

ORDINANCE NO. 10 -2016

AN ORDINANCE CHANGING THE ZONE FROM A HIGH DENSITY APARTMENT (R-4) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 0.355 NET (0.542 GROSS) ACRE; FOR PROPERTY LOCATED AT 500-506 MARYLAND AVENUE (A PORTION OF), INCLUDING DIMENSIONAL VARIANCES (JEFFREY STUART MORGAN; COUNCIL DISTRICT 2).

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WHEREAS, at a Public Hearing held on December 17, 2015, a petition for a zoning ordinance map amendment for property located at 500-506 Maryland Avenue (a portion of) from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone, for 0.355 net (0.542 gross) acre, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change including dimensional variances by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 500-506 Maryland Avenue (a portion of) from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone, for 0.355 net (0.542 gross) acre, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property via conditional zoning:

Prohibited Uses


1. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
2. Medical and dental offices, clinic and laboratories.
3. Automobile service station, gasoline pumps, and automobile and vehicle refueling stations.
4. Drive-through facilities.
5. Uses requiring or utilizing overhead doors..

Section 3 - That the Lexington-Fayette Urban County Planning Commission is

directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: February 4, 2016

MAYOR 

ATTEST:  
  
CLERK OF URBAN COUNTY COUNCIL

Published: February 11, 2016  
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**LEGAL DESCRIPTION**

FOXTROT 16, LLC  
ZONE CHANGE FROM R-4 TO B-1  
500-506 MARYLAND AVENUE  
LEXINGTON, FAYETTE COUNTY, KENTUCKY

A TRACT OF LAND SITUATED NORTH OF JEFFERSON STREET AND WEST OF MARYLAND AVENUE IN  
LEXINGTON, KENTUCKY AND MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE INTERSECTION OF THE CENTER OF JEFFERSON STREET AND THE  
CENTER OF MARYLAND AVENUE, THENCE ALONG THE CENTER OF JEFFERSON STREET S  
46°30'00" W 148.62', TO A POINT; THENCE N 42°32'00" W 29.00' TO AN IRON PIN FOUND (PLS  
#3558); THENCE N 42°32'00" W 100.00' TO AN IRON PIN FOUND (PLS #3558); THENCE S  
46°39'51" W 3.38' TO AN IRON PIN FOUND (PLS #3558); THENCE N 42°32'00" W 30.55' TO A  
POINT; THENCE N 47°28'00" E 121.99' TO A POINT; THENCE N 47°28'00" E 30.00' TO A POINT IN  
THE CENTER OF MARYLAND AVENUE; THENCE ALONG THE CENTER OF MARYLAND AVENUE S  
42°32'00" E 156.99' TO THE POINT OF BEGINNING, CONTAINING A GROSS AREA OF 0.542 ACRES  
AND A NET AREA OF 0.355 ACRES.

THIS DESCRIPTION PREPARED BY BUDDY J. SMYTH, PLS 2374 FROM A SURVEY CONDUCTED BY OTHERS.

**RECOMMENDATION OF THE**  
**URBAN COUNTY PLANNING COMMISSION**  
**OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY**

**IN RE:** **MARV 2015-26: JEFFREY STUART MORGAN** - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone, for 0.355 net (0.542 gross) acre, for property located at 500-506 Maryland Avenue (a portion of). Dimensional variances were also requested. (Council District 2)

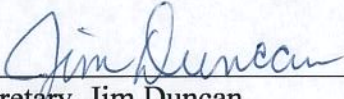
Having considered the above matter on **December 17, 2015**, at a Public Hearing, and having voted **8-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reason:

1. The requested Neighborhood Business (B-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a. The Goals and Objectives recommend: 1) identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A., Goal #2a.); and 2) providing a well-designed neighborhood and community (Theme A, Goal #3). This redevelopment project will be in keeping with the neighborhood character and will support the pedestrian-oriented Jefferson Street corridor.
  - b. The Goals and Objectives encourage providing entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.). The applicant is proposing to further the resurgence of the Jefferson Street corridor by including a restaurant/pub in the plan for redevelopment, which is in keeping with the other establishments within the immediate area.
  - c. The Goals and Objectives encourage compact, contiguous and/or mixed use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs (Theme E, Goal #1b.). The proposed mixed-use development will, in its own small way, help alleviate pressure to expand the Urban Service Area in the future.
  - d. The Goals and Objectives of the 2013 Comprehensive Plan are supported by the applicant's requested rezoning, and the requested B-1 zone is compatible with the adjacent zoning along Jefferson Street.
2. This recommendation is made subject to approval and certification of **ZDP 2015-119: The Townhomes at Jefferson Street (Preston Subdivision)**, 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 uses shall be restricted via conditional zoning:**
  - a. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  - b. Medical and dental offices, clinics and laboratories.
  - c. Automobile service stations, gasoline pumps, and automobile and vehicle refueling stations.
  - d. Drive-through facilities.
  - e. Uses requiring or utilizing overhead doors.



These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, parking and/or traffic congestion.

ATTEST: This 6<sup>th</sup> day of January, 2016.

  
Secretary, Jim Duncan

MIKE OWENS  
CHAIR

Note: Variances to reduce the required parking for the B-1 zone area by 50%, and to reduce the required rear yard for eight of the interior townhouse units from 20% of the lot depth to 15%, were approved by the Planning Commission for this property, subject to the rezoning being granted.

Note: The corollary development plan, ZDP 2015-119: The Townhomes at Jefferson Street (Preston Subdivision), was approved by the Planning Commission on December 17, 2015 and certified on December 30, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by March 17, 2016.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Richard Murphy, attorney.**

OBJECTORS

- Susan King, 533 Maryland Avenue
- Sean McLaughlin, 535 Maryland Avenue
- Evelyn Knight, 513 West Third Street

OBJECTIONS

- Concerned about overflow parking that will result on Maryland Avenue.
- Concerned about on-street parking, since few of the homes on Maryland Avenue have driveways.
- Believes that the intent of the proposed B-1 zone is to serve the needs of the neighborhood, rather than provide a destination for entertainment uses for the community.

VOTES WERE AS FOLLOWS:

AYES: (8) Berkley, Cravens, Drake, Mundy, Penn, Plumlee, Smith, Wilson

NAYS: (0)

ABSENT: (3) Brewer, Owens, Richardson

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of MARV 2015-26 carried.

