

**Note:** Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

**Note:** The Planning Commission postponed this item at their July 28, 2016, meeting.

1. **ATLAS I, LLC, ZONING MAP AMENDMENT & SPRINGHURST SUBDIVISION, UNIT 2, ZONING DEVELOPMENT PLAN**

- a. **MAR 2016-10: ATLAS I, LLC (AMD) (8/11/16)\*** – an amended petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.62 net (0.92 gross) acre; and from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 1.00 net (1.14 gross) acres, for property located at 2090, 2094 and 2098 Harrodsburg Road.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes rezoning the subject properties in order to build a series of commercial retail, restaurant, and other uses, and their associated off-street parking lots.

**The Zoning Committee Recommended: Referral to the full Commission.**

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

1. The requested rezoning to a Neighborhood Business (B-1) zone is not in agreement with the 2013 Comprehensive Plan, for the following reasons:
    - a. Theme A of the Plan: "Growing Successful Neighborhoods" emphasizes the infill, redevelopment and adaptive reuse of the urban area that respects the area's context and design features (Goal #2a.), and encourages striving for positive and safe social interactions in neighborhoods (Goal #3b.). In addition, the Goals and Objectives suggest that the community should "enable infill and redevelopment that creates jobs where people live" (Theme C, Goal #1d.); attract and retain high-paying jobs (Theme C, Goal #2c.); and to uphold the Urban Service Area concept by encouraging "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.).
    - b. The Plan encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as protecting neighborhoods and residential areas from incompatible land uses. Policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, and compatibility of land uses. The proposed development is not compatible with these specific recommendations, which are overarching ideas of the Plan.
    - c. While promoting business expansion, improving quality of life and providing services to the community are generally important priorities, they must be balanced with the community's need for this type of highway-oriented development and its impact on nearby residential areas. In this case, the petitioner is requesting several auto-centric business uses at the entrance to a well-established neighborhood.
    - d. There is not a demonstrated need for additional retail zoning in this vicinity, as there are over 70 acres of contiguous B-1, B-3 & B-6P zones that can provide for the commercial needs of the surrounding properties. The Turfland Mall site, in particular, is a 44-acre B-6P site approved with over 500,000 square feet of retail zoning, much of which is approved but not yet developed.
  2. As proposed, uses with an auto-centric commercial design may significantly impact the nearby neighborhoods within the area, especially those properties on Springhurst Drive and those immediately adjoining the subject properties, therefore making this B-1 zone inappropriate.
  3. The existing Single Family Residential (R-1C) and Planned Neighborhood Residential (R-3) zones remain appropriate for the subject properties because together they can more fully support the adopted 2013 Comprehensive Plan goals and policies.
  4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support the proposed development or requested B-1 zoning for the subject properties.
- b. **ZDP 2016-49: SPRINGHURST SUBDIVISION, UNIT 2 (8/11/16)\*** - located at 2090, 2094, and 2098 Harrodsburg Road.  
**(Abacus Engineering)**

**The Subdivision Committee Recommended: Postponement.** There has still been no information submitted to the staff about the site's tree inventory.

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.

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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 building coverage, floor area ratio and building heights on plan, per Article 21-6 of the Zoning Ordinance.
6. Addition of tree inventory information.
7. Discuss possible required improvements to Harrodsburg Road.
8. Discuss compliance with B-1 setback requirements and need for a dimensional variance, per Article 8-16 of the Zoning Ordinance.
9. Discuss compliance with Article 8-16 of the Zoning Ordinance and the need for a variance.
10. Discuss right-in/right-out access proposed to Harrodsburg Road.

Zone Change Presentation – Mr. Sallee briefly stated that this case is an amended petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.62 net (0.92 gross) acre; and from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 1.00 net (1.14 gross) acres, for property located at 2090, 2094 and 2098 Harrodsburg Road.

Mr. Sallee distributed a number of communications regarding the requested zone change; a petition with approximately 150 signatures who opposed the zone change and several email correspondence from people expressing their concern on the requested zone change. He noted that the Commission was given a packet that included an amended staff report, zone change application, Zomar plat and a revised staff recommendation for the corollary zoning development plan. He added that initially, this request met the threshold for the required Traffic Impact Study; however, with the removal of two properties, that study is no longer required by the Zoning Ordinance.

Mr. Sallee directed the Commission attention to the zoning map to orient them to the location of the property, the current zoning and uses of the surrounding area. He explained that all three properties front on Harrodsburg Road, near Lane Allen Road. One parcel is zoned R-1C and the other two properties are zoned R-3. Lane Allen Road transitions from Rosemont Garden and extends north toward Versailles Road. He said that the subject property consist of three different parcels on the north and east corner of Springhurst Drive and Harrodsburg Road, directly across from the Turfland Mall entrance. The surrounding zones consist of R-3, B-6P and B-3 ones, and the current uses include a medical office and the restaurant uses that are now situated on the former Springs Hotel. He then directed the Commission's attention to a series of photographs on the overhead projector to further orient the Commission to the area.

Mr. Sallee said that the original and amended staff report focuses on the 2013 Comprehensive Plan. The applicant contends that the proposed zone change and associated development are in agreement with the recommendations of the 2013 Comprehensive Plan. The Division of Planning has not reached the same conclusion, as noted below:

- Theme A: Growing Successful Neighborhoods

Mr. Sallee said that the staff does not agree that this proposed development would be the well-designed neighborhood amenity that is recommended in the 2013 Comprehensive Plan. The staff believed that the proposed development is more of auto-centric collection for a commercial outlots development. The Comprehensive Plan calls for positive and safe places for social interactions, and designed for pedestrians and various modes of transportation; and also it is entirely possible that these sites are too small to provide that type of amenities that is recommended in the 2013 Comprehensive Plan.

