

ORDINANCE NO. 139 -2016

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1C) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE FOR 0.34 NET (0.40 GROSS) ACRES, INCLUDING A DIMENSIONAL VARIANCE, FOR PROPERTY LOCATED AT 151 PASADENA DRIVE (DENNIS R. ANDERSON; COUNCIL DISTRICT 10).

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WHEREAS, at a Public Hearing held on June 23, 2016, a petition for a zoning ordinance map amendment for property located at 151 Pasadena Drive, from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.34 net (0.40 gross) acres, including a dimensional variance, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 10-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 151 Pasadena Drive, from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.34 net (0.40 gross) acres, including a dimensional variance, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 30, 2016

MAYOR



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ATTEST:

  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

Published: September 8, 2016-1t

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Legal Description of the  
Anderson Property  
Zone Change From R-1C to B-1  
151 Pasadena Drive  
Lexington, Fayette County, Kentucky

ALL THAT TRACT OR PARCEL OF LAND SITUATED ON THE NORTH SIDE OF PASADENA DRIVE BETWEEN NICHOLASVILLE ROAD AND HUGUENARD DRIVE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point in the centerline of Pasadena Drive, said point being located 495 feet east of the intersection of the centerline of Pasadena Drive and the centerline of Huguenard Drive; thence leaving the centerline of Pasadena Drive north 21 degrees 32 minutes 25 seconds east 199.99 feet to a point; thence south 66 degrees 07 minutes 35 seconds east 75.00 feet to a point; thence south 21 degrees 32 minutes 25 seconds west 199.99 feet to a point in the centerline of Pasadena Drive; thence along the centerline of Pasadena Drive north 66 degrees 07 minutes 35 seconds west 75.00 feet to the point of beginning and containing 0.40 gross acres and 0.34 net acres.

Rec'd by \_\_\_\_\_

Date: \_\_\_\_\_

**RECOMMENDATION OF THE**  
**URBAN COUNTY PLANNING COMMISSION**  
**OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY**

**IN RE:** **MARV 2016-16: DENNIS R. ANDERSON** – petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.34 net (0.40 gross) acres, for property located at 151 Pasadena Drive. (Council District 10)

Having considered the above matter on **June 23, 2016**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

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 retail establishment and B-1 zone are generally compatible with the B-1, B-6P 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.
  - c. This portion of Pasadena Drive has converted from a rural single-family area to a commercial corridor between the Norfolk-Southern railroad to the west of this location, and Nicholasville Road to the east, which was encouraged by Comprehensive Plans dating back to 1988. At that time, the Plan's Land Use Element recommended a mix of professional office and retail trade future land. Again in 2001, the Plan recommendations for the north side of Pasadena Drive were changed by the Planning Commission and incorporated into the Land Use Element of the 2001 Comprehensive Plan, which has allowed for the adjoining Pasadena Plaza to be approved by the Commission and developed into the existing shopping center.
  - d. 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.
2. This recommendation is made subject to approval and certification of **ZDP 2016-56: BERRY CREST SUBDIVISION, LOT 1** prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 1<sup>st</sup> day of August, 2016.

\_\_\_\_\_  
Secretary, Jim Duncan

**MIKE CRAVENS**  
CHAIR

Note: The corollary development plan, **ZDP 2016-56: BERRY CREST SUBDIVISION, LOT 1** was approved by the Planning Commission on June 23, 2016 and certified on July 7, 2016.

Note: A dimensional variance to eliminate property perimeter screening was approved by the Planning Commission on June 23, 2016.

K.R.S. 100.211(7) requires that the Council take action on this request by September 22, 2016.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Dick Murphy, attorney.**

**OBJECTORS**

- None

**OBJECTIONS**

- None

VOTES WERE AS FOLLOWS:

AYES: (10) Berkley, Brewer, Cravens, Drake, Mundy, Penn, Plumlee, Richardson, Smith  
Wilson

NAYS: (0)

ABSENT: (1) Owens

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **MAR 2016-16** carried.