Enclosures: Application  
Plat  
Staff Report  
Applicable excerpts of minutes of above meeting



MARV 2015-26

Date Received 11/2/15

Pre-Application Date 9/21/15

Filing Fee \$ 500.00

**GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION**

**1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)**

APPLICANT: Jeffrey Stuart Morgan, P.O. Box 966, Lexington, KY 40588, 859.489.0908

OWNER: Foxtrot 16 LLC, 105 Wind Haven Drive, Nicholasville, KY 40356, 859.333.1000

ATTORNEY: Murphy & Clenenen, PLLC, 250 W Main Street, Suite. 2510, Lexington, KY 40507, 859.233.9811

**2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)**

500-506 Maryland Avenue

**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-4	Commercial - Vacant Land	B-1	Retail	0.355 AC	0.542 AC

**4. SURROUNDING PROPERTY, ZONING & USE**

Property	Use	Zoning
North	Duplex/Residential	R-2
East	Commercial - Vacant Land	B-4
South	Office	B-1
West	Hospitality/Recreational	R-4

**5. EXISTING CONDITIONS**

a. Are there any existing dwelling units on this property that will be removed if this application is approved?  YES  NO

b. Have any such dwelling units been present on the subject property in the past 12 months?  YES  NO

c. Are these units currently occupied by households earning under 40 % of the median income?  
If yes, how many units?  YES  NO  
If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing. \_\_\_\_\_ Units

**6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)**

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

**7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)**

This is in...  in agreement with the Comp. Plan  more appropriate than the existing zoning  due to unanticipated changes.

**8. APPLICANT/OWNER SIGNS THIS CERTIFICATION**

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am  OWNER or  HOLDER of an agreement to purchase this property since 05/15/2013.

APPLICANT Jeffrey S. Morgan DATE 11/02/15

OWNER Stephen Paul, member Foxtrot 16, LLC DATE 11/1/15

LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_



## 7. **Justification for requested change.**

The Applicant, Jeffrey Stuart Morgan, is requesting your approval for a zone change from the high density apartment (R-4) zone to the neighborhood business (B-1) zone for about one-third of an acre at the corner of Jefferson Street and Maryland Avenue. The current street address for the property is 500-506 Maryland Avenue.

The zone change is part of a mixed-use development which is shown on our development plan, which is submitted with the zone change. The larger portion of the property will remain in the R-4 zone and will be the site of sixteen single-family townhouses. The B-1 zoning will be at the corner of Jefferson Street and Maryland Avenue.

The Applicant is the developer of the Jefferson Davis Inn (JDI) property on South Broadway and wishes to build a similar development on Jefferson Street. In the South Broadway project, we have found that the combination of the townhomes and the restaurant uses creates a synergy which has strengthened both uses. The architecture will be similar, a modern take on quality brick buildings. This property is currently the site of the Jefferson Fitness Club and Bluegrass Physical Therapy. However, the building has been vacant for two years. It is an old YMCA building and its architectural style is characterized by roofing material which is used as external walls.

The Applicant proposes to redevelop the property. The restaurant uses will be consistent with other new restaurants which have brought new vibrancy to Jefferson Street. We will also be strengthening the residential character of the area by constructing sixteen new, upscale brick townhomes, similar to the new townhomes along South Broadway.

This proposal is in agreement with the 2013 Comprehensive Plan. It is in accord with many of the goals and objectives which emphasize revitalization of downtown, supporting local business, establishing entertainment options which appeal to young professionals, supplying new housing which will strengthen existing neighborhoods, and maintaining the integrity of existing neighborhoods:

- Identify areas of opportunity for infill, **redevelopment** and adaptive reuse that respect the area's context and design features whenever possible (Theme A, Goal 2a). (Emphasis added).
- Provide well-designed neighborhoods and communities (Theme A, Goal 3).
- Support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal 1).



- Provide entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal 2d).
- Encourage compact, contiguous and/or mixed-use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs (Theme E, Goal 1b).

In addition, we feel the existing R-4 zoning is no longer appropriate for the corner lot and B-1 zoning is appropriate for the corner property. This property has functioned as a parking lot for the old YMCA building for many years, and is extremely underutilized. The parking lot does not contribute to the revitalization of this area.

Also, all property on the block facing us across the street on Jefferson, from Second Street to Third Street, is zoned business. The Apiary, a restaurant and special events facility, is directly across the street from this property. West Jefferson Place, an office/retail area, is adjacent to the south. In addition, the B-1 zoning will be a good transitional use from the commercial uses along Jefferson Street, to the new, proposed townhouse uses on Maryland Avenue and the existing residential uses on Maryland Avenue.

We are also requesting your approval of two variances. The first variance will reduce the required back yard for eight of the interior units (Units 9-16) for the townhouse section of the development. Because of the need of an access easement through the middle of the property, we are asking a modest reduction in the required back yard from 20% of the depth of the lot to 15% of the depth of the lot. We will still meet all open space requirements.

The second variance is requested to reduce the required parking in the B-1 zone from 44 spaces onsite to 22 spaces onsite. We have excess parking in the residential area. (We will be supplying two or three times as much parking in the residential portion of the property as required.) Although we have cross parking agreements with adjacent properties, the major area may be slightly more than 300 feet from this property, and cannot be counted in our required parking for the B-1 zone. More importantly, we anticipate that many of the patrons will walk or bicycle to this site. That has been the case for Mr. Morgan's development on South Broadway.

Thus, we are requesting these variances for the following reasons:

1. Granting these variances will not adversely affect the public health, safety or welfare, and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because the Applicant has supplied more parking than necessary for the residential uses, and other parking is available for the B-1 use, but is just beyond the 300 foot walking distance. Jefferson Street has become an entertainment district, and proprietors have worked together to solve parking issues. In addition, many of the patrons will walk or bicycle to



this area in the central portion of Lexington. The backyard variance will allow the Applicant to have an appropriate access easement to serve the townhouse units.

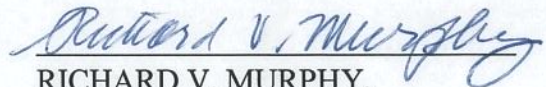
2. Granting these variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because 44 parking spaces will not be needed for the proposed use, and granting the variance will allow a redevelopment of this property to transform it from a vacant parking lot to a contributing mixed-use development for Jefferson Street.

3. The special circumstances which apply to this property and which do not generally apply to land in the general vicinity or in the same zone are that this is a redevelopment of the old YMCA building. The residential portion of the property exceeds parking requirements, and 44 spaces are not anticipated to be needed for the restaurant uses, as outlined above.

4. Strict application of the regulations of the Zoning Ordinance would deprive the Applicant of a reasonable use of his land or create an unnecessary hardship because parking for the residential uses is oversupplied, which will mean that the none of the residential users will park on the street. The restaurant parking is of more limited duration and will allow redevelopment of this property. There is additional parking available, but beyond the 300 foot walking distance.