- Theme A, Goal 3: Provide Well Designed Neighborhoods and Communities

Mr. Sallee said that the following objectives were worthy of mentioning:

- a) Strive for positive and safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians and various modes of transportation.
- b) Minimize disruption of natural features when building new communities.
- c) Promote, maintain, and expand the urban forest in existing neighborhoods.

Mr. Sallee then said that the staff had a consultation with the MPO staff, who agreed that that corollary zoning development plan has not been proposed as a pedestrian-friendly development. He then said that while promoting business expansion, improving quality of life and providing services to the community, these needs must be balanced with the community's need for this type of auto-centric development and its impact on the adjacent low density residential neighborhood.

- Theme C: Creating Jobs & Prosperity

Mr. Sallee said that the applicant has given very little justification as to how the proposed redevelopment will achieve these goals. In fact, very few of the uses have been identified for specific users in the future. He said that it is very difficult to tell that the jobs proposed with this commercial development would meet the plans goals to attract the finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain a talented, creative workforce. The subject properties would be contiguous to about 70 acres of land that is already zoned B-3 or B-6P with the former Springs Property and the Turfland Mall property. He said that there are a number of buildings already proposed on the Turfland

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Mall property that have not yet developed that could provide for the same types of uses that is being proposed with this application.

- Theme D: Improving a Desirable Community

Mr. Sallee the said that with the proposed development being so auto-oriented with the amount of parking proposed has very little connectivity with the existing sidewalk system and would serve very limited pedestrian clients.

- Theme E: Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land

Mr. Sallee said that this proposed zone change would redevelop a number of properties. However, prior to the staff receiving neighborhood comments, the staff did not agree that these proposed commercial development would provide much support to the existing neighborhoods or make them more desirable. He then said that the staff was concerned with the R-1C properties, on this side of Harrodsburg Road, as far out as Cardinal Lane. If this application were to be cited as an example of context sensitive design this may spread to the other properties down Harrodsburg Road.

- Appropriateness and/or an Unanticipated Change in the Basic Character and Nature of the Area

Mr. Sallee said that because the staff does not believe this zone change is in agreement with the 2013 Comprehensive Plan, they reviewed two other findings as to whether or not the proposed zone change would be justified. He then said that staff reviewed 1) if the existing zoning was inappropriate and the proposed zoning was appropriate; or 2) there has been some major unanticipated change in the area since the Comprehensive Plan was adopted in 2013. The staff can find neither. He said that the staffs opinion that the R-3 zone, which is about half of the property, might be the most appropriate for all of these properties. It could allow conditional uses, such as the existing daycare or some higher density development that may not be out of character with the adjacent low density residential neighborhood, plus it might buffer the residential neighborhood from the commercial developments.

Mr. Sallee said that the only unanticipated change cited in the application is the increase in traffic on Harrodsburg Road itself. The staff does not believe this is an unanticipated change since the Comprehensive Plan was adopted in 2013. He then said that the Comprehensive Plan does have a transportation element and it does estimated that the traffic will increase on all major arterial roads; therefore, the staff does not believe this is an unanticipated change by this plan or by the transportation plan.

In conclusion, Mr. Sallee said that the staff cannot support the requested zone change, even as it is amended. He said that the staff finds this application to be contrary to the Goals and Objectives of the 2013 Comprehensive Plan. The staff is recommending disapproval, for the following reasons:

1. The requested rezoning to a Neighborhood Business (B-1) zone is not in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. Theme A of the Plan: "Growing Successful Neighborhoods" emphasizes the infill, redevelopment and adaptive reuse of the urban area that respects the area's context and design features (Goal #2a.), and encourages striving for positive and safe social interactions in neighborhoods (Goal #3b.). In addition, the Goals and Objectives suggest that the community should "enable infill and redevelopment that creates jobs where people live" (Theme C, Goal #1d.); attract and retain high-paying jobs (Theme C, Goal #2c.); and to uphold the Urban Service Area concept by encouraging "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.).
  - b. The Plan encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as protecting neighborhoods and residential areas from incompatible land uses. Policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, and compatibility of land uses. The proposed development is not compatible with these specific recommendations, which are overarching ideas of the Plan.
  - c. While promoting business expansion, improving quality of life and providing services to the community are generally important priorities, they must be balanced with the community's need for this type of highway-oriented development and its impact on nearby residential areas. In this case, the petitioner is requesting several auto-centric business uses at the entrance to a well-established neighborhood.
  - d. There is not a demonstrated need for additional retail zoning in this vicinity, as there are over 70 acres of contiguous B-1, B-3 & B-6P zones that can provide for the commercial needs of the surrounding properties. The Turfland Mall site, in particular, is a 44-acre B-6P site approved with over 500,000 square feet of retail zoning, much of which is approved but not yet developed.
2. As proposed, uses with an auto-centric commercial design may significantly impact the nearby neighborhoods within the area, especially those properties on Springhurst Drive and those immediately adjoining the subject properties, therefore making this B-1 zone inappropriate.
3. The existing Single Family Residential (R-1C) and Planned Neighborhood Residential (R-3) zones remain appropriate for the subject properties because together they can more fully support the adopted 2013 Comprehensive Plan goals and policies.
4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support the proposed development or requested B-1 zoning for the subject properties.

Development Plan Presentation – Mr. Martin introduced the Preliminary Development Plan for SPRINGHURST SUBDIVISION, UNIT 2, located at 2090, 2094, and 2098 Harrodsburg Road.. He directed the Commission's attention to a rendering of this plan to orient them to the location of the subject property and the nearby street system. He indicated that the subject property would have access off Harrodsburg Road and access off Springhurst Drive with connectivity through the two lots.