Enclosures: Application  
Plat  
Staff Report  
Applicable excerpts of minutes of above meeting

## GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

**1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)**

APPLICANT:	Dennis R. Anderson, 1720 Sharkey Way, Suite 100, Lexington, KY 40511 (859) 231-0099
OWNER:	Dennis R. Anderson, 1720 Sharkey Way, Suite 100, Lexington, KY 40511 (859) 231-0099
ATTORNEY:	Richard Murphy, 250 W Main Street, Suite 2510 Lexington, KY 40507 (859) 233-9811

**2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)**

151 Pasadena Drive

**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1C	Vacant	B-1	Retail	0.34	0.40

**4. SURROUNDING PROPERTY, ZONING & USE**

Property	Use	Zoning
North	Retail	B-6P
East	Vacant	R-1C
South	Office	P-1
West	Retail	B-1

**5. EXISTING CONDITIONS**

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under <u>40%</u> of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO _____ Units

**6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)**

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

**7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)**

This is in...  in agreement with the Comp. Plan  more appropriate than the existing zoning  due to unanticipated changes.

**8. APPLICANT/OWNER SIGNS THIS CERTIFICATION**

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am  OWNER or  HOLDER of an agreement to purchase this property since 4/25/2002.

APPLICANT Richard V. Murphy, DATE 5/2/2016  
 OWNER atly for applicant (owner) DATE \_\_\_\_\_  
 LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_

## 7. JUSTIFICATION FOR REQUESTED CHANGE

The applicant, Dennis Anderson, is requesting a zone change from the single-family residential (R-1C) zone to the neighborhood business (B-1) zone for about one-third of an acre located at 151 Pasadena Drive. The subject property is located immediately east of the Pasadena Plaza Shopping Center, which is also zoned B-1, and which was developed by the applicant.

The subject property is a vacant lot which is bordered on the north by Regency Shopping Center, zoned B-6P; on the west by Pasadena Plaza Shopping Center, zoned B-1; on the south by property which is zoned or used for professional office purposes and on the east by another vacant lot. It is close to the intersection of Nicholasville Road and Pasadena Drive.

Previous map-based Comprehensive Plans have designated this property at retail, trade and personal services, consistent with its surroundings. Because of surrounding land uses, it is no longer appropriate for single-family detached residential use.

We are also requesting a variance in the front setback from a maximum of 20 feet to a maximum of 75 feet. This variance would be consistent with the Pasadena Plaza next door. Also, because of a drop in grade of about 8 feet from Pasadena Drive to the middle of this property, it would be very difficult to construct a building at the 10-20 foot setback required, without a large retaining wall or major changes to the topography of the property.

Thus, we are requesting approval of the zone change for the following reasons:

The existing single-family residential (R-1C) zoning is inappropriate and the proposed neighborhood business (B-1) is appropriate because the property is surrounded by two shopping centers to the north and west, professional office use across Pasadena Drive, and another vacant lot also awaiting redevelopment to the east. The subject property has historically been shown as retail, trade or personal services on prior Comprehensive Plans. B-1 zoning would be consistent with the Pasadena Plaza immediately to the west.

Also, we are requesting approval of a dimensional variance of the front setback from a maximum of 20 feet to a maximum of 75 feet 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 the proposed setback will be consistent with the Pasadena Plaza property, which is immediately adjacent to the west. Also, the topography of the property, which has a drop of about 8 feet from Pasadena Drive to the middle of the property, would make it difficult to develop a building close to the Pasadena Drive right-of-way.

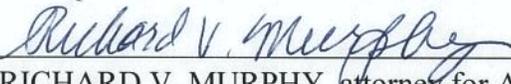
2. Granting this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the setback will be consistent with the Pasadena Plaza property next door.

3. The special circumstances which apply to this property and which do not generally apply to land in the general vicinity or in the same zone are that the Pasadena Plaza has been constructed with a setback much greater than 20 feet, and because Pasadena Drive was widened and elevated several years ago, there is a distinct drop in elevation of over 8 feet from Pasadena Drive to the middle of this property.

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 the applicant would be unable to make use of his property consistent with the Pasadena Plaza next door.

5. The circumstances surrounding the requested variance are not the result of the actions of this applicant taken subsequent to the regulation from which relief is sought. Pasadena Plaza was constructed prior to the change in setback requirements in the B-1 zone. Pasadena Drive was widened and elevated by the local government several years ago. No construction has yet started on this property.

Thank you for your consideration of this zone change and variance request.

