

2. MAR 2015-6: NoLi CDC CORP. ZONING MAP AMENDMENT

- a. MAR 2015-6: NoLi CDC CORP. – petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a LuigArt Planned Unit Development-2 (PUD-2) zone, for 1.3183 net (1.5272 gross) acres, for properties located at 128 Eddie Street; 128, 130, 132, 134, 136, 137, 138, 140, 141, 142, 144, 146, 151, 154, 156, 166, 168 & 174 York Street.

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 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land.

The Central Sector Small Area Plan, adopted in 2009 by the Planning Commission, identified four guiding principles, including: enhance the urban fabric, promote and prepare for redevelopment and investment, provide adequate and equitable housing, and preserve the cultural and historic heritage.

The petitioner proposes rezoning 19 properties to the LuigArt Planned Unit Development (PUD-2) zone in order to allow for the innovative reuse and future redevelopment of property primarily for live/work units.

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

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

1. The requested LuigArt Planned Unit Development (PUD-2) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. Five of the six themes of the Comprehensive Plan encompass concepts that the proposed zone change can help to implement, including: growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E).
 - b. These themes are furthered by the applicant's zone change and more generally by their work to maintain affordable housing for artists and makers, creating an environment ripe for entrepreneurship, breaking down traditional zoning barriers, facilitating the creation of new jobs and economic stability/prosperity, and creating jobs where people live.
 - c. The applicant's proposal to rezone properties to the PUD-2 zone will also support the ideas of the Central Sector Small Area Plan (CSSAP), which was adopted by the Planning Commission in 2009. The PUD-2 zone permits live/work units for artists and makers, which supports the guiding principles of enhancing the urban fabric, and providing adequate and equitable housing.
- b. PUD-2 ZONE LuigArt MAKER SPACES SITE INVENTORY & SITE ANALYSIS REVIEW

Site Analysis & Recommendations:

The following recommendations were suggested by NoLi CDC after reviewing the site inventory:

- Preserve the historical "fine graining" of the neighborhood by maintaining the narrow lots and structures on York and Eddie Streets, as well as the massing, setbacks, front porches, fenestration and the like.
- Design new structures to be sympathetic to the vernacular historical building forms, material and expressions as indicated in this site analysis.
- Preserve and rehabilitate one or more existing structures as their structural integrity allows, as examples of that history.
- Reduce the amount of pervious area as little as feasible in development areas.
- Install street trees where not present; location, spacing, and species per LFUCG Standards.
- Convert power and communications lines to underground-type service.

Staff Recommendation:

The staff would suggest the following additional information, recommendations and clarifications to the content as follows:

1. Provide detailed information about the species and size of trees within the PUD-2 area, and more specifically the 19 properties proposed for rezoning.
2. Provide a soil map of this area of the community for reference if a Planned Unit Development plan is submitted for Planning Commission review.
3. Separate #1 above into two recommendations. Lot size is one issue related to the land use intensity, while the building location (setback), massing, and scale are separate issues more related to a building's character.

* - Denotes date by which Commission must either approve or disapprove request.

4. Modify #5 above – “Install street trees where not present; location, spacing, and species per LFUCG Standards (Planting Manual and Subdivision Regulations).”
5. Clarify #6 above – assessing responsibility for this work. The utility companies typically do not relocate lines underground without being compensated.

The Staff will Report at the public hearing.

Zoning Report: Ms. Wade presented the staff report on this request to rezone 19 properties, located on York and Eddie Streets, from an R-3 zone to a PUD-2 zone. She stated that one property is located on the southwest side of Eddie Street; one large grouping is located on York Street near the water tower; another group of five properties is located on the southwest side of York Street; and three properties on the northeast side of York Street. All of the properties are located within the area eligible for the LuigArt PUD-2 zone, and 18 of the properties are owned by NoLi CDC, with one property currently under purchase contract. The area is characterized by narrow, residential lots, with a mix of smaller, shotgun and cottage-style homes which were constructed prior to 1935. The LuigArt area also has existing B-1 zoning along North Limestone Street, while the other sides are bordered by a railroad line and large I-1 parcels to the north. The historic LuigArt & Harding Malt Factory is located nearby. Ms. Wade noted that the entire LuigArt PUD area is also located within the designated Infill & Redevelopment Area.