Mr. Martin explained that the staff reviews the development plan as if the zoning were already in place. He said that there would be several issues with this site plan if it were zoned B-1. One of which is the required build to line as noted in Article 8-16 of the Zoning Ordinance. He explained that the build to line for the B-1 one ranges between 10' to 20' from the right-of-way. This would have a tremendous impact on the layout of the property, traffic circulation and the relationship to the street and nearby neighborhoods. He said that the proposed plan does not meet the build to line and a variance has not been requested to move the line further back than what is required for the B-1 zone. The staff identified the building setback issue from the very beginning, as well as throughout the revisions, but the applicant still has not yet addressed it.

Mr. Martin said that the proposed right-in and right-out access on Harrodsburg Road does not meet the access standards in Article 6-8(q)(3)(b) of the Land Subdivision Regulations to an arterial street. He indicated that there is already a right-in and right-out on Harrodsburg Road, closer to Lane Allen Road. The distances involved and the difficulty in designing the access safety has never been addressed to the staff's approval.

Mr. Martin said that the rendering shows proposed speculative building and there have not been any identified users. He pointed out that here is a 69" caliper Red oak that is in direct conflict with the proposed building on 2090 Harrodsburg Road. The staff spoke with the Urban Forester just before today's meeting; who had stated the Red oak tree is healthy. He said that the staff would like the opportunity to meet with the applicant to help redesign the property in order to protect the tree.

Mr. Martin said that the staff is recommending postponement, for the following reasons:

1. The zoning development plan does not comply with the B-1 setback requirements of Article 8-16 of the Zoning Ordinance and the applicant has not requested a variance to those requirements.
2. The development plan does not comply with Article 6-8(q)(3)(b) of the Land Subdivision Regulations governing land use access to an arterial street.
3. The late submittal of the tree inventory information has not provided the staff with the time to adequately evaluate potential conflicts between trees and site improvements, and the potential mitigation of those conflicts with the significant trees identified on the property.

Mr. Martin then said that should the applicant not wish to postpone this plan, the Staff would recommend disapproval of it, for the reasons provided above.

Planning Commission Questions – The Chair asked when did the staff receive the tree inventory information and when was it due. Mr. Martin indicated that the information should have been submitted when the application was originally filed. The staff did note that the tree inventory information was not submitted in March.

Mr. Cravens asked if there is any relief to move the tree. Mr. Martin said that trees can be removed if that is the only options to develop the site. He then said that there is a Tree Protection Ordinance, not a tree preservation ordinance. He then said that there has been no discussion regarding the possibility of protecting the oak tree.

Representation – Jacob Walbourn, attorney, was present representing his client. He said that everything the staff wants to discuss can be discussed at the time of a Final Development Plan. He then said that they agree that the plan is not ready and in speaking with the staff, and the Commission can disapprove the zoning development plan and only discuss the zone change application. He asked the Commission to keep an open mind because this is an appropriate zoning for this area. He said that, what the Commission is seeing along with the staff's testimony, there is a substantial flaw in the zoning process when it comes to preliminary plans.

Mr. Walbourn said that everyone wants to know what will be built on the site, but as everyone is aware, a preliminary plan is a conceptual drawing until the zoning is in place. He then said that a lease cannot be negotiated with a prospective tenant until the zoning is in place. He added that they would fully accept the decision from the Commission with regard to the zoning development plan. The issues that have been raised are valid and can be addressed at the Final Development Plan stage.

Mr. Walbourn said that the proposed zone change was appropriate for this area, and for the staff to suggest that R-1C should remain along Harrodsburg Road is an incorrect conclusion. The proposed B-1 zone was appropriate for this site. He presented a PowerPoint presentation to the Commission and gave a brief description of each slide (a copy of each of the mentioned items is attached as an appendix to these minutes). He said that the daycare lot has conditional zoning restrictions and cannot function with an intense use on it. He then said that should the daycare cease it must return to single family housing, so the R-3 zone does not comply with the staffs contention that higher density is appropriate. The

Commission restricted that when the zone change was approved. He said that the daycare lot was larger and oriented differently from the surrounding residential lots.

Mr. Walbourn briefly explained the procedural history and indicated that the original application had included 2090-2104 Harrodsburg Road. The Commission had expressed that extending the zoning down Harrodsburg Road was not an appropriate choice, so the applicant removed two lots to limit the zoning at the edge of a block. He said that Springhurst Drive is a natural break separating a commercial area from a residential area. He then said that, as the site exists now, the break is in the middle of a block with single family residential abutting the medical building. This is not appropriate. He said that the Spring Hotel site is zoned B-3 and unrestricted, so there are some really high intense uses that can be approved with a Final Development Plan. He then said that having a B-1 zone would lower the type of uses allowed. The applicant took the Commission's concerns by removing two of the properties. Unfortunately, not knowing what would be built, not every concern can be satisfied at this stage. He said that should the Commission approve the zone change and the Urban County Council agree with the requested zoning, there would be an opportunity to revisit these issues later. He then said that there is a way to orient the lots appropriately and save the Oak tree. He indicated that they may need to seek variances from the Board of Adjustment, but to request those variances at this point would be a waste of resources.

