

ORDINANCE NO. 24 -2017

AN ORDINANCE CHANGING THE ZONE FROM AN INTERCHANGE SERVICE BUSINESS (B-5P) ZONE TO A HIGHWAY SERVICE BUSINESS (B-3) ZONE, FOR 0.75 NET (1.36 GROSS) ACRES, FOR PROPERTY LOCATED AT 2167 N. BROADWAY. (DAVID MEYERS, KENTUCKY LODGING AND DEVELOPMENT CO., INC.; COUNCIL DISTRICT 6).

WHEREAS, at a Public Hearing held on January 26, 2017 a petition for a zoning ordinance map amendment for property located at 2167 N. Broadway from an Interchange Service Business (B-5P) zone to a Highway Service Business (B-3) zone for 0.75 net (1.36 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-0; 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 2167 N. Broadway from an Interchange Service Business (B-5P) zone to a Highway Service Business (B-3) zone for 0.75 net (1.36 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited for the subject property via conditional zoning:

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Cocktail lounges and nightclubs.
- c. Car wash establishments.
- d. Pawnshops.


- e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property which are not currently permitted at this location. Such uses could have a negative impact on nearby residential neighborhoods:

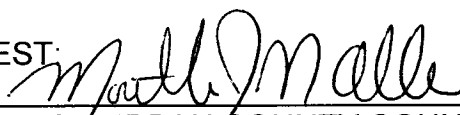
Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: March 2, 2017



MAYOR

ATTEST: 

CLERK OF URBAN COUNTY COUNCIL
Published: March 9, 2017-1t

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LEGAL DESCRIPTION

AMRUTLAL M. PATEL, SHANTILAL B. PATEL, AND GHANSHYAMBHAI B. PATEL
PROPERTY
Zone Change from B-5P to B-3
2167 North Broadway
Lexington, Fayette County, Kentucky

A TRACT OF LAND SITUATED NORTHWEST OF NORTH BROADWAY AND SOUTHWEST OF JUDY LANE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING at the point of intersection of the centerline of North Broadway and the projected centerline of Judy Lane; thence with the centerline of North Broadway for the following two calls: S 60°35'29" W, a distance of 72.42 feet to a point; thence S 60°53'43" W, a distance of 211.86 feet to a point in the extended lot line of Parcel 3 as recorded in Plat Cabinet "M", Slide 596 in the Fayette County Clerk's Office; Thence with said lot line for the following four calls: N 29°23'43" W, a distance of 170.01 feet to a point; thence N 09°51'43" W, a distance of 39.54 feet to a point; thence N 29°27'42" W, a distance of 26.54 feet to a point; thence N 59°52'18" E, a distance of 208.96 feet to a point in the centerline of Judy Lane; thence with said centerline S 44°03'20" E, a distance of 245.54 feet to the point of beginning, containing a gross area of 1.357 acres, and a net area of 0.745 acres.

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

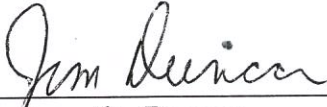
IN RE: PLN-MAR-16-00025: DAVID MEYERS, KENTUCKY LODGING AND DEVELOPMENT CO., INC – a petition for a zone map amendment from an Interchange Service Business (B-5P) zone to a Highway Service Business (B-3) zone, for 0.75 net (1.36 gross) acres, for property located at 2167 N. Broadway. (Council District 6)

