

Rec'd by _____

Date: _____

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

IN RE: NPE 2021-1: UK FEDERAL CREDIT UNION (QUEEN ESTATE) – a petition for an amendment to Section 10 of the Newtown Pike Extension Ordinance (Ord. #105-2009) for property located on 603 – 619 S. Broadway and 405 – 411 Chair Avenue. (Council District 3)

Having considered the above matter on **April 22, 2021**, 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 the elimination of the off-street parking lot locational standard C-1(e), for the following reasons:

1. The 250-foot requirement established in design standard C-1(e) would render the entire block virtually undevelopable because no accessory parking lot could be located on-site to meet the needs of the proposed development or any other development.

DISAPPROVAL of the elimination of the parking lot screening standard C-1(c), for the following reasons:

1. In 2009, two years after the completion of the design study, the Urban County Council took into consideration the adoption of the design guidelines and standards for the entire Oliver Lewis Way corridor. At that time, the Council found that the NPE Project combines neighborhood planning with roadway engineering to develop the new road as an amenity for the area and to support its high-quality redevelopment setting a combination of standards and guidelines governing public and private building construction.
2. The urban design objectives of the Standards support high-quality development throughout the entire corridor to ensure “an overall visual continuity of the corridor from opening day”.
3. The design standards allow for the applicant’s concerns to be addressed while maintaining the intent of the standards to guide appropriately designed and functional sites.
4. This site is important to establish the desired tone and pattern for future development as envisioned for the NPE Project along Oliver Lewis Way by the Urban County Council.

ATTEST: This 14th day of May 2021.

Secretary, James Duncan, AICP

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by Richard Murphy, attorney.

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (10) Barksdale, Bell, Davis, de Movellan, Forester, Nicol, Penn, Plumlee, Pohl, and Wilson

NAYS: (0)

ABSENT: (1) Meyer

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL (of part) and DISAPPROVAL (of part) for NPE 2021-1** carried.

Enclosures: Staff Report
Letter from Applicant
Adopted Ordinance 105-2009
Applicable Excerpts from the Newtown Pike Extension Commercial Design and Property Access Standards
Applicable excerpts of minutes of Commission's public hearing

FINDINGS FOR REQUESTED CHANGE TO THE NEWTOWN PIKE EXTENSION ORDINANCE

NPE 2021-1: UK FEDERAL CREDIT UNION (QUEEN ESTATE)

- Request:** A. Elimination of Off-Street Parking Design Standard C-1(e)
B. Elimination of Off-Street Parking Design Standard C-1(c)

[attached letters from Richard V. Murphy, dated March 15 & 26, 2021]

Ordinance: 105-2009, Section 10 [attached]

Location: 603-619 South Broadway and 405-411 Chair Avenue

COUNCIL ORDINANCE 105-2009 controls traffic movement, safety, access, and design aspects of the Newtown Pike and Scott Street Extensions. – Section 11 of this ordinance states “that prior to the adoption of any amended ordinance, the Urban County Council shall receive a report from the Planning Commission outlining any concerns and/or recommendations.”

Section 10 currently states “that all development within the NPE Design Area (which includes frontage properties shown on exhibit “A” and any other property consolidated to a frontage property), excluding Single Family detached and Two-Family residential structures, shall require approval of a final development plan by the Planning Commission. There shall be no issuance of any building permit without approval and certification of the final development plan. Structures on the development plan shall be a minimum of 2 stories in height and, in addition to the requirements of the Zoning Ordinance and Land Subdivision Regulations, shall comply with the standards and the guidelines in the Newtown Pike Extension Commercial Design and Property Access Standards dated May 11, 2007, which are incorporated herein by reference as if fully set out herein” (emphasis added).

Staff Review:

The Urban County Planning Commission originally approved the final development plan for the subject property for the proposed UK Federal Credit Union on October 8, 2020 (PLN-MJDP-20-00051). The appellant is now requesting a continued discussion seeking relief from the Newtown Pike Extension Commercial Design and Property Access Standards (referred to as “the Standards” elsewhere in this report) concerning two standards governing off-street parking design. First, the applicant requests relief for the locational requirement for their parking lot, and second, the required screening wall.

The proposed development plan covers 0.66 acres located on the northwest corner of the intersection of South Broadway and Oliver Lewis Way, and extending to Chair Avenue to the west. The site occupies the majority of the existing block of property bounded by South Broadway, Oliver Lewis Way, Chair Avenue and Emmaline Lane. The final development plan is for a 4,047 square foot, two-story building and 29 parking spaces. Its intended use is for the University of Kentucky Credit Union and, as such, has accessory drive-through banking facilities.

Request A – Elimination of Off-Street Parking Design Standard C-1(e)

This requirement states “no parking lots adjacent to the street shall be allowed on corner lots at major intersections within 250 feet of the intersection.” Due to the multiple frontages, the unusual shape of the property and the small size of the existing block, adherence to this standard would render the entire block virtually undevelopable for accessory parking. The applicant has sited the two-story principal structure at the primary intersection, with the proposed parking lot away from the intersection to the rear

and side of the credit union. Staff agrees with the applicant and recommends approval of the request to eliminate the 250-foot setback from the intersection.

Request B – Elimination of Off-Street Parking Design Standard C-1(c)

This requirement states “parking lots along street frontage shall be screened with a 6 foot high brick, natural stone or cut stone masonry screen wall.” The standard goes on to specify that the walls must be opaque at least 30 inches from grade. These screening requirements are for surface parking lots that are located adjacent to, and visible from, the Oliver Lewis Way corridor (formerly Newtown Pike Extension). In general, the standards are designed such that buildings will be located adjacent to the roadway and parking lots will be designed to be behind the buildings, or intense screening of the parking will be provided, if not behind the building. Example screening walls are depicted in Figures 17 and 18 of the Standards.

The proposed development plan has off-street parking areas adjacent to all three street frontages, with access designated from Chair Avenue. Although the parking spaces are not oriented to the street frontages, the surface parking lot, including the drive-through facilities are visible from all three streets; two of which, South Broadway and Oliver Lewis Way, are major arterials.

The applicant is requesting permission to remove the six-foot tall masonry wall along the street frontages of all three sides of the property. The applicant cites five reasons for the request. They are summarized as follows:

1. Desire for the property to be welcoming to visitors and believe walling off the property with a six-foot tall wall would defeat that purpose.
2. As a financial institution, there is general concern about security. The lack of visibility is a major detriment to site security.
3. Oliver Lewis Way and S. Broadway have a high volume of pedestrian traffic (due primarily to the proximity to UK). The applicant does not want their property to be used for activities that could have negative impact on pedestrians.
4. The aesthetic quality of the proposed landscape screening would be reduced by the wall obscuring the trees and shrubs on the property.
5. The impact of the off-street parking, even without the wall, will be mitigated by the parking space orientation and the proposed vehicle use area landscaping.

