MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION AND ZONING ITEMS PUBLIC HEARING

March 23, 2023

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: Larry Forester, Chair; Ivy Barksdale (arrived at 1:35 pm), Headley Bell, Janice Meyer, Robin Michler, Bruce Nicol, Graham Pohl and Judy Worth. Absent: Zach Davis, Anthony de Movellan, and Frank Penn.

Planning staff members present: Jim Duncan, Director; Traci Wade, Autumn Goderwis Tom Martin, Hal Baillie, Daniel Drum, Cheryl Gallt, and Bill Sheehy. Other staff members present were: Stephen Parker, Division of Traffic Engineering; Vaughan Adkins, Division of Engineering; Captain Greg Lengal, Division of Fire and Emergency Services; and Tracy Jones, Department of Law.

II. **APPROVAL OF MINUTES** – There were no new minutes to approve

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

1. **PLN-MAR-23-00001: PALOLO LLC –** a petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (I-1) zone, for 1.16 net (1.36 gross) acres, for property located at 950 Midnight Pass.

Applicant Comment **–** Nick Nicholson, attorney for the applicant asked for postponement to the April 27, 2023 Planning Commission public hearing. Mr. Nicholson stated that they did not have time to make changes to the application after meeting with Staff.

Action **–** A motion was made by Ms. Meyer, seconded by Ms. Worth and carried 7-0 (Barksdale, Davis, de Movellan and Penn absent) to postpone PLN-MAR-23-00001: PALOLO LLC until April 27, 2023.

IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, March 2, 2023 at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale and Judy Worth, Janice Meyer, and Anthony de Movellan. Other Committee members present were Vaughan Adkins, Division of Engineering; and David Filiatreau, Division of Traffic Engineering. Staff members in attendance were: Jim Duncan, Traci Wade, Autumn Goderwis Tom Martin, Cheryl Gallt, Hal Baillie, Daniel Crum, Paula Schumacher, Greg Lengal, Division of Fire and Emergency Services; Tracy Jones, Department of Law; and Doug Burton, Division of Engineering. 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.*

A. **NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria: (1) the Subdivision Committee recommendation is for approval, as listed on this agenda, and
(2) the Petitioner agrees with the Subdivision Committee recommendation and conditions listed on the agenda, and
(3) no discussion of the item is desired by the Commission, and
(4) no person present at this meeting objects to the Commission acting on the matter without discussion, and
(5) the matter does not involve a waiver of the Land Subdivision Regulations.

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

B. <u>DISCUSSION ITEMS</u> – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee 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 OR 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)
- Commission discusses and/or votes on the plan.

1. <u>Development Plans</u>

a. <u>PLN-MJDP-23-00012: MELROSE ADDITION, BLOCK F, LOTS 10, 11, & 12 (AMD)</u> (4/30/2023)* - located at 363, 369, 371, & 375 THOMPSON ROAD, LEXINGTON, KY
Council District: 11
Project Contact: Vision Engineering

<u>Note</u>: The purpose of this plan is to add an accessory building and revise parking and circulation.

<u>Note</u>: This plan requires the posting of a sign and an affidavit of such.

<u>The Subdivision Committee Recommended: **Approval**</u>, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
10. Dimension north entrance to parking area.
11. Dimension all hardscape and landscape areas.
12. Discuss functionality of parking during outdoor events.

<u>Staff Presentation</u> **–** Mr. Tom Martin oriented the Planning Commission to the location of the subject property and noted the principal reason for this development plan is due to the small accessory structure in the parking lot of The Burl. The structure is a small shipping container that has been utilized as a bar for various concerts and events. Before this plan, the applicant had been using this as a temporary structure and moving it back and forth from various locations on the site. Mr. Martin indicated that the applicant has adjusted their parking due to this structure and highlighted condition #12 about discussing the functionality of parking during outdoor events. Mr. Martin stated that condition #12 could be changed from "discuss" to "resolve" and that Staff was recommending approval.