Having considered the above matter on **January 26, 2017**, at a Public Hearing, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The site can be considered as an underutilized site after 50 years of B-5P zoning, with no development. The property should be considered for a possible change to an alternative business zone (and use) in order to better serve the needs of the community, since the site is within the Urban Service Area.
 - b. The proposed redevelopment will be able to use the existing infrastructure and transportation networks (which are adequate to serve the use), and the proposed land use will not impair existing environmental conditions on the site. This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 4: "Protecting the Environment," and Chapter 6: "Improving a Desirable Community."
 - c. The 2013 Comprehensive Plan supports infill and redevelopment and creating a well-designed neighborhood/community (Theme A, Goals #2 and #3). The site is a long-time vacant site within the Urban Service Area, which can enhance the existing nearby neighborhoods with support uses, such as additional shopping options in close proximity.
 - d. The proposed zoning and land use are not out of character with the other commercial uses along the North Broadway corridor. Conditional zoning restrictions to limit uses that may negatively impact the nearby residential neighborhood would be most appropriate for the subject property to ensure land use compatibility.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00053: Hospitality Motor Inns, Inc. and BP Oil Co., Inc. (Dollar General), 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 uses shall be prohibited on the subject property, via conditional zoning:
 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Car wash establishments.
 - d. Pawnshops.
 - e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property, which are not currently permitted at this location. Such uses could have a negative impact on nearby residential neighborhoods.

ATTEST: This 10th day of February, 2017.



Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, PLN-MJDP-16-00053: HOSPITALITY MOTOR INNS, INC. & BP OIL CO, INC. (DOLLAR GENERAL) was approved by the Planning Commission on January 26, 2017 and certified on February 9, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by April 26, 2017.

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

OBJECTORS

- Ms. Catherine Perkins, 258 Swigert Avenue

OBJECTIONS

- Increased traffic will result from this development.

VOTES WERE AS FOLLOWS:

AYES: (9) Berkley, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (2) Brewer and Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **PLN-MAR-16-00025** carried.

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

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant: David Myers, Kentucky Lodging and Development Co, Inc., 150 Scenic View Drive, Corbin, KY 40701
Owner(s): AMRUTLAL M PATEL, SHANTILAL B PATEL, AND GHANSHYAMBHAI B PATEL 1415 SUGAR CREEK CIR, NASHVILLE, TN 37214
Attorney: Glenn Price and Tanner Nichols, Frost Brown Todd, LLC, 400 West Market Street Suite 3200, Louisville, KY 40202

2. ADDRESS OF APPLICANT'S PROPERTY

2167 BROADWAY, LEXINGTON, KY

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing		Requested		Acreage	
		Use	Zoning	Use	Net	Gross
B-5P		Vacant	B-3	Retail	0.745	1.357

4. 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 40% 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

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

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	To Be Constructed
Refuse Collection:	LFUCG
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



November 21, 2016

Lexington Fayette Urban County Planning Commission
101 East Vine Street
Lexington, Kentucky 40507

Re: Application for B-3 Zoning for 2167 North Broadway

Dear Members of the Planning Commission:

We represent James D. Myers and Kentucky Lodging and Development Company, Inc., which has a contract to purchase the lot at 2167 North Broadway in Lexington (the "Property"). The Property is an empty lot located just off Interstate 64 at Exit 113. Our client desires to rezone the Property from the current Interchange Service Business Zone ("B-5P") to a Highway Service Business Zone ("B-3"). The Property is proposed to be redeveloped to more effectively serve the surrounding property and neighborhoods in accord with the goals and objectives of the 2013 Comprehensive Plan (the "Plan") as further explained below.

The Property is currently zoned B-5P to permit the establishment of limited commercial facilities at limited access highway interchange areas so that the traveling public is provided with transient services; however, the current zoning does not allow for retail sales except for limited convenience type merchandise in an enclosed building not exceeding 3,000 square feet and in connection with the sale of fuel. The existing zoning has left the property undeveloped for almost 50 years.

We submit that the property is consistent with the Plan and that B-5P is no longer appropriate. A zone B-3 is more appropriate. The proposed change in zoning would allow expanded retail sales and provided for the economic vitality of the surrounding neighborhoods and the community at large. The new zoning could allow the Property to meet the needs of the traveling public as well as the citizens of Lexington in the residential neighborhoods near the Property. B-3 zoning is not out of character for the area and would match the zoning at 429, 431 and 443 Haggard Lane.

Our proposal for the zoning change meets the requirements of KRS 100.213 and is in agreement with the Plan based on the following:

Theme A - Growing Successful Neighborhoods

Goal 2 of Growing Successful Neighborhoods is to support infill and redevelopment

throughout the 50,000 plus acres in the Urban Service Area (“USA”) as a strategic component of growth. This goal is accomplished by identifying the Property as an opportunity to promote land that has been underutilized and where the infrastructure is already in place. The future development at the Property meets this goal and would support nearby neighborhoods by allowing easy access to expanded retail merchandise.