5. The circumstances surrounding the requested variances are not the result of actions this Applicant taken subsequent to the regulation from which relief is sought. No construction has started. Reductions in parking are allowed in the infill and redevelopment area.

Thank you for your consideration of this zone change and variance request.

  
RICHARD V. MURPHY,  
Attorney for Applicant

**LEGAL DESCRIPTION**

FOXTROT 16, LLC  
ZONE CHANGE FROM R-4 TO B-1  
500-506 MARYLAND AVENUE  
LEXINGTON, FAYETTE COUNTY, KENTUCKY

A TRACT OF LAND SITUATED NORTH OF JEFFERSON STREET AND WEST OF MARYLAND AVENUE IN  
LEXINGTON, KENTUCKY AND MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT THE INTERSECTION OF THE CENTER OF JEFFERSON STREET AND THE  
CENTER OF MARYLAND AVENUE, THENCE ALONG THE CENTER OF JEFFERSON STREET S  
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THIS DESCRIPTION PREPARED BY BUDDY J. SMYTH, PLS 2374 FROM A SURVEY CONDUCTED BY OTHERS.



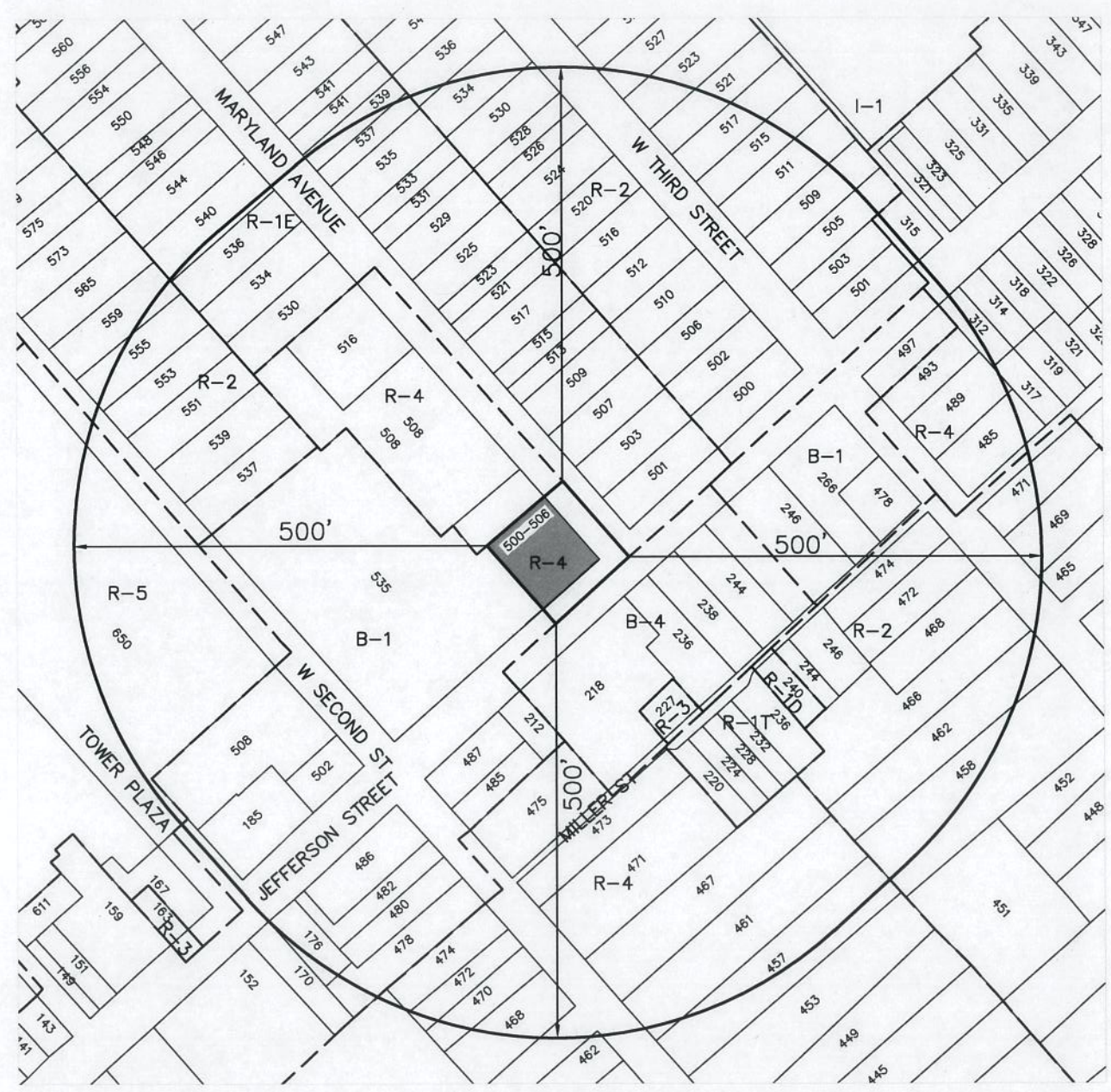


Architecture  
Interior Design  
Engineering  
Landscape Architecture  
a: 400 East Vine Street  
Suite 400  
Lexington, Kentucky 40507  
o: (859) 254-6623  
f: (859) 259-1877  
w: <http://www.cmwaec.com>