In reviewing the applicant’s request, staff believes the current design standard addresses their stated concerns, and no relief is necessary. The key requirement is that the wall be opaque a minimum of thirty inches from grade. That leaves an additional forty-two inches that can be “transparent” utilizing wrought iron railing or similar treatment for the remainder of the wall (see Exhibit 18 attached). This design, when utilized with landscaping, will be welcoming, allow visibility and discourage negative impacts while protecting the aesthetics of the landscaping.

It is important to note that these standards were adopted by the Urban County Council to ensure that the NPE project develop the new roadway as an amenity for the area, and to support its high quality redevelopment, establish a combination of standards and guidelines for all development along the corridor. In addition, the *urban design objectives* (emphasis added) of the Standards support high-quality development throughout the entire corridor to ensure “an overall visual continuity of the corridor from opening day”.

The staff believes this corner will set the character for future development along the corridor, and granting relief from the standards could undermine the stated goal of an overall visual continuity of the corridor from opening day. The Standards provide a more transparent (less opaque) option that can meet the needs of both the community and the applicant.

One previous request was reviewed by the Planning Commission and the Urban County Council in 2011 for a site located at the intersection of South Broadway and Pine Street to the north and not immediately adjacent to the Oliver Lewis Way corridor. It should be noted that The Lex development located across Oliver Lewis Way from the subject property, and the car wash development located kitty corner, were approved prior to the adoption of these standards.

The Staff Recommends: Approval of the elimination of the off-street parking lot locational standard C-1(e), for the following reasons:

1. The 250-foot requirement established in design standard C-1(e) would render the entire block virtually undevelopable because no accessory parking lot could be located on-site to meet the needs of the proposed development or any other development.

The Staff Recommends: Disapproval of the elimination of the parking lot screening standard C-1(c), for the following reasons:

1. In 2009, two years after the completion of the design study, the Urban County Council took into consideration the adoption of the design guidelines and standards for the entire Oliver Lewis Way corridor. At that time, the Council found that the NPE Project combines neighborhood planning with roadway engineering to develop the new road as an amenity for the area and to support its high-quality redevelopment setting a combination of standards and guidelines governing public and private building construction.
2. The urban design objectives of the Standards support high-quality development throughout the entire corridor to ensure “an overall visual continuity of the corridor from opening day”.
3. The design standards allow for the applicant’s concerns to be addressed while maintaining the intent of the standards to guide appropriately designed and functional sites.
4. This site is important to establish the desired tone and pattern for future development as envisioned for the NPE Project along Oliver Lewis Way by the Urban County Council.

3/30/21

TAM/ TLW

Plandata: Planning Services/Staff Reports/Newtown Pike Extension/NPE 2021-1 UK Credit Union (Queen Estate).docx

MURPHY & CLENDENEN, PLLC

ATTORNEYS AT LAW

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RICHARD V. MURPHY
CHRISTOPHER M. CLENDENEN

March 15, 2021

Mr. James Duncan, Director
Ms. Traci Wade, Planning Manager
Mr. Tom Martin, Senior Planner
Division of Planning
Lexington-Fayette Urban County Government
101 East Vine Street, 7th Floor
Lexington, KY 40507

Re: PLN-MJDP-20-00051
University of Kentucky Federal Credit Union
Request for continued discussion of development plan

Dear Mr. Duncan, Ms. Wade and Mr. Martin:

I represent the University of Kentucky Federal Credit Union, which plans to construct a new branch facility at the southwest corner of South Broadway and Oliver Lewis Way. The property is also bounded by Chair Avenue.

This plan was approved by the Planning Commission at its meeting on October 8, 2020. The plan has not been certified. We are requesting an early re-hearing in order to modify an element of Newtown Pike Extension Commercial Design and Property Access Standards, which were adopted May 11, 2007. This requires action by both the Planning Commission and the Urban County Council.

We are specifically requesting to remove the six-foot tall masonry wall along three sides of the property, which are the three street frontages, Oliver Lewis Way, South Broadway and Chair Avenue.

This is a modification to Item C.1 – Off-Street Parking in the 2007 Access Standards.

As the building has progressed closer to permit stage, it has become apparent that the design of the building would be enhanced by eliminating the six-foot wall. There are a number of reasons for this:

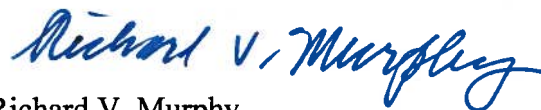
1. We want the property to be welcoming to visitors. The Credit Union has retained JRA Architects and Carman to custom design the building to be inviting to customers. One example is the use of glass walls. Walling off the property with a six-foot tall wall would defeat this propose.
2. As a financial institution, the Credit Union must be concerned with security. Many banks prohibit any visual obstructions between the street and pedestrian areas and parking. The Credit Union will have 24-hour ATM machines which must be secure for customers. The lack of visibility would be a major detriment.
3. Similarly, Oliver Lewis Way and South Broadway are major pedestrian corridors between The Lex, across the street, and the University of Kentucky. There is a great deal of pedestrian traffic after dark. We do not want our property to be used for activities which might negatively impact passers by.
4. Aesthetically, we will provide landscape screening along all three street frontages, as well as along the adjacent properties to the west. A wall would obscure our landscaping from passers by, and reduce the street enhancement of our trees and plantings.
5. Even without the wall, the impact of our off-street parking will be greatly minimized by our site design and landscaping. We plan only five parking spaces to face Oliver Lewis Way. We have no parking spaces facing South Broadway, and only seven parking spaces facing Chair Avenue. All the parking spaces will be screened by landscaping. We will greatly exceed the landscaping and screening provided by neighboring properties. For example, immediately across Oliver Lewis Way is a large parking lot for The Lex, which contains 25 parking spaces directly facing Oliver Lewis Way. Similarly, diagonally across the intersection is the parking lot for the car wash. Although both uses comply with the ordinances in effect when built, our property will have considerably more screening.

