

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

November 30, 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; Mike Cravens; Larry Forester; Karen Mundy; Mike Owens; Frank Penn; Carolyn Plumlee; and Carolyn Richardson.

Planning staff members present: Jim Duncan, Director; Traci Wade; Tom Martin; Cheryl Gallt; Barb Rackers; Chris Woodall; and Debbie Woods. Other staff members present were Vaughan Adkins, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services; Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** - A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 8-0 (Bell and Penn abstained; Brewer absent) to approve the minutes of the October 26, 2017 meeting.

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

1. **ANDERSON LURADANE, LLC ZONING MAP AMENDMENT & SULLIVAN PARK & DEVEREUX SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-17-00039: ANDERSON LURADANE, LLC (12/31/17)*- petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 0.92 net (1.06 gross) acres, for properties located at 135, 137 & 139 American Avenue and 112, 114, 116 & 118 Burley Avenue. Dimensional variances are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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

Related to the proposed rezoning, the 2013 Comprehensive Plan Goals and Objectives recommend expanding housing choices (Theme A., Goal #1); supporting infill and redevelopment as a strategic component of growth, including compact and contiguous growth (Theme A., Goal #2 and Theme E., Goal #1b); providing for well-designed neighborhoods and communities (Theme A., Goal #3); reducing Lexington's carbon footprint (Theme B, Goal #2); and improving a desirable community by working to achieve an effective and comprehensive transportation system (Theme D., Goal #1). *Chapter 7: Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land* of the 2013 Plan also address specific recommendations for Infill and Redevelopment within Lexington-Fayette County.

The applicant proposes redeveloping the subject properties with a combination of single-family residences and multi-family dwelling units, as well as associated off-street parking. The corollary development plan depicts 26 dwelling units, with 31 bedrooms, which represents a density of 28.38 dwelling units per net acre. Numerous dimensional variances are requested in conjunction with the requested zone change for the subject properties.

The Zoning Committee Recommended: **Postponement**.

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

1. Currently, the proposed corollary development plan is a hybrid between a group residential development and individual R-4 zoned lots. This creates a myriad of regulatory compliance issues that must be addressed for both types of plans. The staff would like to explore other options with the petitioner to create a plan that supports the 2013 Comprehensive Plan's policy statements, goals and objectives.
2. The compatibility of the High Density Apartment (R-4) zone for the subject property should be further discussed with the petitioner, especially in light of the limited infrastructure within the neighborhood, the need to achieve an effective and comprehensive transportation system, the land use patterns of the neighborhood and the desire to provide context sensitive development that respect's the immediate area's design features.

b. **REQUESTED VARIANCE**

1. Reduce the required front yard along American Avenue from 20 feet to 8 feet
2. Reduce the required rear yard from 10 feet to 5 feet at 112 and 118 Burley Avenue
3. Eliminate the zone-to-zone screening requirement.

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

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

- a. Generally, when a variance is requested, one of the findings required to grant the variance must be based on special circumstances applicable to the property/properties that would serve as a justification for the variance. "Special circumstances" are typically understood to be physiographic in nature that would prevent a structure or structures from being constructed at the required setback. That situation does not appear to exist with this request; and, until further, more detailed reasoning is provided for needing the variances, the staff is unable to support the applicant's request.
- b. In reviewing the proposed variances for this zone change request, it was discovered that a fourth variance is needed that was not requested. A postponement will allow the applicant to apply for a side yard variance for 112 and 118 Burley Avenue, as described in the body of this report, and to provide the necessary notification to surrounding property owners.
- c. PLN-MJDP-17-00106 SULLIVAN PARK & DEVEREUX SUBDIVISION (12/31/17)* - located at 135, 137 & 139 American Avenue and 112, 114, 116 & 118 Burley Avenue. **(Barrett Partners)**

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding compliance with Article 8-13 and/or Article 9 and Article 18 of the Zoning Ordinance.

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote height of building in feet on plan.
6. Denote compliance with Article 15-7 shall be determined at time of final development plan.
7. Denote pedestrian access to American Avenue.
8. Demonstrate compliance with open space required.
9. Discuss compliance with R-4 zone requirements.
10. Discuss note #12.
11. Provided the Planning Commission grants the requested variance to Article 18.
12. Discuss water quality/stormwater improvements per the Engineering Manuals.
13. Discuss improvements to Burley and American Avenues.

Petitioner Representation: Dick Murphy, attorney, said that they would like to request a postponement to the December 14, 2017 meeting.

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

Action: A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 10-0 (Brewer absent) for postponement of PLN-MAR-17-00039: ANDERSON LURADANE, LLC and PLN-MJDP-17-00106 SULLIVAN PARK & DEVEREUX SUBDIVISION to the December 14, 2017 meeting.

2. **ZOTA 2017-6: AMENDMENT TO ALLOW OFF-SITE AIRPORT PARKING AS A CONDITIONAL USE IN THE AGRICULTURAL RURAL (A-R) ZONE** - petition for a Zoning Ordinance text amendment to Article 8-1(d) of the Zoning Ordinance to allow off-site airport parking as a Conditional Use in the Agricultural Rural (A-R) zone.

REQUESTED BY: Steve Clark and Lexington Airport Parking

PROPOSED TEXT: Copies are available from the staff.

