

6. GREENDALE PROPERTIES, LLC ZONING MAP AMENDMENT & GREENDALE HILLS, UNIT 3 ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00030: GREENDALE PROPERTIES, LLC (10/1/17)*- petition for a zone map amendment from a Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone, for 9.45 net (10.26 gross) acres, and from and a Planned Neighborhood Residential (R-3) zone to a Planned Shopping Center (B-P6) zone for 0.43 gross acres, for property located at 1201 Greendale 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 Plan's 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 rezoning mostly from a restricted Neighborhood Business (B-1) zone to a Planned Shopping Center (B-6P) zone in order to develop a community shopping center (between 3 and 10 acres in size), to include retail sales establishments, restaurants, a convenience store, a bank and associated off-street parking areas.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. The proposed Planned Shopping Center (B-6P) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The development of this vacant property, encouraged by this rezoning, would support infill and redevelopment efforts recommended by the Plan (Theme A, Goal #2),
 - b. Infrastructure is in place to support this development with a minimal disruption of existing natural features of the land (Theme A, Goal #3c.).
 - c. A community-oriented commercial development of the subject site would result in an improved design for this neighborhood and for this portion of the community (Theme A, Goal #3.).
 - d. A neighborhood-oriented shopping center at this location will create some jobs in close proximity to where people live (Theme C, Goal #1d.).
 - e. Such a commercial center will have the ability to be accessed by sidewalks, bicycles and passenger vehicles (Theme D, Goal #2).
 - f. This center will provide accessible community facilities and services to an under-served area of the community, as there are no other shopping centers within two miles of this site (Theme E, Goal #1b.).
 2. This recommendation is made subject to approval and certification of the associated development plan, PLN-MJDP-17-00084: Greendale Hills, Unit 3 (Amd.), 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 for the property B-6P zone shall be imposed on the subject property:
 - a. A residential use, and residential floor area, shall be located in a building constructed on the northern-most portion of the subject property nearest the intersection of Lucille Drive and Mulundy Drive.
- b. PLN-MJDP-17-00084: GREENDALE HILLS, UNIT 3 (10/1/17)* - located at 1201 Greendale Road.
(Barrett Partners)

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

1. Provided the Urban County Council rezones the property B-6P; 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of conditional zoning restrictions.
8. Revise plan to comply with Article 12-8(b) of the Zoning Ordinance.
9. Revise plan to comply with Article 12-8(f) of the Zoning Ordinance for loading areas.
10. Discuss a possible residential use along Lucille Drive between adjacent single-family homes and shopping center.

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

Staff Zoning Presentation - Ms. Wade presented and summarized the staff report and recommendations for this zone change, and displayed photographs of the subject property and aerial photographs of the general area. She said the property is currently a B-1 zone but has significant conditional zoning restrictions, which is why the applicant is asking to rezone the property. She said the applicant is proposing to develop a neighborhood shopping center, including retail, restaurants, bank, automobile service station, and off-street parking.

Ms. Wade said the applicant contends that their application is in agreement with the 2013 Comprehensive Plan Goals & Objectives, in terms of infill and development; creating jobs; ability to access by sidewalks, bicycles and passenger vehicles; and provide assessable community facilities to an underserved area. She said the staff is in agreement with the applicant that this zone change proposal is compliant with the 2013 Comprehensive Plan.

Ms. Wade said staff recommended approval with one conditional zoning restriction along Lucille Drive. She said that vicinity should have some residential use to provide a better transition to the existing single-family homes along Lucille Drive and Mulundy Way.

Ms. Wade provided a handout to the Planning Commission that the staff received from the applicant addressing some traffic concerns that were expressed, by the MPO staff, when the application was submitted. She said that a traffic impact study was not required with this application.

Development Plan Presentation - Ms. Gallt presented a rendering of this preliminary development plan, which was displayed, depicting the proposed building location.

