

1. MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST ZONING MAP AMENDMENT & BRIGHTON PLACE SHOPPES, PHASE II (GILLIS PROPERTY) ZONING DEVELOPMENT PLAN

- a. MAR 2016-5: MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST (5/1/16)* – petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Neighborhood Business (B-1) zone, for 0.43 net (0.46 gross) acre, for property located at 3080 Old Todd's 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. 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 Neighborhood Business (B-1) zone in order to expand the available off-street parking for the adjoining Todds Center, a neighborhood shopping center, by approximately 48 spaces.

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

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

1. The requested 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 the community should work to achieve an effective and comprehensive transportation system by making pedestrian and other transportation connections (Theme D, Goal #1); 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 the adjoining shopping center, which is predominantly zoned B-1, as well as most other commercial uses in the vicinity. Additionally, the landscape buffer for the proposed parking lot, along with the adjacent entrance drive, will provide an adequate land use buffer from the townhouses to the west to the shopping center.
 - c. The proposed rezoning will encourage the continued success of a neighborhood commercial node that serves this portion of the Urban Service Area.
 - d. The proposed expansion will not adversely impact the adjoining residential land use and will allow for pedestrian access along Old Todds Road.
 - e. 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 2016-21: Brighton Place Shoppes, Phase II, (Gillis Property), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2016-21: BRIGHTON PLACE SHOPPES, PHASE II (GILLIS PROPERTY) (5/1/16)* - located at 3080 Old Todds Road. **(Midwest Engineering)**

The Subdivision Committee Recommended: **Postponement**. There are some questions regarding the lack of required information on the plan (per Article 21 requirements) and the timing of consolidation to the adjoining property.

On March 1st, the applicant provided a revised submission of this plan to the staff. It has addressed several conditions identified by the Technical Committee at their February 24th meeting. However, there are still several discussion issues that the applicant has not addressed. However, the staff can now offer a revised listing of possible conditions for this zoning development plan.

The Staff Recommends: **Postponement**. There are some questions regarding the timing of consolidation to the adjoining property and Old Todds Road improvements.

Should this plan be approved, the following requirements should be considered:

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. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.

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

- ~~6. Addition of graphic scale on plan.~~
- ~~6. 7. Correct note #3.~~
- ~~8. Denote final record plan information or owners' names for adjoining property.~~
- ~~9. Denote zoning for adjoining property on plan.~~
- ~~10. Denote existing and proposed zoning for subject property, in site statistics.~~
- ~~11. Denote construction access location on plan.~~
- ~~12. Replace tree preservation plan with tree inventory information per the requirements of Articles 21 & 26 of the Zoning Ordinance.~~
- ~~13. Denote that there shall be no access to Todds Road from this property.~~
- ~~14. Clarify property's location on vicinity map.~~
- 7.15. Denote 20' building line from Todds Road on plan.
- ~~16. Revise plan title.~~
- ~~17. Identify interior landscape area (3180 s.f.) on plan.~~
- 8.18. Discuss timing of consolidation of property to the adjoining property.
- 9.19. Discuss width of landscape screening adjacent to R-3 property, and possible need for a variance.
- 10.20. Discuss timing of Todds Road right-of-way dedication.
- 11.24. Discuss storm water management requirements for new impervious surface.
- 12.22. Discuss parking lot access and circulation relative to Todds Road access and drive-through.

Zoning Presentation: Ms. Wade presented the staff report on this rezoning request, briefly orienting the Commission to the location of the subject property on the south side of Old Todds Road, near its intersection with Liberty Road and Man o' War Boulevard. The subject property is currently zoned A-U; it is bounded to the west by a townhouse development, and the Todds Center shopping center to the east, with the Cadentown Historic District located to the north. The petitioner is requesting the B-1 zone in order to provide additional parking for the shopping center. Their intent is to consolidate the subject property into the shopping center parcel, and to provide approximately 50 additional parking spaces for that use. This would help to ease the parking situation in the center at peak times, and would allow the property owners more flexibility in leasing to tenants.