  
RICHARD V. MURPHY, attorney for Applicant,  
Dennis Anderson

Legal Description of the  
Anderson Property  
Zone Change From R-1C to B-1  
151 Pasadena Drive  
Lexington, Fayette County, Kentucky

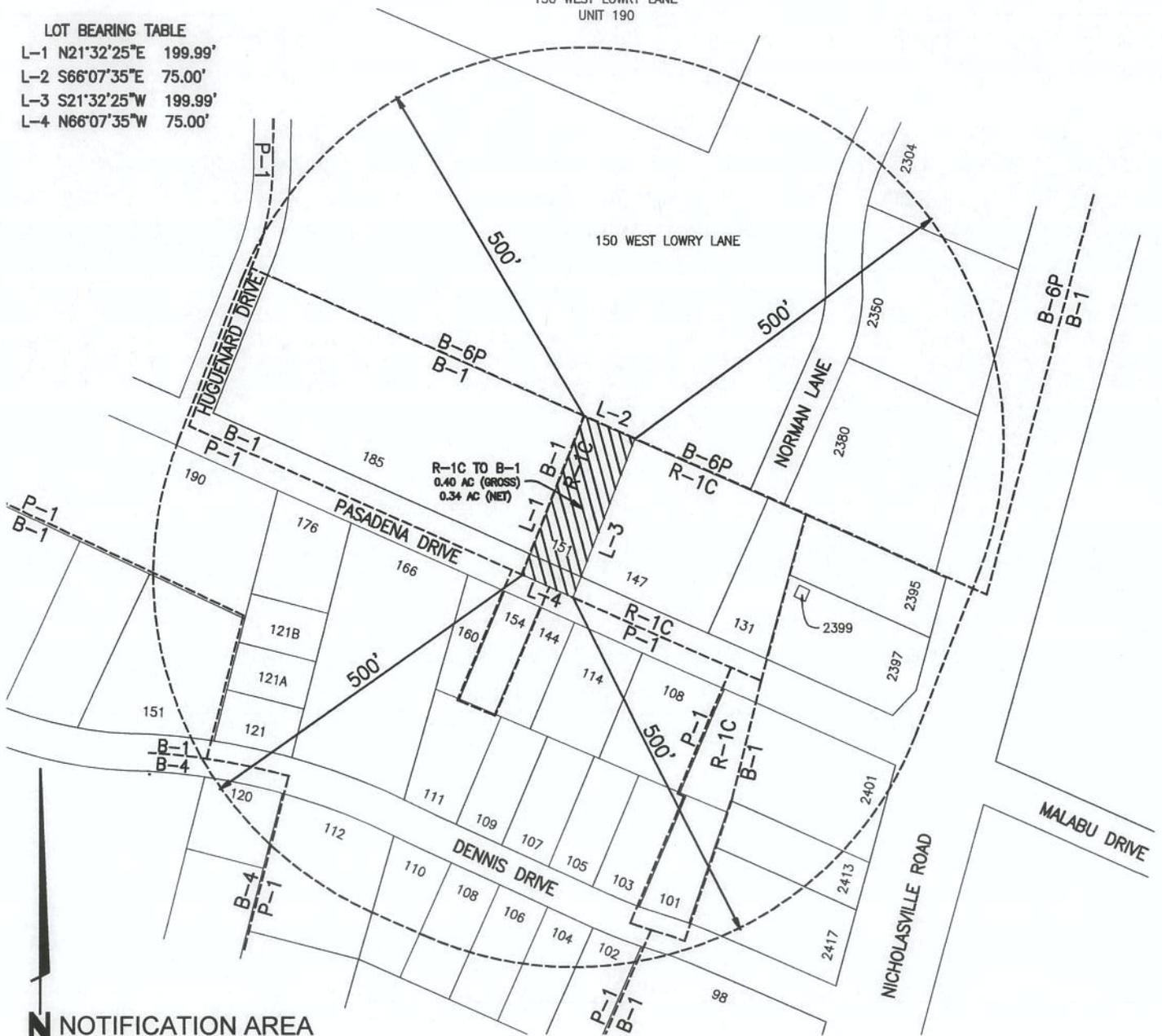
ALL THAT TRACT OR PARCEL OF LAND SITUATED ON THE NORTH SIDE OF PASADENA DRIVE BETWEEN NICHOLASVILLE ROAD AND HUGUENARD DRIVE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point in the centerline of Pasadena Drive, said point being located 495 feet east of the intersection of the centerline of Pasadena Drive and the centerline of Huguenard Drive; thence leaving the centerline of Pasadena Drive north 21 degrees 32 minutes 25 seconds east 199.99 feet to a point; thence south 66 degrees 07 minutes 35 seconds east 75.00 feet to a point; thence south 21 degrees 32 minutes 25 seconds west 199.99 feet to a point in the centerline of Pasadena Drive; thence along the centerline of Pasadena Drive north 66 degrees 07 minutes 35 seconds west 75.00 feet to the point of beginning and containing 0.40 gross acres and 0.34 net acres.

