

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, August 7, 2014, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Mike Cravens, David Drake, Carolyn Richardson, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

Note: The following item was continued from the August 25, 2014, meeting.

A. CALLER PROPERTIES, LLC, ZONING MAP AMENDMENT & CHEVY CHASE SHOPPES ZONING DEVELOPMENT PLAN

1. **MAR 2014-16: CALLER PROPERTIES, LLC (10/5/14)*** – petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 0.588 net (0.852 gross) acre, for property located at 626-634 Euclid Avenue.

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 removing the three structures and replacing them with a 10,000 square-foot commercial building. The petitioner proposes retail sales establishments and restaurants, including a drive-through facility and associated off-street parking.

The Zoning Committee Recommended: Postponement.

The Staff Recommended: Approval, for the following reasons:

1. The proposed Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Plan recommends compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs in order to uphold the Urban Service Area concept (Theme E, Goal #1, Obj. b.). The petitioner's development will be in keeping with the character of the Euclid Avenue corridor, which is a near-downtown commercial area that is pedestrian-friendly.
 - b. The Plan recommends identifying opportunities for infill, redevelopment and adaptive reuse that respects the area's context and design features whenever possible (Theme A, Goal #2, Obj. a.). The petitioner desires to redevelop the subject property, which is comprised of three parcels that are considered underutilized along this commercial corridor. The petitioner now proposes a redevelopment that is sensitive to the surrounding properties and will improve the commercial corridor.
 - c. The proposed B-1 zone is compatible with the immediately adjoining B-6P and P-1 zoning.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted with the following restrictions via conditional zoning:

Prohibited Uses

- a. Schools for academic instruction.
- b. Funeral parlors.
- c. Medical and dental offices, clinics and laboratories.
- d. Liquor stores.
- e. Automobile service stations.
- f. Banquet facilities.
- g. Cocktail lounges, nightclubs or bars.
- h. Live entertainment.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property. Such uses could have a negative impact on the nearby neighborhoods related to noise and/or traffic congestion.

2. **ZDP 2014-65: CHEVY CHASE SHOPPES (10/5/14)*** - located at 626, 630 and 634 Euclid Avenue.
(Barrett Partners)

The Subdivision Committee Recommended: Postponement. There are questions regarding the proposed access to the site and with the building's orientation to Euclid Avenue.

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.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.

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

6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Discuss proposed dumpster location.
8. Discuss proposed access to Marquis Avenue.
9. Discuss building fenestration along Euclid Avenue.
10. Discuss width of proposed drive-through lane.

Commission Comments – Mr. Cravens stated that he was absent during the previous discussions for this zone change; however, he did attend the Zoning Committee meeting in August, and since that time he has reviewed the August 28th hearing; therefore, he requested to sit in on the Commission's action.

Staff Comments – Ms. Wade said that, at the August 28th Planning Commission meeting, the staff presented the Commission with the Staff Report and other information pertaining to a zone change and development plan request for property located at 626, 630 and 634 Euclid Avenue. She explained that this request is for a zone map amendment for three parcels located at the corner of Euclid Avenue and Marquis Avenue. The applicant has requested to change the zoning from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone. She said that the staff is recommending approval of the requested zone change amendment, for the following reasons:

1. The proposed Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Plan recommends compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs in order to uphold the Urban Service Area concept (Theme E, Goal #1, Obj. b.). The petitioner's development will be in keeping with the character of the Euclid Avenue corridor, which is a near-downtown commercial area that is pedestrian-friendly.
 - b. The Plan recommends identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible (Theme A, Goal #2, Obj. a.). The petitioner desires to redevelop the subject property, which is comprised of three parcels that are considered underutilized along this commercial corridor. The petitioner now proposes a redevelopment that is sensitive to the surrounding properties and will improve the commercial corridor.
 - c. The proposed B-1 zone is compatible with the immediately adjoining B-6P and P-1 zoning.

Ms. Wade then said that the staff's recommendation also includes a conditional zoning restriction to prohibit a limited number of uses:

2. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted with the following restrictions via conditional zoning:

Prohibited Uses

- a. Schools for academic instruction.
- b. Funeral parlors.
- c. Medical and dental offices, clinics and laboratories.
- d. Liquor stores.
- e. Automobile service stations.
- f. Banquet facilities.
- g. Cocktail lounges, nightclubs or bars.
- h. Live entertainment.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property. Such uses could have a negative impact on the nearby neighborhoods related to noise and/or traffic congestion.

Ms. Wade said that, at the August 28th meeting, the Commission had an extensive discussion concerning the conditional zoning restrictions listed on the staff report, and this discussion is what led this item to be continued to today's hearing.

Ms. Wade then said that, at this point in time, the Commission had previously closed the public comment portion of the public hearing; and, should the Commission have any questions, the staff would be available to answer those. She added that the staff had previously distributed both the staff report and supplemental report for MAR 2014-16: CALLER PROPERTIES, LLC, along with the staff's revised recommendations for ZDP 2014-65: CHEVY CHASE SHOPPES.

