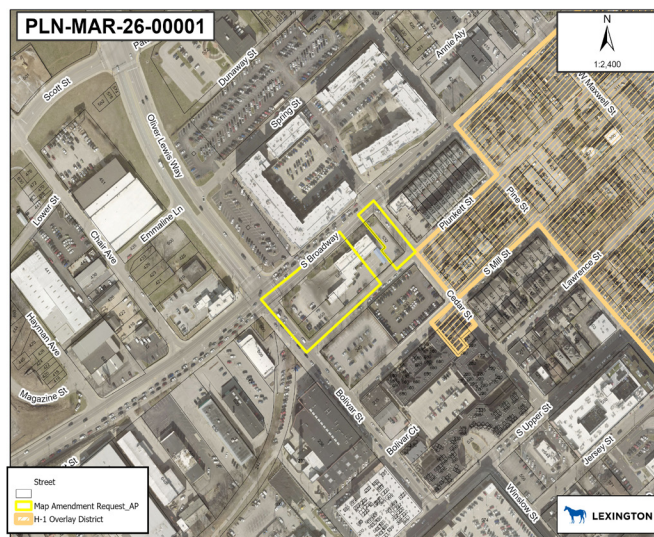


STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-26-00001: KENNETH V. LITRELL

DESCRIPTION OF ZONE CHANGE

Zone Change:	From: A Corridor Business (B-3) zone with conditional zoning restrictions To: A Corridor Business (B-3) zone with modified conditional zoning restrictions
Acreage:	1.16 net (1.88 gross) acres
Location:	532 S. Broadway, 550 S. Broadway (a portion of) & 659 Plunkett St.



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Properties	B-3 w/ conditions	Car Wash
To North	MU-3/B-2A	Residential & Retail
To East	R-4/R-2	Residential
To South	R-5/B-4	Residential/Parking
To West	B-1/B-4	Commercial/ Institutional

URBAN SERVICE REPORT

Roads - The subject properties are located at the intersection of South Broadway (US 68/27) and Oliver Lewis Way (KY 922)/Bolivar Street. The three properties encompass an entire block and also have frontage along Plunkett Street and Cedar Street. South Broadway and Oliver Lewis Way/Bolivar Street Forest Avenue are classified as principal arterials while Plunkett Street and Cedar Street are two lane local roads. Access to the site is from an entrance on South Broadway and two entrances along Plunkett Street.

Curb/Gutter/Sidewalks - Curb, gutter, and sidewalk facilities are present at the site.

Storm Sewers - The properties are located within the Town Branch watershed. Storm sewers are available to serve the property. There are no FEMA Special Flood Hazard Areas or environmentally sensitive areas on the subject property, or in the immediate vicinity.

Sanitary Sewers - The subject properties are located within the Town Branch Sewershed. Sanitary sewer treatment is provided by the Town Branch Wastewater Treatment Plant for properties within this portion of the Urban Service Area, which is located on Lisle Industrial Road, northwest of the subject properties.

Refuse - The Urban County Government serves this area with refuse collection on Mondays. Supplemental service by private refuse haulers is available to supplement existing service, if necessary.

Utilities - All utilities, including natural gas, electric, water, phone, cable television, and internet are available in the area, and are able to serve the site.

Police - The subject properties are located within the Central Sector, and is served by the Central Sector Roll Call Center, which is located on Industry Road, approximately 3 miles to the east of the subject properties. The downtown Police Headquarters is approximately one mile east of the subject property, on East Main Street.

Fire/Ambulance - The nearest fire station (#3) is located about 1/2 mile north of the subject properties, at the intersection of Merino Street and W. Maxwell Street.

Transit - LexTran services are relatively abundant in this area, with Routes #13, 15, 24 and 58 utilizing South Broadway or Oliver Lewis Way. There are stops along South Broadway near Cedar Street and Plunkett Street as well as a nearby stop along Oliver Lewis Way.

Parks - The subject properties are located 1/2 mile south of Davis Park.