Mr. Walbourn directed the Commission's attention to the next slide and briefly explained the following four reasons why the Commission should rezone this site:

1. Historically and recently, properties have functioned as commercial properties;
2. Recent development patterns of neighboring "commercial" centers has not been commercial;
3. Character of area makes B-1 appropriate;
4. Harrodsburg Road corridor inappropriate for single family zoning

Mr. Walbourn said that the staff had indicated that they stopped their research into this area in the mid-60s. He then said that in 1956 an application came before the fiscal court of Fayette County (pre-county and city merger) to rezone 2090 Harrodsburg Road from business to residential. The fiscal court unanimously denied that application. He explained that in 1960, the property owners purchased this site partly because the site was zoned for business and they wanted to place a beauty salon at this location. He said that the property owners opened the salon in 1961, but in 1963 a map amendment request came before the Commission that was ultimately ratified by the fiscal court to change the site from B-1 to R-1. This change was to provide a realign of the zoning district line at 2090 Harrodsburg Road. He said that the property owners had no knowledge of the map amendment request and in 1969 the property owners realized that their property was rezoned without their knowledge or consent. He then said that the property owners started writing letters to the Judge Executive Johnson of Fayette County, campaigning about their mental anguish, time and expense trying to get a ruling to determine what had happen to their property. The property owners never received any answers for nine years. He said that June 14, 1978, the Kentucky Bar Association advised the property owners that there is nothing that they could do with the outcome of what happened, which at this point the property owns gave up. Mr. Walbourn said that the Commission has an opportunity to right a 50 year wrong because 2090 Harrodsburg Road should have never been rezoned without the property owners consent.

Mr. Walbourn said that, as the property existing today, 2090 Harrodsburg Road serves as a non-conforming insurance agency, and 2094 and 2098 serves as a child care facility. He then said that, in looking at the aerial photographs, these properties do not appear to be single family lots. These properties have evolved to support a business function.

Mr. Walbourn said that the Commission previously discussed driveway locations, and for this site, the existing loop driveway has been fenced off from Harrodsburg Road. He then said that the Commission previously showed concerned with cars backing out on a neighborhood collector street and asked does the Commission have concerns with cars backing out on Harrodsburg Road, one of the busiest roads in Lexington. This alone shows that the single family zoning is no longer appropriate for this site.

Mr. Walbourn directed the Commission to the next slide and briefly explained the zoning pattern on the Turfland Mall property is mainly B-6P. He said that there has been several development plans approved on this site that has never come to fruition because there has been a decline indoor shopping centers. He then said that 15 percent of malls that exist today will fail and could be converted into non-retails space in the next ten years. The example of this in Lexington is the redevelopment of the Turfland Mall from retail to medical facility. He said that there are some successful outlots on the mall property but the rear of the property is developing in a different way. This is because retailers need visibility to be viable and placing retails behind a larger building is not feasible. Mr. Walbourn said that the character of the area there is some commercial uses that include restaurants, Big-Box retailers, pharmacy, gas stations and so forth. He then said that this area lacks in office buildings, smaller scale food restaurants, self-service laundry and so forth, all principal permitted uses in the B-1 zone.

Mr. Walbourn said that should this site remain single family residential, the front porch view would be the mall entrance. He then said that this type of viewshed is not appropriate for a single family lot and it would not be tolerated in other neighborhoods. He noted that the south east side of Harrodsburg Road has a large amount of single family residential area, but there are not a lot of businesses supporting that side of Harrodsburg Road. He said that the simply thing to do is cross Harrodsburg Road, but for most that could be a problem for pedestrian and bicyclist. He then said that access the subject site is far more pedestrian friendly than crossing Harrodsburg Road.

Mr. Walbourn explained that according to the Kentucky Transportation Cabinet the most important roads in Lexington include:

- New Circle Road
- Harrodsburg Road
- Tates Creek Road
- Richmond Road
- Winchester Road
- Paris Pike
- Newtown Road
- Georgetown Road and
- Versailles Road

Mr. Walbourn said that these roads are the significant thoroughfares that are considered to be more important than any other road in Lexington. Noted on this list is Harrodsburg Road, which has 32,500 cars traveling by the subject property per day. He said that this was important because this amount of traffic is not seen in a residential area. He then said that, when looking at Harrodsburg Road traffic, the double diamond crossover was built to deal with the amount of traffic that flows through this area. Harrodsburg Road is a busy thoroughfare and not appropriate for single family residential.

Mr. Walbourn explained that when examining several sections along Harrodsburg Road the following information was determined:

1. W. Maxwell Street (B-2 zoning) to Red Mile Road, approximately 0.782 miles, there are three single family lots fronting Harrodsburg Road. One lot is functioning as a single family residential lot, where the other two lots could be functioning as single family residential lot, but that is unknown.
2. Red Mile Road to Clays Mill Road, approximately 0.921 miles, there are two single family residential lot and one split zone lot.
3. Clays Mill Road to Longview Drive, approximately 0.846 miles, there are thirty-one single family residential lot, five of which are non-residential uses. Only 39 percent (12 of 31) of these lots are owner occupied, where the other lots are not owner occupied and could be considered investment properties.
4. Longview Drive to New Circle Road, approximately 0.758 miles, there are fifteen single family residential lot many were owner occupied and one split zone (P-1). There is an access road that separates Harrodsburg Road and the single family lots.

Mr. Walbourn said that in the 3.3 miles from W. Maxwell Street to New Circle Road, there is only 53 lots zoned single family residential. Of these 53 lots, there are 42 lots that are function as single family residential and 23 lots that are owner occupied. If the 11 lots that run along the access are deducted there are only 12 lots that are owner occupied and 31 lots that function as single family residential. This is less than 9 percent.

Mr. Walbourn said that when comparing Harrodsburg Road to other significant road in Lexington, the single family residential areas are tucked behind the high density zones. He then said that people like to live near major thoroughfares, but they don't want to live on those roads because of the extreme traffic. This is the way development should work and it makes more sense.

Mr. Walbourn said that, in speaking with the staff, they had offered conditional zoning restrictions to help mitigate what they believed to be inappropriate uses since this request is in close proximity to single family residential areas. He then said that they are willing to take out the most intense uses to help integrate their proposal into the neighborhood and not create a monstrosity at this location.