PROPERTY INFORMATION MAP

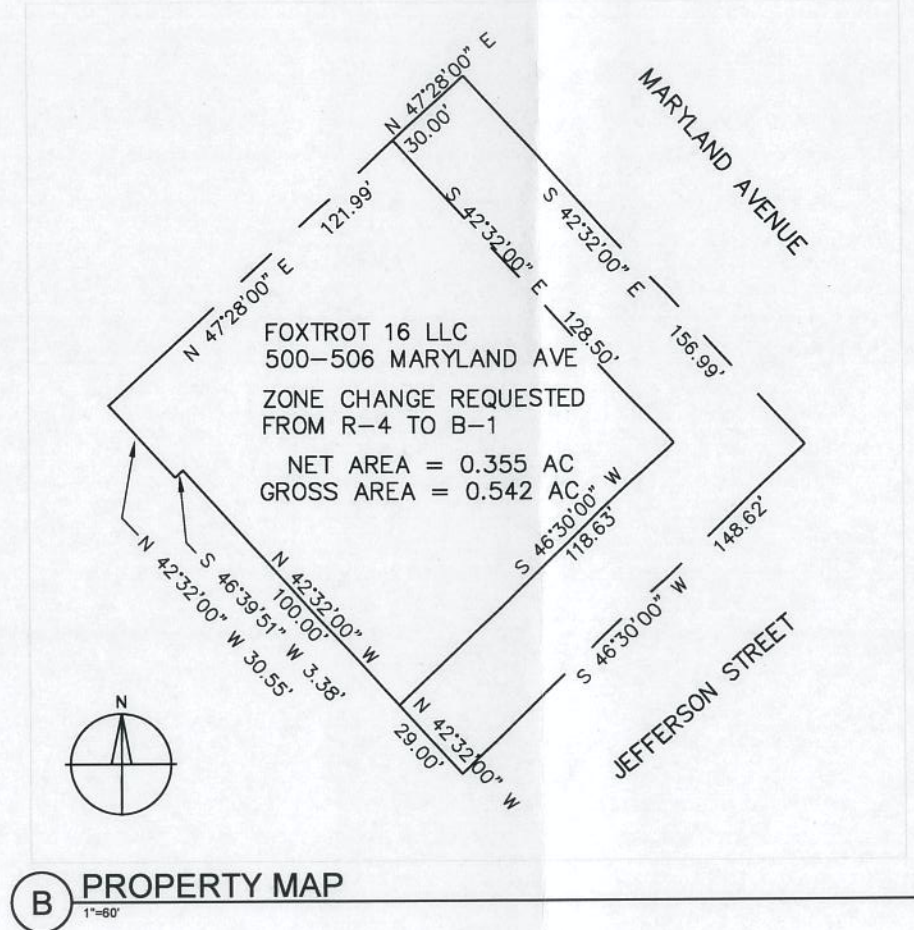
The Townhomes at Jefferson Street  
500-506 Maryland Avenue  
Lexington, KY

Issue Date: 11/13/2015  
Drawn By: ABS  
Checked By: BH  
Revisions:  
Mark: \_\_\_\_\_ Date: \_\_\_\_\_  
Dwg: \_\_\_\_\_  
Project Number  
15030.01  
© 2015 CMW  
C-800

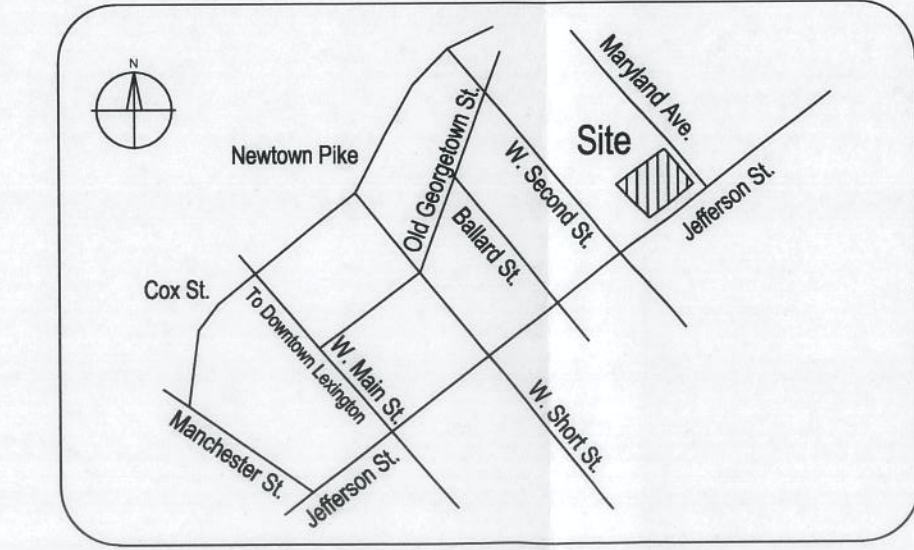


**A NOTIFICATION AREA MAP**  
1"=200'

	TITLE: THE TOWNHOMES AT JEFFERSON STREET	FROM	TO	NET	GROSS
	PROPERTY ADDRESS: 500-506 MARYLAND AVENUE	R-4	B-1	0.355 Ac	0.542 Ac
	APPLICANT NAME/ADDRESS: JEFFREY STUART MORGAN PO BOX 966 LEXINGTON, KY 40588				
	OWNER NAME/ADDRESS: FOXTROT 16 LLC 105 WIND HAVEN DRIVE NICHOLASVILLE, KY 40356				
	PREPARED BY: CMW INC. 400 E. VINE ST. LEX KY 40507				
	DATE FILED OR AMENDED: 11/13/15	TOTAL			0.355 Ac



**B PROPERTY MAP**  
1"=60'



**C VICINITY MAP**  
NTS



**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**MARV 2015-26: JEFFREY STUART MORGAN**

**DESCRIPTION**

**Zone Change:** From a High Density Apartment (R-4) zone  
To a Neighborhood Business (B-1) zone

**Acreage:** 0.355 net (0.542 gross) acre

**Location:** 500-506 Maryland Avenue (a portion of)

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Property	R-4	Parking lot
To North	R-4	Vacant (formerly athletic club)
To East	R-1E	Single-Family Residential
To South	B-4	Restaurant/Banquet Facility/Catering
To West	B-1	Professional Offices

**URBAN SERVICES REPORT**

**Roads** – Jefferson Street borders the subject property to the southeast, and Maryland Avenue borders the site to the northeast. Jefferson Street is a two-lane collector street, with on-street parking available. Maryland Avenue is a local street that connects Jefferson Street to Newtown Pike to the northwest of the site, also with on-street parking. Ingress and egress points for the property are planned along both Jefferson Street and Maryland Avenue, which allows for internal vehicular circulation on the property.

**Curb/Gutter/Sidewalks** – Both Jefferson Street and Maryland Avenue have adequate curbs, gutters, and sidewalks.

**Storm Sewers** – This site is located in the Town Branch watershed. The Town Branch emerges (flowing north) from underground about 1/3 of a mile to the west of the subject property, although no known flooding problems exist within the immediate vicinity. According to approved plans, a small basin exists on the corner of the property. The subject property is part of a larger lot proposed for redevelopment; therefore, stormwater detention/retention may be required for this development by the LFUCG Division of Engineering Stormwater Manuals.

**Sanitary Sewers** – The subject property is located within the Town Branch sewershed, and is served by the Town Branch Wastewater Treatment Facility located on Lisle Industrial Avenue. The Capacity Assurance Program tracking systems indicates that site is split between two sub-basins of the sewershed, but both portions of the site currently have available sanitary sewer capacity.

**Refuse** – The LFUCG currently serves this portion of the Urban Service Area with collection days on Thursdays. The petitioner may consider supplemental service from a private refuse hauler to meet the actual needs of the commercial and residential uses proposed on the subject site.

**Police** – The nearest police station is the Main Headquarters located on East Main Street, about 2/3 of a mile to the southwest of the subject property.