SUMMARY OF REQUEST

The applicant is seeking to remove conditional zoning restrictions to allow additional principal, accessory and conditional uses in the existing Corridor Business (B-3) zone.

PROPOSED ZONING

B-3

The intent of the Corridor Business zone is to provide for retail and commercial uses, which are necessary to the economic vitality of the community but may be inappropriate in the more neighborhood oriented zones. Development in this zone should front on an arterial or major collector roadway and should serve the needs of the broader Lexington community. Consideration should be given to the relationship of the uses in the zone to the surrounding land uses and to the adequacy of the street system to serve the traffic needs. Developments should avoid nuisance impacts of light, air, and sound that may be caused on adjacent neighborhoods. Where necessary, developments should include service roads to reduce the impact on highway movement, while also providing appropriate frontage to meet the needs of businesses. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

PROPOSED USE



The applicant is seeking to remove some of the existing conditional zoning restrictions on the subject properties prior to marketing it for sale. The applicant is not proposing any modifications to the existing structure at this time and intends to continue operating the car wash until the property is sold.

APPLICANT & COMMUNITY ENGAGEMENT



The applicant has indicated that they have reached out to the South Hill Neighborhood Association, no additional information about community engagement was available at the time this staff report was created.

PROPERTY & ZONING HISTORY



The subject properties were zoned B-4 prior to the comprehensive rezoning of the City and County in 1969. This area of South Broadway was a prime location for warehousing and industrial uses due to the close proximity to multiple rail lines. As rail transport and warehousing fell out of favor, the properties in this area became underutilized and ready for redevelopment. A portion of the property at 550 S Broadway was rezoned to the B-3 zone in 1971 (MAR-71-23). The remainder of the subject parcels retained their B-4 zoning classification until the 2000, when the zone was changed to B-3 and the current conditional zoning restrictions were introduced (2000-05 CZ). Shortly after the rezoning, a new car wash facility was constructed and continues to be operated at this location.

At the time of the previous rezoning, the site was home to a warehouse, a wholesale/retail fruit and vegetable distributor and a car wash which was located on the portion of 550 South Broadway that is not included in this request. During the time of the rezoning, planning staff noted that both the 1990 South Broadway Corridor Plan and the 1996 Comprehensive Plan called for "professional services" as the appropriate future use on this site. The previous staff report also noted the significance of the project to extend Newtown Pike, which would come to be known as Oliver Lewis Way, and the drastic impact it would have on traffic flow and redevelopment in this area. Ultimately, staff recommended approval noting that while the B-3 zone might not be the recommended zone for these properties, it is a less intense zone than B-4 and the impact to the surrounding area could be mitigated by the following conditional zoning restrictions:

PROPERTY & ZONING HISTORY



The permitted uses of the subject property shall be limited to the following:

Permitted Principal B-3 Uses:

- a. Car washing establishments provided that surface water from such use shall not drain onto adjacent property or over a public sidewalk, and that adequate on site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
- b. Self service laundry, or laundry pick up station, or clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed system process.
- c. Garden centers.
- d. Kennel, animal hospital or clinic, including office of veterinarian, provided that such structure or use, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
- e. Minor automobile and truck repair.
- f. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
- g. Barber shops, beauty shops.
- h. Offices, and medical clinics.
- i. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
- j. Business colleges, technical or trade schools or institutions.
- k. Schools for academic instruction.
- l. Kindergartens, nursery schools and child care centers where enrollment is limited to the children of employees and staff of an office, business or commercial establishment which is located on or abutting the same lot as the proposed childcare facility. A fenced and screened play area shall be provided in an area located a minimum often (10) feet from a collector or arterial street and shall contain not less than twenty-five (25) square feet per child.
- m. Athletic club facilities.
- n. Parking lots and structures.

Permitted Accessory B-3 Uses:

1. Storage
2. Parking areas
3. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
4. Satellite dish antennas as further related by Article 15-7.

Permitted Conditional B-3 Uses:

None will be permitted.

Signage:

Signage shall be as permitted and regulated in the B-1 zone.

Prohibited Uses:

Outdoor speakers shall be prohibited.