ARTICLE 8-1: AGRICULTURAL RURAL (A-R) ZONE

8-1(d)Conditional Uses (Permitted Only with Board of Adjustment Approval)

32. Parking lots, but only when the following conditions are met:

- a. The parking lot must have been constructed by January 1, 2017.
- b. The parking lot must be paved with an all-weather surface of either asphalt or concrete. No new paving shall be permitted to create or expand a parking lot; however, resurfacing of any existing areas shall be permitted.
- c. The parking lot must have a minimum of one-hundred (100) spaces.
- d. The parking lot must be within one and one-half (1 1/2) miles of an airport providing regular, commercial air service.
- e. Screening must be provided in accordance with the Vehicular Use Area screening requirements.
- f. Any lighting installed must be directed away from residential or agricultural uses.

The Zoning Committee Recommended: **Referral**.

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

1. The proposed addition to the Zoning Ordinance to permit an off-site parking lot for a commercial airport is not consistent with the adopted Rural Land Management Plan, nor the draft update to the Plan which is to be considered by the Planning Commission within the next two months. Further, the adopted 2013 Comprehensive Plan recommends protecting the natural landscapes that make our county unique. Permitting commercial parking lots does not support this vision.
2. The Blue Grass Airport has adopted a Master Plan for the airport in 2013 that includes developing additional on-site parking. Additionally, the airport has bonds already secured to add 2,500 parking spaces in phases over the 3 to 17 years. The proposed text amendment could have a negative impact on the airport's ability to re-pay bonds for that parking by reducing potential revenue.
3. The petitioner's proposed text amendment is not consistent with the intent of the Agricultural Rural (A-R) zone to preserve the rural character of the Rural Service Area by promoting agriculture and related uses. An off-site parking lot for a commercial airport does not purport to promote agriculture or related uses, nor does the proposed use have any specific need to be located within the rural service area due to space requirements.

Petitioner Representation: John Carter, attorney, said that they would like to request a two week postponement to the December 14, 2017 meeting.

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

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) for postponement of ZOTA 2017-6: AMENDMENT TO ALLOW OFF-SITE AIRPORT PARKING AS A CONDITIONAL USE IN THE AGRICULTURAL RURAL (A-R) ZONE to the December 14, 2017 meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 2, 2017 at 8:30 a.m. The meeting was attended by Commission members: Headley Bell, Will Berkley, Karen Mundy, and Carolyn Plumlee. 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; Denice Bullock; Lieutenant Joshua Thiel, Division of Fire & Emergency Services; Tracy Jones & Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, November 2, 2017 at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Mike Cravens, Larry Forester, 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)

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

- 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. WILLSTONE, LLC ZONING MAP AMENDMENT & BELLA VISTA SUBDIVISION, LOT 6 ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00038: WILLSTONE, LLC (12/31/17)*- petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.256 net (0.299 gross) acres, for property located at 101 Dennis Drive. A dimensional variance 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 Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes a rezoning to a Neighborhood Business (B-1) zone in order to construct a retail establishment, approximately 2,050 square feet in size, and associated off-street parking.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reason:

1. The proposed Neighborhood Business (B-1) zone is appropriate and the existing Single Family Residential (R-1C) zone is inappropriate, for the following reasons:
 - a. The proposed B-1 zone is compatible and consistent with the B-1 and P-1 zoning that exists within the immediate area.
 - b. Existing residentially zoned land in this area is generally suited to a future commercial land use and is awaiting redevelopment. The subject property is the only residentially zoned lot remaining on Dennis Drive, but it has not been used for residential land use for more than 20 years.
 - c. Historic land use decisions and previously adopted Comprehensive Plans have collectively encouraged a higher intensity of land use and a commercial character for the area to the point where the existing single-family residential zoning is no longer compatible or desirable in this location.
 - d. The depth of commercial land use and zoning along the west side of Nicholasville Road is approximately 225 to 275 feet within the immediate area. The proposed rezoning would be consistent with the existing land use pattern in the area.
 2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00104: Bella Vista Subdivision, Lot 6, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. **REQUESTED VARIANCE**
1. To reduce side yard (west) from 12 feet to 5 feet. Staff will report at the meeting.
- c. PLN-MJDP-17-00104: BELLA VISTA SUBDIVISION, LOT 6 (12/31/17)* - located at 101 Dennis Drive.

(Vision Engineering)

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. Resolve timing of resolution of plated building line conflict with B-1 zone requirements.
6. Relocate proposed building to meet the required side yard setback per Art. 15-3 and delete note #10.
7. Resolve access to adjacent lot (2413 Nicholasville Road) at 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 a vacant gravel parking lot and has been used in that manner for the past 20 years.

Ms. Wade said that the applicant is proposing to develop a use that is compatible with the adjoining offices and commercial uses along Dennis Drive. She said that the corollary development plan depicts a small retail establishment of about 2,000 square-

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feet and off-street parking spaces. She said the applicant states that this rezoning is speculative in nature and there is no user at this time.