We will continue to meet the Program Goals and Objectives of the 2007 Newtown Pike Extension Commercial Design and Property Access Standards. Our new two-story branch facility will continue the framework for future development including small to large scale commercial enterprises, as called for in Objective 1.b. It will support and foster the adopted commercial policies of the Corridor Plan, by providing a neighborhood oriented service (Objective 1.d.ii); it continues well-designed commercial development along key corridors and at this major intersection (Objective 1.d.iii); our design is visually compatible with other commercial uses (Objective 1.d.iv); and our streetscape design establishes a distinct identity (Objective 1.d.v). This well-designed building and lot will enhance this gateway to make a good first impression for the City as well as this neighborhood (Objective 1.d.vi) and it will enhance the experience for the motorists and especially pedestrians and cyclists along these corridors (Objective 1.d.vii). Our vehicular access point is on Chair Avenue, which will minimize intersection conflict points, as called for by Objective 2.b.

In 2011, a similar modification to the Design Standards was granted to the commercial/residential development two blocks away, in the 500 block of South Broadway.

Thank you for your consideration of this early re-hearing request.

Sincerely,



Richard V. Murphy

RVM/prb

MURPHY & CLENDENEN, PLLC

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CHRISTOPHER M. CLENDENEN

March 26, 2021

Mr. James Duncan, Director
Ms. Traci Wade, Planning Manager
Mr. Tom Martin, Senior Planner
Division of Planning
Lexington-Fayette Urban County Government
101 East Vine Street, 7th Floor
Lexington, KY 40507

Re: PLN-MJDP-20-00051
University of Kentucky Federal Credit Union
Addition to Request for continued discussion of development plan

Dear Mr. Duncan, Ms. Wade and Mr. Martin:

This is an addition to the request for continued discussion which was filed on March 15, 2021.

As to the subject property only, we are also requesting the elimination of requirement C.1(e) which prohibits any parking lots adjacent to the street within 250 of a major intersection. Because the previous plan showed parking lots adjacent to the street within 250 feet of the intersection, we thought that issue had been resolved.

The reason for this request is that the property is unusable under this restriction, because it has three street frontages and is an unusual shape. The entire lot is within 250 of the two intersections. If the restriction were enforced, we would not have enough space for the required parking and our drive through facilities.

As mentioned in our letter dated March 15, 2021, we have minimized the number of spaces which are directly adjacent to the streets. Only five parking spaces face Oliver Lewis Way. No spaces directly face South Broadway. Seven spaces face Chair Avenue. These numbers are much less than other uses in the area.

We will still meet the Program Goals and Objectives of the 2007 Newtown Pike Extension Commercial Design and Property Access Standards, for the reasons set forth in the March 15, 2021 letter.

Thank you for your consideration of this request.

Sincerely,



Richard V. Murphy

RVM/dm

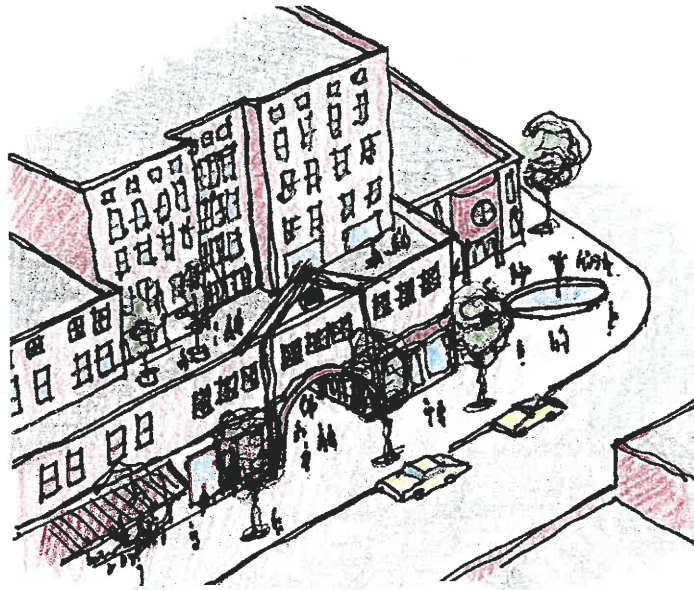


Fig. 05 Bulk Plane Set Back Example

C. Off Street Parking

1. Off-street Parking:

There shall be no limit on parking lot street frontage provided the following provisions are met: See Figures 06, 07 and 08 for reference.

- a) Parking lots adjacent to the street shall not be visible from the right of way.
- b) The minimum setback for parking lots adjacent to the street is 15 feet
- c) Parking lots along street frontage shall be screened with a 6 foot high brick, natural stone or cut stone masonry screen wall. Walls must be opaque min. 30 inches from grade. See section M for additional wall requirements.
- d) The masonry screen wall shall be set back 15 feet so as to maintain the existing green space.
- e) No parking lots adjacent to the street shall be allowed on corner lots at major intersections within 250 feet of the intersection.
- f) Access or visibility of surface parking is not allowed within 100 feet of street corners.

