

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

April 27, 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 1:33 pm), Headley Bell, Janice Meyer, Robin Michler, Bruce Nicol, Graham Pohl, Zach Davis, Anthony de Movellan and Judy Worth. Absent: 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 Brittany Smith, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Meyer, seconded by Ms. Worth for the approval of the minutes of the March 23, 2023 public hearing, and carried 9-0 (Barksdale and Penn absent).

- III. **POSTPONEMENTS AND WITHDRAWALS** – No requests for postponement and withdrawal were heard.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 6, 2023 at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Judy Worth, Janice Meyer, Headley Bell, and Frank Penn. Other Committee members present were Hillard Newman, Division of Engineering; and David Filiatreau, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Cheryl Gallt, Autumn Goderwis, Daniel Crum, Boyd Sewe, Paula Schumacher, Greg Lengal, Division of Fire and Emergency Services; Tracy Jones, Department of Law; Stephen Parker, Division of Traffic Engineering; 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.

- B. **DISCUSSION ITEMS** – 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.

V. **ZONING ITEMS** - The Zoning Committee met on April 6, 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, Graham Pohl, and Judy Worth. Staff members present were; Traci Wade, Autumn Goderwis, Hal Baillie, Tom Martin, Daniel Crum, Boyd Sewe, Jim Duncan and Bill Sheehy; as well as Tracy Jones and Brittany Smith 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. **PALOLO ZONING MAP AMENDMENT AND BEAUMONT FARM (A PORTION OF) UNIT 1 & 3, LOT 1B) DEVELOPMENT PLAN**

- a. **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 (B-4) zone, for 1.16 net (1.36 gross) acres, for property located at 950 Midnight Pass.

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 a restricted Wholesale and Warehouse Business (B-4) zone within Beaumont Centre to allow for the construction of a four-story, climatized self-storage warehouse.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Disapproval, for the following reasons:

1. The requested rezoning to the restricted Wholesale and Warehouse Business (B-4) 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 activate the front wall plan of the structure, which creates a domineering wall frontage that is not in character with the surrounding commercial or residential development (Theme A, Goal #2.b). The proposed development does not provide a pedestrian first design and development (Theme D, Goal #1.a) and the proposed use is autocratic in nature.
 2. The proposed development does not encourage creating jobs and prosperity (Theme C), rather the proposed self-storage facility will generate very few jobs in support of this policy.
- b. The Wholesale and Warehouse Business (B-4) zone is not a recommended zone in the Regional Center Place-Type and Medium Density Non-Residential / Mixed Use Development Type. The proposed rezoning could introduce potential nuisance producing uses in an area of residential and commercial development.
- c. The requested rezoning is not in agreement with the Development Criteria of the 2018 Comprehensive Plan. The following Development Criteria are not being met with the proposed rezoning. A-DS5-3 Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.
 1. A-DS5-4 Development should provide a pedestrian-oriented and activated ground level.
 2. C-DI1-1 Consider flexible zoning options that will allow for a wide range of jobs.
 3. E-GR10-2 Developments should provide walkable service and amenity-oriented commercial spaces.
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 a justification regarding the inappropriateness of the restricted Highway Service Business (B-3) zone and the appropriateness of the Wholesale and Warehouse Business (B-4) zone. Staff concludes that the restricted Highway Service Business (B-3) zone remains appropriate for the subject property, because it is consistent and compatible with the existing development of the Beaumont Centre Development.

- b. **PLN-MJDP-23-00008: BEAUMONT FARM (A PORTION OF) UNIT 1 & 3, LOT 1B** (4/30/2023)* - located at 950 MIDNIGHT PASS, LEXINGTON, KY
 Council District: 10
 Project Contact: MHL Civil

Note: The purpose of this amendment is to depict building and parking layout for storage building, in support of the requested zone change from Highway Service Business (B-3) zone to Wholesale and Warehouse Business (B-4) zone.

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

1. Provided the Urban County Council approves the zone change to B-4; 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 inventory map.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. 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 Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 1.16 net (1.36 gross) acres, for property located at 950 Midnight Pass. Mr. Baillie indicated that the applicant was seeking this zone change to allow for the construction of a four-story self-storage warehouse.