Goal 3 of Growing Successful Neighborhoods is to provide well designed neighborhood and communities which includes providing enhancements to existing neighborhoods. The new development at the Property would allow additional shopping options in close proximity to almost 3,000 residents of the Joyland Neighborhood. The nearby location will be walkable for some residents and cut down travel time for others thus reducing a carbon footprint.

Theme C - Creating Jobs and Prosperity

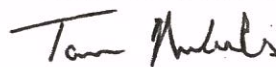
Goal 1 of Creating Jobs and Prosperity is to support and showcase local assets to further the creation of a variety of jobs. The Plan notes that a variety of employment is necessary to lead to prosperity for all citizens. The Plan makes special mention of living near your workplace and clearly this infill development would allow new job opportunities for nearby residents. Per page 74 of the Plan – “Adaptive reuse, infill, and redevelopment are not only about preserving farms and important buildings and making better use of infrastructure. They are also about putting jobs where people live. Many of Lexington’s businesses – large and small – can thrive as neighbors in and near neighborhoods. Land use regulations should enable opportunities to live where you work.”

Theme E - Maintaining a Balance between Planning for Urban Uses & Safeguarding Rural Land

Goal 1 of maintaining a balance between planning for urban uses and safeguarding rural land is to uphold the USA concept. The goal requires the absorption of vacant or under-utilized land in the USA. The development of this Property meets that goal and provides support for existing neighborhoods. Per page 101 of the Plan – “Infill and redevelopment should help neighborhoods and achieve a mix of uses that support and enhance a citizen’s daily life.”

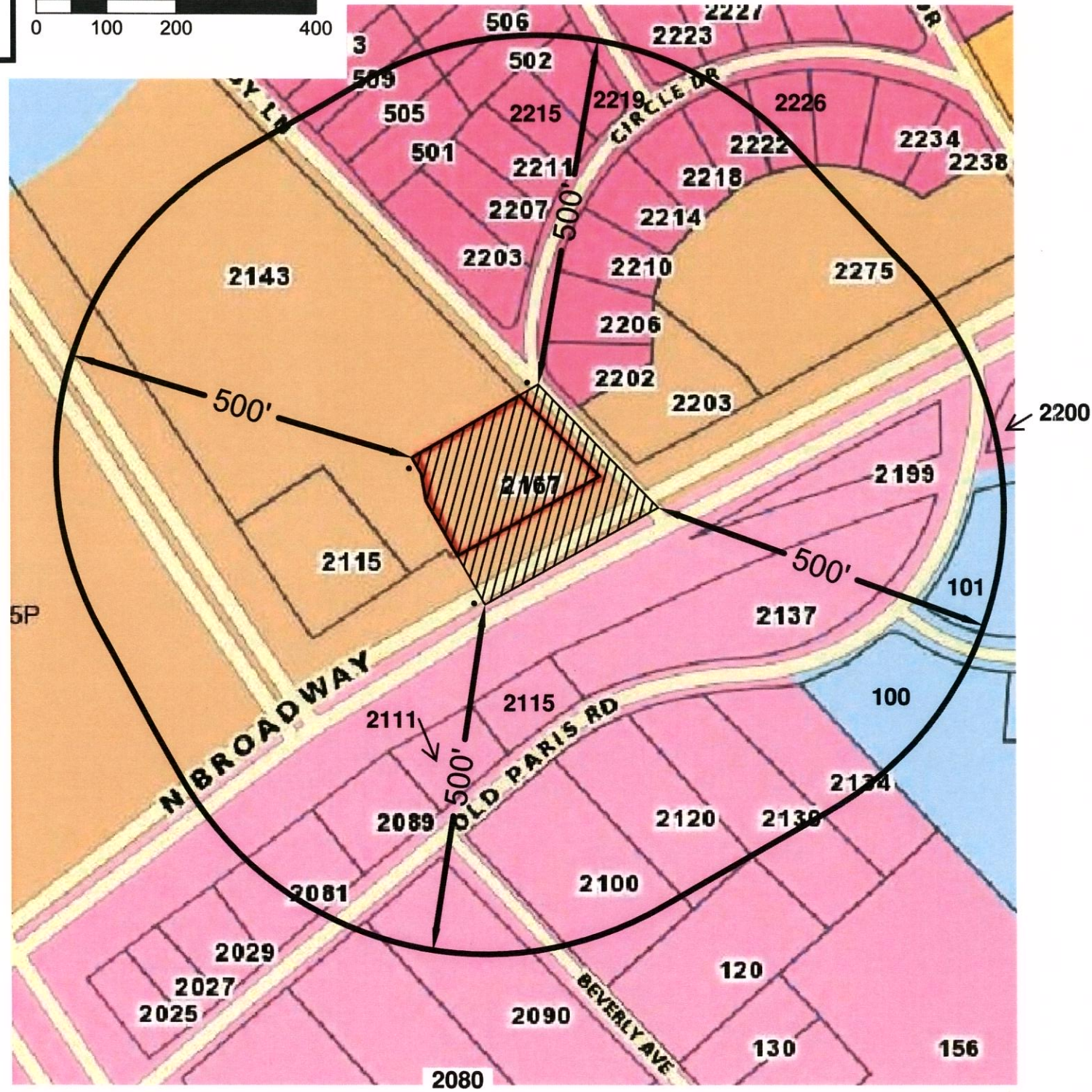
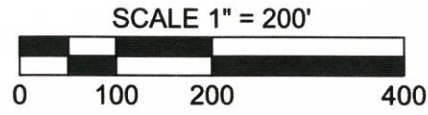
In conclusion, we submit our proposal and request for the zoning change is consistent with applicable goals and objectives of the Plan. We believe this zoning change and development will allow reasonable expansion of retail opportunities in an underserved portion of the USA. This type of infill is important to maintain the footprint of the USA and make Lexington a more desirable location to live and work. We look forward to presenting the application and discussing it with you. Thank you for your consideration.