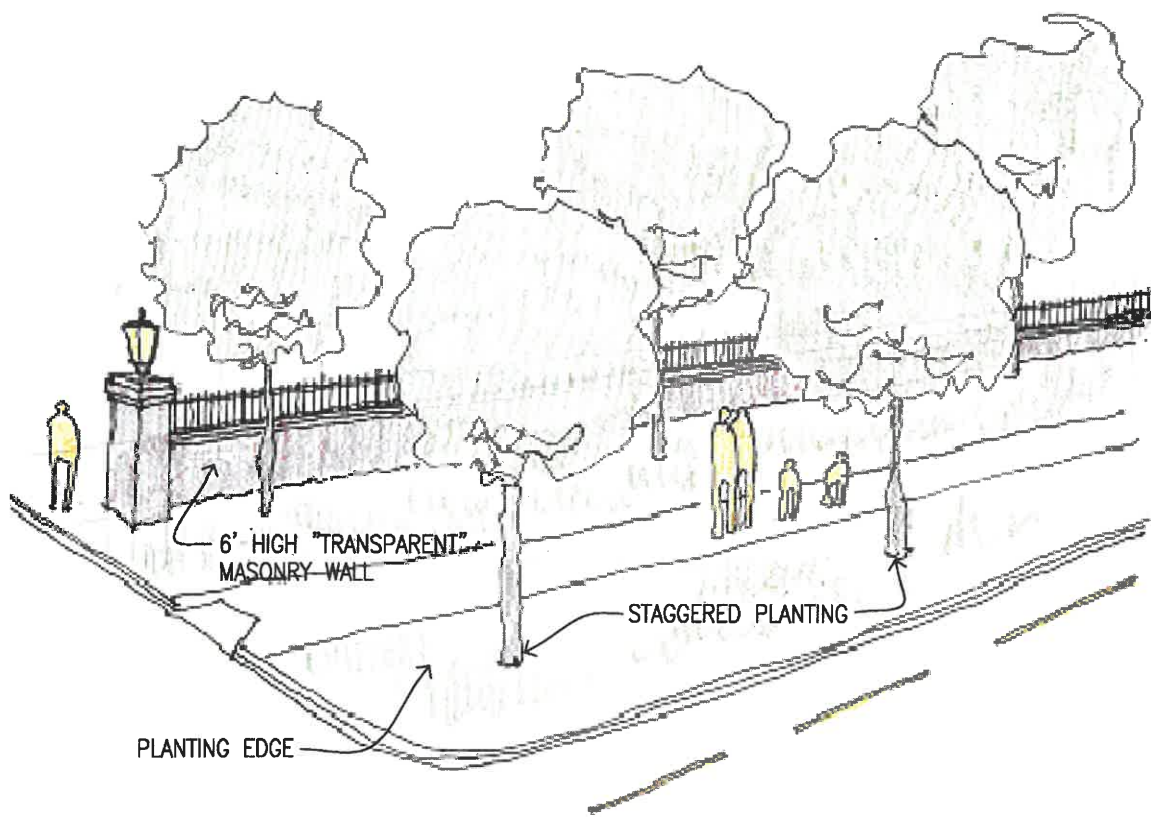


Fig. 18 Transparent Screen Wall Example

ORDINANCE NO. 105-2009

AN ORDINANCE ADOPTING THE NEWTOWN PIKE EXTENSION AND SCOTT STREET CONNECTOR TRAFFIC SAFETY AND MOVEMENT PLAN RELATING TO TRAFFIC MOVEMENT, SAFETY, ACCESS, AND DESIGN; PROVIDING FOR ISSUANCE OF PERMITS IN CONFORMANCE WITH THE PLAN AND LOCATION AND DEDICATION OF ACCESS ROADS; SPECIFYING THE LOCATION OF MEDIAN OPENINGS; SPECIFYING CONTROL OF ACCESS FOR THE SCOTT STREET CONNECTOR FROM THE NEWTOWN PIKE EXTENSION TO THE NEW BROADWAY STREET BRIDGE; SPECIFYING LOCATIONS OF RIGHT TURN IN/RIGHT TURN OUT ACCESS POINTS; SPECIFYING REQUIREMENTS FOR DRIVEWAYS AND ENTRANCES AND CORNER CLEARANCE; PROVIDING THAT DEVELOPMENT OTHER THAN SINGLE-FAMILY DETACHED AND TWO-FAMILY RESIDENTIAL STRUCTURES SHALL REQUIRE APPROVAL OF A FINAL DEVELOPMENT PLAN BY THE PLANNING COMMISSION, SHALL BE A MINIMUM OF TWO (2) STORIES AND SHALL COMPLY WITH THE NEWTOWN PIKE EXTENSION COMMERCIAL DESIGN AND PROPERTY ACCESS STANDARDS; REQUIRING A REPORT FROM THE PLANNING COMMISSION PRIOR TO ADOPTION OF ANY ORDINANCE ALTERING THE TEXTUAL OR GRAPHIC REPRESENTATION OF THIS ORDINANCE; AND AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO REQUEST ASSISTANCE FROM THE COMMONWEALTH OF KENTUCKY AND ANY OTHER PERSON OR ENTITY, INCLUDING THE UNITED STATES GOVERNMENT, IN IMPLEMENTING THE PROVISIONS OF THE PLAN.

WHEREAS, there have been extensive and lengthy studies conducted by the partners in the Newtown Pike Extension Project (the "NPE Project"), including an Environmental Impact Statement (the "EIS"), Commercial Design and Property Access Standards, and the Southend Park Urban Village Plan; and

WHEREAS, the NPE Project involves the connection or extension of Newtown Pike from West Main Street to South Broadway and the connection of a spur road (the "Scott Street Connector") from the intersection of Newtown Pike Extended at Patterson Street to South Limestone Street; and

WHEREAS, the purpose of the NPE Project combines neighborhood planning with roadway engineering to develop the new road as an amenity for the area and to support its high quality redevelopment, which includes improving flow of through traffic; drawing unnecessary traffic out of the downtown area; setting a combination of standards and guidelines governing public and private building construction; and improving access to the University of Kentucky central campus by a more efficient vehicular route, and reducing motor vehicle congestion in the downtown area; and

WHEREAS, the EIS has been approved by the federal government, and the Kentucky Department of Transportation is preparing to commence right-of-way acquisition for the NPE Project; and

WHEREAS, it is imperative to the success of the NPE Project to manage access to the new roadway and control certain design criteria of the nearby properties; and

WHEREAS, this Council desires to increase traffic safety on the Newtown Pike Extension and the Scott Street Connector, improve traffic flow, provide access to adjacent development, control certain design criteria of nearby properties, and plan for the future of these roadways under the powers granted to this Urban County Government by the Constitution and laws of the United States and Commonwealth of Kentucky, including the police power;

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

Section 1 – That it is the intent of this Council to increase traffic safety, improve traffic flow, provide for access to adjacent development and plan for the future of the Newtown Pike Extension and Scott Street Connector.

Section 2 – That this Council hereby adopts the Newtown Pike Extension and Scott Street Connector Traffic Safety and Movement Plan (hereinafter referred to as the “Plan”), which consists of this Ordinance and the Map, marked as Exhibit “A”, which is attached hereto and incorporated herein by reference.

Section 3 – That no permits be shall issued, no plans shall be approved, and no access shall be allowed by any agency, department, employee, or other agent or servant of this Government, except in conformance with the Plan. Only slight changes in location of up to thirty feet will be permitted to allow for engineering considerations.

Section 4 – That all access roads which are indicated in the Plan and not yet constructed shall be dedicated to public use by the owner and/or developer, and it shall be the policy of this Government to encourage owners of access roads which have already been constructed to offer them for dedication to this Government.

Section 5 – That when the Newtown Pike Extension and Scott Street Connector are fully developed as shown on the Plan, the only full median openings shall be at the locations shown on the Map, including the following intersections:

Fully Signalized Intersections

- a. Newtown Pike Extension and Main Street;
- b. Newtown Pike Extension and Manchester Street;
- c. Newtown Pike Extension and Versailles Road;
- d. Newtown Pike Extension and Patterson Street;
- e. Newtown Pike Extension and Broadway; and
- f. Scott Street Connector and Limestone Street

Non-signalized intersections

- a. Scott Street Connector and the existing Norfolk-Southern rail yard entrance (west side);
- b. Scott Street Connector and Magazine Street (east side); and
- c. Scott Street Connector and Chair Street (east side) and DeRoode Street (westside)

Section 6 – That access shall be controlled for the Scott Street Connector from the intersection with Newtown Pike Extension to the new Broadway Street Bridge. Except as provided for in the Plan and this Ordinance, no additional entrances shall be permitted. Access to Scott Street from properties located between the Broadway Street Bridge and Limestone Street shall not be controlled, but shall be allowed by permit.