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

Mr. Baillie stated that the area around the subject property in Beaumont Circle was intended to have many mixed uses, including residential, business, and professional offices. This specific portion of Beaumont Circle is the remaining vacant property and Mr. Baillie noted its proximity to the Moondance Amphitheater, as well as the various townhomes and other businesses near the site.

Mr. Baillie continued his presentation by stating that the applicant had selected the Regional Center Place-Type and the Medium Density Non-Residential Development Type and indicated that the Staff was in agreement with those selections. However, the applicant did not chose a recommended zone within the Place-Type and Development Type and instead chose the Wholesale and Warehouse Business (B-4) zone.

Mr. Baillie gave a brief history of the different zones that this property had in the past, and noted the principal and conditional uses in the current B-3 zone, as well as the zoning restrictions currently imposed on the property. Some of these restrictions included pawnshops, adult arcades, billboards, and self-service laundry.

Mr. Baillie went on to give an overview of the B-4 zone and the various conditional and principal uses and indicated that this particular zone focuses on warehousing and shops of specialty trade. Mr. Baillie also reviewed the applicant's proposed conditional zoning restrictions to limit the impact of the B-4 zone. Mr. Baillie stated that the B-4 zone was not appropriate in this location due to the proximity to residential, and the location was meant for retail opportunities.

Mr. Baillie concluded his presentation by stating that the Staff was recommending disapproval and could answer any questions from the Planning Commission. Additionally, Mr. Baillie entered letters of opposition into the record.

Staff Development Plan Presentation – Ms. Cheryl Gallt oriented the Planning Commission to the location and characteristics of the subject property. Ms. Gallt highlighted the development plan, and noted the locations of access as well as the existing access easement along the side property line. Ms. Gallt indicated that there are very few conditions of approval, and that most were sign-off conditions for the Urban Forester, greenspace, and environmental quality. Additionally, Ms. Gallt indicated that the final condition to “Discuss Placebuilder Criteria” could be removed since Mr. Baillie have reviewed the Placebuilder Criteria in relation to the zone change request.

Ms. Gallt concluded her presentation by stating that Staff was recommending approval and could answer any questions from the Planning Commission.

Commission Questions – Mr. Michler asked if the access easement ends just shy of the property line or if the easement continues to where the roads connect to the residential and Ms. Gallt indicated that it did not.

Applicant Presentation – Nick Nicholson, attorney for the applicant, started his presentation stating that he knows that this type of development has been a topic of discussion the past few years, with neighbors and the Staff having different concerns that come with a commercial use near a residential zone. Mr. Nicholson argued that this type of development was a “dream next-door neighbor” because it would not bring in traffic congestion, noise, or light pollution associated with different possible businesses on this property. Mr. Nicholson also noted that they have proposed a zoning restriction for outdoor storage, that there would not be any late night delivery trucks, and that there would not be any late night hours.

Mr. Nicholson stated that the Planning Commission has approved similar developments like this, in similar spaces before and that in doing the research for this type of storage facility, the users are 80% residential customers and 20% commercial. Additionally, Mr., Nicholson indicated that most residential users rent a storage unit for about 3 years and the space becomes an extension of someone's house or business. He concluded that this area would be wonderful for this type of business.

Mr. Nicholson continued, showcasing the various zones in the surrounding area and argued that there are examples where there are B-3 zone uses mixed with a pocket of restrictive B-4 zone uses in this area and that the mix is working and that there is a path forward for this use to work on the subject property.

Mr. Nicholson focused his next comment on the propsed development plan and stated that the applicant is adding 17 trees and shrubs along Beacon Street near the townhomes to ensure that headlights will never be an issue with this property, as well as the inclusion of a fence.

Mr. Nicholson stated that he was not surprised that Staff had recommended disapproval, but stated that the applicant was disappointed. Mr. Nicholson believes there was a road map for this to work out, highlighting a staff report from a similar development that started with disapproval but ended up with approval.