Ms. Wade stated that the petitioner is proposing to rezone the 19 parcels included in this request in order to establish the first of a live/work district, oriented toward artists and “makers.” Many of the existing residences have code violations; the proposed zone change will provide for the renovation and/or replacement of those structures, keeping in character with the surrounding neighborhood. Although the live/work concept is not new, the Zoning Ordinance has not allowed such development like that proposed in Lexington-Fayette County until recently. In 2014, the NoLi CDC proposed a text amendment to create and implement the PUD-2 zone. The CDC is proposing this as the first round of zone changes to that zoning category, for the properties it owns; they will then assist any other property owners who wish to rezone their properties to PUD-2.

Ms. Wade said that the LuigArt zone, as regulated by Article 22 of the Zoning Ordinance, is intended to support infill and redevelopment; encourage entrepreneurship and creativity; preserve affordable housing; and increase economic activity. The applicant’s justification contends that the proposed zone change is in agreement with the Comprehensive Plan, with which the staff concurs. Five of the six Themes of the Comprehensive Plan are furthered by the proposed development, including: Growing Successful Neighborhoods; Protecting the Environment; Creating Jobs and Prosperity; Improving a Desirable Community; and Maintaining the Balance between Urban and Rural Land. The petitioner’s proposal is also in line with the Central Sector Small Area Plan, which was adopted by the Planning Commission in 2009. Two of the guiding principles of that Plan are to enhance the urban fabric and provide adequate and equitable housing.

Ms. Wade stated that no development plan is required with a PUD-2 rezoning request, but the petitioner is required to provide a site inventory and analysis. She said that the Commission members had been provided with copies of that report, and noted that, when a development plan is required for the PUD-2 zone, the staff and Planning Commission will utilize those recommendations to evaluate the plan. Ms. Wade said that the staff and the Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Ms. Wade displayed several photographs of the subject properties and of the surrounding area at this time.

Site Analysis Report: Ms. Wade said that the petitioner’s site analysis provided in-depth information about tree inventory, drainage conditions, impervious surfaces, and other types of data that the Planning Commission would consider if a development plan was brought forward for any of these properties. The petitioner also provided more information about the character of the area, including: lot widths, noting that some of the properties are 20’ wide; building heights, noting that buildings within the area are generally one story in height. Also included in the report were photographs of all of the structures within the area, and a tree inventory of all existing trees, including size and species information. Ms. Wade noted that, when the staff reviewed the tree inventory, they discovered that there are four significant trees within the area of the subject property, on the southeast side of York Street. There are two burr oaks and an American elm on 137 York Street, and a large silver maple in the rear yard of 151 York Street.

Ms. Wade stated that, along with their site analysis, the petitioner provided the following six recommendations:

- Preserve the historical “fine graining” of the neighborhood by maintaining the narrow lot frontages that characterize this neighborhood.
- Design new structures to be sympathetic to the vernacular historical building forms, material and expressions as indicated in this site analysis.
- Preserve and rehabilitate one or more existing structures as their structural integrity allows, as examples of that neighborhood history.
- Reduce the amount of pervious area as little as feasible in development areas.
- Install street trees where not present; location, spacing, and species per LFUCG Standards (Planting Manual and Subdivision Regulations).

- With new services, NoLi CDC will convert power and communications lines to underground-type service to eliminate as much overhead "visual clutter" as possible.
- The staff would suggest the following changes to the "Recommendations" section of the site analysis as follows:
- a. Include a recommendation that states, "Design accessory uses and structures to complement the primary structure's scale, massing, and architectural features."
 - b. Include a recommendation that states, "Protect all significant trees, as designated by Article 26 of the Zoning Ordinance. If removal is necessary, a mitigation plan shall be developed to replace the canopy of such trees."

