

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

**PLN-MAR-18-00019: 525 UPPER, LLC**

**DESCRIPTION**

**Zone Change:** From: Professional Office (P-1) Zone  
To: Neighborhood Business (B-1) Zone

**Acreage:** 0.144 net (0.178 gross) acres

**Location:** 521 and 523 S. Upper Street

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Property	P-1	Office/Residential
To North	R-2	Residential
To East	R-2	Residential
To South	B-1	Mixed-Use Project
To West	B-1	Residential

**URBAN SERVICES REPORT**

**Roads** – The subject property is located along S. Upper Street, approximately 60 feet northeast of the intersection with Cedar Street. Cedar Street acts as a collector street that services the Historic South Hill Neighborhood between S. Broadway and S. Upper Street. S. Upper Street is a major arterial roadway that consists of two lanes of one-way traffic running southwest from Downtown. S. Upper Street intersects with S. Limestone, and they form Nicholasville Road (US 27). The development proposes to utilize an existing access easement across the current parking lot along the back of 525 S. Upper Street for access and parking for the subject property.

**Curb/Gutter/Sidewalks** – S. Upper and Cedar Streets have been developed with curb, gutter and sidewalks.

**Storm Sewers** - The subject property is located within the upper reaches of the Town Branch watershed. There are no known stormwater problems in the area. However, in older areas of the city such as this, the storm sewers are often inadequate. Stormwater improvements do not exist on the subject property, although “The HUB” development being constructed southeast of the subject property will incorporate a large underground stormwater vault. The Division of Engineering will need to verify that the existing stormwater facilities comply with the Engineering Manual. No FEMA floodplain or major flooding problems exist on the site or in the immediate area.

**Sanitary Sewers** – This area is currently served by sanitary sewers. The subject property is in the Town Branch watershed and is served by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue. There are no known issues associated with the existing sanitary sewers in the immediate vicinity of the subject property. A new sanitary sewer trunk line has been planned for this area, with the purpose of updating some of the aging systems in compliance with the EPA Consent Decree. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed change of use at this location.

Refuse – The Urban County Government serves this portion of the Urban Service Area with refuse collection on Mondays.

Police – The nearest police station is located at the Police Headquarters, approximately ½ mile to the northeast of the subject property.

Fire/Ambulance – The nearest fire station (#1) is located approximately one mile northeast of the subject property, near the intersection of N. Martin Luther King Boulevard and E. Third Street.

Utilities – Natural gas, telephone service, internet, electric, water, streetlights, and cable television are all available to the subject property and the surrounding 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. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

This area is within the Newtown Pike Extension Corridor Small Area Plan boundary, which the Planning Commission adopted in January, 2003 as an amendment to the 2001 Comprehensive Plan. The recommended land use for this block is the same as under the 2001 Plan. Both Plans recommend a High Density Residential land use for the subject property. This land use category is further defined in the Plan as different housing types at a density of 10-25 dwelling units per net acre. Similarly, the 2013 Comprehensive Plan recommended a High Density Residential land use for the subject property.

The petitioner proposes a rezoning in order to best utilize the property for additional neighborhood-oriented businesses. The petitioner plans to retain the historic structure, and provide retail on the first floor and two residential dwelling units on the second floor. Off-street parking is provided in the rear of the structure.

### **CASE REVIEW**

The petitioner has requested a zone change from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone for 0.14 acres of property, located along S. Upper Street, near the corner of Cedar Street and S. Upper Street.

The site is comprised of two small lots located along the north side of S. Upper Street. It is located within a mixed-use block that is bounded by S. Upper Street, Pine Street, Lawrence Street, and Cedar Street. The subject site is located very near the University of Kentucky campus, and is directly across S. Upper Street from the mixed-use HUB development, which is currently under construction. Other than the HUB, there have been several new developments in the area near the site in the past decade. This includes the construction of townhomes along Lawrence Street and S. Mill Street, the construction of the Center Court Mixed-Use project, and the construction of the Raising Cane's restaurant. A single commercial use separates the subject property from Cedar Street, currently occupied by The Rooster's Nest Barber Shop & Shave Parlor and Cha Cha's Hair Salon. The Bleed Blue Tattoo Shop is currently closed.