150 WEST LOWRY LANE  
UNIT 190

LOT BEARING TABLE

L-1	N21°32'25"E	199.99'
L-2	S66°07'35"E	75.00'
L-3	S21°32'25"W	199.99'
L-4	N66°07'35"W	75.00'



**N** NOTIFICATION AREA  
SCALE: 1" = 200'

**Berry Crest**

Property Address:  
151 Pasadena Drive, Lexington KY 40503

Owners / Applicant:  
  
Dennis R. Anderson  
1720 Sharkey Way  
Lexington, KY 40511

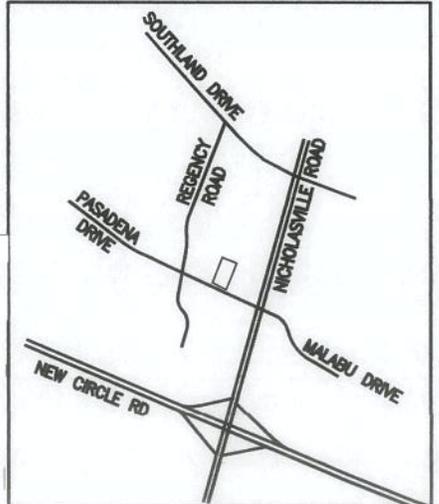
Prepared by:  
Barrett Partners, Inc. and Wesley B Witt, Inc.

Date Filed: May 2, 2016  
Zone Change Request  
R-1C Zone to B-1 Zone

0.34 Acres Net & 0.40 Acres Gross

STATE OF KENTUCKY  
WESLEY B. WITT  
2187  
LICENSED PROFESSIONAL LAND SURVEYOR

*Wesley B Witt*



VICINITY MAP N.T.S.

**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**MARV 2016-16: DENNIS R. ANDERSON**

**DESCRIPTION**

**Zone Change:** From a Single Family Residential (R-1C) Zone  
To a Neighborhood Business (B-1) Zone

**Acreage:** 0.34 net (0.40 gross) acres

**Location:** 151 Pasadena Drive

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Property	R-1C	Vacant
To North	B-6P	Shopping Center
To East	R-1C	Vacant and Accessory Parking Lot
To South	R-1C & P-1	Single Family Residence and Offices
To West	B-1	Shopping Center

**URBAN SERVICES REPORT**

**Roads** – The subject property fronts along Pasadena Drive, a major collector roadway that connects Harrodsburg Road (US 68) to Nicholasville Road (US 27). The property is situated about 500 feet to the west of the signalized intersection of Pasadena Drive, Nicholasville Road and Malabu Drive (also a collector street). Nicholasville Road is a major arterial road, consisting of 7 reversible lanes, which change to accommodate both morning and evening rush hour traffic. Pasadena Drive has been developed with a mix of commercial and residential land uses along its length. Access into the site is proposed from Pasadena Drive, although a connection to the adjoining shopping center should be considered.

**Curb/Gutter/Sidewalks** – Curbs, gutters, and sidewalks exist along Pasadena Drive.

**Storm Sewers** – The subject property is located within the upper reaches of the Wolf Run watershed. Stormwater improvements do not exist on the property, although the existing storm sewer in the right-of-way may accommodate the proposed development, since the property is less than one acre in size. The Division of Engineering will review the subject property to ensure compliance with the Engineering Manuals during the redevelopment of this site. No FEMA floodplain or major flooding problems exist on the site or in the immediate area.

**Sanitary Sewers** – The subject property is located in the Wolf Run sewershed, which is served by the Town Branch Wastewater Treatment Plant, located on Lisle Industrial Avenue, four miles to the northwest. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed change of land use at this location.

**Refuse** – The Urban County Government serves this portion of the Urban Service Area with refuse collection on Mondays. Sometimes commercial developments contract for more frequent service.