Ms. Gallt said the plan has a few conditions, which are typical sign offs and conditional zoning restrictions. She said the applicant needs to revise their plan to comply with Article 12-8(b) & (f) of the Zoning Ordinance, regarding the wall and zoning screening, which will be completed at the time of the final development plan. She said there was a residential component on the previous plan, so there was discussion in regards to the possible residential use along Lucille Drive between the adjacent single-family homes and shopping center.

Commission Question - Mr. Wilson asked if staff was leaving condition #10 as "Discuss" for the Planning Commission. Ms. Gallt replied that a revised plan wasn't received and there have been discussions regarding a residential component on this property. She said that after the decision of the different conditional zoning restrictions it could be removed or changed to "resolved."

Mr. Owens said he will reserve his questions until after the applicant's presentation.

Applicant Presentation - Dick Murphy, attorney, was present representing the petitioner. He said the applicant believes that there is a great need for commercial business in this area. He said that within a one mile radius of this property, there are 2,600 households, with a population of approximately 7,100 people and 35,000 people within a three mile radius. He displayed an aerial photograph of the property and surrounding area depicting its growth. He said that the subject has been zoned as a shopping center for 16 years. A B-6P zone has mostly the same uses, but would have less conditional zoning restrictions. He said the subject property currently has two particular restrictions that have been very difficult to work with and they both relate to residential uses.

Mr. Murphy said he believes the application is in agreement with 2013 Comprehensive Plan. He said that they completed a traffic analysis because the previous traffic study was last completed in 2001 and another a few years ago. He said that the traffic analysis showed that the traffic generation will be less than the traffic generation that would have been on the same property in a B-1 zone.

Mr. Murphy said that there have been some neighborhood concerns. He has met with Mr. Walbourn, who is representing a group of neighbors, regarding the impact the shopping center may have. He distributed proposed conditional zoning restrictions that the applicant and the neighbors have agreed to, as follows:

PROPOSED CONDITIONAL ZONING RESTRICTIONS AND DEVELOPMENT PLAN NOTES
PLN-MAR-17-00030: GREENDALE PROPERTIES, LLC
1201 GREENDALE ROAD

- A. Use restrictions. The following uses would be prohibited under conditional zoning restrictions:
1. "Rehabilitation homes."
 2. Arcades, including pinball and electronic games.
 3. Self-service laundromats.
 4. Car washes as a principal use.
 5. Tattoo parlors.
 6. Funeral parlors.

7. Circuses and carnivals.
8. "Day shelters."
9. Limitation on eight gasoline pumps for gas stations or convenience stores.
10. Within 150 feet of Lucille Drive, no gasoline pumps or drive-thru facilities for food service.
11. All parking lot lighting shall be "shoebox" style lighting or another type that will appropriately shield that light source.

B. The following will be development plan notes:

1. Maximum building height of 35 feet.
2. Maximum building size of 35,000 square feet per building.
3. Along Cielo Vista Road, from driveway west to the Washington property line at 715 Cielo Vista Road, developer will plant/build a three-foot solid fence, and a three-foot hedge, and one tree every twenty feet.
4. Along Cielo Vista Road, from the driveway east to the intersection with Mulundy Way and along Lucille Drive, developer will plant/build a three-foot open fence (for example a picket fence) or a three foot hedge, plus one tree every thirty feet.
5. Along Lucille Drive, the landscape area shall average at least 10 feet in width, and shall be a minimum of 6 feet in width.

Mr. Murphy clarified that rehabilitation homes refers to half-way houses not physical therapy facilities. He also clarified that day shelters are homeless shelters, as defined in the Zoning Ordinance, not a senior day center. He mentioned the drive-thru facilities along Lucille Drive; the applicant believes that some drive-thru facilities may be acceptable, for example, a bank or dry cleaner, that doesn't generate the traffic, sound and debris. He also clarified the development plan notes.

Commission Question - Ms. Richardson asked if the "shoebox" style-lighting should be prohibited. Mr. Murphy said that she is correct. He said that they want the "shoebox" style-lighting and that they will need to correct that language.

Mr. Owens asked if the 150 feet from Lucille Drive is on the rendered development plan. Mr. Murphy pointed to the orange line drawn on the plan by the staff.