Mr. Nicholson went over the detailed Beaumont Centre Development guidelines, which are private restrictions, and stated that this development would meet all of the rigorous requirements. Additionally, Mr. Nicholson showcased a map showing where the existing self-storage facilities were in Lexington, and noted that this type of development is happening all over Lexington.

Finally, Mr. Nicholson went through the Comprehensive Plan and showed how this development was in line with it, including that this development could be considered an infill and redevelopment project, and upholds the Urban Service Area concept. He presented his proposed findings and asked the Planning Commission to approve this zone change.

Commission Questions – Mr. Michler inquired about the Beaumont Guidelines and about the concerns about the hours of operation. Mr. Nicholson stated that the hours of operation would not be 24 hours and instead would be from 6:30 AM to 10:30 PM, but they are willing to move that time if it's too late for the neighborhood. Mr. Michler also asked about the type of windows that the building would use and if a lot of light would come from the building. Mr. Nicholson indicated that the type of windows that are allowable in this area would not give off a lot of light.

Mr. Bell asked how long this property has been available and Mr. Nicholson indicated that it has been available since Beaumont Center was built.

Mr. Nicol asked why there was a need for a zone change when warehouse and storage is a use available in the B-3 zone and Mr. Nicholson stated that self-storage was only available in the B-4 and I-1 zones.

Mr. de Movellan inquired about the height of the other storage facilities that Mr. Nicholson mentioned. Mr. Nicholson stated that the site at Sand Lake was originally 5 stories, the Townley storage facility was 48 feet tall, and he was unsure of the height of the Centennial storage facility near Eastland Parkway.

Public Comment – Walt Gaffield, 2001 Bamboo Drive, agreed with Staff's recommendations, and stated that Beaumont is an economic engine for Fayette County, and this development would not create a lot of jobs.

John Ball, 3307 Beacon Street, stated that his home is directly adjacent to the property and does not want his daughters to grow up next to a storage unit facility.

Arleigh Kerr, 3220 Beaumont Centre Circle, agrees with the Staff's recommendation of disapproval and does not think the structure is in character with the neighborhood.

Debora Alexander, 3256 Beacon Street, stated that she wanted to retire to a neighborhood with peace and security and that this development would bring constant noise and nuisance. She urged the Planning Commission to disapprove this zone change.

Anwara Polera, 3258 Beacon Street, is against this zone change and states that he does not think that Mr. Nicholson's assertion that people within a two mile radius will use this development, because all that oppose it are in that radius.

Gale Reece, 3312 Beacon Street, stated that she is against the development and that it would "cast a massive shadow over the neighborhood."

Jackie Monzo, 3312 Beaumont Centre Circle, is against the zone change and stated that it would bring in an element of people that she did not want there.

Applicant Rebuttal – Mr. Nicholson stated that while this development might not bring jobs, it is crucial to support the commercial uses in this area and that commercial properties rely on these storage facilities. Mr. Nicholson also stated that while the applicant did not do a sunlight study, there is only a difference of 13 feet and that should not affect the sunlight. Mr. Nicholson stated that they are not trying to light anyone out of the neighborhood and the applicant is happy to make sure the lights are off at night. Mr. Nicholson concluded

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stating that this development will look like every other building in the area and the main difference between this use and a B-3 use is that this development would provide less trip generation.

Commission Questions – Mr. Davis asked what other uses the applicant could use at this site. Mr. Nicholson indicated that they would need a development plan, but some of the uses include an office building, gas stations, and hotels.

Staff Rebuttal – Mr. Baillie once again highlighted the prohibited uses on the property in the current B-3 zone and indicated there was a height limit of 75 feet. Mr. Baillie continued, answering Mr. de Movellan's question about the height of the storage facilities, stating that the Louis Place's facility was 50 feet tall and the Sand Lake property was 40 feet tall. Additionally, Mr. Baillie noted that each zone change, and the context of the area is unique, and because one specific project worked in one area, does not mean it would work somewhere else.

Commission Questions – Mr. Bell asked Mr. Baillie what he thought was suitable for that property in its current B-3 zone. Mr. Baillie indicated that he could not give his opinion, but he could give Staff's and said that if the applicant submitted a development plan of any of the allowable uses, Staff could make a determination.