<u>Applicant Comment</u> **–** Matt Carter, engineer for the applicant, stated that they are in agreement with the Staff's recommendation and conditions and can answer any questions.

<u>Action</u> – A motion was made by Ms. Worth, seconded by Ms. Barksdale and carried 8-0 (Davis, de Movellan and Penn absent) to approve <u>PLN-MJDP-23-00012: MELROSE ADDITION, BLOCK F, LOTS 10, 11, & 12 (AMD)</u> with the 12 revised conditions, changing #12 to "resolved."

V. ZONING ITEMS - The Zoning Committee met on March 2, 2023, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Bruce Nicol, Zach Davis, Graham Pohl, and Robin Michler. Staff members present were; Traci Wade, Autumn Goderwis, Hal Baillie, Tom Martin, Daniel Crum, Sam Castro, and Bill Sheehy; as well as Tracy Jones Department of Law.

A. ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS
The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:
- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS - Following abbreviated hearings, the remaining petitions will be considered.
The procedure for these hearings is as follows:
- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
  (a) Proponents (10 minute maximum OR 3 minutes each)
  (b) Objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
  (a) Petitioner's comments (5 minute maximum)
  (b) Citizen objectors (5 minute maximum)
  (c) Staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s).

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

1. DUTCH BROS, LLC ZONING MAP AMENDMENT & GRIGALIS GROUP (VIRGINIA WAY LLC) DEVELOPMENT PLAN

a. PLN-MAR-23-00002: DUTCH BROS, LLC– a petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 0.57 net (0.90 gross) acres, for property located at 1008 South Broadway.

COMPREHENSIVE PLAN AND PROPOSED USE
The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 applicant is seeking to construct a two-lane drive-through facility to support a proposed coffee shop use at this location. As proposed, the coffee shop use will provide access and egress to the site along Virginia Road. Speakers and order points for the drive-through facility will be provided near the middle of the site.

The coffee shop will be a single story, 950 square-foot building that will be oriented towards South Broadway, with a pick up window located to the rear. While the building will have a walk up window to serve pedestrians along the South Broadway frontage, dine-in service will not be provided.

The Zoning Committee Recommended: **Disapproval.**

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

1. The requested rezoning to the Neighborhood Business (B-1) zone is not in agreement with the 2018 Comprehensive Plan for the following reasons:
   a. The requested rezoning is not in agreement with the Goals, Objectives, and Policies of the 2018 Comprehensive Plan.
      1. The proposed development does not seek to construct at a density or intensity that might be reflective of a major corridor in Lexington, and is out of context with the surrounding area (Theme A, Goal #2.b). The applicant's proposal is 52.5 times less dense than the adjacent development, and is 8.75 times less dense than the minimum requirements of the nearby B-6P zone.
      2. The proposed development does not provide a pedestrian first design and development (Theme D, Goal #1.a) and reduces the effectiveness of the overall transportation system by introducing additional vehicular conflicts along Virginia Avenue (Theme D, Goal #1).
      3. The low density and single-user vehicle focus detract from the effectiveness of mass transit in this area (Theme D, Goal #1.c).
      4. The application encourages the use of single-occupancy vehicles and will increase greenhouse gas emissions at this location (Theme B, Goal #2.d).
   b. The proposed development does not meet the intent of the Medium Density Non-Residential / Mixed Use Development Type as established on page 272 of the Comprehensive Plan.
   c. The requested rezoning is not in agreement with the Development Criteria of the 2018 Comprehensive Plan. The following Development Criteria are not being meet with the proposed rezoning.
      1. A-DS4-2: New construction should be at an appropriate scale to respect the context of neighboring structures; however, along major corridors, it should set the future context in accordance with other Imagine Lexington corridor policies and Placebuilder priorities.
      2. E-GR-9-4: Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods.
      3. A-DS7-3: Development should create context-sensitive transitions between intense corridor development and existing neighborhoods
      4. C-L17-1 Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.
      5. C-LI6-1: Developments should incorporate multi-family housing and walkable commercial uses into development along arterials/corridors.
      6. A-EQ3-2 Development on corridors should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities).
      7. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
      8. D-CO2-2: Development should create and/or expand a safe, connected multi-modal transportation network that satisfies all users' needs, including those with disabilities.
      9. B-RE1-1: Developments should incorporate street trees to create a walkable streetscape.
2. There have been no major unanticipated changes of an economic, social or physical nature in the area of the subject property since the adoption of the 2018 Comprehensive Plan.
3. The applicant has not provided sufficient evidence as to why the current zoning is inappropriate, addressing the historical establishment of the zone, and why the proposed zoning is appropriate for this location. The Professional Office (P-1) zone is still appropriate due to the complex intersection of South Broadway and Virginia Avenue / Red Mile Road and the need to limit high turnover traffic entering and exiting the site.