Mr. Walbourn explained that his clients are from Lexington and Mr. Johnston, who is the project developer, has developed many superior developments. He indicated that Mr. Johnston goes above and beyond by contacted the neighbors in the immediate area, and working with them so their outcome is a positive experience. He said that they had received a letter from Ms. Valerie King, who lives at 660 Mitchell Avenue, and she expressed her support with this development.

Mr. Walbourn said that even though the staff had provided the Commission with findings for disapproval, they would offer the following findings for approval:

1. Single family residential zoning is inappropriate along an urban principal arterial roadway;
2. Southeastern side of Harrodsburg Road lacks commercial property to support area populations;
3. Allowing commercial zoning along major roadways protects public safety

Mr. Walbourn then said that the findings to sustain the requested zone change are as follows:

1. The requested zone change is in accord with the Theme A: Growth Successful Neighborhoods;
2. The requested zone change is in accord with Theme C: Creating Jobs and Prosperity;
3. The requested zone change is in accord with Theme D: Improving a Desirable Community;
4. The requested zone change is in accord with Theme E: Planning for Urban Use/Safeguarding Rural Land.

Mr. Walbourn said that successful neighborhoods are more than just single family residential lots. They also included the businesses that support those neighborhoods. He then said that the staff had indicated that the type of employment was not determined, but creating any type of job is positive and ways to make money for this community. Even though this is

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development has some auto-centric elements, this is only a proposed plan and not what is actually going to be built here. There are ways to provide access for pedestrian and bicyclist. He said that eventually it will need to be recognized that these corridors, such as Harrodsburg Road, are more appropriate for higher intense uses, not single family residential uses.

In conclusion, Mr. Walbourn said that these properties have been functioning as commercial properties. The recent development pattern on the Turfland Mall property shows that businesses supporting the neighborhoods are not developing. The Character of the area demonstrates that B-1 is the appropriate choice to integrate with the nearby residential area versus a more intense uses and the Harrodsburg Road corridor is not suitable for single family uses.

Allen Hovest, Atlas 1, LLC, said that his family has lived in Lexington for 20 years and they are committed to the area. He then said that he has several projects throughout Lexington and believes that his project would benefit the city.

Tom Johnston, developer, thanked the Commission for listening to the testimony given and he assured the Commission that they would work with the staff to ensure that all of the staffs concerns and the issues are addressed as it relates to the development plan. He apologized that the details were not taken of beforehand. He said that they have developed many projects through Lexington to include the Springs Property and the reason the Springs Property was designed in such a way was to keep some uniformity and allow cross connectivity through the site. Mr. Johnston said that they would work with the staff to make sure that all of the development plan information and details are corrected to the staff's satisfaction. He asked that the Commission keep the development plan issues separate from the zone change request.

Mr. Walbourn noted that they had submitted a traffic study to the staff, but as it turned out that study was not needed. The engineer was present should the Commission have any questions concerning that study. He submitted into the record the support letter from Valerie King, MD and the proposed findings to sustain this zone change request.

Planning Commission Questions – Mr. Cravens understood that the zoning development plan was a “generic” rendering but the applicant has requested the Commission to rezone the property without an idea of what would be developed at that location. The argument of why the requested zone change is appropriate was skewed without a rendering to support the argument. Mr. Walbourn said that he appreciated that fact and he accepts full responsibility for the legal requirements not being met. He then said that apparently there were communications that went unheeded between members of their team. The design came from a good place and it reflects what is on the adjacent property. They do not know what will be built on this site and as to whether or not any variances would be required it undetermined. He indicated that this request could have been done better, and everyone was apologetic, but when discussing zoning decisions, the uses are reviewed more than anything else. They have more than demonstrated the B-1 uses could be developed was more than appropriate for this site.

Ms. Mundy said that, since this is a preliminary drawing, could a connection be made to the adjacent service road on the Springs Property. Mr. Walbourn replied affirmatively, but with there being two different property owners, they cannot say for certain that would be agreeable. It is a possibility though. He made note that there was a lot of discussion at the Committee meetings concerning a right-in and right-out and possibly a deceleration lane. He said that their findings do not support the deceleration lane for a property of this size, and since this is a preliminary design, the state cannot give their final determination.

Mr. Penn said that the applicant has asked the Commission to rezone a property in good faith and the Commission is supposed to trust the applicant to submit a development plan that would comply with B-1 zoning. He then said that this type of action happened in the 70s, and what it started was people purchased properties, was approved to rezone that property and then flipped it. This is the reason why development plans are very important. He suggested that the applicant seriously consider postponing this application rather than asking the Commission to move forward with this case because of the consequences if this request turns out unfavorable. Mr. Penn said that this application is nowhere close to grant a zone change based upon what is being shown on the rendering. He then said that this is a bad precedent for the Commission and you're asking the Commission to take action on faith and there is not enough information to make a decision. He suggested again that the applicant seriously consider postponing this case because he cannot consider the zone change without a development plan showing what would work in the requested zone.

Mr. Berkley echoed Mr. Penn comments, and suggested that this application be continued until the applicant has submitted a development plan that complies with the requested zoning.

*Note: A recess was declared by the Chair at 3:28 p.m. and the meeting re-convened at 3:34 p.m.*

Mr. Walbourn said that during the break he spoke with his client and they are in agreement to continue this case for one month in order to provide the Commission a speculate development plan demonstrating that B-1 can function on this site. He then said that should variance be needed those would be pursued at a later date. In consideration of the Commission comments they are agreement to continue this case.