Mr. Michler asked about the nuisance noise from HVAC units on the property and how Staff takes that into consideration. Mr. Baillie stated that is not something that is governed by the Zoning Ordinance, but the Planning Commission could regulate buffering so the noise is not as detrimental.

Mr. Michler also asked if there was any discussion between Staff and the applicant about what was on the applicant's zoning restriction list and Mr. Baillie stated that there was not.

Action – A motion was made by Ms. Meyer, seconded by Mr. de Movellan and carried 7-3 (Penn absent) (Davis, Forester, and Nicol opposed) to disapprove PLN-MAR-23-00001: PALOLO LLC for reasons provided by Staff.

Action – A motion was made by Ms. Meyer, seconded by Mr. de Movellan and carried 10-0 (Penn absent) to indefinitely postpone PLN-MJDP-23-00008: BEAUMONT FARM (A PORTION OF) UNIT 1 & 3, LOT 1B

2. UCD MIDLAND, LLC ZONING MAP AMENDMENT & ARTHUR E ABSHIRE PROPERTY (LEXINGTON CUT STONE & MARBLE TILE CO.) ZONING DEVELOPMENT PLAN

- a. **PLN-MAR-23-00004: UCD MIDLAND, LLC** – a petition for a zone map amendment from a Neighborhood Business (B-1) zone, a Light Industrial (I-1) zone, and a Mixed Use Community (MU-3) zone to a Downtown Frame Business (B-2A) zone, for 2.93 net (3.61 gross) acres, for property located at 262-276 Midland Avenue and 604 Winchester Road.

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 is proposing the Downtown Frame Business (B-2A) zone in order to create a mixed-use residential and commercial development. The applicant's proposal includes the construction of two five-story structures that will include a total of 182 dwelling units, and approximately 2,000 square feet of commercial space. The associated parking will be located on the first floor of the structures and along the rear of the property. The applicant is proposing an activated corner that will incorporate future development of the Liberty Trail.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. The requested Downtown Frame Business (B-2A) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed project will encourage expanded housing choices (Theme A, Goal #1), prioritizing higher density

- housing by adding 182 additional residential dwelling units (Theme A, Goal #1.a).
- b. The proposed rezoning supports infill and redevelopment by infilling an industrial area that is now more appropriate for residential or mixed-use projects (Theme A, Goal #2.a; Theme E, Goals #1.c, 1.d).
 - c. The proposed project will prioritize multi-modal options to de-emphasize single occupancy vehicle dependence (Theme B, Goal #2.d), and support the Complete Streets concept, prioritizing a pedestrian first design that also accommodates the needs of bicycle, mass transit, and other vehicles (Theme D, Goal 1.a).
2. The requested Downtown Frame Business (B-2A) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed rezoning will give this area additional flexibility in uses, allowing the applicant to create walkable neighborhood amenities that will help supplement the surrounding residential and commercial land uses (Density Policy #3 and Design Policy #12).
 - b. The proposed development creates a pedestrian-friendly street pattern and more walkable blocks to create inviting streetscapes (Design Policy #5).
 - c. The request meets Livability Policy #6 by providing the opportunities to accommodate additional residential and amenity opportunities that appeal to young professionals.
 3. 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 recommendations for Site Design, Building Form and Location. The applicant's proposal intensifies an underutilized site and creates a mixed-use development that prioritizes higher density residential. The proposed development provides safe pedestrian-scale connections to adjacent community facilities, greenspace, and potential employment, business, shopping, and/or entertainment uses.
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity Development Criteria. The proposed development provides increased access to planned trail systems, incorporates direct pedestrian linkages to the nearby transit stop, and provides safe multi-modal connections to the development.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will increase the amount of green open space, tree canopy coverage, and reduce the overall amount of impervious surface on-site. Additionally, the proposed development will add street trees along the Midland Avenue frontage.
 4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00015: Arthur E Abshire Property (Lexington Cut Stone & Marble Tile Co.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

b. PLN-MJDP-23-00015: ARTHUR E. ABSHIRE PROPERTY (LEXINGTON CUT STONE & MARBLE TILE CO.)
(6/4/2023)* - located at 262-276 MIDLAND AVENUE & 604 WINCHESTER ROAD, LEXINGTON, KY

Council District: 3

Project Contact: Gresham Smith

Planning Contact: T. Martin

Note: The purpose of this plan is to depict residential development of the site, in support of the requested zone change from Neighborhood Business (B-1) zone and Light Industrial (I-1) zone, and Mixed Use Community (MU-3) zone to Downtown Frame Business (B-2A) zone.