b. **PLN-MJDP-23-00011: GRIGALIS GROUP (VIRGINIA WAY LLC) (AMD)** ((4/30/2023)* - located at 1008 S. BROADWAY, LEXINGTON, KY
Council District: 10
Project Contact: CMW, Inc.

Note: The purpose of this amendment is to depict site development for a drive-thru coffee shop, in support of the requested zone change from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone.

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

1. Provided the Urban County Council approves the zone change to B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.

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5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. United States Postal Service Office's approval of kiosk locations or easement.
7. Correct building setback maximum to 20'.
8. Dimension patio and canopy.
9. Dimension drive-thru canopy and denote height.
10. Dimension pedestrian connectivity to public sidewalk.
11. Dimension access to Virginia Avenue.
12. Revise tree protection plan to tree inventory map per Article 26 of the zoning Ordinance.
13. Denote height of retaining wall.
14. Denote order point for drive-thru.
15. Discuss access to Virginia Avenue.
16. Discuss dumpster location and access.
17. Discuss Placebuilder criteria.

Staff Presentation – Mr. Hal Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 0.57 net (0.90 gross) acres, for property located at 1008 South Broadway. Mr. Baillie stated that the applicant is seeking to construct a two-lane drive-through coffee shop within a Corridor Place-Type and a Medium Density Non-Residential/ Mixed Use Development Type. Mr. Baillie indicated that Staff was in agreement with the Corridor Place-Type, but had concerns about the Development Type because this Development Type is supposed to enhance the transit area that they are in, and cater more to pedestrians.

Mr. Baillie highlighted the intersection of Virginia Avenue and Red Mile Road as being an important intersection for pedestrian connectivity in the area, in particular for the students who live in this area and walk to classes at the University of Kentucky. Additionally, Mr. Baillie noted that this development would be adjacent to two arterial roadways into and out of Lexington.

Mr. Baillie showcased the development plan and began conveying Staff's concern's about the proposed development's alignment with the Comprehensive Plan. Mr. Baillie indicated that the development is out of context with the surrounding area and that it does not seek to construct at a density or intensity that would be reflective of a major corridor as is recommended by the Comprehensive Plan. Mr. Baillie also indicated that the development does not provide a pedestrian first design and detracts from the effectiveness of mass transit in the area. Additionally, Mr. Baillie indicated that Staff is also concerned with the safety of pedestrians, as well as vehicular movement in and out of the site.

Mr. Baillie continued his presentation by stating that the applicant was not using a recommended zone at this site, and noted the applicant's additional justification for this zone. Mr. Baillie indicated that the applicant had not applied enough justification. He stated that the staff had concluded that the applicant's zone was not in agreement with the Comprehensive Plan and disagrees with the applicant's assumptions in their justification. Mr. Baillie also briefly discussed the historic limitations on auto-centric uses in the B-1 zone and an example on a nearby property 373 Virginia Avenue that restricted drive-through facilities. In addition to this, Mr. Baillie cited concerns with traffic safety in the area and noted that there has been an accident a week at this location since 2018.