Ms. Wade stated that the staff has two findings for acceptance of the petitioner's site analysis and recommendations:

Staff Finding(s):

1. The applicant has provided documentation for the LuigArt PUD-2 Zone, as required by Article 22B-7(b)(1) of the Zoning Ordinance. This information was utilized by the applicant to draft guiding recommendations for future redevelopment in the area available for LuigArt PUD-2 zoning.
2. The six recommendations proposed by the applicant, along with staff's recommendations for two additional recommendations, will help insure that the changes planned for the LuigArt area remain complementary to the remainder of the neighborhood.

Commission Questions: Mr. Wilson asked if the properties that have code violations are already owned by the petitioner. Ms. Wade answered affirmatively. Mr. Wilson asked if living space would be provided for residents whose homes are to be renovated. Ms. Wade responded that the petitioner has a plan in which residents would not be moved out of an existing structure until a new or rehabilitated structure in the area was in place to accommodate them. Mr. Wilson asked how financing would work for residents who might have moved out of the area, but then decide to move back. Ms. Wade answered that the structures included in this request are all owned by the NoLi CDC, and are currently either rented out or vacant. Mr. Wilson asked if rents would increase following the renovation of the existing structures. Ms. Wade answered that the petitioner is working to maintain current rents using grants.

Mr. Penn asked why a soil map was included with the petitioner's site analysis. Ms. Wade answered that a soil map is required by the Zoning Ordinance if a development plan is required along with a PUD-2 zone change. She added that a development plan is not required at this time; however, the staff questioned whether a soil map would be available, and the petitioner provided it. The petitioner did note that the soils in the area had been heavily modified during its 200-year history, so it is likely significantly different from what is shown on the historical soil map they provided.

Petitioner Representation: Brandon Coan, attorney, was present representing the petitioner. He said that, at the time of the filing of the PUD-2 ZOTA, the petitioner indicated intent to rezone their full property holdings. There are currently 19 qualifying properties; 18 are owned by the petitioner, and one by Marty Clifford. Of the 18 properties owned by the petitioner, 14 are currently vacant; four are non-owner occupied; and one family just successfully completed the process to move from non-owner-occupied to owner status. Mr. Coan explained that there are 171 properties within the LuigArt area that qualify for potential rezoning. The petitioner committed to assisting other owners who desire to rezone their properties, and the site analysis was provided with as much information as possible in order to be helpful to future applicants. The petitioner plans to rezone properties approximately every six months, or as interest is raised, in order to consolidate the filing fees as much as possible.

Mr. Coan stated that, at the time of the text amendment, the petitioner expressed confidence that the creation of the PUD-2 zone would result in other positive developments for the area. Shortly thereafter, the Knight Foundation awarded a \$550,000 grant to allow for work in areas adjacent to the LuigArt project, due in part to the innovative nature of that project. The Knight Foundation also extended a zero-interest, \$200,000 revolving line of credit to the NoLi CDC to use for home construction.

Mr. Coan said that the petitioner is in agreement with the staff's two additional recommendations to their site analysis.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Georgia Cole, 145 York Street, stated that she is concerned that some property owners in the area were not allowed to demolish or repair houses in the area, but the petitioner has been permitted to do so. She said that she is also concerned that the construction of a park in the neighborhood could encourage drug addicts to congregate there.

Joseph Cole, York Street, stated that he has lived on York Street his whole life. He said that many of the existing residents do not understand how the proposed development will work, particularly with regard to the "maker spaces." He opined that there is not enough parking in the area to allow for customers to come to the neighborhood and purchase products directly from residents' homes.

Mr. Cole stated that many of the area residents are also concerned that there might be some type of "hidden agenda" behind the proposed development.

Petitioner Rebuttal: Mr. Coan stated, with regard to Mr. Cole's concerns, that the petitioner's intent is not to transform the characteristics of the historic neighborhood, but to preserve them and reinvest in them. The petitioner has not proposed additional parking in order to purposely "limit the nature of commerce" that will take place there.