**Fire/Ambulance** – The nearest fire station (#4) is located within the same block of Jefferson Street as the subject property, between West Second and West Third Streets.

**Utilities** – All utilities, including phone, water, gas, electric, and cable television are available to serve the subject property.



## **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 Comprehensive Plan's Goals and Objectives recommend identifying opportunities for infill, redevelopment and adaptive reuse that are respectful of an area's context and design features (Theme A, Goal #2a.); providing for well-designed neighborhoods and communities (Theme A, Goal #3); providing entertainment and other quality of life opportunities that will attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.); and encouraging mixed-use sustainable development with the Urban Service Area (Theme E, Goal #1b.). The subject property is located within the *Downtown Master Plan* boundary, a 2005 planning effort of the Lexington Downtown Development Authority (DDA).

The petitioner proposes to rezone the property to the B-1 zone in order to construct one or more restaurants at the corner, with parking to the rear of the lot. The corollary development plan also depicts an associated 16-unit townhouse development in an R-4 zone, which will share access to Jefferson Street. The petitioner is also requesting dimensional variances to reduce the off-street parking requirement by 50% and to reduce the rear yard for the townhouses.

## **CASE REVIEW**

The petitioner has requested a zone change from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone for less than ½ of an acre of property, which is a portion of 500-506 Maryland Avenue.

The subject property is located at the western corner of the Jefferson Street and Maryland Avenue intersection. A small portion of the site along the western property boundary is already within a B-1 zone. The majority of the immediate area is zoned either Neighborhood Business (B-1) or multi-family residential (R-4 & R-5), although a small pocket of Wholesale and Warehouse Business (B-4) zoning does exist directly across Jefferson Street from the site. Harrison Elementary School is located about a block to the south on Bruce Street; and the West Jefferson Place building, which is located to the west, is primarily occupied by professional offices. The Jefferson Street corridor has experienced resurgence over the past few years, as several new businesses and restaurants have opened and have attracted new customers to the area, including The Apiary (banquet facility, offering catering and restaurant); The Blue Heron; Nick Ryan's Salon; Country Club and others. The area is characterized by a mix of residential, institutional, and business uses.

The subject property is located in close proximity to two local historic districts – Western Suburb Historic District is generally to the west; and the Northside Historic District is located to the southeast, across Jefferson Street. Although not within the bounds of these local historic districts, the subject property is located within the National Register listed Northside Historic Residential District and should therefore be considered as a possible contributing property to the overall district.

The petitioner wishes to construct a restaurant or two with associated off-street parking on the subject property. The structure is proposed to be two stories, with approximately 5,700 square feet of floor area. The corollary development plan also includes a 16-unit townhome development to the rear of the planned business, extending along Maryland Avenue. The petitioner is also requesting variances to reduce the off-street parking requirement by 50% for the proposed business use and to reduce the required rear yard setback for the townhouses.

The petitioner contends that the proposed Neighborhood Business (B-1) zoning is in agreement with the 2013 Comprehensive Plan, citing several Goals and Objectives that would be furthered if the property is re-zoned and redeveloped. Several of the Goals and Objectives emphasize the revitalization of downtown, supporting local business, establishing entertainment options that appeal to young professionals, and maintaining the integrity of the existing neighborhoods. Specifically, the zone change is supported by:

- Theme A, Goal #2a. – Identify areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features;
- Theme A, Goal #3 – Provide well-designed neighborhoods and communities;
- Theme C, Goal #2d. – Provide entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington; and
- Theme E, Goal #1b. – Encourage compact, contiguous and/or mixed-use sustainable development with the Urban Service Area, as guided by market demand, to accommodate future growth needs.

Each of these four goals and objectives is being furthered by the petitioner's request to re-zone and create a mixed-use redevelopment, with business uses along Jefferson Street. The proposed development pattern of business along the Jefferson Street corridor, with residential along the side streets, is compatible with and similar in character to the immediate area. The staff agrees that the requested zone change is in agreement with the 2013 Comprehensive Plan.

Since parking is in limited supply within this pedestrian-oriented corridor, the staff recommends limiting the use of the property through conditional zoning restrictions. Those auto-oriented and high parking generator commercial uses should be limited, such as drive-through facilities, automobile service stations, medical and dental offices, and financial institutions (banks, etc.). In addition, because of the proximity to residential development, some uses that may cause excessive noise should be prohibited.

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

1. The requested Neighborhood Business (B-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a. The Goals and Objectives recommend: 1) identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A., Goal #2a.); and 2) providing a well-designed neighborhood and community (Theme A, Goal #3). This redevelopment project will be in keeping with the neighborhood character and will support the pedestrian-oriented Jefferson Street corridor.
  - b. The Goals and Objectives encourage providing entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.). The applicant is proposing to further the resurgence of the Jefferson Street corridor by including a restaurant/pub in the plan for redevelopment, which is in keeping with the other establishments within the immediate area.
  - c. The Goals and Objectives encourage compact, contiguous and/or mixed use sustainable development with the Urban Service Area, as guided by market demand, to accommodate future growth needs (Theme E, Goal #1b.). The proposed mixed-use development will, in its own small way, help alleviate pressure to expand the Urban Service Area in the future.
  - d. The Goals and Objectives of the 2013 Comprehensive Plan are supported by the applicant's requested rezoning, and the requested B-1 zone is compatible with the adjacent zoning along Jefferson Street.
2. This recommendation is made subject to approval and certification of ZDP 2015-119: The Townhomes at Jefferson Street (Preston Subdivision), 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 uses shall be restricted via conditional zoning:
- a. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  - b. Medical and dental offices, clinics and laboratories.
  - c. Automobile service stations, gasoline pumps, and automobile and vehicle refueling stations.
  - d. Drive-through facilities.
  - e. Uses requiring or utilizing overhead doors.
  - f. Outdoor live entertainment and/or dancing.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, parking and/or traffic congestion.

*Note: Vice-Chairman Cravens declared a brief recess at 3:54 p.m. The meeting reconvened at 3:59 p.m.*

**2. JEFFREY STUART MORGAN ZONING MAP AMENDMENT & THE TOWNHOMES AT JEFFERSON STREET (PRESTON SUBDIVISION)**

- a. MARV 2015-26: JEFFREY STUART MORGAN (1/31/16)\* - petition for a zone map amendment from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone, for 0.355 net (0.542 gross) acre, for property located at 500-506 Maryland Avenue (a portion of). Dimensional variances are also being requested.