**Police** – The nearest police station is located at the East Sector Roll Call Center on Centre Parkway, about 2½ miles to the southeast.

**Fire/Ambulance** – The nearest fire station (#12) is located approximately one mile northwest of the subject property, at the intersection of Southland Drive and Cherrybark Drive.

**Utilities** – Utilities, including natural gas; electric; water; cable television; and telephone service all served this property previously and are readily available in the area.

### **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 2,560 square feet in size, and associated off-street parking. A dimensional variance to increase the front yard from 20 feet to 75 feet has also been requested by the petitioner.

### **CASE REVIEW**

The petitioner has requested a zone change from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone for one-third of an acre of property, located at 151 Pasadena Drive.

The subject property is located on the north side of Pasadena Drive, approximately 500 feet west of the signalized intersection of Nicholasville Road, Malabu Drive and Pasadena Drive. The property is bounded to the west and north by shopping center uses, to the east by a vacant lot (still residentially zoned), and across Pasadena Drive by a single-family residence and residential structure that has been converted to a professional office land use. The two shopping centers, Pasadena Plaza to the west and Regency Shopping Center to the north, are occupied by a mix of retail establishments, restaurants, banks and professional offices.

The subject property is vacant, but evidence remains of the driveway that once served the single-family residence on this lot, until it was demolished in the early 2000s. The petitioner wishes to rezone the property so that it can be redeveloped in a fashion that is compatible with the adjoining Pasadena Plaza development. In particular, the corollary development plan submitted in conjunction with this map amendment request depicts a small retail establishment of 2,560 square feet in size and 10 off-street parking spaces.

The 2013 Comprehensive Plan no longer includes a parcel-based land use map; rather it encourages land use decisions to be made based upon small area plan recommendations, policy statements and the Goals and Objectives of the Plan. In this case, the petitioner does not contend that the request is in agreement with the Plan, but that the existing zoning is inappropriate and the proposed zoning is appropriate. Given the nature of the proposed change, and the context of the site, the staff agrees with this contention for several reasons.

The proposed use and zone are generally compatible with the B-1, B-6P and P-1 zoning that exists within the immediate area. Although the adjoining lot to the east, closer to Nicholasville Road, remains in a residential zone, the likelihood that it will redevelop with a residential use seems remote, considering its location along a commercial collector street and its proximity to Nicholasville Road, which is the most heavily traveled commercial corridor in the community. As the petitioner stated in their justification, the vacant property to the east is "awaiting redevelopment," and the staff agrees with that assessment.

This portion of Pasadena Drive has slowly converted from a rural single-family area to a commercial corridor between the Norfolk-Southern railroad to the west of this location, and Nicholasville Road to the east. This conversion was encouraged by Comprehensive Plans dating back to 1988, when a mix of professional office and retail trade future land uses were first recommended by the Land Use Element of the Plan for the area between the railroad line and Nicholasville Road along Pasadena Drive. In 2001,

the petitioner requested a change in the Plan for the north side of Pasadena Drive that was approved by the Planning Commission and incorporated into the 2001 Plan's Land Use Element Plan. That change allowed for the adjoining Pasadena Plaza to be approved by the Commission and subsequently developed into the existing shopping center. 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.

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 retail establishment and B-1 zone are generally compatible with the B-1, B-6P 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.
  - c. This portion of Pasadena Drive has converted from a rural single-family area to a commercial corridor between the Norfolk-Southern railroad to the west of this location, and Nicholasville Road to the east, which was encouraged by Comprehensive Plans dating back to 1988. At that time, the Plan's Land Use Element recommended a mix of professional office and retail trade future land. Again in 2001, the Plan recommendations for the north side of Pasadena Drive were changed by the Planning Commission and incorporated into the Land Use Element of the 2001 Comprehensive Plan, which has allowed for the adjoining Pasadena Plaza to be approved by the Commission and developed into the existing shopping center.
  - d. 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.
2. This recommendation is made subject to the approval and certification of ZDP 2016-56: Berry Crest Subdivision, Lot 1, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/BJR/WLS