Respectfully submitted,



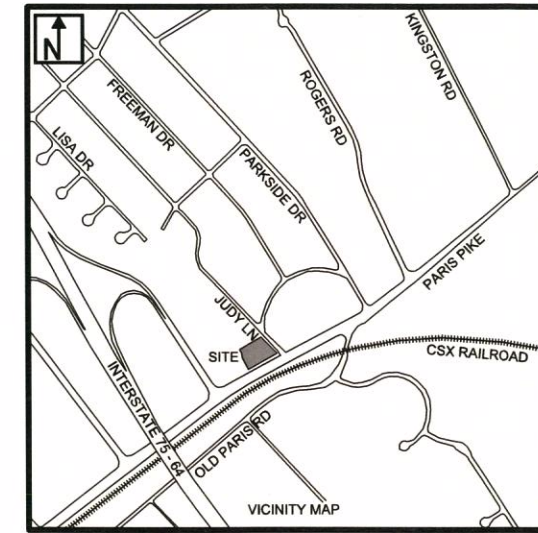
Tanner Nichols

NOTIFICATION MAP (SCALE = 1":200')

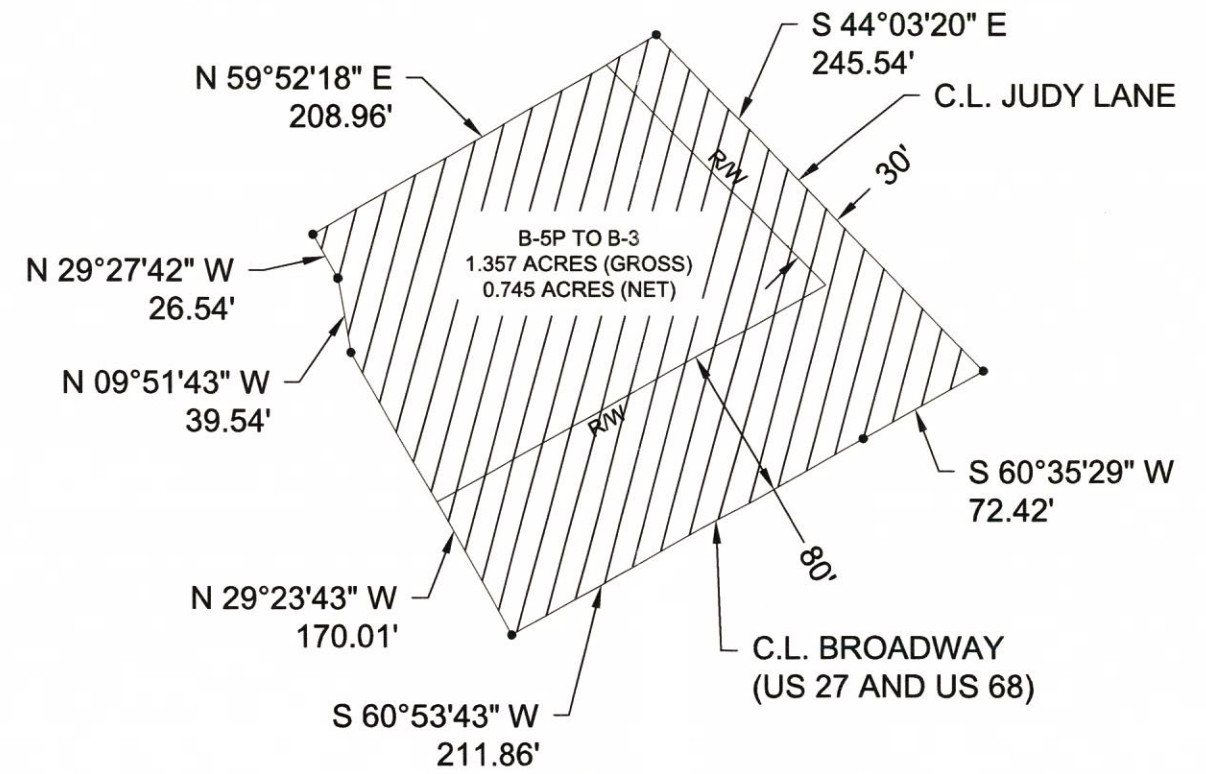
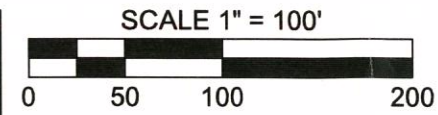
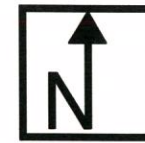


ZONING LEGEND

	= 5-BP		= R3
	= R1-C		= B-3
	= R1-B		



VICINITY MAP (N.T.S)



PROPERTY MAP (SCALE = 1":100')



ZOMAR: B-5P TO B3				
PROPERTY ADDRESS: 2167 N BROADWAY	FROM	TO	GROSS	NET
APPLICANT: DAVID MYERS 150 SCENIC VIEW DRIVE CORBIN, KY 40701	B-5P	B3	1.357 AC	0.745 AC
PROPERTY ADDRESS: VANTAGE ENGINEERING, PLC.				
DATE PREPARED: NOVEMBER 16, 2016			TOTAL	1.357 AC 0.745 AC

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-16-00025: DAVID MYERS, KENTUCKY LODGING AND DEVELOPMENT CO., INC.

DESCRIPTION

Zone Change: From an Interchange Service Business (B-5P) zone
To a Highway Service Business (B-3) zone

Acreage: 0.745 net (1.357 gross) acres

Location: 2167 North Broadway

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	B-5P	Vacant
To North	B-5P	Hotel
To East	B-5P & R-1B	Restaurant & Single-Family Residential
To South	R-1B	RJ Corman Railroad line
To West	B-5P	Gas Station & Interstates 64 & 75

URBAN SERVICES REPORT

Roads – The subject property is located on the north side of North Broadway (US 27/US 68), a major arterial highway, about 850 feet east of Interstates 64 & 75, and 300 feet from the on-ramp to the westbound/northbound lanes to the interstate at the Broadway interchange. The site is also bound to the east by Judy Lane, a local street within the Thoroughbred Acres subdivision.