**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 Comprehensive Plan's Goals and Objectives recommend identifying opportunities for infill, redevelopment and adaptive reuse that are respectful of an area's context and design features (Theme A, Goal #2a.); providing for well-designed neighborhoods and communities (Theme A, Goal #3); providing entertainment and other quality of life opportunities that will attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.); and encouraging mixed-use sustainable development within the Urban Service Area (Theme E, Goal #1b.). The subject property is located within the *Downtown Master Plan* boundary, a 2005 planning effort of the Lexington Downtown Development Authority (DDA).

The petitioner proposes to rezone the property to the B-1 zone in order to construct one or more restaurants at the corner, with parking to the rear of the lot. The corollary development plan depicts an associated 16-unit townhouse development in an R-4 zone, which will share access to Jefferson Street. The petitioner is also requesting dimensional variances to reduce the off-street parking requirement by 50% and to reduce the rear yard for the townhouses.

**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 for the subject property is in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a. The Goals and Objectives recommend: 1) identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A., Goal #2a.); and 2) providing a well-designed neighborhood and community (Theme A, Goal #3). This redevelopment project will be in keeping with the neighborhood character and will support the pedestrian-oriented Jefferson Street corridor.
  - b. The Goals and Objectives encourage providing entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal #2d.). The applicant is proposing to further the resurgence of the Jefferson Street corridor by including a restaurant/pub in the plan for redevelopment, which is in keeping with the other establishments within the immediate area.
  - c. The Goals and Objectives encourage compact, contiguous and/or mixed use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs (Theme E, Goal #1b.). The proposed mixed-use development will, in its own small way, help alleviate pressure to expand the Urban Service Area in the future.
  - d. The Goals and Objectives of the 2013 Comprehensive Plan are supported by the applicant's requested rezoning, and the requested B-1 zone is compatible with the adjacent zoning along Jefferson Street.
2. This recommendation is made subject to approval and certification of ZDP 2015-119: The Townhomes at Jefferson Street (Preston Subdivision), 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 uses shall be restricted via conditional zoning:
  - a. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
  - b. Medical and dental offices, clinics and laboratories.
  - c. Automobile service stations, gasoline pumps, and automobile and vehicle refueling stations.
  - d. Drive-through facilities.
  - e. Uses requiring or utilizing overhead doors.
  - f. Outdoor live entertainment and/or dancing.

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



These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, parking and/or traffic congestion.

b. REQUESTED VARIANCES

1. Reduce the required rear yard for eight of the interior townhouse units from 20% of the lot depth to 15%.
2. Reduce the parking in the B-1 zone to 50% of the otherwise required parking.

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

The Staff Recommends: **Approval of the requested rear yard and parking variances**, for the following reasons:

- a. Granting the requested variances should not adversely affect the public health, safety or welfare, create a nuisance to the general public, nor will it alter the character of the general vicinity. The setback variance along the rear lot line is very minor in scope, and the parking variance is not inconsistent with other developments in this general vicinity.
- b. Approval of the variances will not result in an unreasonable circumvention of the Zoning Ordinance, as the proposed development has rights to utilize parking in the adjoining West Jefferson Place parking lot. The granting of these variances will allow the construction of a mixed-use redevelopment, replacing a front-facing parking lot with a context-sensitive commercial development.
- c. The special circumstance that applies to the subject property justifying the variances is its location on the pedestrian-oriented Jefferson Street corridor, in addition to the availability of parking and the juxtaposition of the adjacent 3-story office building.
- d. Strict application of the requirements of the Zoning Ordinance would likely result in a larger surface parking lot and less residential development, which would neither be in character with the surrounding area nor result in nearly as efficient a use of these properties.
- e. The circumstances surrounding this request are not the direct result of actions taken by the applicant, but are more of a result of the pre-existing built environment. This has led to a design response that is in context with the surrounding vicinity.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of these variances is null and void.
2. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
3. Prior to construction and occupancy, the applicant shall obtain all applicable permits, including but not limited to zoning compliance permits and building permits, as well as Certificates of Occupancy from the Divisions of Planning and Building Inspection.

- c. ZDP 2015-119: THE TOWNHOMES AT JEFFERSON STREET (PRESTON SUBDIVISION) (1/31/16)\* - located at 500 - 506 Maryland Avenue. **(CMW, Inc.)**

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. Denote that compliance with Article 15-7(a) of the Zoning Ordinance shall be determined at the time of the Final Development plan.
6. Provided the Planning Commission grants the requested variances.
7. Remove all copyright information from plan.
8. Discuss details of the required 15' landscape buffer between B-1 and R-4 properties.
9. Discuss proposed uses for 2<sup>nd</sup> and 3<sup>rd</sup> floors of commercial building(s).
10. Discuss use of compact spaces (25% limit) along 22' drive aisle.

Zoning Presentation: Ms. Wade presented the staff report for this rezoning request, noting that the staff had received one letter of objection from an adjacent property owner. She distributed the letter to the Commission for their review.

Ms. Wade stated that the subject property, which is approximately 0.5 acre in size, is located on the western corner of Maryland Avenue and Jefferson Street. The parcel is currently used as a parking lot for an R-4 property to the southwest, which was formerly occupied by an athletic club. She briefly oriented the Commission to the location of the subject property, noting that the general vicinity along Jefferson Street is occupied primarily by B-1 uses. The cross streets are characterized by mostly residential uses, including R-2, R-3, and R-4 zoning. Part of Maryland Avenue, however, has been downzoned to the R-1E zone. The B-1 zone adjacent to the subject property is known as West

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



Jefferson Place, which is primarily occupied by Professional Office uses. Across Jefferson Street are several lots zoned B-4, which include an Adaptive Reuse project known as The Apiary.

Ms. Wade stated that, in recent years, there has been a resurgence in the Jefferson Street area, with several new businesses and restaurants now located there. The petitioner is proposing to rezone the subject property to B-1 in order to construct a restaurant at the corner of Maryland Avenue and Jefferson Street, with associated parking. The development plan also includes a 16-unit townhouse development on the adjacent R-4 property, which is under the same ownership. The subject property is located in close proximity to the Western Suburb and Northside Historic Districts, although it is not located within either of those districts. Ms. Wade displayed the following photographs of the subject property: 1) a view of the subject property, noting its current use as a parking lot; and 2) a view from the north, noting the nearby Ballard Towers facility. She stated that the petitioner is also requesting two variances: first, to reduce off-street parking by 50% for the proposed business use; and second, to reduce the rear yard setback for one bank of the proposed townhomes.