6/1/16

Planning Services/Staff Reports/MAR/2016/MARV 2016-16.doc

1. **DENNIS R. ANDERSON ZONING MAP AMENDMENT & BERRYCREST SUBDIVISION, LOT 1 ZONING DEVELOPMENT PLAN**

- a. MARV 2016-16: DENNIS R. ANDERSON – (7/31/16)\* petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.34 net (0.40 gross) acre, for property located at 151 Pasadena 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 2,560 square feet in size, and associated off-street parking. A dimensional variance to increase the front yard from 20 feet to 75 feet has also been requested by the petitioner.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommends: **Approval**, for the following reason(s):

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 retail establishment and B-1 zone are generally compatible with the B-1, B-6P 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.
  - c. This portion of Pasadena Drive has converted from a rural single-family area to a commercial corridor between the Norfolk-Southern railroad to the west of this location, and Nicholasville Road to the east, which was encouraged by Comprehensive Plans dating back to 1988. At that time, the Plan's Land Use Element recommended a mix of professional office and retail trade future land. Again in 2001, the Plan recommendations for the north side of Pasadena Drive were changed by the Planning Commission and incorporated into the Land Use Element of the 2001 Comprehensive Plan, which has allowed for the adjoining Pasadena Plaza to be approved by the Commission and developed into the existing shopping center.
  - d. 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.

b. **REQUESTED VARIANCE**

Increase the maximum allowable front yard in the B-1 zone from 20 feet to 75 feet.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

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

1. Granting the requested variance to allow a maximum front setback of 75 feet will not adversely affect the public health, safety or welfare. It will not impact the essential character of the general vicinity because buildings on other nearby properties have been developed at a similar setback many years before the B-1 zone was limited to a front yard maximum of 20 feet from a street's right-of-way.
2. The special circumstances associated with the subject property are the existing shopping center located immediately to the west of this location, and the noticeable slope associated with the subject property. Incorporation of the subject site into the adjacent center can't be accomplished without the approval of such a variance. These features do not apply generally to most B-1 zoned properties in this area.
3. Strict application of the Zoning Ordinance would require the subject site to be developed independently of the adjacent center, or to appear to be more like an outlot to that development. Either scenario could have the effect of providing less opportunity for vehicular circulation to all types of vehicles, including larger service and delivery vehicles, and could exacerbate current stacking problems experienced in front of this site on Pasadena Drive during peak travel times.
4. The requested variance is not an unreasonable circumvention of the Zoning Ordinance, because there are many B-1 zoned properties with a front yard setback greater than 20 feet, and because the setback on the subject site will be consistent with the Pasadena Plaza property next door.
5. This variance is not the result of prior actions taken by this applicant, as no new construction has yet occurred on the

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

subject site. The elevation difference between the site and Pasadena Drive is the result of the widening and elevation of Pasadena Drive by the local government several years ago.

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of this variance is null and void.
  2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission.
  3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
- c. ZDP 2016-56: BERRY CREST SUBDIVISION, LOT 1 (7/31/16)\* - located at 151 Pasadena Drive.  
**(Barrett Partners)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:

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. Provided the Planning Commission grants the requested variance to Article 8-16(h).
6. Revise note #6 to the approval of the Division of Water Quality.
7. Resolve cross access to adjacent parking area on adjoining B-1 property.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change request and stated that this application is for a rezoning from R-1C to B-1 for 0.34 acres, located on the north side of Pasadena Drive, which connects Harrodsburg Road and Nicholasville Road. Malabu Drive also intersects at Pasadena Drive and Nicholasville Road. Pasadena Drive has mostly commercial land uses between Nicholasville Road and the Norfolk-Southern Railroad line, which is approximately 1,000-1,500 feet west of the subject property. On the other side of the Norfolk-Southern Railroad line, the zoning is predominately residential. Ms. Wade displayed an aerial photograph indicating that the subject property is currently vacant, as is the property directly to the east of it, with the rest the properties in this vicinity having been developed. The area to the north of the subject property is the Regency Shopping Center and to the west is Pasadena Plaza, which is a smaller B-1 zoned property. Across the street, on Pasadena Drive, is professional office land use until Nicholasville Road, then it becomes restaurants.

Ms. Wade stated that the applicant is proposing the rezoning to the Neighborhood Business zone in order to develop a small retail establishment on this property. In addition to the requested rezoning, the applicant is also requesting a variance to the front yard setback requirements. She said that in terms of the 2013 Comprehensive Plan, since there is no longer a land use map, the Planning Commission relies on policy statements, goals and objectives, and small area plan recommendations to evaluate whether or not an area is in agreement with the Comprehensive Plan. The applicant contends that the existing zone of R-1C is inappropriate and the proposed business zone is appropriate at this location, and the staff agrees with this assessment. Business and office zoning is more prominent in this vicinity; and the requested B-1 zone is consistent with the neighboring B-1 zones, as well as with the B-6P zone to the north of the subject property.