Ms. Wade said the staff reviewed the Goals & Objectives of the 2013 Comprehensive Plan; but ultimately found that the proposed zone is appropriate and current zone is no longer appropriate. She said the proposed zone is compatible with the adjacent zones and the existing uses in the vicinity. She said that 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 the development plan depicts access from Dennis Drive and in the rear of the subject property there is a connection through a lot to Nicholasville Road. She said that the plan shows a proposed building on the property and the building setback that is required between the B-1 and the P-1 zones. She said that there are a few sign-off conditions, and that the applicant will need to submit a final development plan. She stated that a final record plat has been recorded with the County Clerk with a 40' building line setback. The minimum and maximum setback will change with the zone change. She said the proposed building is over the recorded setback line and the applicant will need to submit an amended plat to revise that setback in conformance with the B-1 zone. She said that the required side yard between the two zones could be resolved by relocating the building. She also said the staff would like to delete condition #10 and resolve the access to the adjacent property on Nicholasville Road at the time of the final development plan.

Variance Presentation – Ms. Wade presented the updated staff report for the requested variance for a portion of the subject property. She said the applicant is requesting to reduce the side yard setback, from the required 12' to 5' along the western side of the subject property. She said that the B-1 zone doesn't have a side yard setback, but according to Article 15-3 of the Zoning Ordinance, which states that when a more restrictive zone is adjacent to the property line, the side or rear yard must match that of the more restrictive zone, which is the P-1 zone.

Ms. Wade said that there is a 10' utility easement along the eastern side of the subject property, which is being used as a landscape area, as well as the drive aisle, and has caused the applicant to use other side of the property as the buildable area. She said that there is also a utility easement along the rear of the property but that doesn't affect the buildable area depicted on the development plan. She said that staff cannot identify any special circumstances, that there isn't any unique situation for this property that would allow for this dimensional variance. She said that the user is unknown, at this time, and the staff believes that it is premature to ask for a variance for the size of the building on the subject property and that the Board of Adjustment should consider a variance at a later time. She stated that the staff is recommending postponement at this time.

Commission Question – Mr. Owens asked if the current access to the subject is where the driveway is. Ms. Wade replied that access is located at the center of the property. He also asked if the setback on right is similar. Ms. Wade replied that the B-1 zone doesn't have a required side yard or a rear yard setback, so that the building could be located along the property line on that side of the property.

Mr. Wilson asked for clarification that this should go to the Board of Adjustment before the Planning Commission. Ms. Wade said that the applicant has the ability to ask the Planning Commission to consider variances and conditional uses along with their zones changes. She stated the staff prefers not to approve variances when the user is unknown.

Applicant Presentation – Mr. Murphy, attorney representing the petitioner, replied to Mr. Owens question, that access to the property is located in the middle and the frontage is entirely open. He said that this property is surrounded by commercially zoned properties and that this is the last remaining lot on Dennis Dr. that is residentially zoned. He displayed photos of the surrounding businesses. He said that as Ms. Wade stated, this zone change will permit the depth of retail as other commercial uses that currently exist along Nicholasville Rd. and that it is highly unlikely that this property will ever be developed as a single family, detached residential use. He said that they believe the request is in agreement with the 2013 Comprehensive Plan, regarding infill objectives, as well as the goals and objectives that were just passed last week, for developing parcels to a higher density along corridors. He also stated that the present zone is inappropriate and the proposed zone is appropriate.

Mr. Murphy said that the variance is needed on this property. He said that the owner is planning ahead for a future user, so that potential users will know what they have before they purchase the lot. He said that there are a few concerns with this property, but the main concern is the 10' utility easement on the side of the property and also the required driveway. He displayed photos of the utility poles on and off the subject property. Another concern is the potential driveway access next to a day care and the applicant wants to avoid traffic near that daycare, which is why they want to locate the building on the west side of the property. He said that the Zoning Ordinance requires them to build the building close to the street there must be a two-way 24' driveway. He said that the driveway is near the utility easement and OSHA requires all scaffolding must be 15' away from a 3-phase electrical line. He referred to the development plan associated with this zone change depicting the location of the building. He said that the 10-foot easement comes with 29-feet of unbuildable land because of OSHA rules, which is why they are requesting the variance. He said that there is a fixed access point into the shopping center for other access instead of Nicholasville Rd, which will remain.

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Commission Question – Mr. Cravens asked if moving the driveway would alter the parking lot configuration. Mr. Carter, engineer, said that it will make it more difficult to design the parking lot.

Mr. Penn asked what would be the size of the building. Mr. Murphy said the development plan depicts a 1,950 sq. ft. building. Mr. Penn said that the applicant is requesting a variance before the use is known and is it possible that the building could be larger on the final development plan. Mr. Murphy said that it could be, but that it would need to be approved by the Planning Commission. Mr. Penn said that he is concerned the development plan is more than a sketch because of the variance. Mr. Murphy said the development plan is very precise, but lacks the end user.

Mr. Berkley said that staff is recommending averaging provision if Article 15 is employed and would that mean that less of the variance would be needed. Mr. Murphy said that averaging would allow them to move the building back from one area but will need to be made up in other areas. He said that it isn't an averaging of the two side yards.

Citizen Comment – Tim Chinn, 103 Dennis Dr., owner of the adjacent daycare property, stated his concerns about security and liability issues, and the need to install lighting between the two buildings. He believes that this property should be rezoned to the P-1 zone, which is what most of Dennis Dr. is zoned. He is also concerned about the variance, the amount of the setback allowed will allow the proposed building to be closer to his existing building. He said that the required 12' setback is agreeable with him. He said that his building will no longer be seen from Nicholasville Rd. which may affect his business. He would prefer the building line be 20' from the property line so that his building could be seen.