Mr. Wilson asked if the staff has had a chance to review these proposed conditional zoning restrictions. Ms. Wade refrained from answering the question until everyone has had a chance to speak regarding this zone change.

Citizen Comments - Jacob Walbourn, attorney, was present representing several of the neighbors that live along Merluna Drive. He said that the neighbors reached agreement as long as restrictions that Mr. Murphy proposed are imposed.

Staff Rebuttal – Ms. Wade noticed the contradiction is the applicant's proposed conditional zoning restrictions and had renumbered them so that the "shoebox" lighting would fall under a separate section for "Other Use Restrictions". She said that the staff would prefer that there be no drive-thru facilities along the 150 foot area on Lucille Drive; they are allowed on the rest of the property as an accessory use. She also commented on condition #10, regarding "or drive-thru facilities for food service." She said, consistent with her previous comment, the staff would like to strike "for food service" and have it relate to all drive-thru facilities within 150 feet of Lucille Drive, as follows:

A. Use restrictions. The following uses would be prohibited under conditional zoning restrictions:

1. "Rehabilitation homes."
2. Arcades, including pinball and electronic games.
3. Self-service laundromats.
4. Car washes as a principal use.
5. Tattoo parlors.
6. Funeral parlors.
7. Circuses and carnivals.
8. "Day shelters."
9. Limitation on eight gasoline pumps for gas stations or convenience stores.
10. Within 150 feet of Lucille Drive, no gasoline pumps or drive-thru facilities for food service.
11. ~~All parking lot lighting shall be "shoebox" style lighting or another type that will appropriately shield that light source.~~

B. Other Use Restrictions

1. All parking lot lighting shall be "shoebox" style lighting or another type that will appropriately shield that light source.

C B. The following will be development plan notes:

1. Maximum building height of 35 feet.
2. Maximum building size of 35,000 square feet per building.

3. Along Cielo Vista Road, from driveway west to the Washington property line at 715 Cielo Vista Road, developer will plant/build a three-foot solid fence, and a three-foot hedge, and one tree every twenty feet.
4. Along Cielo Vista Road, from the driveway east to the intersection with Mulundy Way and along Lucille Drive, developer will plant/build a three-foot open fence (for example a picket fence) or a three foot hedge, plus one tree every thirty feet.
5. Along Lucille Drive, the landscape area shall average at least 10 feet in width, and shall be a minimum of 6 feet in width.

Ms. Wade said that typically the staff offers a reason or a statement for the proposed conditional zoning restrictions. She asked that if the Planning Commission adopts these proposed conditional zoning restrictions that it is added that the proposed restrictions are appropriate and necessary to protect the nearby residential land use from incompatible uses in the shopping center.

Commission Questions – Mr. Brewer asked why staff wants to remove all drive-thru facilities on the property. Ms. Wade replied that the voice boxes and the constant flow of traffic of drive-thru facilities could be of a disruptive nature to the single-family residential.

Mr. Owens asked if the applicant's proposed conditional zoning restrictions would replace the staff's recommendations, #3. Ms. Wade said that it would replace the staff's recommendations.

Applicant's Rebuttal - Mr. Murphy said the applicant is in agreement with the staff's changes to the proposed conditional zoning restrictions, with the exception of removing "for food service" from condition #10. He believes the applicant is proposing a good number of restrictions and doesn't want the property to be as restricted as it currently is. He said the concern of a food service drive-thru near the single-family residential would generate more traffic during the evening hours, than a bank drive-thru ATM machine, or a dry cleaner.

Commission Questions – Mr. Cravens asked Mr. Barrett if the building could be designed so that a drive-thru could be located on the site away from the single-family residential homes. Mr. Barrett said that he could design the building so that the approach could be on the side of the building away from the homes. Mr. Murphy reminded the Planning Commission that this is a preliminary development plan.

Ms. Plumlee asked if a drive-thru isn't allowed, what would be in that building. Mr. Murphy said the marketing of the property has stalled due to current restrictions.