The Chair said that considering there are audience members present to comment on this case, along with the applicant's willingness to continue this case, he hopes that both can meet to discuss this proposal.

Audience Comment – The Chair asked if anyone in the audience wished to comment on this request. Tee Bergman, 640 Mitchell Avenue, was present on behalf of the Mitchell Neighborhood Association. She requested that the Commission deny the zone change request. She said that the applicant has stated what they think is best for Harrodsburg Road, but the applicant has not asked the neighborhood for any of their input into this proposal. She then said that, at the August 4<sup>th</sup> Zoning Committee meeting, a question was raised about the long range plan for the Harrodsburg Road corridor. The staff had reported currently there are no plans in this area; however, if a plan is needed, the Commission would take action on that proposal. Ms. Bergman said that if the Commission were to approve this requested zone change, the direction of this area would change and influenced any type of long range plan for Harrodsburg Road. This would set in motion the corridor changing to B-1 uses.

Ms. Bergman said that the Commission received a petition of the people who are in opposition to this zone change. She then said that before they submitted the official petition (143 signatures), everyone listened to the applicant's proposal; no one was influenced in their decision when they polled the neighborhood. She added that this petition included the five lots that were originally submitted, but since that time nothing has changed and the neighborhood is still opposed to this request.

Ms. Bergman said that there are several residents present, who would be speaking about their concerns with this proposal not improving or preserving their quality of life. This was a key component to the Comprehensive Plan. She then said that the residents will present information on the character of the street and what they value the most about their neighborhood. She added that future traffic issues will be talked about, as well as the data on the current small businesses in the area. She noted that one or two people may exceed the 3 minute time period, but overall they would not exceed the 30 minute time limit.

Ms. Bergman said that the Commission may be considering a postponement or a continuance of this plan. However, the neighborhood is opposed to that decision. She then said that the Commission is being asked to consider the development plan that is in front of them. Should the Commission proceed with this case the neighborhood would be giving reasons why the B-1 zone was not appropriate.

The Chair indicated that the case would proceed forward, and said that this item could still be continued.

Ms. Bergman asked the Commission to think in terms of how this proposal would benefit the neighborhood and the individual people, as well as think in terms of how it would negatively impact the area.

Joyce Winstead, 692 Springhurst Drive, said that she chose this area for the location, the quietness of the area and no through access. She said that Springhurst Drive originated from the 2,000 acre farm dating back to 1774. She explained that the farm had evolved over the years to become an important part of Lexington. She indicated that Springhurst was named after the original spring house on the farm. She briefly described that the nearby creek still flows at the intersection of Springhurst Drive and Spring Grove and is home to several different types of wildlife. She added that developing this area, removing the trees and destroying more greenspace would drive out the wildlife.

Ms. Winstead said that there are 27 residents in the Springhurst and Spring Grove neighborhood and many of the original residents still reside there. She then said that the street has a low volume of traffic, it is desirable for families with children. She indicated that the street is safe for the children to play in, but with the proposed development, it could easily increase the traffic down Springhurst Drive. She explained that there have been two accidents in the past few months and they believe by adding more traffic at this intersection would increase the hazard for the children or cause more vehicle accidents.

Ms. Winstead said that very few people realize the uniqueness of the neighborhood. It is not the monetary value of the homes, but the safety and closeness of the neighborhood. She said that with all of the commercial property available why disturb this small area. They classified this area as a hidden asset of Lexington and asked for it to remain this way.

Katrina Kelly, 670 Springhurst Drive, gave a brief description of her educational background, and said that her family moved to this area in 1996. She indicated that she was opposed to this proposal. She explained a little bit about her childhood, and how the traffic has increased since that time. She noted that there use to be a pedway bridge that people used to cut through to Spring Ridge, but since that time, that bridge has been closed off by the property owner. Their only option now is to walk on Harrodsburg Road. She said that traffic on Harrodsburg Road is already heavy and now the applicant is asking to bring this development up to the road. She then said that this development could potentially cause accident with pedestrians and cars.

Ms. Kelly said that there was another issue with this area - the stormwater drainage. She explained that the two corner houses are low points on the topography map and adding more impervious paving will create more of a flooding issue. She added that with the existing stream and the development of the Springs Property, it has created more flooding problems in this area.

Ms. Kelly said that the trash in this area will only accumulate more from these businesses. They have witness the increase in broken bottles, food wrappers and so forth and said that they do not want this on their street.



Beth Kelly, 670 Springhurst Drive, explained that within a one mile radius of Springhurst Drive there are several businesses that include the St. Joseph Medical Office down Harrodsburg Road, the Gardenside Shopping Center just off Lane Allen Road and the Rosemont Garden Shoppes near Southland Drive. Within the one mile area, there are approximately 200 businesses that include sit-down and fast food restaurants, beauty salons and a wide variety of retail shops. There are also several other uses such as professional office, banks and schools. Out of the 200 businesses in this area approximately 30 are vacant. The empty store fronts range in size and are scattered throughout the area.

Ms. Kelly said that construction would begin in about six weeks on 20 new shops on the Turfland Mall property and it is designed to accommodate pedestrian and vehicular traffic and not impact the neighborhoods. It would be difficult for the Turfland Mall shoppers to access these two businesses. If people were to come to these businesses they would be accessing Springhurst Drive because Harrodsburg Road access is blocked off.

Ms. Kelly said that, when compiling the numbers and analyzing the types of businesses, the neighborhood feels that there is an adequate number and variety of shops to service this area and meet their needs. She then said that the neighborhood is being asked to support and accept this new commercial development into their neighborhood, but the applicant cannot say who or what the development will be since there is no client. This development could be a duplicate of an existing business, it could remain empty for months at a time or it could constantly change. She asked if the Commission was faced with accepting this proposal into their neighborhood, with business adjacent to their homes, would they support or oppose the development. The neighborhoods position is to oppose the development.

