veterinarians to allow pets in any building.

Mr. Wilson said UK is preparing to do a "pedestrian scramble", which will stop vehicle traffic in all directions to allow pedestrians to manipulate back and forth. He suggested that approach may be useful at this intersection.

Citizen Comment – Jacob Walbourn, attorney, was present representing South Limestone Studios. He said that the neighbors do not oppose the rezoning, but they are concerned with the stormwater from the subject property. He said that ever since UK removed some houses near South Limestone Studios and replaced these yards with impervious materials, they began to have flooding issues. He stated for the record that he would like the Planning Commission to be mindful of the neighbors and the drainage concerns in the area.

Petitioner Rebuttal – Kevin Warner, Carmen, said that they are aware of the drainage issue and that this development will need to handle stormwater issues at the rate it was before those houses were removed.

Mr. Murphy said that there is a UK shuttle stop at Virginia Avenue and S. Limestone. He said that these will be 12 month leases and some students do stay on campus year round, therefore they will utilize the pool in the summer months. He said there will

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also be several bicycle parking facilities, some of the units have in-unit bicycle storage as well as the large collective indoor bicycle storage. He said that the applicant will leave the animal hospital as a prohibited use. He also said that the chart was an assumption that all Zoning Ordinance parking requirement be met for the retail component of the development. He said that the retailer doesn't believe they will need all of their required parking.

Staff Rebuttal – The staff had no rebuttal at this time.

Commission Discussion – The Commission discussed the different types of apartment developments in the area and the need for an animal hospital.

Zoning Action – A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 9-0 (Plumlee and Richardson absent) to approve PLN-MAR-17-00033: CORE LEXINGTON 685 LIMESTONE, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Mr. Brewer, and carried 8-1 (Berkley opposed; Plumlee and Richardson absent) to approve PLN-MJDP-17-00089: THE HUB AT LEXINGTON II, with the revised conditions provided by the staff.

Requested Variance Action – A motion was made by Mr. Owens, seconded by Mr. Brewer, carried 6-1 (Berkley opposed; Bell and Penn abstained; Plumlee and Richardson absent) to approve the requested variances, for the reasons provided by the staff.

- VI. **COMMISSION ITEMS** – Mr. Wilson recognized that Kathy Moore from the Board of Adjustment, and several law students were present in the audience today observe the Planning Commission meeting.
- VII. **STAFF ITEMS** – Mr. Duncan reminded the Planning Commission of the Committee meetings scheduled for next week, October 5, 2017. He also gave an update of the Goal & Objections; the Urban County Council had their first review. He said there will be several meetings culminating at a public hearing later in October. He said that the next meeting for review will be on Tuesday, October 10, 2017, at 11:00 in the Council Chambers.
- VIII. **AUDIENCE ITEMS** – No such items were presented.
- IX. **MEETING DATES FOR OCTOBER 2017**
- | | | |
|---|----------------|-----------------|
| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | October | 5, 2017 |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street)..... | October | 5, 2017 |
| Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | October | 12, 2017 |
| Work Session, Thursday, 1:30 p.m., 1:30 p.m., 2nd Floor Council Chambers..... | October | 19, 2017 |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | October | 25, 2017 |
| Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | October | 26, 2017 |
- X. **ADJOURNMENT** - There being no further business, Chairman Wilson declared the meeting adjourned at 3:54 p.m.

William Wilson, Chair

Carolyn Plumlee, Secretary

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