Mr. Baillie ended his presentation by stating that Staff is recommending disapproval and could answer any questions that the Planning Commission had and that he had two letters of opposition to enter into the record.

Commission Questions – Mr. Nicol stated that he thought this Planning Commission had done some very good work to increase density in the Lexington, but stated it was important to remember that the ratio of net to gross acreage on this corner lot is very low and that this property is very unique because of that.

Mr. Baillie stated that 80% of properties that are P-1 or B-1 in Lexington-Fayette County are of this size and stated that the suggestion that this property is too small to house other P-1 or B-1 uses is inappropriate.

Staff Development Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin reminded the Planning Commission that a development plan is submitted as if the zoning is already in place, and staff evaluates whether it meets the requirements and conditions. Mr. Martin stated that the two big concerns relate to the fact that the applicant is proposing a drive-through, which is generally a discretionary review on a final development plan, but the main concern stems from the access point.

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Mr. Martin indicated that the current access point depicted was not an acceptable access point and the only way that the proposed development plan would work would be with a right-in/ right-out with median controls.

Mr. Martin mentioned that this road is his everyday commute and that he was one of the accident statistics that Mr. Baillie mentioned. Additionally, Mr. Martin stated Staff concerns about dumpster access for employees and waste management staff and that there was not enough room on the site for large trucks to navigate.

Mr. Martin indicated that the Subdivision Committee recommended approval with 17 conditions and stated that he was available to answer any questions from the Planning Commission.

<u>Commission Questions</u> **–** Mr. Pohl stated that one of the letters of opposition suggests that in and out access would endanger bicyclists and questioned if Staff had discussions on that topic.

Mr. Martin stated that is always a concern and it was discussed, but was not a heavy focus for this site. Mr. Martin indicated it all comes back to that access point and the many concerns with it.

Mr. Pohl also asked if that influences the decision on the development plan and Mr. Martin indicated that it could on the final development plan and that Staff is unlikely to recommend approval on a drive-through on a final development plan.

Mr. Michler asked about the parking statistics on the development plan and if those are old metrics and Mr. Martin indicated that was old terminology as there are there is no “required” parking spaces any longer.

<u>Applicant Presentation</u> **–** Bruce Simpson, attorney for the applicant, stated that he appreciates Mr. Baillie’s passion and argument but disagreed with his conclusion and stated it was his job to change the Planning Commission’s thinking. Mr. Simpson displayed the development and noted the key locations on the property. Mr. Simpson stated that this half-acre property with no opportunity for shared parking and that whatever is going to be done on that half-acre is working in that limited space. Mr. Simpson asserted that Staff thinks that this a small density project, and therefore is not consistent with the Comprehensive Plan. Mr. Simpson stated that during the 2018 Comprehensive Plan draft process developers were concerned that the Development-Type and Place-Types would serve as a “checklist” and insinuated that Staff was doing that now. Mr. Simpson stated that the applicant is in agreement with the Staff with the exception of density of the site.

Mr. Simpson stated that Staff was sending mixed messages about density, that they want to increase density, but do not want you to use your car to get there. Mr. Simpson said that he understood that policy due to climate change, but people are not going to give up their cars in the very near future. Mr. Simpson emphasized that this property will remain vacant if this coffee shop is not approved and it has to be available with some amount of automobile use.

Mr. Simpson continued to highlight the various zones in the area to show, in his opinion, that a drive-through is in line with the character of the area and that the proposed coffee shop is not as large as the apartment development across the street with several parking spaces. Additionally, Mr. Simpson pointed to rising land costs and that these type of infill projects are important.

Mr. Simpson stated that the site would not have a left-hand turn out of the site and with the exception of access to Virginia Avenue, all future problems will be resolved on future development plans.

Mr. Simpson urged the Planning Commission to approve this zone change and stated he could answer any questions about the application from the Planning Commission.