Ms. Wade displayed several photographs of the subject property, noting that the single-family residence that had been located there has since been removed. She noted that Todds Road along the subject property has not yet been improved, and it lacks sidewalks. There is a significant pin oak tree located on the front of the property, but it has been identified as diseased by the Urban Forester, and will be removed.

Ms. Wade stated that the petitioner contends that the proposed rezoning is in agreement with the 2013 Comprehensive Plan, because it will provide support for the existing shopping center, and the zoning will be compatible with the B-1 use. The petitioner also contends that developing the subject property as a parking lot will provide pedestrian connectivity in the area via the construction of sidewalks, and that it will allow for an underutilized parcel to become productive without negatively impacting the adjoining residential use.

Ms. Wade said that there had been some concerns about landscaping for the subject property; specifically, what type of buffer would be provided along the shared property line with the adjoining multi-family residential development. The petitioner is required to provide a 15' buffer between residential and business zoning, with trees every 40 feet, and shrubs. The petitioner could also reduce the buffer width by providing a solid screening fence. Ms. Wade explained that the staff did not believe that additional landscaping would be necessary at this location, because the portion of the multi-family property immediately adjacent to the subject property contains only a drive aisle; the residential units are located further away from the subject property. Ms. Wade said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, noting that the staff had recommended revised conditions, which were distributed to the Commission members.

Mr. Martin explained that this is a preliminary development plan, depicting approximately 48 parking spaces. With the revised plan, the petitioner addressed several of the issues originally raised at the Subdivision Committee meeting three weeks ago. The circulation pattern on the property has been revised slightly to provide two-way access in some areas, with one-way traffic near the entrance to the parking lot to avoid conflict between vehicles. The shopping center that will be served by the parking lot includes a busy drive-through liquor store, so staff was concerned about the functionality of the drive aisles, and the entrance conflict.

With regard to the conditions for approval, Mr. Martin said that condition #10 refers to the need for stormwater management, given the addition of impervious surface to the property. Condition #9 would require the petitioner to denote on the plan the timing of right-of-way dedication on Old Todds Road, which will be necessary for the construction of road improvements. Mr. Martin noted that the Commission will see a Final Development Plan for this property, as well as a

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consolidation plat, at some point in the future. He said that the staff is recommending approval of this plan, 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. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Correct note #3.
7. Denote 20' building line from Todds Road on plan.
8. ~~Discuss~~ Denote timing of consolidation of property to the adjoining property on plan.
9. ~~Discuss width of landscape screening adjacent to R-3 property, and possible need for a variance.~~
- 9.40. ~~Discuss~~ Denote the timing of Todds Road right-of-way dedication on plan.
- 10.44. Discuss Denote that storm water management requirements for new impervious surface shall be determined at the time of a Final Development Plan.
12. ~~Discuss parking lot circulation relative to drive-through.~~

Commission Question: Mr. Owens asked if the staff had received additional information about the proposed landscape buffer on the property. Mr. Martin answered that the staff was initially concerned about the petitioner's ability to provide the required 15' landscape buffer. However, with the revised plan, the petitioner is now demonstrating the ability to meet the Article 18 requirements of a 5' buffer with a fence. He reiterated that there will be a Final Development Plan on the property, which must also demonstrate compliance with Article 18 requirements.

Petitioner Representation: Richard Hopgood, attorney, was present representing the petitioner. He stated that the shopping center with which the subject property is proposed to be consolidated is family-owned. It was constructed in 2000, and currently needs additional parking. The subject property became available, so the petitioners placed it under a purchase contract, subject to approval of the zone change.

Mr. Hopgood said that the shopping center currently has a mix of tenants, including an insurance agency; a karate studio; Penn Station and Buffalo Wild Wings restaurants; a nail salon; a barber shop; a cocktail lounge; a liquor store; and a piano store. Due to a number of high-traffic uses, the petitioner believes that providing additional parking will alleviate congestion and the need for patrons to park across Old Todds Road. The subject property is only approximately 50' in width along the Todds Road frontage, so the petitioner contends that it would be unsuitable for agricultural use.

