

2. **C & R ASPHALT LAND ACQUISITION CO., LLC, ZONING MAP AMENDMENT & MILLER-BIRD COMMERCIAL PARK, UNIT 1-B, BLOCK C, ZONING DEVELOPMENT PLAN**

- a. **MAR 2013-15: C & R ASPHALT LAND ACQUISITION CO., LLC (11/3/13)\*** – petition for a zone map amendment from a Light Industrial (I-1) zone to a Highway Service Business (B-3) zone, for 1.491 net (1.929 gross) acres, for property located at 2601 & 2617 Regency Road.

**LAND USE PLAN AND PROPOSED USE**

The 2007 Comprehensive Plan (Sector 4) recommends Warehouse & Wholesale land use for the subject property. The petitioner proposes to re-zone two existing buildings, with no proposed change of use or physical changes to the properties at this time.

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

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

1. The existing Light Industrial (I-1) zone is no longer appropriate since it is unrestricted, and a restricted Highway Service Business (B-3) zone is appropriate for the subject property for the following reasons:
  - a. The character of Regency Road and Moore Drive, near the intersection of Nicholasville Road and New Circle Road, has evolved over the years and has become occupied predominantly by businesses that have a retail focus in addition to a warehouse or wholesale function, or are specialty stores and businesses that are unique to this area of the community.
  - b. No light industrial uses exist along this portion of Regency Road or Moore Drive.
  - c. A restricted B-3 zone at this location would be compatible with the existing B-3 zoning along Regency Road, which is immediately adjacent to the south of the subject property.
2. This area of the community is one that supports small business development, which is part of the recommendations of the 2012 Goals and Objectives of the Comprehensive Plan (Goal C.2.b.), as most of the businesses along this corridor utilize less than 10,000 square feet of space and occupy multi-use buildings. This area houses many specialty stores and businesses that are unique to the community, and the proposed B-3 zoning would permit expansion of such uses beyond what the existing zoning would permit.
3. This recommendation is made subject to approval and certification of the associated development plan **ZDP 2013-75: Miller-Bird Commercial Park, Unit 1-B, Block C**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. **Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be subject to the following use restrictions via conditional zoning:**

**PROHIBITED USES:**

- a. Restaurants.
- b. The sale of gasoline, gasoline pumps and automobile service stations.
- c. All adult bookstores and adult entertainment uses.
- d. Indoor theaters.
- e. Rental or repair of equipment and/or trucks.
- f. Car washes.
- g. Medical and dental offices.

**These restrictions are appropriate and necessary for the subject property to partially implement the 2007 Comprehensive Plan, which recommends a limited mixture of commercial land uses in the area of Moore Drive and Regency Road.**

- b. **ZDP 2013-75: MILLER-BIRD COMMERCIAL PARK, UNIT 1-B, BLOCK C (11/3/13)\*** - located at 2601 & 2617 Regency Road. **(Wheat & Ladenburger)**

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

1. Provided the Urban County Council rezones the property **B-3**; 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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree protection plan.
6. Addressing Office's approval of street names and addresses.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Correct plan title.
10. Dimension buildings.
11. Denote height of building in feet.

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

12. Denote that there will be no restaurants at this location (due to parking constraints).
13. Denote: No Zoning Compliance Permit shall be issued until there is documentation of the Division of Water Quality's approval under the Capacity Assurance Program.
14. Discuss the need for shared access and parking.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property on Regency Road, north of New Circle Road and west of Nicholasville Road. She stated that in the vicinity of the subject property is I-1 zoning to the north; I-2 across the railroad tracks at the rear of the property; B-3 to the south; and B-4 across Regency Road. The subject property currently contains a furniture store and interior design business on one of the subject parcels, and an auto parts store on the other subject parcel. There is a mixture of types of businesses in the area, including: Lexington Coffee & Tea Company; Don Jacobs Autobody Shop; Porter Paints; Re-Kid; and *The Cat's Pause*. Ms. Wade noted that all of those businesses have retail and wholesale/warehousing components, which contributes to the wide range of uses in the area.

Ms. Wade stated that the petitioner is proposing to rezone the subject property in order to provide a broader range of uses on the site, which will be similar in character to the surrounding area. She said that the 2007 Comprehensive Plan recommends Warehouse & Wholesale land use for the subject property, as well as much of the area to the north and south. Many of the parcels in the area recommended for that land use category are not zoned B-4; rather, may be zoned B-3 or I-1. The existing and proposed zoning cannot be found, therefore, to be exactly in compliance with the Comprehensive Plan recommendation. The petitioner has cited the retail nature of the land uses along Regency Road and Moore Drive, which are different from the recommended uses in this area, as a justification for the zone change, contending that the proposed B-3 zone is appropriate at the existing I-1 zone is inappropriate at this location. The petitioner also contends that the requested change is consistent with the adopted 2012 Comprehensive Plan Goals & Objectives. Ms. Wade stated that the staff agrees with the petitioner's assertions, particularly that this area of the community supports small business development (which is part of Goal C.2.b.), since most of the businesses along the Regency Road corridor utilize 10,000 square feet or less of floor area, and occupy multi-use buildings. This area houses several unique uses and specialty stores, and the proposed B-3 zone would permit the expansion of those uses beyond what is permitted in the B-4 and I-1 zones, as long as the parking requirements for those uses are met.

Ms. Wade said that the staff is suggesting conditional zoning restrictions be approved for the property, to be consistent with other B-3 zoning in the area. She explained that the adjacent property to the south has conditional zoning restrictions, which were put in place approximately nine years ago. The staff believes that those same restrictions would be appropriate for the subject property as well, with the addition of the prohibition of medical and dental offices, due to the staff's concerns about parking and traffic. Ms. Wade stated 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: Ms. Gallt presented the corollary final development plan, further orienting the Commission to the location of the subject property. She stated that the first 13 conditions listed on the agenda for this plan were for standard sign-offs; and condition #14 refers to the need for shared access and parking. Since this plan was reviewed at the Subdivision Committee meeting, the staff has received a copy of a new deed for the property to convey the reciprocal parking restriction that has been recorded for the subject property. Ms. Gallt stated that condition #14 has been satisfied, and could now be deleted from consideration.

Commission Questions: Mr. Owens asked if the reciprocal parking agreement would be denoted on the plan, to which Ms. Gallt answered affirmatively.

Citizen Comments: There were no citizens present to comment on this item.

Zoning Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 10-0 (Beatty absent) to approve MAR 2013-15, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 10-0 (Beatty absent) to approve ZDP 2013-75, with the first 13 conditions as listed, deleting #14.