Commission Question – Ms. Mundy asked if the variance was along the drive aisle between the two buildings, which will provide Mr. Chinn some extra space. Mr. Chinn said that he had his property recently surveyed, and that property line is within 6" from the driveway.

Mr. Berkley said that if the building is relocated, the driveway would then be on Mr. Chinn's side of the property, which would increase the traffic near the daycare. Mr. Chinn stated that he could not comment at this time about that, since there is not a known user at this time. He said that he is concerned about children's safety and the separation of the two driveways would make him more comfortable. Mr. Berkley said that the driveway may be best on the right side of the subject property.

Petitioner Rebuttal - Mr. Murphy distributed potential findings for approval, which are as follows:

Proposed Findings and Conclusions approving variance to reduce the side yard (west) setback from 12 feet to 5 feet at 101 Dennis Drive.

Based upon the evidence presented to us, the Planning Commission does hereby approve a variance from 12 feet to 5 feet for the west side yard at 101 Dennis Drive for the following reasons:

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because it will allow separation of the daycare driveway from the business driveway and allow better spacing along Dennis Drive. It will allow a reasonably sized building to be constructed on the property.
2. Granting this variance will not allow an unreasonable circumvention of the requirements on the Zoning Ordinance because the need for the variance arises from the existence of a 10-foot utility easement along the east side of this property and the need for spacing of the driveways. Due to OSHA regulations, approximately 24 or 25 feet cannot be built upon along the east property line where the electric line is located. The combination of the space needed for the electric line, plus the fact that the property narrows as it goes to the back, leave very limited space for construction of a reasonable commercial building.
3. The special circumstances which apply to this property and which do not generally apply to the land in the general vicinity or in the same zone are the existence of the utility easement on the east property line which would prevent the building from being far enough to the east to allow a two-way driveway to be constructed on the west. Also, it will allow separation of the business driveway from the daycare driveway. In addition, the property narrows as it goes back.
4. Strict application of the regulations of the Zoning Ordinance would deprive the applicant of a reasonable use of its land or create an unnecessary hardship because a one-way driveway to the rear would not adequately serve the property, and it would create a situation which the driveway is next door to the daycare driveway. It would not allow a reasonably sized commercial building to be constructed on the lot.
5. The circumstances surrounding the requested variance are not the result of actions taken by this applicant subsequent to the regulation from which relief is sought. This property is now a vacant lot and the applicant is making this request before commencing any construction or activity on the property. The applicant purchased this property in 2015. The lot was created in 1958, as a residential lot.

Mr. Murphy said that the variance for the side yard setback of 12' only applies to the building, not to driveways. He said that, with or without the variance, their driveway could be as close as 3' to the day care driveway. He said the applicant is trying to avoid that by constructing the building there to create a barrier between the two driveways.

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Mr. Murphy commented on Mr. Berkley's question on the size of the building; he said that they could only add another 200 square feet because of parking constraints. Mr. Penn asked if the use of the building would affect the parking. Mr. Murphy said that if a restaurant came in, it would require more parking, which would mean the building size would need to decrease.

Mr. Murphy replied to Mr. Chinn's setback comment that the applicant is following the requirements of the B-1 zone ordinance, which requires them to build close to the street and to have the parking behind the building. He believes it's best for the use of this property to use the area underneath the power lines as the two-lane driveway and the building near the daycare, which will prevent any driveway or parking near the daycare.

Citizen Rebuttal – There were no citizens rebuttal at this time.

Staff Rebuttal - Ms. Wade said the development plan conditions reflect the staff's recommendation to not approve the variance, but if it is approved by the Commission, condition #6, referring to Note #10 on the development plan, will need to be amended. The note states that "a variance to reduce the 12' to 5' is required for the building location to remain as shown." She said that the staff would rather the applicant meet the current ordinance and ask for the variance when there is a particular user for this site. She said if the Planning Commission approves the variance, this note will need to state that the Planning Commission approved the variance and today's date.

Commission Questions – Mr. Owens asked what kind of buffering will be required within the side yard. Ms. Wade replied that there is not a zone-to-zone screening requirement between the P-1 zone and the B-1 zone. Mr. Owens also asked what would be the possibility of this building being 2 stories. Ms. Wade said that the Zoning Ordinance would allow a 2-story building, but parking will most likely restrict it.

Mr. Berkley referred to the proposed 2018 Comprehensive Plan and the flexibility of the B-6P zone and asked why that wouldn't apply in the B-1 zone. Ms. Wade said the zones are different categories of uses and that it doesn't immediately transfer to the Zoning Ordinance and there is also a state law that requires the variance. She said that relaxing setbacks is something that can be applied for, however a variance is to address special circumstances or unique conditions.

Ms. Mundy also said the proposed 2018 Comprehensive Plan is reviewing the reduction of parking lot requirements. Ms. Wade said that small lots have more difficulty with parking because the parking isn't shared as it is in a shopping center.