Section 7 – That right turn-in/right turn-out access points will be located and constructed only at the following intersections with Newtown Pike Extension:

- a. Merino Street (northbound and southbound);
- b. Spring Street (northbound); and
- c. DeRoode Street between the Scott Street Connector and Broadway (southbound).

Section 8 – That two additional right turn-in/right turn-out access points shall be included in the project. The first shall be a minimum of 200 feet south of the intersection of Newtown Pike Extension and Versailles Road (southbound), for the purpose of accessing the corner parcel (currently the Stop and Shop retail facility). The second shall be a minimum of 200 feet from the intersection of Newtown Pike Extension and West Main Street (northbound), for the purpose of accessing the corner parcel (currently the Salvation Army). The location of this right-in/right-out is to provide emergency vehicles to the rear of the building located on the site.

Section 9 – That corner clearance for roadways and driveways intersecting with Newtown Pike Extension shall be considered. Corner clearance represents the minimum distance that should be required between an intersection and adjacent driveways. Driveways and entrances shall be located outside the functional area of the intersection (i.e., where turn lanes are located or where queues regularly exist). For minor approaches, such as Merino Street, driveways shall be located a minimum of 100 feet from the driving lane edge of Newtown Pike Extension.

Section 10 – That all development within the NPE Design Area (which includes frontage properties shown on Exhibit "A" and any other property consolidated to a frontage property), excluding Single Family detached and Two-Family residential structures, shall require approval of a final development plan by the Planning Commission. There shall be no issuance of any building permit without approval and

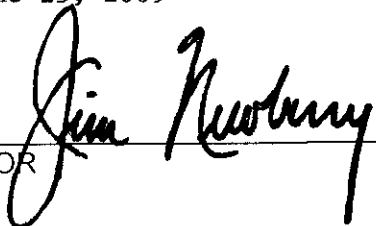
certification of the final development plan. Structures on the development plan shall be a minimum of two (2) stories in height and, in addition to the requirements of the Zoning Ordinance and Land Subdivision Regulations, shall comply with the standards and the guidelines in the Newtown Pike Extension Commercial Design and Property Access Standards dated May 11, 2007, which are incorporated herein by reference as if fully set out herein.

Section 11 – That prior to the adoption of any amended ordinance that will alter the textual or graphic representation of this Ordinance, the Urban County Council shall receive a report from the Planning Commission outlining any concerns and/or recommendations.

Section 12 – That the Mayor is authorized and directed, on behalf of the Urban County Government, to request assistance from the Commonwealth of Kentucky, including but not limited to, the Department of Transportation, in implementing the Plan through the closing of median openings; revoking or granting right turn-in/right turn-out access points as indicated in the Plan; installing traffic signals as indicated in the Plan; and through any other means to advance the intent of the Plan. The Mayor is also authorized and directed, on behalf of the Urban County Government, to request assistance from any other person or entity, including the United States Government, to implement the provisions of the Plan.

Section 13 – That this Ordinance shall become effective on the date of passage.

PASSED URBAN COUNTY COUNCIL: June 25, 2009

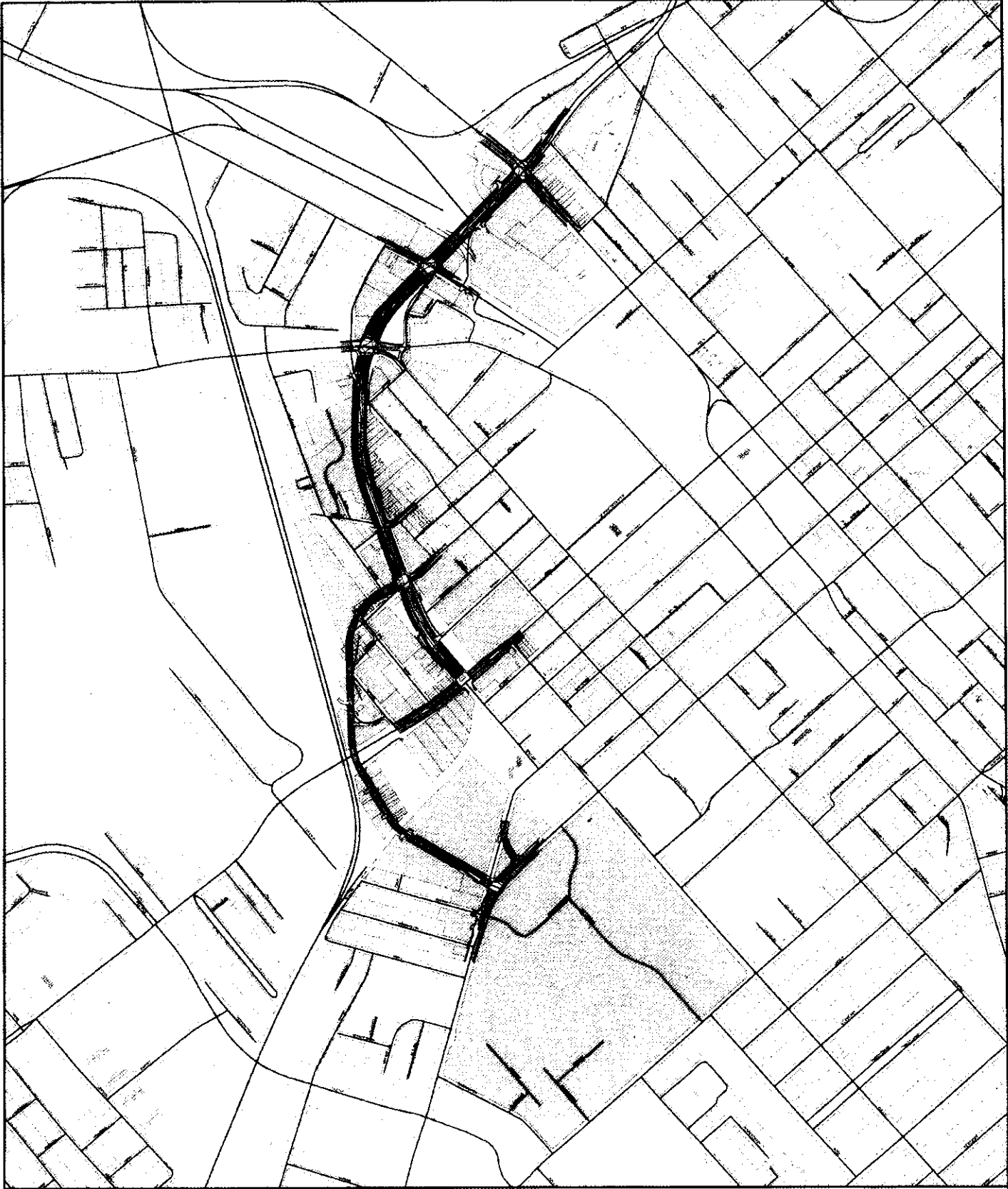
MAYOR 

ATTEST:

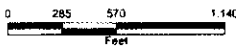

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 2, 2009-1t

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**Frontage Parcels Along
Proposed Newtown Pike Extension**



General Symbology

- Railroad
- Proposed Road
- Street
- Parcel
- Frontage Parcels

EXHIBIT A

- b. PLN-MJDP-20-00051: QUEEN ESTATE (UNIVERSITY OF KENTUCKY FEDERAL CREDIT UNION) – located at 603, 607, 615, 617 AND 619 BROADWAY AND 405 & 411 CHAIR AVE., LEXINGTON, KY.
Council District 3
Project Contact: Carman

Note: The Planning Commission approved this plan at their October 8, 2020, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the location of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Remove extraneous information from plan.
11. Denote compliance with the adopted Newtown Pike Corridor Design and Access Standards.
12. Resolve improvements to Chair Avenue per preliminary development plan.
13. Resolve proposed building façade articulation on S. Broadway.

Note: The applicant has requested a continued discussion of the final development plan to address the applicable Newtown Pike Extension Commercial Design and Property Access Standards, and request relief from Item C.1 related to off-street parking lot design standards.

The Staff Recommended: **Approval of the elimination of the off-street parking lot locational standard C-1(e), for the following reasons:**

1. The 250-foot requirement established in design standard C-1(e) would render the entire block virtually undevelopable because no accessory parking lot could be located on-site to meet the needs of the proposed development or any other development.

The Staff Recommended: **Disapproval of the elimination of the parking lot screening standard C-1(c), for the following reasons:**

1. In 2009, two years after the completion of the design study, the Urban County Council took into consideration the adoption of the design guidelines and standards for the entire Oliver Lewis Way corridor. At that time, the Council found that the NPE Project combines neighborhood planning with roadway engineering to develop the new road as an amenity for the area and to support its high-quality redevelopment setting a combination of standards and guidelines governing public and private building construction.
2. The urban design objectives of the Standards support high-quality development throughout the entire corridor to ensure "an overall visual continuity of the corridor from opening day".
3. The design standards allow for the applicant's concerns to be addressed while maintaining the intent of the standards to guide appropriately designed and functional sites.
4. This site is important to establish the desired tone and pattern for future development as envisioned for the NPE Project along Oliver Lewis Way by the Urban County Council.

The Subdivision Committee Recommended: **Approval of the elimination of the off-street parking lot locational standard C-1(e), and Disapproval of the elimination of the parking lot screening standard C-1(c), for the reasons provided by staff.**

Staff Presentation - Mr. Martin presented the Final Development Plan and said that that the Planning Commission has already approved this plan. He identified the proposed Credit Union building, associated parking with its access, proposed landscaping, the entrance into the front of the building, and access to the rear of the building. He said that this plan is being presented again because the applicant is seeking relief from the Council Ordinance that governs access and design for the Newtown Pike Extension, which the Planning Commission is asked to make a recommendation on.

Mr. Martin said that the applicant is asking for relief from two specific items. The first item is the off-street parking locational standard, which is C-1(e) of the Design Standards. He said that is a spacing requirement that prohibits parking within 250 feet of an intersection, which would render the entire area undevelopable. He said that the staff is recommending approval of

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this particular request. The second request is relief from surrounding the parking area with a six-foot wall, which is a Design Standard for parking lots. He said that the applicant has provided a report and findings to the staff and the Planning Commission. They believe that the elimination of the wall and the utilization of landscaping will make this area more secure and inviting to their customers. They have also cited the probability of large amounts of pedestrian traffic and indicated that having a wall will encourage negative behavior. They believe that their landscaping will satisfy the intent of the Design Standards. He said that the location of the building and the parking is consistent with the intent of the Design Standards.

Mr. Martin said that the staff believes that it is necessary to establish some background to this Ordinance, this request, and to the development of this particular corner. He reiterated that the City of Lexington is a radial city, with our spokes being major arterial roadways, which over the years have received great emphasis. There are several access and landscaping corridor ordinances, which the Council has passed to emphasize the need to regulate development along these corridors and ensure that they are designed to promote the gateway into Lexington. He said that the Newtown Pike Extension has been discussed for decades and was emphasized when the interstates were created. He said that in the late 1990's, the Division of Engineering and the Kentucky Transportation Cabinet began to review the extension and in 2002, the Planning Commission adopted their plan for this extension, which could be equated to a Small Area Plan. He said that it was one of the most extensive and detailed Small Area Plans that this community has ever done. He said that City Council members designated neighborhood representatives to be part of the Committee that oversaw the development of this plan. It affected six sub-areas and numerous neighborhoods, including the Davis Bottoms, Irish Town, Woodward Heights, and other neighborhoods. Because this plan was so significant, impacting all these neighborhoods, it was deemed necessary to create this ordinance, which the Council adopted in 2007. The Plan incorporated the access and design standards that were created in conjunction with the Newtown Pike Extension Corridor Plan. He added that the plan emphasized the need for urban character and an urban village for this area. He said that there is a Land Trust that was also created for this area and that affordable housing is a significant component of this plan. He said that approximately \$75 million has been spent on this extension to address the land use patterns, build this road, new infrastructure, and address other environmental issues in this area.

Mr. Martin said that the applicant is opining that the walls don't exist around some of the properties located within the Newtown Pike Extension Corridor Plan area. He said that those properties are existing developments that were created prior to this plan. He said that this is the Planning Commission's opportunity to implement this plan and set the precedence for the urban style development, which the plan recommends and the Design Standards support.