Mr. Nicol asked Mr. Simpson what the process would be from their perspective to get a double lane drive-through. Mr. Simpson stated that the conditional approval would come back to the Planning Commission where it would come under scrutiny and be approved or disapproved.

<u>Commission Questions</u> **–** Mr. Nicol asked about the comment Mr. Simpson made about 2nd floor retail shops and where he heard that. Mr. Simpson said that he did not hear it somewhere but could not figure out a way to increase density without it, but pointed to a meeting about The Fountains at Palomar where that prospect came up. Mr. Nicol indicated that he had never heard that prospect before and wanted to state that for the record.

Ms. Worth asked the applicant for an estimate regarding how many turns in and out onto Virginia Avenue would there be for this proposed development. Mr. Brad Boaz, design professional for the applicant, stated that there was no Traffic Impact Study required, and he did not have a good estimate of that number.

Citizen Comment – Jamie Schrader, 805 Old Dobbin Road, stated that he thought Dutch Bros. would be well received in the area and the area of this proposed coffee shop has coffee shops and other similar uses in the area.

Amy Clark, 628 Kastle Road, objects to this development and thinks that it is not what the city needs at this already busy intersection. She expressed concern regarding pedestrians in the area.

Applicant Rebuttal – Mr. Simpson stated that we can get caught up in the small arguments, but the main point is that this is a coffee shop on a half-acre of land, on a commercial corridor surrounded by an apartment building and two major roadways. Mr. Simpson went on to say that this is a fair and worthy proposal and in line with the character of the area.

Mr. Simpson asserted that he has had the privilege over the past 35 to present in front of this Commission and he deeply values the Staff's recommendations, but in this instance he is asking the Planning Commission to assess it as people who live in this community and understand real world practicality. Mr. Simpson stated that if you look at this in terms of infill, and developer equity, this is worthy of approval.

Citizen Comment – Jamie Schrader, 805 Old Dobbin Road, stated that this site would have a lot of pedestrian traffic from people around the area and due to the configuration, not a whole lot else would make sense in this location.

Amy Clark, 628 Kastle Road, reaffirmed her opposition for the development, but urged the Planning Commission to support the Public MPO project to make the corridor walkable and bikeable.

Staff Rebuttal – Mr. Baillie began by stating that any left-hand turn out of the property would be a dangerous turn out of this property. Mr. Baillie continued by saying that the Comprehensive Plan is not a straightjacket and the recommendation is a comprehensive review of how the applicant is not addressing the Goals and Objectives of the Comprehensive Plan. Additionally, Mr. Baillie stated that Staff's recommendations were not denigrating the automobile and that Staff understands that people will continue to use them and that the problem with the applicant's proposal is the amount of traffic that this would add to this location.

Mr. Baillie stated that this application represents a decrease in intensity, increases problems on the roadway, and can be a problem for the community at that intersection.

Mr. Baillie concluded by once again stating that Staff is recommending disapproval, and that the Zoning Committee also recommended disapproval.

Action – A motion was made by Mr. Bell, seconded by Ms. Worth and carried 7-1 (Davis, de Movellan and Penn absent)(Nicol opposed) to disapprove PLN-MAR-23-00002: DUTCH BROS, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Bell, seconded by Ms. Worth and carried 7-1 (Davis, de Movellan and Penn absent)(Nicol opposed) to indefinitely postpone PLN-MJDP-23-00011: GRIGALIS GROUP (VIRGINIA WAY LLC) (AMD

2. **BREAD AND ROSES, LLC ZONING MAP AMENDMENT & BREAD AND ROSES DEVELOPMENT) ZONING DEVELOPMENT PLAN**

a. **PLN-MAR-23-00003: BREAD AND ROSES, LLC –** a petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 1.23 net (1.37 gross) acres, for property located at 446 E High Street. Variances are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 the rezoning of the subject property to the Neighborhood Business (B-1) zone to allow for the applicant to utilize a 4,500 square-foot portion of the existing two story, 18,000 square-foot office structure for a bakery use. This bakery use is intended to supply baked goods to supplement the operations of the Kentucky Native Cafe on the adjoining property at 417 E Maxwell Street, as well as accommodating on-site sales.