Marcus Rugger, 595 Springhurst Drive, said that he is a bicyclist and he crosses Harrodsburg Road multiple times and he does not see how turning Harrodsburg Road into Nicholasville Road benefits cyclist. He said that the layout of the proposal turns Springhurst Drive into the entrance and existing for the development. He illustrated a series of photographs, and spoke briefly on the current traffic situation on Harrodsburg Road and the impact that the development will have to create more vehicular and pedestrian conflicts, as well as the impact of removing the trees from the subject site.

Mr. Rugger said that the applicant stated that since this development is within walking distance of the Clays Mill Corridor the proposal adds to the walkability of the neighborhood. The neighborhood disagrees and the Clays Mill Corridor is already well served by Southland Drive that has multiple retail and restaurants uses. It is clear to the neighborhood that these businesses are not designed to serve the neighborhood but rather inbound traffic on Harrodsburg Road.

Mr. Rugger said that he purchased his property because the area was quiet with little to no traffic. He then said that his neighbors feel that this area is the best kept secret in Lexington and asked the Commission not to destroy the area.

David Lane, 695 Springhurst, submitted series of photographs to the Commission, and said that his property is near the subject property and should the zone change be approved his lot would drastically change. He then said that the proposed development could have a drive-through running next to his lot. If this happens it would not maintain the quality of life he knows.

Mr. Lane said that there are over sixteen trees on the property as well as 36 trees that line the perimeter that could be removed if this request is approved. The trees on this site are mature trees that offer not only beauty, but shade and a sound barrier from the traffic on Harrodsburg Road. These trees also offer a home to several bird species. He said that a parking lot would offer unwanted noise, lights, trash and loud noise when the dumpsters are picked up in the morning. Springhurst Drive is a dead-end street, but with this proposed development it would bring vandalism and vagrancy to the area.

Mr. Lane said that in speaking with a realtor this development plan would not only lower the property values, but it would have a negative impact on the marketability of the properties. He asked if any of the Commission members would purchase a house that backed up to a parking lot. He said that he recently retired, his home is paid for, but this request could seriously alter this area. He asked that the Commission put their self in the neighbor's position before taking action on this request.

Mary Margaret Heaton, 608 Mitchell Avenue, said that the development of the Springs Property has been horrendous on the neighborhood in terms of the cut-through traffic. She then said that even with the speed humps being placed on Mitchell Avenue, vehicles speed through this area. Springhurst is a hidden jewel and she would hate to see this neighborhood go through what Mitchell Avenue is now experiencing.

Ms. Heaton said that when people purchase their homes they are buying into a way of life. She said that this area is very viable and desirable to homeowners.

Loretta Haley, 686 Springhurst Drive, said that her family specifically purchased their house because of the type of home and the street is dead-end. She explained that a dead-end street allows her to safely walk around for her physical therapy and allows her to safely access her van with a ramp. The neighbors in this area are familiar with her situation, but someone who does not live on Springhurst will not know and that concerns her. She said that she agrees with Ms. Heaton because this is a way of life. The neighbors look out for one another and know each other's families.

Ms. Haley said that they did not have any issues with the daycare because their traffic did not come down Springhurst Drive, but with this proposed development, she does not believe the Springhurst Drive would remain safe for pedestrians.

Joe Hardin, a neighborhood resident, said that a lawyer and a corporation is asking the Commission to rezone three properties that they do not own. He then said that they took the two properties off the table that they did own because of the unfavorable report from the Committee's. They felt that since they took the two properties off the table it would make this proposal better, but as it was pointed out they do not have a development plan to show. He said that it's his opinion that the Commission's decision should be not to delay this request and allow them more time for more smoke and mirror ideas. He then said that this request should be turned down because there is no one in this area that is in agreement with this proposal.

Mr. Hardin said that one of the arguments that has been made is that retail and commercial uses is low for the population in this area, but in the last 18 months there have been 5 fast food restaurants, 2 drugstores, 2 medical centers opened and one building still remains vacant. He added that this area does not need any more development in this area.

Planning Commission Questions – Mr. Berkley asked how long would it take for the applicant to come up with a revised development plan to be presented. Mr. Walbourn replied one month would allow them the opportunity to go back through the Subdivision Committee process.

Mr. Berkley asked if the Commission should set a time frame or continue this discussion. The Chair said that should the applicant request a continuance, the Commission has that option, or go forward in considering this request. He then said that, if warranted, the Commission should possibly continue with any questions and rebuttal before they get to the point of taking a vote. Ms. Jones said that she was not sure if one of the Commission's choices would be to continue this request in order for the development plan to go back through the Committee process. She then said that the Commission has the option to consider this request or if the applicant is agreeable, continue it to another meeting. She indicated that the Commission does not have to have rebuttal for this item to be continued, but if the Commission were to choose an approval or disapproval for the motion then that should be on the record.

The Chair asked if this item is continued, the applicant would not be able to go through the Committee process with a substantially different development plan. Ms. Jones said that the applicant could come back with a substantially different development plan, but it needs to be determined how that would fit in with a continued hearing. Mr. Walbourn said that he could withdraw his request for the Committee review since the revised plan would be reviewed by the staff. He indicated he was more than happy to rebut any testimony, but if they are submitting a substantially different development plan, it would make more sense to rebut the revised plan. Mr. Sallee suggested that the Commission decide now whether or not to continue the hearing because it seems like a lot of the rest of what the Commission might hear today, is predicated on that decision. He said that if the Commission does continue this hearing, the staff believes that any revision, including any new information, would be brought back to the Commission. At that point, the Commission would probably entertain commentary on the revised plan and finish out the hearing.