Ms. Wade stated that the petitioner contends that the proposed rezoning is in agreement with the recommendations of the 2013 Comprehensive Plan, citing several Goals & Objectives that could be furthered if the property was rezoned and redeveloped. The Goals & Objectives cited include: Theme A, Goal 2.A; Theme A, Goal 3; Theme C, Goal 2.D; and Theme E, Goal 1.B, which refer to providing infill, redevelopment and adaptive reuse; providing for well-designed neighborhoods; providing entertainment and quality of life opportunities to attract young professionals; and encouraging compact, contiguous and/or mixed-use, sustainable development. The staff does agree that each of these Goals & Objectives would be furthered by the petitioner's request to rezone the subject property in order to create a mixed-use development that would be consistent with the character of Jefferson Street. The Jefferson Street corridor was designated in the Downtown Development Authority's (DDA) downtown development study as a commercial mixed-use corridor, with residential uses located along side streets. Ms. Wade noted that the staff agrees with the petitioner's contention that the proposed rezoning is in agreement with the 2013 Comprehensive Plan. The staff is recommending several conditional zoning restrictions for the subject property, primarily to mitigate parking issues along with the busy pedestrian corridor. The conditional zoning restrictions would limit some of the higher-intensity traffic-generating uses, including drive-through facilities, automobile service stations, medical and dental offices, and financial institutions; as well as uses that could cause excessive noise, including overhead doors and outdoor live entertainment or dancing. 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 a rendering of the corollary zoning development plan, explaining that the petitioner is proposing to construct two new restaurants on the subject property, in one building. One restaurant will be two stories in height, and the other will be one story, with a rooftop patio. Two accesses are proposed to Jefferson Street, with off-street parking surrounding the building.

Mr. Martin stated that the petitioner is also proposing to construct 16 townhouses, which are part of this preliminary development plan but are not included in the zone change (to B-1). Those townhouse units will have frontage on Maryland Avenue, with an access easement to serve the interior of the development. The petitioner is proposing to construct a gate between the two properties, to allow vehicular access to residents of the townhouses only. Full access to the townhouses is proposed along Maryland Avenue.

Mr. Martin said that this rendered plan is a revision to the original submission. There was considerable concern at the Subdivision Committee meeting about providing emergency access to the proposed townhouses, but the revised plan has addressed those concerns. The staff is now recommending approval of the plan, subject to the following revised 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 that compliance with Article 15-7(a) of the Zoning Ordinance shall be determined at the time of the Final Development plan.
6. Provided the Planning Commission grants the requested variances.
7. Remove all copyright information from plan.
8. Denote that details of the required 15' landscape buffer between B-1 and R-4 properties will be resolved at time of Final Development Plan.
9. ~~Discuss proposed uses for 2<sup>nd</sup> and 3<sup>rd</sup> floors of commercial building(s).~~
10. ~~Discuss use of compact spaces (25% limit) along 22' drive aisle.~~



Mr. Martin stated that condition #8 refers to the landscape requirement between the B-1 and R-4 zones. It will require that the buffer be addressed in detail at the time of a Final Development Plan for the property.

Commission Questions: Mr. Drake asked if the reciprocal parking agreement, to which the opposition letter referred, is related to the development plan. Mr. Martin answered that, if the requested parking variance is granted, a reciprocal agreement will not be necessary. Ms. Wade added that the letter refers to a reciprocal parking agreement with an adjacent property, which the petitioner's attorney would address in his presentation.

Variance Presentation: Mr. Sallee presented the staff's report on the requested variances to 1) reduce the required rear yard from a minimum of 20% to a minimum of 15% of the lot depth; and 2) to reduce the off-street parking requirement in the B-1 zone from 50% of the normally required amount. Referring to an aerial photograph of the property, he noted that the requested parking variance will refer to the parking required for the proposed restaurant. The rear yard requirement variance refers to the adjacent R-4 parcel, which is part of the development plan for this property.

Mr. Sallee displayed a rendered version of the development plan depicting the two requested variances. With regard to the rear yard variance, he said that the Infill & Redevelopment Area regulations require a stricter rear yard than other areas of the community. In the past, front and side yard setbacks were generally reduced in the Infill & Redevelopment Area, with the intent of promoting more compatible residential development in the central area of Lexington-Fayette County.

Mr. Sallee said that the second variance is to the amount of off-street parking for the proposed restaurant building. When the staff reviews a parking variance, there are usually three issues that are taken into consideration: the general walkability of the area; the parking generator of the proposed use; and the general availability of off-street parking in the vicinity. In this case, the proposed development meets both the walkability and off-street parking availability criteria. The general vicinity is very pedestrian-friendly, and there is ample parking in the same block for non-residential uses.

Mr. Sallee said that the reciprocal parking agreement Mr. Drake mentioned refers to the parking area associated with West Jefferson Place, as well as the parking on the subject property. The petitioner has indicated their ability to use a parking area to the west of the proposed townhouses, but it exceeds the 300' spacing required by the Zoning Ordinance for use by a nearby business.

With regard to the requested rear yard variance, Mr. Sallee explained that the required yard is 12.4 feet at minimum; the petitioner is requesting a 9.3' rear yard, although the development plan depicts a 10' yard will be provided. The staff believes that the difference between 10' and 12.4' would be almost imperceptible once the proposed development is constructed. The location of the rear wall of the West Jefferson Place development serves as an unusual circumstance in this case that warrants the requested variance. That wall is located in such close proximity to the rear yard of the proposed townhouses that it would have no setback at all. The staff concludes that granting the two requested variances would not have an adverse effect on the public health, safety or welfare; nor will it alter the character of the area. For that reason, the staff and the Zoning Committee recommend approval of the requested variances, for the reasons as listed in the staff report and on the agenda, and subject to the three conditions also listed.

Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioner. He said that the petitioner, who formerly owned a masonry company, is the developer of the Jefferson Davis Inn (JDI) on South Broadway. The proposed development will be similar in appearance to the JDI project, with a restaurant building fronting on Jefferson Street, and 16 townhouses intended to sell for approximately \$330,000. The townhouses will be constructed first, with the existing parking lot used as a staging area; the restaurant building will be built once the residential portion is complete. The petitioner has received feedback from owners of the townhouses adjacent to JDI that they appreciate having a good dining option so nearby. He believes that the proposed restaurant will provide additional dining options for the Jefferson Street corridor, and the townhouses will help to support the restaurant. The property owner indicated that, in the past, he had received development proposals for six-story towers, but the petitioner contends that the proposed development will be much more in keeping the character of both Jefferson Street and Maryland Avenue. Mr. Murphy noted that the petitioner anticipates that the smaller restaurant facility will be occupied by a small deli or bakery.

Mr. Murphy said that the petitioner had met with the board of the Northside Neighborhood Association. The board decided not to take an official position on this request, but they are aware of the proposed development.