The applicant proposes to retain the site's the existing 69-space parking lot configuration and existing pedestrian network with this request.

The Zoning Committee Recommended**: Approval**.

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

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives and Policies, for the following reasons:
   a. The proposed development will respect the context of the surrounding area by utilizing a structure that has been at this location since 1958 (Theme A, Goal #2.b).
   b. The proposed development will help the existing neighborhood flourish by introducing new neighborhood scaled and oriented business uses into what was previously a strictly professional office development (Theme A, Goal #3.a).
   c. The proposed development will encourage positive and safe social interactions by retaining the pedestrian connections to surrounding uses (Theme A, Goal #3.b).
   d. The proposed development will help attract young and culturally diverse professionals by enabling an expansion of the offerings at the adjoining Kentucky Native Cafe (Theme C, Goal #2.a).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
   a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as it utilizes the site's existing office structure, which will retain the scale and character of the current development. The request emphasizes the existing structure as a focal point of the site by locating parking to the side and rear of the site. The request allows for greater employment opportunities at this location, and provides a neighborhood-oriented use to serve the surrounding area.
   b. The proposed rezoning meets the Transportation and Pedestrian Connectivity development criteria, as the proposal will utilize the existing pedestrian and vehicular connections that are in place for the existing office building, and is in close proximity to an existing transit stop.
   c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will increase tree canopy coverage through additional vehicular use area and property perimeter screening.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
   a. Prohibited Uses:
      i. Automobile service stations
      ii. Tattoo parlors
      iii. Miniatures golf courses
      iv. Carnivals and Circuses, even on a temporary basis
      v. Drive-through facilities
      vi. Indoor theaters
      vii. Pawn shops
      viii. Gasoline pumps
      ix. Mining of non-metallic minerals
      x. Funeral parlors
      xi. Parking lots and structures, other than as an accessory use
      xii. Rental of equipment whose retails sale would otherwise be permitted in a B-1 zone
      xiii. Minor automobile repair

b. **PLN-MJDP-23-00013: BREAD & ROSES DEVELOPMENT** (4/30/2023)* - located at 446 E. HIGH STREET, LEXINGTON, KY
Council District: 3
Project Contact: Gresham Smith
Planning Contact: T. Martin

Note: The purpose of this plan is to depict the existing development and to request additional uses, in support of the requested zone change from Professional Office (P-1) zone to Neighborhood Business (B-1) zone.

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

1. Provided the Urban County Council approves the zone change to B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Landscape Examiner's approval of landscaping and landscaping buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Combine site statistics into one box on plan face.
13. Separate tree protection plan statistics/information from site statistics.
14. Delete zoning ordinance requirements from site data.
15. Depict 10'-20' build to setback per the B-1 zone requirements.
16. Provided the Planning Commission grants the requested variances.
17. Delete parking floor area information.
18. Discuss Placebuilder criteria.

Commission Comment **–** Mr. Michler recused himself from this application, as he indicated he has a financial interest in the site.

Staff Presentation **–** Mr. Daniel Crum presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 1.23 net (1.37 gross) acres, for property located at 446 E High Street. Mr. Crum indicated that the applicant is proposing to establish a bakery use within an existing office structure. Additionally, Mr. Crum indicated the applicant is has indicated that site is located within an Enhanced Neighborhood Place-Type and a Low Density Non-Residential/ Mixed Use Development Type. Mr. Crum stated that the Staff was in agreement with those two selections. Mr. Crum highlighted the existing neighborhood business use adjacent to the property and indicated that this location would provide baked goods for the Kentucky Native Café.

Mr. Crum noted that the applicant was keeping in line with the Goals and Objectives of the Comprehensive Plan by keeping the existing context of the building and expanding services that are already there. Additionally, the existing pedestrian sidewalks, as well as the parking lot will remain the same.