Mr. Cravens asked if it would make any sense to postpone or continue this plan. Mr. Sallee said that the Commission does not have that option to postpone the case at this point because the testimony has progressed so far into the hearing. Instead, it would need to be continued.

Mr. Penn said that he had suggested the applicant postpone this request, but now it is so far into hearing that the Commission has no option. He then said that the applicant could have postponed this request because they were not ready and the plan does not meet the staff's recommendations, but now since this case is at the rebuttal stage, he believed the Commission should go ahead and consider this request. He said that rebuttal cannot be made on something that has not been seen and from his perspective, a continuance is not an option.

Mr. Berkley said that he is in favor of a continuance because the Commission can hear new information on this proposal. Ms. Jones said that the Commission can hear new information on this request, which why this item cannot be postponed. Mr. Berkley said that a continuance or taking action is the only thing the Commission can do. The Chair clarified that the Commission can hear new information; and, at that point in time, anyone in opposition to this request can speak to it as well.

Mr. Berkley asked if there is new information, can the plan go through the Committee process. Ms. Jones replied that the Commission is in the process of a public hearing and there is a specific outline in the Ordinance that references how public hearing is to be handled. She then said that it would not be proper to continue a case in the middle of a public hearing then allow it to go back through the Committee process. There were different ways this could have happened, but it didn't and although it might be beneficial or seem to be beneficial to go back through that process, under these circumstances it might not be the best legal thing to do.

Mr. Cravens asked if the zone change could be continued, but the development plan be disapproved. Ms. Jones said that a zone change and development plan is submitted together and there could be some issues with continuing the zone change without the associated development plan. She then said the Commission considers a zone change application with a preliminary plan to give them some idea of what the proposed uses might look like on that site.

The Chair asked if the applicant was still agreeable to a continuance. Mr. Walbourn indicated his agreement, noting that they would not go through the Committee process.

The Chair said that Ms. Bergman has already stated that the neighbors would not like this item to be continued. Ms. Bergman indicated that the neighborhood was in disagreement with any postponement, and asked that the Commission either approve or disapprove the zone change request. She said that if the applicant wants to start over with a new plan, they have that right and she hopes that they would involve the neighborhood.

Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson and carried 6-0 (Penn opposed; Brewer; Drake; Plumlee and Wilson absent) to continue MAR 2016-10: ATLAS I, LLC (AMD), along the associated zoning development plan, to the September 8, 2016, meeting.

**VI. COMMISSION ITEMS** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

- a. **PFR 2016-1: KENTUCKY AMERICAN WATER BOOSTER STATION IN JACOBSON PARK** – a Public Facility Review to improve the water pressures to the southern and eastern portions of Lexington by locating a new booster station at 3721 Richmond Road.

**SUMMARY FINDINGS:** The improvements to the public facilities for the water booster station will benefit Lexington due to the increase in development in this area of the Urban Service Area and Expansion Area.

There are no Goals or Objectives of the Comprehensive Plan that are in opposition to the improvements for KAW booster station. Several Goals and Objectives, as well as the text of the Plan, support the project, as does *Destination 2040*. There is no longer a Land Use Element for the Comprehensive Plan; however, the previous Land Use Map recommended Parks/Open Space.

The design and use of the structure will complement the area with both the design of the structure and the use. Once the project has been completed, the KAW Booster Station will benefit the city of Lexington with better service to the newly developed areas.

Staff Presentation – Ms. Gallt introduced the Public Facility Review for a Kentucky American Water Booster Station in Jacobson Park, located at 3721 Richmond Road. She briefly explained that this request is for parkland located in an A-R zone, and the applicant wants to improve the water pressures to the southern and eastern portions of Lexington by locating a new booster station on this site.

Ms. Gallt directed the Commission’s attention to a series of photographs, and gave a brief description of each. She said that the booster station building is proposed to be 50-feet by 15-feet on a slab foundation. The exterior of the building will resemble a horse barn, which are common to the Lexington area.

Ms. Gallt said that the improvements to the public facilities for the water booster station will benefit Lexington due to the increase in development in this area of the Urban Service Area and Expansion Area. There are no Goals or Objectives of the Comprehensive Plan that are in opposition to the improvements for KAW booster station. Several Goals and Objectives, as well as the text of the Plan, support the project, as does *Destination 2040*. There is no longer a Land Use Element for the Comprehensive Plan; however, the previous Land Use Map recommended Parks/Open Space. The design and use of the structure will complement the area with both the design of the structure and the use. Once the project has been completed, the KAW Booster Station will benefit the city of Lexington with better service to the newly developed areas.

Representation – Brett Lavey, PE, Stantec Consulting Services, Inc., was present to answer questions or address any concerns from the Commission. He briefly explained that the Booster Station will help establish a new pressure zone for the southern and eastern portion of the service area of Lexington including the Expansion Area 2, east and west of I-75, which is an important piece to the infrastructure for Lexington.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson and carried 7-0 (Brewer; Drake; Plumlee and Wilson absent) to acknowledge that PFR 2016-1, is in compliance with the 2013 Comprehensive Plan, as well as *Destination 2040*, as presented by the staff.

- b. **COMMISSION COMMENT** – The Chair thanked the Commission members and staff who had reached out to Mr. Penn and himself over the past couple of weeks.

**VII. STAFF ITEMS** - Mr. Duncan reminded the Planning Commission of their hearing on August 25, 2016.

**VIII. AUDIENCE ITEMS** – There were none.

**IX. NEXT MEETING DATES**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .....	September 1, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .....	September 1, 2016
<b>Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2<sup>nd</sup> Floor Council Chambers .....</b>	<b>September 8, 2016</b>

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