The applicant proposes to modify the use of the property to create a mix of retail and residential use, with off-street parking to the rear of the property. This parking lot is physically separated from Cedar Street by the parking lot of the adjacent commercial use at the corner of Cedar Street and S. Upper Street. The structure on the subject property has historic value. Although not located in a local Historic District (H-1) Overlay zone, or registered with the Blue Grass Historic Trust or the Nation Register of Historic

Properties, it dates to the middle of the 19th century, and was reportedly “built and owned by free blacks before the Civil War.”

Until the mid-1990’s, the subject property was located in a High Density Apartment (R-4) zone. The subject property was downzoned to the Two-Family Residential (R-2) zone, despite the property being historically bordered on two sides by Neighborhood Business (B-1) zoning with conditional zoning restrictions (toward Cedar Street and across S. Upper Street). The property was rezoned in 2005 to the Professional Office (P-1) zone. At that time the applicant contended that the property could not be redeveloped as a duplex, nor increased in intensity (thus economically justifying its renovation) without removal of the historic structure. At the time, staff could not offer a rebuttal and sought to retain the historic property.

The designated Professional Office (P-1) zone for the subject property permitted an acceptable step-down in land use intensity at this location. More importantly, through the use of conditional zoning on the subject property, staff provided a mechanism to protect the historic elements of the structure that would not have protected by the previous zoning of the property. Furthermore, the P-1 zone allowed for residential use of one or two dwelling units above any offices located on the first floor of the historic structure. A form of mixed use that has been common historically, and more effectively utilized the urban landscape.

During the 2005 rezoning, the petitioner opined that the request was compatible with adjoining business and residential land uses, and that the proposed development respected the area’s context and design features. The petitioners sought to develop underutilized land for a greater function, while utilizing the existing infrastructure and transportation networks (which are adequate to serve the use). The petitioner also cited the potential to create jobs near where people live, and the potential for existing business expansion. The Planning Commission and the Urban County Council agreed, and adopted the following conditional zoning restrictions: prohibited branch banks, and drive-thru facilities; required the retention of the historic structure; and limited the size and height of permitted signage.

The current application requests to rezone of the subject property to a Neighborhood Business (B-1) zone, and makes similar justifications. However, through this proposal for a zone change, the applicant indicates both an inability to occupy the property with professional office uses, suggesting an inappropriateness of the current zone, as well as a desire to expand the potential uses in an effort to attract commercial users. The petitioner indicates that any new businesses that would occupy this space would more directly service and support the University of Kentucky student, faculty, and staff populations, although they could address nearby neighborhood needs as well.

The petitioner cited several of the 2013 Comprehensive Plan’s Goals and Objectives, and stated that the application is “consistent” with those adjoining zoning. The 2013 Comprehensive Plan does not specifically address modest or minor changes in commercial land use that have a negligible impact on job creation or tourism. However, the general concepts, policies and guiding principles of the Plan should be considered. As referenced in the petitioner’s justification, the staff can agree that the request, if restricted, is in substantial compliance with the 2013 Comprehensive Plan. The location of this site is within an area of mixed zoning and land use, including B-1, B-4, MU-2, R-1T, R-2, R-3, and R-4 zones. Furthermore, the applicant has agreed to maintain the current conditional zoning restrictions. With the current variability of the area, as well as the restrictions in the modification of the structure and the use, staff finds that a restricted B-1 zone can be considered compatible with the immediate area and is in agreement with the Goals and Objectives of the 2013 and 2018 Comprehensive Plans.