Mr. Crum concluded his presentation stating that Staff is recommending approval, including conditional zoning restrictions. Mr. Crum indicated there were 13 prohibited uses that were recommended by Staff, and of those 13, the Zoning Committee recommended the removal of three: Tattoo parlors, indoor theaters, and funeral parlors.

Staff Development Plan Presentation **–** Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin indicated that the applicant is not making any changes and this final development plan displays as much.

Mr. Martin indicated that Staff and the Subdivision Committee recommended approval and could answer any questions from the Planning Commission.

Staff Variance Presentation **–** Mr. Crum oriented the Planning Commission to the applicant's variance request. Mr. Crum indicated that the applicant is seeking to reduce the required landscape buffer from 15 feet to 2.5 feet along the northern property line, and from 15 feet to 6.5 feet at the western property line. Additionally, the applicant is seeking to eliminate the required 2nd row of six-foot tall hedges on both property lines.

Mr. Crum stated that this request went before the Landscape Review Committee. Although the Landscape Review Committee did not have a quorum, the members present indicated their support for the variance noting that installing a fence or hedge would require the removal of existing trees. The Committee did state that they would like to see more interior landscape provided to mitigate the effect of the variance.

Mr. Crum concluded his presentation by stating that Staff is recommending approval, with the condition of providing interior landscape.

Commission Questions **–** Ms. Worth asked if the neighborhood had been consulted and Mr. Crum indicated that northern property line neighbor was in support of the variance and the western property neighbor did not have any reservations.

Applicant Presentation **–** Dick Murphy, attorney for the applicant, gave a brief history of the area, Bread and Roses, LLC, and the Kentucky Native Café. Mr. Murphy reiterated what Mr. Crum stated, that the only thing being added right now is the bakery and that the bakery will take up about one-quarter of the building. The bakery will serve the Kentucky Native Café and will have a retail component as well.

Mr. Murphy passed out a letter of support from the neighbors, and highlighted the variance areas. He noted that the areas will be supplemented with trees and a hedge. Additionally, Mr. Murphy indicated that there would be additional trees added along High Street in compliance with a local ordinance.

Mr. Murphy also discussed the conditional zoning restrictions and stated that the Zoning Committee recommended the removal of tattoo parlors, indoor theaters, and funeral parlors, and the applicant would request their removal as well. When the applicant first bought the property, one of the first potential tenants was a community theater group and they would like that use, as well as the funeral parlor to be available because it is a community use. Additionally, Mr. Murphy said that tattoo parlors and tattoos are a generational thing and is a low intensity use and would be appropriate in the neighborhood.

Mr. Murphy ended his presentation asking for the removal of those conditions and the approval of this zone change.

Citizen Comment **–** Art Thomas, 453 E High Street, concerned about the possibility of a funeral home, tattoo parlor, and a theater at this location and wants the applicant to maximize the greenspace.

Alexander Shore, 403 E High Street, in favor of the bakery, but is concerned with the traffic that would come from a funeral parlor.

Applicant Rebuttal **–** Mr. Murphy addressed the concerns of some of the citizens and said that the applicant is thinking about uses that could be beneficial and appropriate 20 years down the line. Mr. Murphy once again asked for approval and the removal of the three uses from the list of prohibited uses for the site.

Staff Rebuttal **–** Mr. Crum in response to a statement from the public, explained how variances work and stated that they are dimensional and you cannot vary a specific use.

Action – A motion was made by Mr. Nicol and seconded by Mr. Pohl and carried 7-0 (Davis, de Movellan and Penn absent), (Michler recused) to approve PLN-MAR-23-00003: BREAD AND ROSES, LLC for reasons provided by Staff with the removal of the three conditional zoning restrictions of tattoo parlors, funeral parlors, and indoor theaters.