Mr. Hopgood said that the petitioner is planning to extend the existing sidewalk along Old Todds Road to the shopping center, in order to improve pedestrian connectivity in the area. The petitioner is also proposing to construct a sidewalk alongside the parking lot, so that pedestrians will not be required to walk through moving traffic. In order to address concerns from the Division of Traffic Engineering staff, the petitioner revised the entrance configuration to eliminate internal vehicular conflicts with the existing access to Todds Road. Mr. Hopgood noted that an area near the front of the property will be maintained as greenspace, in order to help meet the tree canopy requirement for the property. The subject property will be consolidated with the shopping center, and it will not have its own dedicated access to Old Todds Road. Stormwater will be directed toward the existing detention system in the shopping center.

Mr. Hopgood stated that the petitioner has met with owners in the adjoining Mapleleaf Townhomes, and plans to construct a 6' privacy fence and 5' of landscaping all along the entirety of the shared boundary in order to provide a buffer between that property and the proposed parking lot.

Mr. Hopgood said that the petitioner contends that the proposed zone change is in agreement with the 2013 Comprehensive Plan, and he requested approval.

Commission Question: Mr. Owens asked if the proposed fence would be 6' in height, which Mr. Hopgood answered affirmatively. He added that property owners in the Mapleleaf Townhomes development requested a fence, all along the property line. He noted that the petitioner had also spoken with the head of the Cadentown Neighborhood Association and the pastor of the Cadentown Missionary Baptist Church, who were not opposed to the proposed zone change.

Citizen Support: Holly Bauman, owner of the barber shop located in the existing shopping center, stated that the additional parking would benefit all of the businesses in the center. She said that, during peak times, overflow parking is required to locate across Old Todds Road, and patrons must cross the street to access the shopping center.

Gatewood Gay, property owner in Mapleleaf Square townhomes, stated that the HOA is in favor of the proposed zone change, but the residents would like for as much of the existing treeline as possible to be maintained as a natural buffer between the two properties. Residents are also concerned about mitigation of lighting from the subject property.

Donna Culver, manager of Cocktails Bar and Grill, stated that her business has sometimes lost customers due to insufficient parking in the shopping center during evening hours. She said that she supports the proposed zone change.

Citizen Opposition: There were no citizens present in opposition to this request.

Petitioner Rebuttal: Mr. Hopgood stated that the petitioner would work with the Mapleleaf Square property owners to identify existing trees to be maintained as part of the landscape buffer, and would denote those trees on the Final Development Plan for the property. He added that there is old wire fencing along the property line, which the petitioner will clean up, along with the removal of some scrub trees.

Staff Rebuttal: Ms. Wade stated that the staff would not suggest regulating the landscaping via conditional zoning since the situation is somewhat irregular, with the neighbors involved in requesting the maintenance of some trees. The staff could draft a conditional zoning restriction related to lighting, however, if the Commission so chose.

Commission Question: Mr. Penn asked if the Commission could include a conditional zoning restriction to require that lighting on the subject property be diffused. Ms. Wade answered that staff would typically recommend a restriction requiring that lighting be directed away from any residential uses, and placing a 20' or 25' height limit on any lighting. Mr. Sallee displayed on the overhead the staff's draft conditional zoning restriction language:

1. Any lighting shall be directed downward and away from any residential zone adjacent to this location.

This restriction is necessary to protect the adjacent neighborhoods from potential light pollution.

Mr. Sallee noted that this should be added to the findings in the staff report and on the agenda, and listed as item #3.

Mr. Hopgood indicated that the petitioner would be agreeable to the addition of the proposed conditional zoning restriction.

Zoning Action: A motion was made by Mr. Cravens, seconded by Mr. Berkley, and carried 10-0 (Brewer absent) to approve MAR 2016-5, for the reasons provided by staff, subject to the conditional zoning restriction as proposed by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve ZDP 2016-21, subject to the conditions as listed in the revised staff recommendation.