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

1. Provided the Urban County Council approves the zone change to B-2A; 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.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval if environmentally sensitive areas.
7. United States Postal Service Office's approval of kiosk locations or easement.
8. Improve Plan legibility by removing concrete paving symbols and grey shading.

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9. Denote compliance with Article 15-7 infill and redevelopment requirements shall be determined at time of the Final Development Plan.
10. Denote lot coverage and Floor Area Ratio as required per Article 21 of the Zoning ordinance.
11. Revise parking area to include pedestrian access to Owens Avenue.
12. Delete note #11.
13. Denote sanitary sewer conflict with Building A shall be resolved at time of Final Development Plan.
14. Denote stormwater controls shall be determined at time of the Final Development Plan.
15. Denote status of railroad easement and denote shall be resolved at the time of the Final Development Plan.
16. Discuss timing of Final Record Plat to release and revise building lines and easements.
17. Clarify and denote compliance with required open space.
18. Discuss Placebuilder criteria.
 - a. D-CO2-1. Safe facilities for all users and modes of transportation should be provided.

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 Neighborhood Business (B-1) zone, a Light Industrial (I-1) zone, and a Mixed Use Community (MU-3) zone to a Downtown Frame Business (B-2A) zone, for 2.93 net (3.61 gross) acres, for property located at 262-276 Midland Avenue and 604 Winchester Road. Mr. Baillie indicated that the applicant is doing this to develop a mixed-use development that would incorporate 182 dwelling units and approximately 2,000 sq. feet of commercial space. Additionally, Mr. Baillie stated that the parking will be located on the first floor of the structures, and proposes to incorporate with the future development of the Liberty Trail.

Mr. Baillie indicated that the applicant is seeking to situate this in the Downtown Place-Type and the High-Density Non-Residential or Mixed-Use Development Type. Mr. Baillie stated that Staff was in agreement with both of these selections and that their selection of the B-2A zone was appropriate.

Mr. Baillie stated that Staff had concerns about the connections to other areas, while also providing a greater amount of tree canopy, but that the applicant said they would have street trees that would provide some buffer from the road and work to create a vertical edge. Mr. Baillie continued his presentation by displaying the applicant's renderings of the subject property and highlighted their desire to add more amenities and activation of the space.

Mr. Baillie stated that the applicant has done significant community outreach, and entered three letters of support and one letter of concern into the record.

Mr. Baillie ended his presentation by stating that Staff was recommending approval for this zone change, and could answer any questions from the Planning Commission.

Commission Questions – Mr. Pohl asked about the status of the Winchester Road Corridor Plan and Mr. Baillie responded by stating that he was not aware of such a plan.

Staff Development Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin stated that the two proposed buildings on the site would be 75 feet and 5 stories tall, with 208 parking spaces and 182 units. Mr. Martin indicated that many of the conditions have to do with the constraints on the site because of the size, access, and the railroad. Mr. Martin indicated that there was a large sanitary sewer trunk line with a 60 foot easement that is extremely impactful on this site. Additionally, Mr. Martin indicated that the Staff, of the Division of Waste Management, and Water Quality do not usually like for an applicant to build over a sewer line, so that the applicant would potentially need to relocate the trunk line.

Mr. Martin indicated that there were a few clean-up items that needed to be addressed concerning lot coverage and FAR, but the Subdivision Committee recommended approval and he could answer any questions from the Planning Commission.

Commission Questions – Mr. de Movellan asked if there was any discussion about connectivity in the back of the development with some of the adjoining properties. Mr. Martin indicated that was an option, but it would be difficult coordinating with the other private properties adjacent to the property. Mr. Baillie also made the point that the Planning Commission cannot force a connection to a private roadway.