Mr. Cravens asked if the adjacent P-1 property were to ask for a zone change, they wouldn't have a side yard setback, because it is equal to the zone beside it, which they could be right on the property line. He opined that Article 15-3 should be amended because as it is, it's whichever property owner gets there first. Ms. Wade said that section Zoning Ordinance could be reviewed to eliminate that from happening.

Ms. Plumlee verified that drive thrus are allowed in the B-1 zone. Ms. Wade said that they are allowed with the Planning Commission's approval of the development plan, otherwise it will be a conditional use.

Mr. Murphy stated that the property owner is planning to landscape the property.

Commission Discussion – Mr. Wilson clarified that if the Commission were to abide the staff's recommendations of postpone-ment then the conditions that have been provided on the development plan would stand, but if the Commission votes in favor of the variance, a change is needed to condition #6 of the development plan.

Mr. Penn believes the variance is premature and can be requested at the time of the development plan, when there will be a specific user.

Mr. Owens believe that the Planning Commission needs more information on the variance. He also believes that fencing should be more important than landscaping, at this time.

Mr. Wilson asked Ms. Tracy Jones if the applicant's proposed findings and conclusions have been reviewed. Ms. Jones said that staff doesn't agree with finding #4 because strictly applying the Zoning Ordinance would not deprive the applicant a reasonable use of this property.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Forester, and carried 10-0 (Brewer absent) to approve PLN-MAR-17-00038: WILLSTONE, LLC, for the reasons provided by the staff.

Requested Variance Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, carried 6-4 (Bell, Owens, Plumlee and Wilson opposed; Brewer absent) to approve the requested variance, for the reasons provided by the applicant, with the deletion of finding #4. The Findings and Conclusions are approved as follows:

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

Based upon the evidence presented to us, the Planning Commission does hereby approve a variance from 12 feet to 5 feet for the west side yard at 101 Dennis Drive for the following reasons:

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because it will allow separation of the daycare driveway from the business driveway and allow better spacing along Dennis Drive. It will allow a reasonably sized building to be constructed on the property.
2. Granting this variance will not allow an unreasonable circumvention of the requirements on the Zoning Ordinance because the need for the variance arises from the existence of a 10-foot utility easement along the east side of this property and the need for spacing of the driveways. Due to OSHA regulations, approximately 24 or 25 feet cannot be built upon along the east property line where the electric line is located. The combination of the space needed for the electric line, plus the fact that the property narrows as it goes to the back, leave very limited space for construction of a reasonable commercial building.
3. The special circumstances which apply to this property and which do not generally apply to the land in the general vicinity or in the same zone are the existence of the utility easement on the east property line which would prevent the building from being far enough to the east to allow a two-way driveway to be constructed on the west. Also, it will allow separation of the business driveway from the daycare driveway. In addition, the property narrows as it goes back.
4. ~~Strict application of the regulations of the Zoning Ordinance would deprive the applicant of a reasonable use of its land or create an unnecessary hardship because a one-way driveway to the rear would not adequately serve the property, and it would create a situation which the driveway is next door to the daycare driveway. It would not allow a reasonably sized commercial building to be constructed on the lot.~~
5. The circumstances surrounding the requested variance are not the result of actions taken by this applicant subsequent to the regulation from which relief is sought. This property is now a vacant lot and the applicant is making this request before commencing any construction or activity on the property. The applicant purchased this property in 2015. The lot was created in 1958, as a residential lot.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 8-1 (Plumlee opposed; Penn abstained; Berkley absent) to approve PLN-MJDP-17-00104: BELLA VISTA SUBDIVISION, LOT 6, with the conditions provided by the staff, changing condition #6, as follows:

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. Resolve timing of resolution of platted building line conflict with B-1 zone requirements.
6. ~~Relocate proposed building to meet the required side yard setback per Art. 15-3 and delete note #10.~~ Denote approval of variance by the Planning Commission.
7. Resolve access to adjacent lot (2413 Nicholasville Road) at final development plan.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **ZOTA 2017-7: AMENDMENT TO ALLOW HOTELS AS A PRINCIPAL PERMITTED USE WHEN LOCATED IN PROFESSIONAL OFFICE PROJECTS IN THE PROFESSIONAL OFFICE (P-1) ZONE** - petition for a Zoning Ordinance text amendment to Article 8-15(o)(1) of the Zoning Ordinance to allow hotels as a Principal Permitted Use when located in Professional Office Projects in the Professional Office (P-1) zone.

REQUESTED BY: PWM Real Estate Holdings, LLC

PROPOSED TEXT: Copies are available from the staff.

ARTICLE 8-15: PROFESSIONAL OFFICE (P-1) ZONE

8-15(o) Special Provisions

1. A Professional Office Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, upon the approval of a preliminary development plan and a final development plan as provided in Article 21, and subject to the P-1 zone regulations.

Subdivision of land in a Professional Office Project is permitted, subject to the following regulations:

- a. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
- b. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

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In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

As a principal permitted use:

1. Hotels and Extended-Stay Hotels.
2. Mail Service Facilities.

As accessory uses:

1. Receiving, shipping, and storage of new fixtures, equipment and other non-perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.
2. Shoe repair, clothing alteration or tailoring services.

As conditional uses:

1. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.
2. Beauty shops and barber shops, with no restrictions.