Kris Nonn, project manager, stated, with regard to Ms. Cole's concerns about demolition, that the petitioner has learned that renovating structures in the area is not always economically feasible. He said that many of the houses were originally built with scrap materials; many are currently compromised, if not condemnable. The CDC paid a premium to renovate one structure, and cannot afford to do so going forward. Mr. Nonn stated that the petitioner's intent for the remainder of the project is to deconstruct the residences, salvage as much of the materials as possible, and use them in the construction of new structures that will meet the affordability criteria.

Mr. Nonn said that, in speaking with residents on York and Eddie Streets, he learned that many have entrepreneurial aspirations. The goal of the proposed development is to reduce barriers that would prevent them from working from home.

Richard Young, Executive Director of NoLi CDC, stated that affordability is one of the main goals of the proposed development. He said that one of the main goals of the project is to keep the prices of properties low, with monthly mortgages intended to be approximately the same price as rents. The CDC is actively working with existing tenants to provide them with the opportunity to own their own new homes in the neighborhood. Mr. Young added that, for residents who are not interested in home ownership, the CDC is working with different methodologies to keep rent prices affordable and the housing accessible.

Mr. Nonn stated that the petitioner also intends to propose deed restrictions on the homes in the proposed development in order to maintain affordability. He noted that residential use is the primary function of the PUD-2 zone, with all of the other uses requiring permitting for ingress, code requirements, etc.

Citizen Rebuttal: Mr. Cole stated that the proposed rezoning has created questions among the area residents about what the intent of the project is, and whether there is some intent other than what is being presented. He said that many area residents already work out of their homes, and they do not understand why it is necessary to rezone their properties.

Commission Questions: Mr. Penn stated that he salutes the petitioner for the development of this project, noting that he believes it is "visionary." He asked if the infrastructure was in place to support the proposed development, or if LFUCG assistance would be required at some point. Mr. Coan answered that the vital infrastructure is completely in place. He added, however, that the petitioner might need assistance in providing streetscape and "placemaking" improvements. Mr. Penn asked if the petitioner is totally committed to investing in the infrastructure for the entire development, rather than rehabilitating one residence at a time. Mr. Nonn responded that, because of the small scale of the uses that will be permitted, the additional strain on the infrastructure should be limited. He acknowledged that the infrastructure in the area is outdated, and there are some issues that will need to be addressed, no matter how the properties are used in the future. He added that it was his hope that the NoLi CDC work in the area would help to spur those improvements.

Mr. Penn explained that, although he believes that the proposed development is a great idea, it has limited chances at success; the area residents must also "buy in" to guarantee its success. Mr. Nonn stated that there has been some conjecture among the current residents about the proposed development and how it will work. The petitioner worked with the Planning staff to develop a framework to allow flexibility in the development. He said he believes that it is important to get the "first wave" of residences constructed and get uses in place to demonstrate how the development as a whole will work, in order to relieve the residents' apprehension about the development of something new in their neighborhood.

Zoning Motion: A motion was made by Ms. Richardson and seconded by Mr. Wilson to approve MAR 2015-6.

Discussion of Motion: Ms. Mundy stated that she had concerns about "spot zoning" with this request, since the Commission typically considers larger quantities of land for zone changes. She added that she is concerned about the petitioner's ability to keep prices low in the proposed development, and about how it could affect property values. Ms. Mundy opined that she does not believe it is wise to "mess around with the economics of a neighborhood" by keeping home prices low.

Mr. Owens stated that many of Ms. Mundy's concerns were brought forward during the PUD-2 text amendment process. He said that this type of development is a new concept in Lexington-Fayette County, and it requires a bit of a leap of faith. Mr. Owens noted that he would have preferred for all 19 of the properties in the first round of zone changes to be contiguous, but he believes that this rezoning will get the process started and let the petitioner begin their work on the proposed development.

Zoning Action: Ms. Richardson's motion carried, 8-1 (Mundy opposed; Brewer and Plumlee absent).

Site Inventory & Site Analysis Review Action: A motion was made by Ms. Richardson, seconded by Mr. Wilson, and carried 9-0 (Drake abstained; Brewer and Plumlee absent) to accept the LuigArt Maker Spaces Site Inventory & Site Analysis Review, including the staff's two additional recommendations.