Ms. Worth said that one of the letters, mentioned a concern with management of traffic and pedestrian and bicyclist safety and asked if that was out of bounds for discussion here. Mr. Martin indicated that will come into play because of the crosswalk and that the applicant is proposing 8 foot sidewalks.

Applicant Presentation – Chris Clendenen, attorney for the applicant, stated that the property was designed to be a focal point for the Winchester Road corridor while providing connectivity with the city's trail systems. Additionally, Mr. Clendenen indicated that this property would serve as an infill and redevelopment project, would emphasize multi-modal transportation, and improve the tree canopy.

Mr. Clendenen continued, giving a brief history of the property from 1890 until today and then turned over the presentation to Scott Shapiro.

Mr. Shapiro introduced himself and stated the mission of this property was to bring mixed-use development that will increase residential density in downtown Lexington. Mr. Shapiro said that Lexington has two superpowers, the horse industry and the University of Kentucky, which creates young professionals who want to live downtown. Mr. Shapiro argues that this development is exactly the type of development Lexington needs for these young professionals. Mr. Shapiro indicated that a development like this close to downtown has not been built in Lexington for 40 years.

Mr. Shapiro stated that the property is very difficult to develop, and because of the odd configuration of the site, this development has taken a year and a half to do all the work to make this happen. Mr. Shapiro gave a brief overview of the difficulties, including the removal of underground storage tanks, dealing with the railroad easement, as well as a title issue. However, Mr. Shapiro indicated that they had done a lot of neighborhood outreach and that they now have a product they are proud of. Additionally, Mr. Shapiro stated that the Town Branch Trail helped make this viable, and noted the various accesses to the Liberty Trail and Town Branch Trail from the site.

Mr. Shapiro's business partner, Andrew Ganahl introduced himself and stated that he had done similar mixed-use sites in Kansas City and Milwaukee. Mr. Ganahl stated that this was an area that is clearly changing from its former industrial use and the development would benefit this area.

Noting Mr. de Movellan's question about connectivity, Mr. Ganahl mentioned that after discussions with the neighborhood to the south of the property, that fence on that portion of the property was best for the neighborhood and would provide security and shield from headlights. Mr. Ganahl noted that due to the complexities of the site, there has been considerable cost due to the engineering costs of adjusting the sewer line. Additionally, he noted the importance of the connectivity to Owens Street.

Mr. Shapiro and Mr. Ganahl highlighted their neighborhood engagement, showcased renderings of the project, and finally asked for the Planning Commission to approve the development.

Public Comment – Bruce Simpson, attorney for Midland Townhomes Neighborhood Association, stated that the neighborhood association was against the zone change and development. Mr. Simpson indicated that the neighborhood association had concerns with the safety of pedestrian connectivity and the property's connection to the sanitary sewers. Additionally, Mr. Simpson noted their concerns about the amount of tractor-trailers on Owen Avenue, and how it would affect the pedestrians.

Tyler Wilson, 628 Winchester Road, stated he was excited for the development, but had concerns about vehicular safety at the connection with Owen Avenue due to potential conflicts with tractor-trailers.

Kristan Curry, 3608 Hartland Parkway, opposed stated she was this zone change due to safety concerns from tractor-trailers, as well as the amount of traffic this site will bring, and the sidewalk connection at rear of the site.

Jonas Bastien, attorney for the Midland Homeowners Association, is not against the development, but has concerns with the traffic, the lack of commercial space, and asked that the buffer fence to the south have brick columns.

Chad Walker, 250 Walton Ave, stated that he supported the development, and hopes that it will calm speeds on Midland Avenue, provide pedestrian friendly services to the community, and it will make a massively underutilized area look very nice.

Applicant Rebuttal – Chris Clendenen, attorney for the applicant, stated it was his understanding that if Mr. Simpson wanted more time, he had to request it on Tuesday and objected that he was given that time. Mr. Clendenen also entered into the record an email from the Division of Water Quality that the applicant's condition about sanitary sewer access was sufficient for the department at this stage of the proposed development.