Mr. Owens asked if drive-thru liquor stores would be allowed, since the discussion seems to be protecting the neighbors from night time traffic. Mr. Murphy said drive-thru liquor stores would be allowed under the proposed conditions. He said that in his experience with Building Inspection, that anything that is drinkable is considered "food services".

Mr. Brewer said that he believes "B. Other Use Restrictions" should be moved before line #9. That is gas pumps and drive-thrus are not proposed to be prohibited in their entirety, only limited.

Mr. Cravens asked if condition #10 could be worked out on the final development plan. Mr. Martin said that if the Planning Commission doesn't impose the conditional zoning that the staff had originally required, then there is no need for that condition. He said the B-6P zone allows vertical development and residential above should the applicant choose to do so. Mr. Cravens also verified that the applicant's proposed conditional zoning restrictions replaced the staff's recommendations #3. Mr. Martin replied that it does.

Mr. Martin said the staff's concern with having drive-thru facilities within 150 feet of Lucille Drive is a concern of the residential component of the neighborhood and this is a preliminary development plan and plans can be altered.

Ms. Richardson asked if the applicant's proposed conditional zoning restrictions was acceptable to neighborhood. Mr. Walbourn said it is but that his clients don't have an immediate concern about the drive-thru since they are located on the other side of subject property.

Mr. Brewer asked for clarification that if the drive-thru facility isn't restricted at this time, does it mean that it's automatic at the time of the final development plan. Mr. Martin said that the proposal can be reviewed at that time to determine if it's appropriate.

Commission Discussion – Discussion of the proposed conditional zoning restrictions, as follows:

- A. Use restrictions. The following uses would be prohibited under conditional zoning restrictions:
 1. "Rehabilitation homes."

2. Arcades, including pinball and electronic games.
3. Self-service laundromats.
4. Car washes as a principal use.
5. Tattoo parlors.
6. Funeral parlors.
7. Circuses and carnivals.
8. "Day shelters."

B. Other Use Restrictions

1. ~~All parking lot lighting shall be "shoebox" style lighting or another type that will appropriately shield that light source.~~
2. 9. Limitation on eight gasoline pumps for gas stations or convenience stores.
3. 40. Within 150 feet of Lucille Drive, no gasoline pumps or drive-thru facilities for food service.
4. ~~All parking lot lighting shall be "shoebox" style lighting or another type that will appropriately shield that light source.~~

C B. The following will be development plan notes:

1. Maximum building height of 35 feet.
2. Maximum building size of 35,000 square feet per building.
3. Along Cielo Vista Road, from driveway west to the Washington property line at 715 Cielo Vista Road, developer will plant/build a three-foot solid fence, and a three-foot hedge, and one tree every twenty feet.
4. Along Cielo Vista Road, from the driveway east to the intersection with Mulundy Way and along Lucille Drive, developer will plant/build a three-foot open fence (for example a picket fence) or a three foot hedge, plus one tree every thirty feet.
5. Along Lucille Drive, the landscape area shall average at least 10 feet in width, and shall be a minimum of 6 feet in width.

Zoning Action – A motion was made by Mr. Berkley, seconded by Ms. Mundy, to approve PLN-MAR-17-00030: GREENDALE PROPERTIES, LLC, for the reasons provided by the staff, with the elimination of item #3 and replacing the applicant's proposed conditional zoning restrictions and Ms. Wade's suggested statement, as follows:

A. Use restrictions. The following uses would be prohibited under conditional zoning restrictions:

1. "Rehabilitation homes."
2. Arcades, including pinball and electronic games.
3. Self-service laundromats.
4. Car washes as a principal use.
5. Tattoo parlors.
6. Funeral parlors.
7. Circuses and carnivals.
8. "Day shelters."

B. Other Use Restrictions

1. ~~All parking lot lighting shall be "shoebox" style lighting or another type that will appropriately shield that light source.~~
2. 9. Limitation on eight gasoline pumps for gas stations or convenience stores.
3. 40. Within 150 feet of Lucille Drive, no gasoline pumps or drive-thru facilities for food service or packaged liquor.
4. ~~All parking lot lighting shall be "shoebox" style lighting or another type that will appropriately shield that light source.~~

The proposed restrictions are appropriate and necessary to protect nearby residential land use from incompatible uses in the shopping center.