Curb/Gutter/Sidewalks – North Broadway was constructed without curb, gutter and sidewalks in this portion of the Urban Service Area. Judy Lane also does not have curb, gutter or sidewalks along the subject property's frontage. The right-of-way has been improved directly across Judy Lane from the site. Ordinarily, similar improvements (1/2 section) are required to be made along the unimproved frontage of the subject property at the time of site development.

Storm Sewers – The subject property is located within the Cane Run watershed. The stormwater swales along the N. Broadway frontage are currently utilized by the subject and adjoining properties. No other stormwater improvements appear to have been completed, generally, within this commercial area. No FEMA special flood hazard area or known flooding issues exist within the immediate area, although there are some documented issues downstream.

Sanitary Sewers – The subject properties are located within the Cane Run sewershed, and will be serviced by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue inside New Circle Road between Leestown Road and Old Frankfort Pike. Sanitary sewers have been constructed within the immediate area; however, no lines currently extend to the subject property. Capacity of the sewer system will need to be verified prior to construction of any use on the subject property. Under the Capacity Assurance Program, there is currently available sanitary sewer capacity in this area.

Refuse – Refuse collection to residential properties is provided by the Urban County Government to this portion of the Urban Service Area on Thursdays. However, commercial uses often contract for more frequent service with private refuse haulers.

Police – The Central Sector Roll Call Center is the nearest police station to this location. It is located on Industry Road, near the interchange of Winchester Road and New Circle Road, about 2½ miles to the southwest of the subject property.

Fire/Ambulance – The subject property is in fairly close proximity to Fire Station #8, which is located on N. Broadway, approximately one mile to the southwest.

Utilities – All utilities, including electric, gas, water, telephone, and cable are available to serve the subject property.

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 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.

The petitioner proposes a Highway Service Business (B-3) zone in order to construct a retail sales establishment about 7,500 square feet in size and associated off-street parking on the subject property

CASE REVIEW

The petitioner has requested a zone change from an Interchange Service Business (B-5P) zone to a Highway Service Business (B-3) zone for less than an acre of land at the intersection of N. Broadway and Judy Lane, just northeast of the N. Broadway/Interstates 64 & 75 interchange. The subject property is vacant.

This portion of the North Broadway corridor is characterized by commercial land uses that are developed mostly for patronage by the traveling public along the interstate. Several restaurants, gas stations and hotels occupy both sides of the folded diamond interchange, along the north side of N. Broadway. Although the area along the south side of N. Broadway is residentially zoned, it is occupied by the RJ Corman railroad line, which parallels the road right-of-way in this location. The commercial uses that have frontage along N. Broadway are primarily located within the B-5P zone; however, the greater the distance from the interchange or N. Broadway, the likelihood for alternative commercial zones increases, including P-1, B-1 and B-3 zones. Such a mixture of zoning also exists on the eastern side of the interchange.

The petitioner proposes to construct a retail sales establishment about 7,500 square feet in size and associated off-street parking on the subject property. The existing B-5P zone allows a convenience store up to 3,000 square feet in size, and the applicant wishes to build a store that will serve the traveling public (a Dollar General store), as well as the nearby neighborhoods.

In 1967, the subject property was part of a zone change from a single family residential zone to the B-5 zone (the zone that preceded the B-5P zone) in order to develop a 7-acre area for interstate-oriented commercial businesses (motel, restaurant and service stations). The rest of the site developed, but this parcel along North Broadway has remained vacant.

The 2013 Comprehensive Plan focuses on general land use policies, such as land use compatibility; well-designed neighborhoods; improving a desirable community; and making the best use of land inside the Urban Service Boundary for the protection of the surrounding rural areas. The Plan no longer relies upon a future land use map. The petitioner contends that the proposal is consistent with the 2013 Comprehensive Plan.