Land along this portion of Pasadena Drive was reviewed, and the land use recommendation was modified in the 1988 Comprehensive Plan and again in 2001, at which time the Pasadena Plaza was rezoned and developed. In the prior land use element, this property was recommended for Retail/Trade and Professional Services use, which is consistent with the B-1 zone. The staff does believe that the request and the reasons for the rezoning are appropriate and has recommended approval subject to approval and certification of the zoning development plan. Ms. Wade said that the Zoning Committee also recommended approval for this zone change.

Development Plan Presentation - Mr. Martin presented the staff report on this development plan and displayed the plan rendering of the subject property. He stated that there are two areas of concern with this property. The first area of concern is the subject of the variance request, the required build-to line of between 10 and 20 feet. Pasadena Drive was widened as part of a public improvement project that affected the frontage of the properties in the area. The second area of concern is the lack of cross access available, due to the amount of traffic on Pasadena Drive that backs up considerably at Nicholasville Road during rush hour. Over time, the staff and Planning Commission have worked with the properties to the west of the subject property to create internal access in order to minimize the traffic flow onto Pasadena Drive. The staff has agreed with the applicant to resolve these issues at the final development stage.

Mr. Martin stated that there are seven conditions recommended on the development plan and that it has been recommended for approval by the Subdivision Committee.

Variance Report - Mr. Sallee presented the staff report on the variance, stating that the petitioner is requesting to increase the allowable front yard in the B-1 zone from 20 feet to 75 feet. The property is configured so that it could be easily incorporated

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

into the adjacent shopping center. With the property sloping away from Pasadena Drive to the rear, across the property, it is possible to develop this property with a building as close as 20 feet to Pasadena Drive. However, this configuration would affect either the access to the property or the ability to connect the two parking lots. The staff had suggested to the Zoning Committee that the B-3 zone would also allow the building to set back farther than 20 feet; however that zone was rejected several years ago.

Mr. Sallee said that the 75-foot setback that is proposed is the least amount of variance that would allow the building to align with the other buildings in the existing Pasadena Plaza. The vehicular stacking of traffic along Pasadena Drive is another reason the staff is interested in preserving the ability to connect the parking lots, at the time of the final development plan. The staff also doesn't believe this variance would adversely affect the public's health, safety, or welfare or cause any harm in the essential character of the area of the subject property. The proposed variance will not result in an unreasonable circumvention of the Zoning Ordinance, since there are numerous buildings with a setback much greater than 20 feet in the B-1 zone. The staff and the Zoning Committee have recommended approval of this requested variance for the reasons listed on the report, with three recommended conditions.

Commission Question - Mr. Penn asked, if connecting the two shopping centers, the entrance/exit is going to be on Pasadena Drive. Mr. Sallee said that in the staff's view, an access to Pasadena Drive will not be absolutely necessary, and the existing access farther to the west could be sufficient, but it's also possible that there could still be the need for another access to Pasadena Drive.

Petitioner Presentation - Richard Murphy, attorney, was present representing the petitioner. He said that Mr. Tony Barrett, Barrett Partners, was also present in the audience. He said that they agree with all of the staff's conditions as well as the hope for inter-connection between the properties. At this point, they don't have an end user, so this is a generic building shown on their plan. It's a preliminary development plan; and when they get a user, they will come back with a final plan and will be able to make a better decision about where the connection and the access points should be. He said that condition number seven will be complete at the final development plan stage.

Audience Comments - There were no comments at this time.

Chairman's Comments - Chairman Cravens stated that the hearing was now "closed," and he opened the floor for discussion.

Zoning Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 10-0 (Owens absent) to approve MARV 2016-16: DENNIS R. ANDERSON, for the reasons provided by the staff.

Variance Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 10-0 (Owens absent) to approve the requested variance as recommended by the staff.

Development Plan Action - A motion was made by Mr. Berkley, seconded by Mr. Smith, and carried 10-0 (Owens absent) to approve ZDP 2016-56: BERRY CREST SUBDIVISION, LOT 1, for the reasons provided by the staff.