C B. The following will be development plan notes:

1. Maximum building height of 35 feet.
2. Maximum building size of 35,000 square feet per building.
3. Along Cielo Vista Road, from driveway west to the Washington property line at 715 Cielo Vista Road, developer will plant/build a three-foot solid fence, and a three-foot hedge, and one tree every twenty feet.
4. Along Cielo Vista Road, from the driveway east to the intersection with Mulundy Way and along Lucille Drive, developer will plant/build a three-foot open fence (for example a picket fence) or a three foot hedge, plus one tree every thirty feet.
5. Along Lucille Drive, the landscape area shall average at least 10 feet in width, and shall be a minimum of 6 feet in width.

Discussion on the Motion - Mr. Brewer believes the language that Ms. Wade had suggested to be added at the bottom needs to be added to C. Ms. Wade said that item C. is pertaining to the development plan, and the note should be added to the bottom of either A. or B. Mr. Berkley amended his motion to include that justification statement for the conditional zoning at the bottom.

Mr. Brewer also commented on the drive-thru facility and said that he doesn't see the difference between a drive-thru cigarette stand, lottery shop, or other facilities that create the same impact on the neighborhood that the staff is attempting to avoid.

Mr. Berkley said that the Planning Commission will review this at the final development plan.

Mr. Wilson said that this will be seen again on the final development plan and could be resolved at that time, including the design features.

Ms. Jones said that the zone change with conditional zoning restrictions is what is being voted on now, which can't be changed at the final development plan phase. She said that they need to be put in place at this hearing. She said that the items listed under item C. will be voted on with the preliminary development plan.

Mr. Cravens said if drive-thru facilities are removed at this time, they can't build them, but if the restriction is left as is, they will have the flexibility to have it on their final development plan.

Ms. Jones agreed.

Mr. Brewer said that there are many other locations within this development that drive-thru facilities are allowed and suggested removing "food service" as advised by the staff.

Mr. Berkley said that this restriction is not for the entire development but for only within 150 feet of Lucille Drive.

Motion Action - Motion and carried 8-2 (Plumlee and Brewer opposed; Penn absent).

Development Plan Action - A motion was made by Mr. Berkley, seconded by Mr. Cravens, and carried 9-1 (Plumlee opposed; Penn absent) to approve PLN-MJDP-17-00084: GREENDALE HILLS, UNIT 3, for the revised conditions provided by the staff, eliminating condition #10 and the addition of the applicant's proposed condition, item C. as follows:

1. Provided the Urban County Council rezones the property B-6P; 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of conditional zoning restrictions.
8. Revise plan to comply with Article 12-8(b) of the Zoning Ordinance.
9. Revise plan to comply with Article 12-8(f) of the Zoning Ordinance for loading areas.
- ~~10. Discuss a possible residential use along Lucille Drive between adjacent single family homes and shopping center.~~

C B. The following will be development plan notes:

1. Maximum building height of 35 feet.
2. Maximum building size of 35,000 square feet per building.
3. Along Cielo Vista Road, from driveway west to the Washington property line at 715 Cielo Vista Road, developer will plant/build a three-foot solid fence, and a three-foot hedge, and one tree every twenty feet.
4. Along Cielo Vista Road, from the driveway east to the intersection with Mulundy Way and along Lucille Drive, developer will plant/build a three-foot open fence (for example a picket fence) or a three foot hedge, plus one tree every thirty feet.
5. Along Lucille Drive, the landscape area shall average at least 10 feet in width, and shall be a minimum of 6 feet in width.

Mr. Berkley asked if the motion for the zone change needed to be re-visited to include the language regarding the conditional zoning restriction, suggested by Ms. Wade. Ms. Wade said that the staff assumed that it was already incorporated in the motion based upon the Commission's discussion.