The petitioner indicates that the rezoning will conform to all five themes of the adopted Goals and Objectives of the 2018 Comprehensive Plan. They opine that the rezoning and associated plan

accommodates the demand for housing in Lexington responsibly, prioritizing higher-density and a mixture of housing types (Theme A, Goal #1.B), while identifying areas of opportunity for adaptive reuse and mixed-use development (Theme A, Goal #2.A). Additionally, the plan seeks to respect the context and design features of the surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form (Theme A, Goal #2.B). The petitioner indicates that the zone change will also allow for preservation of cultural resources by maintaining the historic structure (Theme A, Goal #3.A).

The petitioner suggests that the change in zone and the development plan will strive for positive and safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians and various modes of transportation (Theme A, Goal #3.B), while prioritizing multi-modal options that de-emphasize single-occupancy vehicle dependence (Theme B, Goal #2.D). The proposed mixed-use on the site may also enable infill and redevelopment that creates jobs where people live (Theme C, Goal #2.A). The petitioner suggests that the rezoning and plan will also develop a viable network of accessible transportation alternatives for residents and commuters (Theme D, Goal #1.B), and incentivize the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3.B).

The petitioner further suggests that the rezoning will allow for the absorption of vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.A), and maximize development on vacant and underutilized land in a manner that enhances urban form and/or historic features (Theme E, Goal #1.D).

Finally, the petitioner suggests that P-1 zone is inappropriate and the proposed B-1 zone is appropriate. The owner of the property has had difficulty occupying the office space, indicating that office users often require more substantial parking than is available at this location. They state that the competition caused by the office space in the nearby downtown area, coupled with the small nature of these properties, make it challenging for general office users, and specific single users have not found the space appropriate. The petitioner indicates that retail space would be a more appropriate use of the available first floor space.

While the petitioner suggests that the rezoning touches upon all levels of the adopted Goals and Objectives of the 2018 Comprehensive Plan, many of the referenced Goals are already being met and will not be modified in any way by the zone change. Staff recognizes the desire to allow for a greater utilization of the space, while maintaining the sense of place. The rezoning of the two lots will allow for a higher intensity of use of the site, while also keeping and maintaining the historic structure. Staff also finds that through the incorporation of bike infrastructure on the subject property will support multi-modal options. Finally, staff agrees that retail that is focused on the needs of the surrounding community can act as a draw for young and culturally diverse professionals.

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

1. A restricted Neighborhood Business (B-1) zone is substantially in agreement with the 2013 Comprehensive Plan and the Goals and Objectives of the 2018 Comprehensive Plan, for the following reasons:
  - a. The site has been an underutilized site with Professional Office (P-1) zoning. The property should be considered for a change to a restricted Neighborhood Business (B-1) zone in order to permit a use that will better serve the needs of the surrounding neighborhood within the Urban Service Area.
  - b. By maintaining the existing historic structure, the development plan will respect the context and design features of the surrounding area and the existing urban form (Theme A, #Goal 2.B).
  - c. The integration of bike infrastructure on the subject property will prioritize multi-modal options that de-emphasize single-occupancy vehicle dependence (Theme B, Goal #2.D).

- d. The incorporation of potential new uses will incentivize the renovation, restoration, development and maintenance of the historic structure (Theme D, Goal #3.B).
  - e. Staff agrees that retail that is focused on the needs of the surrounding community can act as a draw for young and culturally diverse professionals (Theme C, Goal #2.D).
2. This recommendation is made subject to approval and certification of PLN-MJDP-18-00068: Pegasus Holdings, LLC (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the property via conditional zoning:
- a. Branch banks and drive-through facilities are to be prohibited at this location.
  - b. The portions of the existing structure on this property originally constructed in the 19th Century are to be retained and maintained.
  - c. Free-standing signage shall be limited to a maximum of 5' in height and 8 square feet in size.
  - d. Wall-mounted signage shall be limited in size to a maximum of 3% of the wall area to which it is affixed.

These restrictions are appropriate because they have been offered by the applicant and will limit inappropriate uses and maintain the historic character of the property.

HBB/TLW

9/5/18

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