Action – A motion was made by Mr. Nicol and seconded by Mr. Pohl and carried 7-0 (Davis, de Movellan and Penn absent), (Michler recused) to approve PLN-MJDP-23-00013: BREAD & ROSES DEVELOPMENT with the revised Staff conditions.

Action – A motion was made by Mr. Nicol and seconded by Mr. Bell and carried 7-0 (Davis, de Movellan and Penn absent), (Michler recused) to approve the dimensional variance for reasons provided by Staff.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS

VI. COMMISSION ITEMS - The Chair will announce that any item a Commission member would like to present will be heard at this time.

a. **PFR 2023-1: FAYETTE COUNTY PUBLIC SCHOOLS, HENRY CLAY HIGH SCHOOL SOFTBALL FIELDHOUSE** – a Public Facility Review to construct a new field house.

Public Facility Review Presentation – Ms. Traci Wade began her presentation by reminding the Planning Commission that for PFR's the goal is to ensure it is in line with the Comprehensive Plan and that the Commission could make recommendations for changes on the site plan. Ms. Wade oriented the Planning Commission to the location and general area of the facility. Ms. Wade stated that this PFR is for a 2,900 square-foot softball fieldhouse at Henry Clay High School, which is generally located at the intersection of Fontaine Road and Lakeshore Drive. Ms. Wade indicated that the subject property was surrounded by various types of residential, as well as the site for Kentucky American Water. Ms. Wade indicated that the subject fieldhouse was adjacent to the softball field with access to an existing drive and that there would be some removal of pavement and storage containers.

Ms. Wade concluded her presentation by stating that Staff is recommending approval for the PFR and that it is in agreement with the Comprehensive Plan.

Commission Questions – Mr. Pohl asked that given Henry Clay's well documented history with vermin, would the fieldhouse be vermin-free. Ms. Wade laughed and indicated that she hoped so.

Mr. Bell asked if the park near the property was a city park and if there were any connections to a trail and Ms. Wade indicated that it was a city park and it was connected to a trail, but that was separate from the high school.

PFR Action – A motion was made by Ms. Worth, seconded by Ms. Meyer, and carried 7-0 (Forester, Davis, de Movellan and Penn absent) to find PFR 2023-1: FAYETTE COUNTY PUBLIC SCHOOLS, HENRY CLAY HIGH SCHOOL SOFTBALL FIELDHOUSE in compliance with the Comprehensive Plan.

b. **CANCELLATION OF UPCOMING MEETING** – Staff will request that the Planning Commission consider cancelling their March 30, 2023, work session, as there are no items to be reviewed at that time.

Mr. Duncan reminded the Planning Commission that last week Staff recommended cancellation of the March 30, 2023 Work Session.

Action – A motion was made by Ms. Worth, seconded by Ms. Barksdale and carried 7-0 (Forester, Davis, de Movellan and Penn absent), to cancel the March 30, 2023 Work Session.

VII. STAFF ITEMS – The staff will report at the meeting.

VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

IX. MEETING DATES FOR April 2023

Subdivision Committee, Thursday, 8:30 a.m., in 3rd Floor Conf Room, Phoenix Building .... April 6, 2023
Zoning Committee, Thursday, 1:30 p.m., in 3rd Floor Conf Room, Phoenix Building .... April 6, 2023
Subdivision Items Public Hearing, Thursday, 1:30 p.m. in Council Chambers, 2nd Floor, Gov't Center........ **April 13, 2023**
Work Session, Thursday, 1:30 p.m., in 3rd Floor Conf Room, Phoenix Building .... April 20, 2023
Technical Committee, Wednesday, 8:30 a.m., in 3rd Floor Conf Room, Phoenix Building........ April 26, 2023
Zoning Items Public Hearing, Thursday, 1:30 p.m, in Council Chambers, 2nd Floor, Gov't Center .... April 27, 2023

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

X. ADJOURNMENT

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Larry Forester, Chair

____
Janice Meyer, Secretary

TW/HB/RS-4/26/23

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