In regard to pedestrian safety, Mr. Clendenen stated that Owens Avenue is a public street and it seems like the businesses are using it as their personal parking lot, and that there will be a five-foot pedestrian walkway at the site. Additionally, Mr. Clendenen stated that they would not be generating any tractor-trailers, they are already there. Mr. Clenden emphasized that the implication that the applicant does not care about pedestrian safety is disingenuous.

Mr. Shapiro came back up and stated that there was an issue on Owens Street, but it is an issue of enforcement, not one that the applicant is creating. Additionally, Mr. Shapiro indicated they had pledged to the Wyland family on Owens Street to help with this problem.

Public Rebuttal – According to Mr. Simpson, the Director of Water Quality stated that under no circumstances would the sanitary sewer line be approved for a sleeve. He opined that it would be a mistake for the Planning Commission to approve this zone change.

Staff Rebuttal – Mr. Baillie began his rebuttal by pointing to note # 16 on the plan that states that the sanitary sewer has to be relocated or protected and the applicant has multiple options until the final development plan. Mr. Baillie referred to the zone map which showcased that there is current mixed-use in the area. Mr. Baillie confirmed that Owens Street is a public street and the applicant would need to provide a pedestrian connection on their development to all public streets.

Mr. Baillie indicated that the applicant was making positive changes for pedestrian safety on Winchester Road and where they are required to make them. Additionally, Mr. Baillie indicated that this development does not reach the level of a required traffic impact study, and could only be requested by the subdivision committee.

Mr. Baillie concluded stating that Staff vehemently disagrees with Mr. Simpson's portrayal of the pedestrian safety and a sanitary sewer line and could answer any questions from the Planning Commission.

Commission Questions – Ms. Meyer asked to hear from Mr. Greg Lubeck, Deputy Director of the Division of Water Quality, about Mr. Simpson's portrayal and the communications with the applicant. Mr. Lubeck indicated that there were a few options by modifying the building around the southern portion or go between the buildings where the other lines are. Additionally, Mr. Lubeck indicated this was done at the expense of the developer.

Ms. Worth asked if this was illegal to approve because of the sanitary sewer issue and if they had what they needed legally to approve this development. Ms. Brittany Smith indicated that the Planning Commission had what they needed.

Mr. Michler asked the applicant for a comment about the lack of retail space. Mr. Ganahl indicated that it's always a balancing act for parking with the residential units. Mr. Ganahl indicated that there was not a lot of street parking so they focused the first floor of their property for parking so that everyone with a residential unit can park there so the retail component took a backseat. Additionally, Mr. Ganahl indicated that the retail side was intentionally kept small to make it feel more like a neighborhood business.

Mr. Pohl asked if there was interior parking for bicycles and if the applicant was intending to get LEED Certification programs and Mr. Ganahl indicated there was interior parking in Building B and that they had not looked into it as of yet.

Action – A motion was made by Mr. Nicol, seconded by Mr. de Movellan and carried 9-0 (Barksdale and Penn absent) to approve PLN-MAR-23-00004: UCD MIDLAND, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Nicol, seconded by Ms. Worth and carried 9-0 (Barksdale and Penn absent) to approve PLN-MJDP-23-00015: ARTHUR E. ABSHIRE PROPERTY (LEXINGTON CUT STONE & MARBLE TILE CO.) with the 18 Staff conditions and changing #16 from “discuss” to “resolve.”

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

- VI. COMMISSION ITEMS** - The Chair will announce that any item a Commission member would like to present will be heard at this time.
- 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 May 2023**
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| Subdivision Committee, Thursday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building | May 4, 2023 |
| Zoning Committee, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building | May 4, 2023 |
| Subdivision Items Public Hearing , Thursday, 1:30 p.m. in Council Chambers, 2 nd Floor, Gov’t Center..... | May 11, 2023 |
| Work Session, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building | May 18, 2023 |
| Technical Committee, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building..... | May 24, 2023 |
| Zoning Items Public Hearing, Thursday, 1:30 p.m, in Council Chambers, 2nd Floor, Gov’t Center | May 25, 2023 |
- X. ADJOURNMENT**

Larry Forester, Chair

Janice Meyer, Secretary

TW/AG/DC/RS-5/12/23