With regard to the reciprocal parking agreement discussed previously, Mr. Murphy said that the building that currently occupies the property was formerly the YMCA. It has been vacant for two years, and is proposed to be removed. At one time, the subject property was combined with the parcels currently occupied by West Jefferson Place and the Christian Care Communities facility. Before the owner of that single parcel sold the property, a reciprocal parking agreement was created to serve all the uses there. That property has since been subdivided into three parcels, but the reciprocal parking agreement remains, allowing parking anywhere on the property for any of those three uses.



The petitioner has spoken with the representative of the individual who submitted an objection letter, indicating his intent to modify the parking agreement in order for the proposed development to provide its own parking. In order to do that, however, the petitioner will need approval of the zone change, along with the renegotiation of the parking agreement. Mr. Murphy noted that the proposed development cannot go forward unless the parking agreement can be resolved.

Mr. Murphy stated, with regard to the requested parking variance, that the petitioner is confident that there will be sufficient parking for the residents of the proposed townhouses. He noted that the parking variance applies only to the restaurant portion of the property.

Mr. Murphy said that the petitioner would like to request, with regard to the conditional zoning restrictions, that the staff remove the proposed restriction against outdoor live entertainment. That restriction would preclude any type of performance (such as acoustic guitar) in the outdoor seating area for the proposed restaurant. He noted that any type of live entertainment requested by the petitioner would require the approval of the Board of Adjustment as a conditional use, along with notice requirements to neighborhood associations and residents within 500' of the property. Mr. Murphy explained that, if the conditional zoning restriction is approved, the petitioner would not have the ability to ask the BOA to allow such entertainment.

Mr. Murphy stated that the petitioner's development on South Broadway proves his good track record. He believes that the proposed development will similarly enhance the neighborhood surrounding the subject property. In addition, the proposed development is completely in agreement with the recommendations of the 2013 Comprehensive Plan.

Citizen Comments: Rebecca Rigney, 535 West Second Street, was present representing her mother, who owns West Jefferson Place. She stated that her family and the petitioner have not reached an agreement about reciprocal parking on the property, and her family is concerned that the petitioner is requesting a variance to reduce their parking by 50%. Ms. Rigney said that West Jefferson Place already provides after-hours parking for many nearby restaurants, including the Apiary, for their businesses.

Ms. Rigney said that her mother is also concerned that the West Jefferson Place building is attached at the rear to the structure on the R-4 property, which is proposed to be demolished. She wants to ensure that damage is kept to a minimum when the buildings are detached, and that any problems are properly repaired. In addition, the alley at the rear of West Jefferson Place currently serves as dumpster access for that facility, as well as the Christian Care Communities building. Those tenants are concerned that that area must remain open during the construction of the proposed townhomes.

Ms. Rigney noted that her family supports the proposed development, but they want to ensure that their concerns are considered as part of the rezoning process.

Citizen Support: Robert Garrison, 497 West Third Street, stated that he wholeheartedly supports the proposed development.

Ray Dickison, Christian Care Communities, stated that his organization is working with the petitioner with regard to maintaining the parking and access easement that his facility requires. He said that Christian Care Communities does support the proposed development.

Citizen Objection: Susan King, 533 Maryland Avenue, stated that she is concerned about overflow parking on her street, since many of the small houses there have no driveways. She said that events at Rupp Arena and the Opera House often overwhelm her street with parking, leaving residents with no place to park.

Ms. King said that she would not be in favor of the development of a six-story building on the subject property, but she would appreciate the Commission's consideration of the parking problems faced by area residents.

Sean McLaughlin, 535 Maryland Avenue, stated that, in addition to the many homes on his street that do not have parking, there is also a church that has no off-street parking. He said that there are 45 houses on Maryland Avenue, which share only 12 driveways.

Mr. McLaughlin said that the Maryland Avenue neighborhood has been undergoing a resurgence, which he appreciates; however, residents are concerned about absorbing additional parking and traffic from the proposed development. The increase in the number of restaurants on Jefferson Street has exacerbated the existing parking problems, since many of those businesses do not provide parking spaces for their staff. Mr. McLaughlin opined that, at some point, Maryland Avenue residents might be forced to pursue a residential parking permit program.



Evelyn Knight, 513 West Third Street, stated that she shares other residents' concerns about parking. However, her primary issue with the proposed development is that the Jefferson Street area has become a "destination," while the intent of the B-1 zoning in the area to serve the needs of the surrounding residential area. Ms. Knight does not believe that having more restaurants will add to the experience of the residents living in the area.

Ms. Knight said that she would prefer for the subject property to be developed for mixed use, with attractions for young professionals other than alcohol and food. She opined that infill is important, and the community should be focused on maximizing available land; however, she does not believe that the proposed development will be a good addition to the neighborhood.

With regard to Mr. Murphy's comments, Ms. Knight stated that she does not believe that the comparison to the petitioner's development on South Broadway is appropriate, since the West Third Street area is quiet and historic. She said that she and her neighbors are looking for a sense of community, and she is concerned that the residents of the proposed townhouses will be set apart from the rest of the neighborhood, with the rear sides of their homes facing outward.

Petitioner Rebuttal: Mr. Murphy stated that the petitioner will maintain the easement that currently serves the dumpster area for West Jefferson Place and Christian Care Communities, and will expand the area to serve the new restaurants. The construction area will be staged from the front of the property, rather than the rear.

With regard to the concerns about parking, Mr. Murphy said that the townhouse development will be constructed so that all residents will park on the interior of the development, specifically to alleviate the parking problems on Maryland Avenue. He explained that the townhomes on Maryland Avenue will have two front facades, so that rear sides will not be visible to area residents.

Mr. Murphy stated that the proposed development will be mixed use, with restaurant uses in the front and townhomes to the rear. The petitioner intends to provide design elements so that the development will have the appearance of a "modern take on the existing 19<sup>th</sup> century architecture in the area." The petitioner contends that the addition of new restaurants and residences on the subject property will contribute more to the vitality of the community than the existing parking lot does.

Staff Rebuttal: Ms. Wade stated that the staff would be agreeable to the petitioner's request to remove outdoor live entertainment from the list of proposed conditional zoning restrictions, since BOA approval would be required for any such proposal, following notification to neighbors and .

Zoning Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens, and Richardson absent) to approve MARV 2015-26, for the reasons provided by staff, removing item "f. Outdoor live entertainment and/or dancing" from the list of proposed conditional zoning restrictions.

Variance Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens, and Richardson absent) to approve the requested variances, for the reasons provided by staff, subject to the three conditions as recommended by staff.

Development Plan Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Brewer, Owens, and Richardson absent) to approve ZDP 2015-119, subject to the eight conditions as listed in the revised staff recommendation.