

**8. FLYING DUTCHMAN PROPERTIES, LLC, ZONE MAP AMENDMENT & FOX PROPERTY, LOT 4, ZONING DEVELOPMENT PLAN**

- a. MAR 2016-13: FLYING DUTCHMAN PROPERTIES, LLC (6/5/16)\* – petition for a zone map amendment from a Single Family Residential (R-1A) zone to a Neighborhood Business (B-1) zone, for 0.92 net (1.15 gross) acres, for property located at 2400 Versailles Road.

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.

The petitioner proposes a Neighborhood Business (B-1) zone for the subject property in order to construct a small commercial building of approximately 6,000 square feet in size, and associated off-street parking.

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

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

1. A restricted Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the Plan state that infill and redevelopment should respect an area's context and design features (Theme A, Goal #2a); and that underutilized and vacant land should be utilized to encourage compact and contiguous development within the Urban Service Area (Theme E, Goal #1).
  - b. The proposed zoning is compatible with other commercial land uses between the Wolf Run Creek tributary and Village Drive, including the adjoining commercial development to the east. This portion of the Versailles Road corridor is predominantly zoned B-1. Additionally, a significant landscape buffer for the proposed commercial development will provide an adequate land use buffer from the single-family home to the south on Parkers Mill Road.
  - c. The proposed development of the subject property will put an underutilized tract to a productive use in support of existing businesses in the community.
2. This recommendation is made subject to approval and certification of ZDP 2016-48: Fox Property, Lot 4, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property:
  - a. Prohibited Uses:
    1. Drive-through facilities.
    2. The sale or provision of wine, beer or alcoholic beverages, other than by the drink.
    3. Live entertainment and/or dancing.
    4. Cocktail lounges, brew-pubs and nightclubs.
    5. Automobile service stations.
    6. Arcades, including pinball and electronic games.
    7. Sale of firearms other than by federally licensed manufacturers, importers or dealers.
    8. Car washing establishments.
    9. Pool tables within an establishment, even as an accessory use.
    10. Automobile and vehicle refueling stations.
  - b. Other Use Restrictions:
    1. A landscape buffer of at least twenty-five (25) feet in width shall be provided along the southern property boundary, with plantings as specified by Article 18-3(a)(1)2 of the Zoning Ordinance, including the retention of any tree that is at least 4" in diameter at breast height (DBH) in size. Any tree 4" DBH or larger may only be removed if diseased or dying, and only with the written permission of the Urban Forester.
    2. Outdoor lighting shall be shielded and directed away from any adjacent residential zone. Lighting attached to a pole or any structure shall be a maximum of twenty (20) feet in height.
    3. Any free-standing sign erected shall be a maximum of ten (10) feet in height.

These use and buffering restrictions are appropriate and necessary to ensure greater compliance with the 2013 Comprehensive Plan, and to provide protection to the adjacent residential land uses.

- b. ZDP 2016-48: FOX PROPERTY, LOT 4 (6/5/16)\* - located at 2400 Versailles Road.

(Vision Engineering)

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.

2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Identify existing entrances on adjacent property to the east on plan.
8. Reference Article 19 applicability in General Notes.
9. Discuss fenestration to Versailles Road right-of-way.
10. Discuss proposed dumpster location.
11. Discuss impact of proposed development on 100-year floodplain.
12. Discuss possible improvements to Versailles Road.

Zoning Presentation - Ms. Wade oriented the Planning Commission to the site and presented the staff report. The subject property is approximately one acre in size, located on the south side of Versailles Road, near the Parkers Mill Road intersection. The property is bounded to the north by residential, the east by a B-3 zone (Starbucks), to the south by single-family residential, and the west by the remainder of the Fox Property, mostly a floodplain, in an R-1A zone. Ms. Wade displayed an aerial photograph of the property. The Fox property is mostly open space, with the Gardenside Tributary of the Wolf Run Creek crossing it watershed. This floodplain collects approximately 900 acres of storm water runoff and feeds under Versailles Road to Wolf Run Creek further to the north. The subject property is approximately two-thirds in the floodplain and is also approximately 80% canopy covered with mature trees.

Ms. Wade said that the petitioner is proposing to rezone this property to construct a 6,000 square-foot retail building. The staff would note that the proposed rezoning is in agreement with the Comprehensive Plan, specifically infill and redevelopment, job creation, and utilizing an underutilized or vacant property. Referring to an aerial photo, looking west to east; she noted that the land use in the area is primarily commercial and residential. Ms. Wade highlighted the location of residential landuse including the subject property. In between the two creeks the subject property is the only residential property that remains undeveloped.

Ms. Wade said the staff's primary concern is protection of the boundary with the adjacent residential parcel that accesses Parkers Mill Road. The staff and Zoning Committee recommended approval to rezone this parcel for reasons as listed in the staff report and on the agenda; recommending conditional zoning restrictions to limit the use, as well as a 25-foot landscape buffer that will preserve mature trees with a trunk size above 4 inches in diameter along the southern boundary of the property. Ms. Wade provided a handout that added a sentence to the proposed conditional zoning restriction to preserve a row of established evergreen shrubs that are on the development plan to provide a dense buffer along the property line. The staff also recommends limiting the outdoor lighting and any freestanding signage along Versailles Road. There are several conditional zoning prohibited uses that are similar to the restrictions in other B-1 zones in this area.