In terms of the Comprehensive Plan, the petitioner opines that the Goals and Objectives of the Comprehensive Plan are furthered by the proposed zone change, specifically through infill development of a long-time vacant site within the Urban Service Area (Theme A, Goal #2); providing enhancement to existing neighborhoods, such as additional shopping options in close proximity, will provide a well-designed neighborhood/community (Theme A, Goal #3); creation of new jobs near residential neighborhoods to promote the “live where you work” concept (Theme C, Goal #1); and, lastly, the development of the site will help to uphold the Urban Service Area concept by absorbing underutilized, vacant land and by utilizing the existing infrastructure and transportation networks (which are adequate to serve the use) (Theme E, Goal #1).

The proposed land use is not out of character with other commercial uses along the N. Broadway corridor. The petitioner proposes a retail building over twice the size permitted in the existing zone, which created the need for this zone change request. The site remains, in the staff’s opinion, at the interstate interchange, which meets the intent of the existing B-5P zone; however, it is also along a major arterial highway, which could meet the intent of the proposed B-3 zone, as well. The proposed development will serve the traveling public, as well as the adjoining neighborhood, “achieve a mix of uses that support and enhance a citizen’s daily life.”

The staff can agree that the B-3 zoning request, if restricted, is in substantial agreement with the 2013 Comprehensive Plan. The subject property remains an underutilized site, and should be considered for a possible change to an alternative business use in order to better serve the needs of the entire community. In addition, the new development will be able to use the existing infrastructure and transportation networks (which are adequate to serve both the traveling public and the proposed use), and this new land use will not impair existing environmental conditions on the site. Due to the close proximity of existing single-family residences, the staff suggests prohibiting a number of the most intense land uses otherwise permitted in the B-3 zone.

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

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The site can be considered as an underutilized site after 50 years of B-5P zoning, with no development. The property should be considered for a possible change to an alternative business zone (and use) in order to better serve the needs of the community, since the site is within the Urban Service Area.
 - b. The proposed redevelopment will be able to use the existing infrastructure and transportation networks (which are adequate to serve the use), and the proposed land use will not impair existing environmental conditions on the site. This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 4: “Protecting the Environment,” and Chapter 6: “Improving a Desirable Community.”
 - c. The 2013 Comprehensive Plan supports infill and redevelopment and creating a well-designed neighborhood/community (Theme A, Goals #2 and #3). The site is a long-time vacant site within the Urban Service Area, which can enhance the existing nearby neighborhoods with support uses, such as additional shopping options in close proximity.
 - d. The proposed zoning and land use are not out of character with the other commercial uses along the North Broadway corridor. Conditional zoning restrictions to limit uses that may negatively impact the nearby residential neighborhood would be most appropriate for the subject property to ensure land use compatibility.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00053: Hospitality Motor Inns, Inc. and BP Oil Co., Inc (Dollar General), 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 uses shall be prohibited on the subject property, via conditional zoning:

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Cocktail lounges and nightclubs.
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- f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property, which are not currently permitted at this location. Such uses could have a negative impact on nearby residential neighborhoods.

4. **DAVID MEYERS, KENTUCKY LODGING AND DEVELOPMENT CO., INC ZONING MAP AMENDMENT & HOSPITALITY MOTOR INNS, INC. & BP OIL CO, INC. (DOLLAR GENERAL)(AMD) ZONING DEVELOPEMT PLAN**

- a. PLN- MAR-16-00025: DAVID MEYERS, KENTUCKY LODGING AND DEVELOPMENT CO., INC (2/19/17)* - petition for a zone map amendment from Interchange Service Business (B-5P) zone to a Highway Service Business (B-3) zone, for 0.75 net (1.36 gross) acres, for property located at 2167 N. Broadway.

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 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.