In addition to the uses otherwise permitted in the Professional Office zone, the following accessory use shall be permitted in a P-1 area of at least twenty (20) contiguous acres:

Restaurant(s), with or without a cocktail lounge, entertainment, dancing, and sale of alcoholic beverages, provided it meets the following conditions:

- a. It shall be located in an office building containing a minimum of 40,000 square feet of floor area.
- b. It shall occupy not more than twenty-five percent (25%) of the building in which it is located.
- c. It shall have no more than one public entrance and one service entrance directly to the outside of the building, and that this use shall be at least one hundred fifty (150) feet from any residential zone.
- d. It shall have no drive-in or drive-through food service.
- e. There shall be no more than two restaurants within an office building, provided that the 25% limitation is not exceeded.
- f. Signs permitted per office building may be used to identify the restaurant and/or the office use.

The Zoning Committee Recommended: **Postponement.**

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

1. The staff would like to engage the petitioner to discuss possible locational criteria and maximum ratio of hotels within any Professional Office Project, prior to formulating a substantive recommendation to the Planning Commission.

Staff Presentation – Ms. Wade presented and summarized the staff report and recommendations for this text amendment. She indicated that a supplemental staff report had been prepared and was available. She said that Professional Office Projects have to be approved by the Planning Commission and must have 10 acres of contiguous P-1 zoning. She said the county's average Professional Office Project is about 40 acres and they get a reduction in parking requirements. She depicted, on a map, the 11 Professional Office Projects designated within the community.

Ms. Wade said that the staff had a few concerns with hotels as a principal use within the P-1 zone. She said the major concerns were the proximity to residentially-zoned land (lighting and noise); loss of standard "jobs land;" percentage of land dedicated to hotels; and lack of a parking generator. She said that the applicant amended their application to address these concerns, however, they are still providing hotels as a principal permitted use but providing a distance setback from residentially-zoned land of 200' and limiting hotels to one (1) for every twenty (20) acres of land within the Professional Office Project. She said that these changes had fully met the staff's concerns and they are now recommending approval of the amended application.

Commission Questions – Ms. Mundy asked if 200' from residentially-zoned will be enough for a very large hotel. Ms. Wade said that the distance will be greater than the height of a 5-6 story building.

Applicant Presentation – Mr. Nicholson, attorney representing the petitioner, said the applicant is in agreement with the staff's recommendations and is available for questions. He said that the applicant also believes that a 200' setback from residentially-zoned land is appropriate because that requirement doesn't exist for a professional office building that could be constructed there now. He said the maximum height for buildings in the P-1 zone is 3:1 ratio.

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

Discussion – There was none.

Action – A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 10-0 (Berkley absent) to approve ZOTA 2017-7: AMENDMENT TO ALLOW HOTELS AS A PRINCIPAL PERMITTED USE WHEN LOCATED IN PROFESSIONAL OFFICE PROJECTS IN THE PROFESSIONAL OFFICE (P-1) ZONE, for the reasons provided by the staff.

VI. COMMISSION ITEMS

- a. **TIF REPORT – STATEMENT OF COMPLIANCE WITH COMPREHENSIVE PLAN** – Proposed University of Kentucky Coldstream Research Campus Mixed-Use Project TIF development plan for property located within university research park along Newtown Pike, Citation Boulevard, McGrathiana Parkway, Aristides Boulevard, and Bull Lea Road. (Council District 2).

Staff Presentation – Ms. Wade presented and summarized the staff report and recommendations for this request made by the University of Kentucky-Coldstream Research Campus. She said that KRS § 65.7049(3)(b)(1) requires that the Planning Commission provide a compliance statement related to the 2013 Comprehensive Plan and the TIF request, which will be forwarded to the Urban County Council for the public hearing and the decision for the TIF proposal. She distributed to the Planning Commission the University of Kentucky's application and a map of the TIF development district. She said the applicant is asking for the Planning Commission to determine that a mixed-use development and job creation in the P-2 zone are consistent with the 2013 Comprehensive Plan. She said that the applicant's statement identifies a number of areas that Coldstream's plans are consistent with the 2013 Comprehensive Plan, and specifically the Goals and Objectives. The staff is recommending that the Planning Commission find that the UK Coldstream TIF is compliant with the 2013 Comprehensive Plan.

Applicant Presentation – Mr. Nicholson, attorney representing the petitioner, said the applicant is in agreement with the staff's recommendation and is available for questions. He clarified that the vote supports the proposed Coldstream Research Campus Mixed-Use Project, and that it is in compliance with the 2013 Comprehensive Plan.

Action – A motion was made by Mr. Penn, seconded by Mr. Forester, and carried 10-0 (Berkley absent) that the statement of compliance is in accordance with the 2013 Comprehensive Plan as presented by the staff for the University of Kentucky Coldstream Research Campus Mixed-Use Project TIF development plan.

- b. **PFR 2017-4: FAYETTE COUNTY PUBLIC SCHOOLS** – a Public Facility Review for a new elementary school located on a portion of 260 Richardson Place. (Council District 7)

Staff Presentation – Ms. Gallt presented and summarized the staff report and recommendations for this request made by the Fayette County Public Schools, which was distributed to the Planning Commission. She displayed aerial photographs of the general area near the subject property. She said the subject property is located outside of Urban Service Area. She said this property was consolidated with land inside the Expansion Area in 2015, which is where Edith J. Hayes Middle School is located. She said the school board is proposing to construct an elementary school on 26 acres. She said the subject property is located in an Agricultural Rural (A-R) zone. Schools for academic instruction are typically a conditional use, but is a public school.