Mr. Martin displayed a color rendering of the entire plan area and pointed to the gateway area that was designated with this plan. He said that the gateway at South Broadway, Newtown Pike Extension, and Oliver Lewis Way is key to establishing the character to the redevelopment of this area. He then displayed a map of the frontage parcels that are part of the adopted Ordinance. The design and access standards that were created in the Ordinance recommends six-foot high walls, and a transparent barrier is allowed, such as wrought iron fencing. He said that the Ordinance only requires that the opaque portion of the wall be thirty inches from grade. He said that the applicant would like to use landscaping in place of the wall for safety reasons. He also said that the vehicular use area (VUA) landscape requirements for parking lots is a three-foot solid hedge. This requirement allows the applicant thirty inches of an opaque wall and the VUA requirements require a solid hedge taller in height than the bottom portion of the masonry wall. He said that the staff is recommending disapproval of the elimination of this screening standard because this is the implementation of a tremendously important plan to our community. The staff also believes that the wall will not create a safety issue, but will better define the area, by reducing cut-through pedestrian traffic.

Applicant Representation – Richard Murphy, attorney; Joel Aran, University of Kentucky Credit Union; Rob Deal, JRA Architects; Kevin Warner, Carman; and Derek Paulsen, Eastern Kentucky University; were present representing the applicant. Mr. Murphy said that this plan was approved in October 2020, and that they are requesting continued discussion regarding the six-foot wall. He said that they are requesting a waiver because they don't believe it is a good idea to have half a wall masonry and half wrought iron or all of it be masonry, at this location. He said that this plan meets most of all the Newtown Pike Extension Corridor Plan's criteria. He displayed a landscape plan and described the location. He said that the building is set at the street, which is required by the Council Ordinance and recommended in many places in the 2018 Comprehensive Plan's Placebuilder criteria. He said that there will be 200% of the required landscaping, which is depicted on this plan. He displayed the building elevations and said that the buildings have multi-planes and many setbacks. He also displayed the building rendering and said the north and south sides of the building will be all windows, which will engage the pedestrians.

Mr. Murphy said that this will be a retail bank and will have a lot of pedestrian and vehicular traffic. They will have three drive-through windows and one for an ATM. He said that students will be accessing this property at all times and they are very concerned about the security of this property. He added that the Corridor Plan calls for them to support the commercial policies of the plan, to allow businesses to be present and he believes that they will be a new business anchor in this area. He said that this development meets the 2018 Comprehensive Plan and the Newtown Pike Extension Corridor Plan because it is a well-designed commercial development, visually compatible with other commercial uses, establishes a distinct identity for this property, enhances the gateway to the City of Lexington, and enhances the pedestrian and motorist experience. He said that the property's access will be on Chair Avenue.

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Mr. Murphy said that most banks request that there be no walls, fences, or landscaping specifically for security reasons. He believes that the wall request is a security problem and they invited Derek Paulsen, Ph.D, to speak about that concern.

Dr. Paulsen displayed the Newtown Pike Extension Commercial Design and Property Access Standards and said that when this plan was created, there wasn't much concern about crime and crime prevention. He said that there was a study completed called "The Impact Design on Crime and Opportunities", and in 2013 the Kentucky State Legislature passed a statute that all schools in the state are required to use crime prevention principles any time they construct or renovate a building, which include access control and surveillance. He said that the Lexington Police Department is also working with Planners and developers to reduce crime.

Dr. Paulsen said that a major concern is the visibility from the right-of-way by requiring a six-foot wall to provide screening. He displayed the development plan, which depicted the location of this wall. He said that it will compromise surveillance, particularly the drive-through aisles in the rear of the building because they will be blocked from view on three sides. He said that mechanical surveillance is best for capturing evidence of a crime but not very good at preventing the original crime from happening. Natural surveillance is the best, which are active frontages, open and bright spaces that reduce hiding spaces and not having blank walls. He said that customers will feel safer when they can see their surroundings before entering. He then displayed other banks in the area and said that typically the drive-through aisles are visible from the street. He said that there are numerous student housing complexes nearby and the pedestrian traffic will be high, and mostly at night. He asked for relief of the required six-foot masonry wall, because of this particular use. They would prefer to use low landscaping. In regards to Mr. Martin's presentation of the thirty-inch masonry wall and 42 inches of wrought iron above it, he said that there is still a degree of compromise with surveillance.

Mr. Murphy then said that Mr. Aran would like to comment regarding pedestrian safety. Mr. Aran said that the safety is for both the customers and their employees. They want to eliminate the ambush type of attacks, where someone can hide and attack. He also reiterated that this will be a high traffic area that could present that type of opportunity.

Mr. Murphy displayed photos of surrounding uses and said most of this development was created prior to the adoption of the Design Standards. He pointed out the landscaping and said that they plan to install much more landscaping than these surrounding buildings. He said that this Corridor Plan was created over 20 years ago and the concept of urban design has changed. He said that in these other locations there are no walls or fences required so that there will be pedestrian activation, no barrier between the customers and the business being served. He added that is not desirable to walk next to a six-foot wall and have traffic on the other side of you. He said that the 2018 Comprehensive Plan Placebuilder Development Criteria calls for pedestrian activation. He believes that the design of this building, landscaping, and location of the building near the street that there is pedestrian activation. He presented Facts and Findings, as follows:

1. Removal of the wall requirements will make the credit union more inviting to pedestrians and customers, and will make the credit union much more secure. More landscaping will be provided than is required by the ordinance and the landscaping and design of the building will result in an urban design which is pedestrian activated.
2. No other uses in the area are screened by six-foot walls or fences. Exemptions were granted to a number of the ordinance provisions for the construction of the townhome and restaurant development in the 500 block of South Broadway nearby.
3. The project will continue to meet the Program Goals and Objectives of the 2007 Newtown Pike Extension Commercial Design and Property Access Standards.
 - a. The new two-story branch facility will continue the framework for future development including small to large scale commercial enterprises, as called for in Objective I.b.
 - b. It will support and foster the adopted commercial policies of the Corridor Plan, by providing a neighborhood oriented service (Objective 1.d.ii).
 - c. It continues well-designed commercial development along key corridors and at this major intersection (Objective I.d.iii).
 - d. The design is visually compatible with other commercial uses (Objective I.d.iv);
 - e. The streetscape design establishes a distinct identity (Objective I.d.v).
 - f. This well-designed building and lot will enhance this gateway to make a good first impression for the City as well as this neighborhood (Objective I.d.vi).
 - g. It will enhance the experience for the motorists and especially pedestrians and cyclists along these corridors (Objective I.d.vii).
 - h. The vehicular access point is on Chair Avenue, which will minimize intersection conflict points, as called for by Objective 2.b.

Commission Questions – Mr. Penn asked the applicant what is the percentage of customers over the age of 30 that use ATMs, since many of the students don't carry cash. Mr. Aran said that they are anticipating 50% of the customers to be over the age of 30 and 50% of them to be students. He added that students just don't carry large amounts of cash. Mr. Penn also asked if the landscaping will hinder the views. Mr. Aran said that it is easier for criminals to hide behind a wall than bushes.