The petitioner proposes a Highway Service Business (B-3) zone in order to construct a retail sales establishment about 7,500 square feet in size and associated off-street parking on the subject property

The Zoning Committee Recommended: **Approval.**

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

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The site can be considered as an underutilized site after 50 years of B-5P zoning, with no development. The property should be considered for a possible change to an alternative business zone (and use) in order to better serve the needs of the community, since the site is within the Urban Service Area.
 - b. The proposed redevelopment will be able to use the existing infrastructure and transportation networks (which are adequate to serve the use), and the proposed land use will not impair existing environmental conditions on the site. This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 4: "Protecting the Environment," and Chapter 6: "Improving a Desirable Community."
 - c. The 2013 Comprehensive Plan supports infill and redevelopment and creating a well-designed neighborhood/community (Theme A, Goals #2 and #3). The site is a long-time vacant site within the Urban Service Area, which can enhance the existing nearby neighborhoods with support uses, such as additional shopping options in close proximity.
 - d. The proposed zoning and land use are not out of character with the other commercial uses along the North Broadway corridor. Conditional zoning restrictions to limit uses that may negatively impact the nearby residential neighborhood would be most appropriate for the subject property to ensure land use compatibility.
 2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00053: Hospitality Motor Inns, Inc. and BP Oil Co., Inc (Dollar General), 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 uses shall be prohibited on the subject property, via conditional zoning:

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Car wash establishments.
 - d. Pawnshops.
 - e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.
- b. PLN-MJDP-16-00053: HOSPITALITY MOTOR INNS, INC. & BP OIL CO, INC. (DOLLAR GENERAL)(AMD) (2/19/17)* - located at 2167 N. Broadway. **(Vantage Engineering, PLC)**

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

1. Provided the Urban County Council rezones the property B-3; 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. Increase font size for all textual note information, including site statistics.
6. Correct plan title to match agenda information.
7. Addition of all pertinent information from previous development plan.
8. Complete dimensions on building for store entrance area (front wall).

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

9. Resolve proposed access to Judy Lane, to the approval of the Division of Traffic Engineering.
10. Remove site statistics for Tract 2A (not applicable).

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She said the applicant is requesting this zone change because of the restriction that limits the square footage of retail sales in the current zone. She said that the applicant wants to build a Dollar General Store on the subject property. The staff recommends conditional zoning restrictions to prohibit the most intense uses at this location because of residential development across Judy Lane.

Development Plan Presentation – Mr. Martin presented a rendering and the updated staff report on this development plan, which was displayed and handed out to the Commission with revised conditions, as follows:

The Staff Recommends: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-3; 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. Increase font size for all textual note information, including site statistics.
6. ~~Correct plan title to match agenda information.~~
7. ~~Addition of all pertinent information from previous development plan.~~
6. ~~8. Complete Re-establish and provide dimensions for access from private drive near~~ on building for store entrance area (front wall).
7. ~~9. Resolve Reduce width of proposed access apron~~ to Judy Lane, to the approval of the Division of Traffic Engineering.
10. ~~Remove site statistics for Tract 2A (not applicable).~~
8. Use dashed lines to outline landscape area along west property line.
9. Extend sidewalk in front right-of-way westward to edge of asphalt.

Mr. Martin said that there is an easement along North Broadway that functions as a service road. He distributed an exhibit displaying the original submission of the conditions. He said the staff had concerns that the applicant is proposing to build landscape and concrete scape that will block this easement. The applicant is proposing to remove the service/easement.

Petitioner Presentation – Tanner Nichols, attorney, was present representing the petitioner. He said that the applicant is in agreement with the staff's recommendations. He said the proposed service road was for internal traffic among the three properties, which will be terminated. He said the applicant is in negotiation with the hotel and gas station owners regarding this proposal.

Citizen Comments in Opposition:

Ms. Catherine Perkins, 258 Swigert, was representing Joyland Homeowners Association. She said they have concerns about the entrance off of Judy Lane and the increased traffic, but was supportive of the zoning restrictions recommended by the staff.

Zoning Action – A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Brewer and Penn absent) to approve PLN- MAR-16-00025: DAVID MEYERS, KENTUCKY LODGING AND DEVELOPMENT CO., INC., for the reasons provided by the staff, including conditional zoning.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Ms. Richardson, carried 9-0 (Brewer and Penn absent) to approve PLN-MJDP-16-00053: HOSPITALITY MOTOR INNS, INC. & BP OIL CO, INC. (DOLLAR GENERAL)(AMD), for the revised conditions provided by the staff.