Ms. Gallt said that the proposed school's access will be off of Athens-Boonsboro Road and they have state approval to complete roadway improvements to install a right turn lane and to extend the left turn lane entering the school. She said that the staff believes that the school meets several of the Goals and Objectives of the 2013 Comprehensive Plan. She said that the staff is recommending a few changes with the development of the school. First, Fayette County Public Schools should obtain all the permits from the Division of Building Inspection, and second, that they should landscape the property to meet Article 18 of the Zoning Ordinance. She said that the applicant is also proposing a sports complex, at a later date, and the staff would like to connect that to the elementary school and to the nearby residential neighborhood.

Commission Questions – Mr. Owens asked if the property between the residential neighborhood and the school is outside of the Urban Service Boundary. Ms. Gallt said that it is zoned Agricultural Rural (A-R) and is located outside of the Urban Service Boundary. She said that all the utilities and the sewer will be connected to the Edith J. Hayes Middle School site.

Ms. Mundy asked if the subject property is located outside of the Urban Service Area boundary. Ms. Gallt indicated it was outside the USA, and pointed it out on the staff exhibit. She said that there isn't a proposal to expand the Urban Service Area boundary, but there is a continued need for schools and the number of students in this portion of Fayette County continues to increase.

Mr. Owens asked if the property in the middle is owned by someone else with the FCPS property on three sides. Mr. Berkley said that it is owned by another owner.

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Applicant Presentation - Bill Wallace, Director of Facility Design and Construction at FCPS, said that he is available to answer questions.

Commission Comments – Mr. Forester said that lives in this area and believes that this is much needed. Mr. Wallace said that this is in result of the crowding in the entire school system.

Mr. Owens asked about the street and pedestrian connection between the two schools. Mr. Wallace said that the pedestrian connection will be constructed and there are reasons that they don't want a vehicular connection to the sports complex. He said they have completed a study of the connection to Athens-Boonsboro Road.

Action – A motion was made by Mr. Penn, seconded by Mr. Forester, and carried 10-0 (Berkley absent) that the Planning Commission conducted a public facility review of the new elementary school located at 260 Richardson Place and is in accordance with the 2013 Comprehensive Plan as presented by the staff for PFR 2017-4: FAYETTE COUNTY PUBLIC SCHOOLS.

- c. RURAL LAND MANAGEMENT PLAN – The staff will present the draft Rural Land Management Plan. The Planning Commission will take public comments, then consider adopting the Rural Land Management Plan as an amendment to the 2013 Comprehensive Plan.

Staff Presentation – Mr. Woodall presented and summarized the Rural Land Management Plan 2017 update. He said that there were not any significant policy changes for this plan. He said the original plan was adopted in 1999 as an element of the 1996 Comprehensive Plan. He gave a brief history of the creation of the plan. He said that in 2013, the Comprehensive Plan called for an update of the Rural Land Management Plan.

Mr. Woodall said that in 2015, a working group, comprised of members of the Planning staff, the Rural Land Management Board, the Greenspace Commission and the Planning Commission, was formed to update this plan. He said that this group met for 13 months, reviewing policy, highlighting potential issues, and made a substantial effort to alter text and recommendations to reflect current conditions in the Rural Service Area.

Mr. Woodall said the highlights from the 2017 update discovered some of the challenges and trends. He said there are changes in farming, which include: aging farmers, loss of family farms, and the next generation choosing not to farm. He said there is competition from other states for stallions and challenges in providing access to the rural areas for tourism and recreation. He said that there was a continued reduction in tobacco farming, and an increase in diversity of the horse breeds and farms.

Mr. Woodall said the broad goals for the Rural Land Management Plan update, include empowering the agricultural industry by maintaining a strong and viable agricultural economy and protecting agricultural land while promoting sustainable farming practices, protecting the integrity of the rural landscape, protecting the environmentally sensitive areas, cultural and historic heritage and ensuring continued community support thru outreach education and initiatives.

Mr. Woodall said this was a very detail-rich plan and said the primary author of this plan was Cindy Deitz. He said the staff inventoried the agricultural and existing non-agricultural uses. He said that there were few changes to the land use categories. He said the special plan elements included the natural resources, historic resources, roadways, tourism, purchase of development rights and development considerations.

Mr. Woodall said that the Rural Land Management Plan consistently advocates for rural preservation and promotes infill and redevelopment; however it does acknowledge as the 1999 plan does, that future expansion of the Urban Service Boundary may be a possibility. He said the plan makes recommendations to consider compatibility of existing land uses, impact to natural resources and topography, impact to view sheds, proximity to farming operations, conservation easements, natural historic and cultural resources, infrastructure and potentially available services, connections to multi-modal networks, sanitary sewer and storm water management, and disconnected roadway network ,lower density, and buffer issues with adjacent farms. He said that these will all be considered in the study that is included in the 2018 Goals & Objectives.

Mr. Woodall asked the Planning Commission to adopt this update as an element of the existing 2013 Comprehensive Plan.