NOTE: Mr. Berkley left the meeting at this time.

Development Plan Presentation - Mr. Martin presented the Development Plan and provided a handout with revised conditions. The petitioner is proposing a 6,000 square-foot building with 16 parking spaces (15 required). Mr. Martin highlighted the location of the 100-year floodplain and floodway on the property. There was a previous plan of the property that did not meet the setback requirements and that had a much bigger impact on the floodplain. This revised plan meets the setback requirements and has much less impact in the floodplain. Also, many of the trees on the site can be preserved and will be addressed at the Final Development Plan stage. There was a great deal of discussion at the Subdivision Committee meeting about the safety of Versailles Road access. There has also been discussion on the provision of a slip lane to provide a right turn lane into the property. This is covered in condition #10 on the handout. The staff suggests that these possible improvements be determined at the Final Development Plan stage.

Mr. Martin stated that the staff also recommended architectural details relative to the building's presentation to Versailles Road. This can also be resolved at the Final Development Plan stage. Staff is recommending approval of the zoning development plan.

Commission Questions: Ms. Plumlee asked if the property is utilizing a septic tank. Mr. Martin replied that they will have to be on public sewer. Mr. Owens asked for the location of the 100-year floodplain to be identified. Mr. Martin stated that it is the solid blue line on the map. Mr. Owens stated that part of the building is in 100-year floodplain. Mr. Martin confirmed that the building and the parking lot are in the 100-year floodplain. The petitioner will need to comply with all applicable regulations.

Petitioner Presentation: Matt Carter, Vision Engineering, stated they are in agreement with the conditions of approval for the development plan, and conditional zoning restrictions.

Citizen Opposition: Paula Singer, 110 Hamilton Park, stated that her concern is the status of Versailles Road between New Circle Road and downtown. Several studies have been completed in the past three years to provide guidance to planners and decision makers. Ms. Singer stated that, in a presentation last week to the Corridors Commission, Keeneland recognized Versailles Road as the front door to Keeneland and a gateway to downtown, the airport, and countless tourism destinations. Ms. Singer also stated that we need to be guided by the studies and to support our signature industry (the equine industry) and take a holistic approach to redevelopment of this area to ensure a safe, vibrant, beautiful and welcoming corridor.

Ms. Singer also mentioned her traffic concerns. She said that the 2013 Multi-Modal Alternative Evaluation of Versailles Road recognized traffic patterns and documented the above average crash rate on Versailles Road inside New Circle Road, which "exceeds the average crash rate and is effectively equal to the critical crash rate." Rear-end crashes due to poor access control account for over 70 percent of crashes. Ms. Singer expressed concern that both the entry and exit to the property are onto Versailles Road and will cause poor access control. Ms. Singer stated that the Starbucks on the adjacent property produces traffic back-ups as far as the Colony Neighborhood and they need to exit onto Versailles Road during peak AM traffic periods. There is also a high-density residential complex that exits from a poorly visible curve onto Versailles Road. There were also concerns of the outbound traffic on Versailles Road; drivers occasionally cross the double yellow line and cut through the gas station to turn left onto Parkers Mill Road. Ms. Singer requested a traffic study to determine the impacts of the proposed commercial use on the Versailles Road corridor. Ms. Singer also mentioned the proposed youth sports facility at Cardinal Run Park, which she believes will also exacerbate traffic conditions.

Ms. Singer also had environmental and refuse pickup concerns with Starbucks setting out recycling bins on Parkers Mill Road. Since no specified tenant exists for the proposed development area, residents are concerned about refuse and the need for a pick-up in the area, causing more traffic issues on Versailles Road. Ms. Singer displayed a photo of Wolf Run Creek, showing the litter in the water from commercial properties along the creek.

Citizen Support: Billie Noe, 1527 Parkers Mill Road, owner of the residential property adjacent to the subject property, said that she supports development of the subject property since it has been vacant for a long time and has become a hangout area and did at one time have squatters. Ms. Noe lived at her residence prior to Starbucks being built and stated that the traffic after it was built has not been any worse than before. She would prefer to see some development and business, rather than a vacant house. Ms. Noe believes that with the restrictions proposed by staff, the development plan will have little impact.

Petitioner Rebuttal: Mr. Carter stated that he is concerned with traffic also. As far as refuse collection, it will be done on-site. All of these issues will be addressed at the Final Development Plan stage, along with a traffic study.

Staff Rebuttal: None was provided.

Zoning Action: A motion was made by Ms. Richardson, seconded by Ms. Mundy, and carried 8-0 (Berkley, Drake and Smith absent) to approve MAR 2016-13: FLYING DUTCHMAN PROPERTIES, LLC.

Development Plan Action: A motion was made by Ms. Richardson, seconded by Ms. Mundy and carried 8-0 (Berkley, Drake and Smith absent) to approve ZDP 2016-48: FOX PROPERTY, LOT 4.