Mr. Nicol asked if there is an alternative to a six-foot wall that would meet the Design Standards and the Gateway intent, such as a design feature. Mr. Martin reiterated that this is a Council Ordinance, which has specific requirements. He said that the applicant has only offered landscaping as an alternative to the wall. He said that the gateway elements, benches, pavers, and marked crosswalks were removed from the construction and design in this area due to cost concerns. The staff believes that puts more importance to the orientation of the development to the street. He said that this is a commercial development, and the intent is to not have parking lots dominate the streetscape. He added that landscaping is also a barrier.

Mr. Bell asked if a hedge is a security hinderance. Dr. Paulsen said that a hedge is less of a concern than a wall. He said that all landscaping needs to be well maintained to keep a good sight line. He said that there is huge difference in a wall and a hedge in terms of opacity. A person can stand behind a hedge and still see through it where they can't see through a wall. He said that the staff recommendation of a thirty-inch wall is much better than the requirement, which can still be compromised. Mr. Murphy added that the Zoning Ordinance calls for a minimum of 70% opacity with hedges in the summer and 50% in the winter.

Ms. Barksdale asked the applicant what would be the height of the hedges. Mr. Warner said that the Zoning Ordinance requires a three-foot hedge and that they would be maintained at that height. He added that they are proposing a double row of hedges with two different hedge species. Mr. Murphy added that the screening is there to screen the automobile parking and a hedge will screen that as well as a wall will. It will give the visual separation of the vehicles from the roadway.

Mr. Bell asked the staff how they would make recommendations for this if the Council Ordinance were not in place. Mr. Martin said that the staff would support the parking not dominating the landscaping, the location of the building near the street, and the landscaping, which is an option in the Zoning Ordinance.

Mr. Nicol asked the staff if the intent of the Design Standards is to create a gateway on this corridor. Mr. Martin said that the Plan states goals of promoting urban development from this intersection to the north. He said that staff would like the applicant to define the corridor with some landscaping to create the gateway. Mr. Murphy added that at this hearing, the Planning Commission is making a recommendation to the Urban County Council on this and that he believes that the Ordinance should be updated to reflect today's urban type development, which he believes they are reflecting.

Citizen Comments - There were no audience members present to speak to this request.

Commission Comments – Ms. Plumlee said that the Planning Commission is working with the Ordinance as it is at this time for this decision. Mr. Murphy said that in a previous case, the Planning Commission requested an amendment to the Council Ordinance, which was approved.

Mr. Pohl asked if the requirements of the Ordinance apply to Chair Avenue as well as to South Broadway and Oliver Lewis Way. Mr. Martin said that the Ordinance applies to parcels that have been frontage parcels and in this particular case, due to the relationship of the parking and the buildings to the right-of-way.

Mr. Wilson asked if the Planning Commission was making a recommendation against an Ordinance that is currently established. Ms. Wade said that the process for this request is to modify or remove part of the restriction of the Ordinance requirement for this property. She added that the Council Ordinance that was adopted sets forward a process by which an applicant (developer) can ask for a change to the requirement. She added that this is the process. The applicant applied to the Planning Commission for their review and to make a recommendation to the Urban County Council as to whether they should grant a variance or a waiver to the requirements. Mr. Wilson then asked the staff what is their recommendation. Ms. Wade said that the staff's recommendation and staff report has been provided to the Planning Commission, along with several other attachments. She said that the staff is recommending disapproval of their request to eliminate the wall. She added that in the future, if the Planning Commission would like, they could make a recommendation to the Council to review those guidelines, which would be a resolution. However, the Planning Commission cannot change the adopted Council Ordinance.

Mr. Nicol said that he would like to update the requirements to meet the needs of today and not just to eliminate one of them. Ms. Wade added that Mr. Murphy could make a request to the Council directly to update the Ordinance. Ms. Jones verified that the Planning Commission can't change the Ordinance.

Mr. Bell agrees that it would be a good idea to update the Ordinance because of the changes in how we think about security.

Ms. Plumlee believes that the Planning Commission should follow the recommendations of the staff. She is also in favor of creating a resolution to update the Council Ordinance.

Mr. Pohl believes that the lack of landscape screening on parking lots is hurtful to the community. In regards to the gateway corridor, he believes that makes this development more urban and substantial. He said that security issues are real and he values the evidence provided by the applicant.

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Mr. Penn said that the Planning Commission is in a situation to make a recommendation to the Council to review the Ordinance. He doesn't believe that the Planning Commission can accept Mr. Murphy's findings based on the Ordinance as it is today. He said to accept the staff's recommendation for now.

Mr. Bell asked if the applicant can continue this hearing and return with other suggestions. Ms. Wade stated that could be an option for the applicant. Mr. Bell then asked that if the Planning Commission could request the Council to review the Ordinance and then have the applicant return with this.

Mr. Penn said that the applicant has asked the Planning Commission to hear this today and not to ask Council to change the Ordinance at this time.

Ms. Jones said that there are a few options, this is an Ordinance adopted by the Council with this process. She said that the Planning Commission is being asked today to make a recommendation to the Council as to what they should do with this request, which is to waive part of the Newtown Pike Extension Corridor Plan Ordinance. She said that the Planning Commission could approve it with the staff's findings, or adopt the applicant's findings, which would be recommending to the Urban County Council that they waive those provisions. She said that the Planning Commission can't impose a continuance onto the applicant, which the Ordinance will still be in place after the continuance. She added that the Planning Commission could recommend to the Council that they update this Ordinance, which would be a separate action, not part of this case.

Action - A motion was made by Mr. Wilson, seconded by Mr. Penn, carried 10-0 (Meyer absent) to approve PLN-MJDP-20-00051: QUEEN ESTATE (UNIVERSITY OF KENTUCKY FEDERAL CREDIT UNION), for the reasons provided by the staff, for the following:

Approval of the elimination of the off-street parking lot locational standard C-1(e).

Action - A motion was made by Mr. Nicol, seconded by Ms. Plumlee, carried 10-0 (Meyer absent) to disapprove PLN-MJDP-20-00051: QUEEN ESTATE (UNIVERSITY OF KENTUCKY FEDERAL CREDIT UNION), for the reasons provided by the staff, for the following:

Disapproval of the elimination of the parking lot screening standard C-1(c).

Action - A motion was made by Mr. Nicol, seconded by Mr. Wilson, carried 10-0 (Meyer absent) to ask Urban County Council to consider updating this Ordinance.

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