Commission Comments – Ms. Plumlee commended Cindy Deitz and the work group for their time and effort. She asked to include the recreational and the environmental text amendments that were recently approved. She also said that she would like to see stronger protection and more stringent rules for the Agricultural Buffer (A-B) and Agricultural Natural Areas (A-N) zones.

Mr. Penn said that he would like this to be used as a reference material. He also commended Cindy Deitz and the work group for their time and effort. He said that the Rural Land Management Plan was not created to stop building or development, it was meant to preserve and support agriculture.

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Citizen Comments - Catherine Perkins, represented the Paris Pike Corridor speaking on behalf of Mr. Blanton. She said that she has contacted the staff and received verbal confirmation, but would like it on record, that this plan would not supersede the Paris Pike Corridor Small Area Plan. She said the Paris Pike Corridor Commission would like to see the corridor go from end to end, and not just the overlay. She said that the Paris Pike Corridor Commission is concerned with the Urban Service Area within the corridor and how it has received its first B-3 rezoning.

Mr. Wilson said it will be in the record. Mr. Duncan addressed the concern of the Rural Land Management Plan in relation to the Paris Pike Corridor Overlay. He said that is a separate agreement memorandum between Lexington officials, Paris and Bourbon County officials and that this plan makes no comment on the Paris Pike Corridor Overlay nor does it have any authority to override or supersede that agreement. Ms. Perkins said that Mr. Blanton concern is that the Overlay is from Johnston Road but the Small Area Plan states that the Paris Pike Corridor Overlay is from end to end and is concerned about the small area not in the small area plan. Mr. Duncan said that the Rural Land Management Plan addresses land outside of the Urban Service Boundary and believes that Ms. Perkins is addressing property that is located within the Urban Service Boundary, which this plan does not address.

Mr. Owens also commended Cindy Deitz and the staff for their time and work. He also said that he liked Mr. Woodall's presentation.

Mr. Wilson also said that he liked the staff's presentation.

Action – A motion was made by Mr. Owens, seconded by Ms. Plumlee, and carried 10-0 (Berkley absent) that the Planning Commission adopt the Rural Land Management Plan as an amendment to the 2013 Comprehensive Plan.

- VII. **STAFF ITEMS** – Mr. Woodall distributed the Planning Commission the final version of the 2018 Comprehensive Plan Goals & Objectives that were approved by the Urban County Council on November 16, 2017. He said that the Urban Service Area was discussed in great detail. He stated that the Urban County Council confirmed the Planning Commission recommendations and added some language that was clarifying in nature. He said that there is a defined completion date for the Urban Growth Study, which is July 1, 2020 and there was discussion of dedicated funding to hire a consultant to assist with the study.

Mr. Woodall said the study will begin concurrently with the elements that are planned for next year. He also said that there is no longer a requirement for the Goals & Objectives to be amended to implement the study. He said that once the results of the study are adopted by the Planning Commission, as an element of the Comprehensive Plan it would supersede the current Goals.

Commission Question – Mr. Penn asked for clarification that the Planning Commission is now beginning the elements, working toward the implementation stage, following the adoption of the Goals & Objectives. Mr. Woodall said the staff will begin working on the elements in January and the funding for the study will be this fiscal year so that will begin either in the summer or early fall of next year.

Mr. Penn said that he believes the 2013 Comprehensive Plan was rushed and not followed as it should have been. He said that he doesn't want to repeat either of those for this plan. He said that the Planning Commission needs to put in the time, the effort, and the commitment to establish a plan that the Commission will uphold for the next 4 years. Mr. Woodall said that the study is only one part of several that the staff fully intends to complete.

Mr. Berkley asked that since the final date of the study is constricting, why the staff is waiting to begin the study. Mr. Woodall said the staff is prioritizing all the elements involved in the Comprehensive Plan and doesn't want the plan as a whole to suffer. Mr. Berkley asked that since this is the main thing in the Comprehensive Plan, why not get it started sooner?

Mr. Wilson commended the staff for work on the Plan thus far and thanked the Urban County Council for their input. He said that the Objectives need to be measurable in order to be implemented. Mr. Woodall said the staff agrees and has begun to set the metrics for that and has discussed how to make that information available to the public. Mr. Wilson also added that the public input shows that our community is interested in the Plan, and that it is important to maintain the public relations piece to allow the public to track the progress.

Mr. Duncan said that statute compels the staff to write the rest of the elements of the Comprehensive Plan. The Goals & Objectives are only one element, along with Land Use, Transportation, Community Facilities, and Implementation. He reminded the Planning Commission that it took 8 months to write one element and he doesn't believe that it will take as long to write the others. He said the staff has a responsibility to fill out the rest of the Plan according to the adopted Goals & Objectives, which was made clear to the Urban County Council, as they determined the date of completion for this study.

Mr. Wilson announced the Planning Commission has parking forms to complete for the staff.

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

IX. **MEETING DATES FOR DECEMBER 2017**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 7, 2017
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	December 7, 2017
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	December 14, 2017
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	December 14, 2017
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 20, 2017

X. **ADJOURNMENT** - There being no further business, Chairman Wilson declared the meeting adjourned at 4:04 p.m.

William Wilson, Chair

Carolyn Plumlee, Secretary

TLW/TM/dw

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