Mr. Sallee indicated that, at the August 28th meeting, the staff presented an exhibit (email correspondence); and a revised zoning development plan recommendation to the Commission for their review, at which time, the Commission had taken into consideration increasing the setback along Euclid Avenue from 10' to 15'. He said that the staff had redistributed both of these items for the Commission's review, and placed the zoning development plan recommendation on the overhead projector.

Mr. Sallee informed the Commission that, since the August 28th meeting, the staff had received an additional 10 email correspondences, as well as a petition pertaining to this zone change request, should the Commission choose to reopen the hearing to consider these additional items today.

Planning Commission Questions – The Chair explained that this item is a continued discussion by the Commission; and the staff has stated that the presentation and public discussion portion had been closed at the August 28th meeting. He said that the Planning Commission had discussed this item, as well as made a couple of motions, but those motions failed. Subsequently, the Commission made a motion to continue this item to today's meeting.

The Chair said that the staff had supplied the Commission with the revised recommendation for the zoning development plan, and one of the discussion items from the August 28th meeting was to possibly change the setback along Euclid Avenue. He then said that the Commission had also discussed the conditional zoning restrictions, specifically items "c" and "d," and whether or not those two uses should be removed from the prohibited uses or remain as a prohibited use. He added that the last item the Commission had discussed was whether or not a drive-through lane should be permitted on the subject site.

The Chair asked if the applicant had any new information to present to the Commission. Mr. John Talbott, attorney, was presented representing the applicant. He indicated that they had no new information, but he wanted to reiterate that his client was willing to eliminate the parking along Marquis Avenue to improve the access visibility, and said that they are willing to install a speed hump on McCaw's Alley to help with traffic calming. He noted that the location of the speed hump would be determined by the Division of Traffic Engineering. Mr. Talbott said that his client is in agreement with the following conditional zoning list of prohibited uses for the property:

- a. Schools for academic instruction.
- b. Funeral parlors.
- c. ~~Medical and dental offices, clinics and laboratories.~~
- d. ~~Liquor stores.~~
- e. Automobile service stations.
- f. Banquet facilities.
- g. Cocktail lounges, nightclubs or bars.
- h. Live entertainment.

Planning Commission Questions – Ms. Plumlee asked if the drive-through would be permitted. The Chair replied affirmatively, unless the Commission chooses to remove the possibility of a drive-through.

Mr. Berkley said that there are several drive-through facilities within the general area, and the Commission just recently approved another drive-through along Euclid Avenue for the Kroger expansion. He then said that, since there are already several drive-throughs in this area, he does not believe adding another drive-through would be a problem. He added that a drive-through benefits the property by increasing its value, and said that the Commission can not approve a zone change, and limit that property's potential. Therefore, he was in favor of the requested drive-through.

The Chair asked if there are any changes with the site improvements. Mr. Sallee pointed out that the Commission was reviewing the same zoning development plan that was presented at the August 28th meeting, and explained that there will be one access along Euclid Avenue and two accesses on McCaw's Alley. He noted that McCaw's Alley is located between Marquis Avenue and Park Avenue. He then said that there will be off-street parking on site with two-way movement through the parking lot from Euclid Avenue to McCaw's Alley. He added that the drive-through will only provide a one-way movement to McCaw's Alley out toward Marquis Avenue. Mr. Sallee said that, according to the cross-section, at least ¾ of the alley along the rear of the subject property will be widened.

Ms. Mundy asked if McCaw's Alley would align with the rear access to the Kroger Store. Mr. Sallee directed the Commission's attention to the inset map on the face of the development plan and explained that McCaw's Alley and the rear access point for Kroger will not line up.

Ms. Plumlee said that she agreed that the properties should be able to benefit from the use; but considering the neighborhood on the other side of McCaw's Alley; she thought that a drive-through would be more invasive than not having one. She then said that access points should align with each other; but for this request, McCaw's Alley and the rear access to Kroger do not.

Action - A motion was made by Mr. Cravens, seconded by Ms. Richardson and carried 7-0 (Brewer, Drake, Penn and Wilson absent) to approve MAR 2014-16: CALLER PROPERTIES, LLC, as recommended by the staff, removing item "c" from the listed of prohibited uses. He added that item "d" is to remain listed on the prohibited uses.

Action - A motion was made by Mr. Cravens, seconded by Mr. Berkley to approve ZDP 2014-65: CHEVY CHASE SHOPPES, as presented by the revised staff recommendation.

Discussion of Motion – The Chair confirmed that the motion on the floor is in regard to the list of conditions shown on the overhead. Mr. Cravens replied affirmatively, and asked if the speed humps will be on the adjacent property. Mr.

Talbott explained that McCaw's Alley is a public right-of-way that runs along the rear of their property, so the speed humps would be installed on McCaw's Alley. Mr. Cravens amended his motion to include the speed humps.

The Chair confirmed that the amended motion on the floor is as follows:

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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: Building fenestration along Euclid Avenue will be resolved at the time of the Final Development Plan.

The Chair said that the following language, as shown on the overhead, would be added:

7. Increase building setback to Euclid Avenue to within 5' of the Ashland Building.

The Chair then said that the amended motion on the floor included the speed hump on McCaw's Alley, and asked Mr. Berkley if he agreed with the amended motion. Mr. Berkley replied affirmatively.

The motion carried 7-0 (Brewer, Drake, Penn and Wilson absent).