The format of these restrictions is unusual in that these restrictions list the specific uses allowed on the property instead of the typical practice of only listing prohibited uses.

CONDITIONAL ZONING RESTRICTION PROCESS



Article 6-7(c) Amendment. Modification, removal or amendment of conditions or restrictions shall be as follows:

1. Restrictions or Conditions Designated by the Urban County Council. The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.
 - a. Findings Required. The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.
 - b. Procedure. The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment, except that a full public hearing by the Urban County Council shall be required in all cases. The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.

ZONING ORDINANCE COMPLIANCE



The applicant opines that the zoning restrictions at this location are no longer appropriate due to economic, physical and societal changes that have occurred in this area over the last 25 years. The applicant describes many of the changes to the South Broadway Corridor since the rezoning of the property, citing the shift from warehousing and industrial uses toward residential and retail. Additionally, the applicant postulates that uncertainty surrounding the exact location of the extension of Newtown Pike was the impetus for the conditional zoning restrictions.

This area of South Broadway has undoubtedly experienced significant economic, physical and social changes in the 25 years since the conditional zoning restrictions were applied, many of which were anticipated at the time. While the redevelopment was certainly expected, the shift was more toward residential than professional office than anticipated. The ongoing expansion of the University of Kentucky enrollment has placed an emphasis on developing more housing in areas with convenient access to campus. This unanticipated pivot toward dense, student-focused housing has also increased the need for walkable infrastructure and pedestrian-friendly urban designs which renders some of the conditional zoning restrictions obsolete while others become more appropriate as a result. More neighborhood business uses such as restaurants, retail, and personal services would be appropriate in this new, more residential context, while uses such as drive-through are now less appropriate for this area than they were at the zone's inception due to that same residential proximity.

Instead of adding uses to the current, unconventionally formatted list of permitted uses, staff chose to reconfigure the conditional zoning restriction to the more common practice of listing prohibited uses. This represents a significant expansion of the allowable uses on-site, as the change results in the ability to accommodate any permitted B-1 use, as well as any B-3 use that is currently permitted but was not indicated in the initial ordinance. Balancing this expansion of uses is a staff recommendation to further restrict several uses which conflict with the site's current context. In the interest of not creating a new non-conforming use, the property's current use as a car wash establishment has been retained as an allowable use.

Based on these conditions, staff recommends the following conditional zoning restrictions apply to this request:

Under the Provisions of Article 6-7 of the Zoning Ordinance, the following conditional zoning restrictions shall apply:

1. *The following uses shall be prohibited:*
 - a. *Establishments and lots for the display, rental, and sale of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.*
 - b. *Automobile refueling stations and service stations*
 - c. *Drive-through facilities for the sale of goods or products or provision of services otherwise permitted herein*
 - d. *Adult entertainment establishments*
 - e. *Minor automobile truck repair and service*
2. *Signage shall be as permitted and regulated in the B-1 zone.*
3. *Outdoor speakers shall be prohibited.*

These conditions are appropriate and necessary in order to ensure compatibility with the adjoining residential uses, and to preserve the character of the downtown corridor.

STAFF RECOMMENDS: **APPROVAL**, FOR THE FOLLOWING REASONS:



1. The applicant has demonstrated that this portion of South Broadway has undergone a shift towards higher density residential development that was not anticipated when the conditional zoning restrictions were applied in 2000.
2. This recommendation of approval is subject to the following conditional zoning restrictions:

Under the Provisions of Article 6-7 of the Zoning Ordinance, the following conditional zoning restrictions shall apply:

1. *The following uses shall be prohibited:*
 - a. *Establishments and lots for the display, rental, and sale of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.*
 - b. *Automobile refueling stations and service stations*
 - c. *Drive-through facilities for the sale of goods or products or provision of services otherwise permitted herein*
 - d. *Adult entertainment establishments*
 - e. *Minor automobile truck repair and service*
2. *Signage shall be as permitted and regulated in the B-1 zone.*
3. *Outdoor speakers shall be prohibited.*

These conditions are appropriate and necessary in order to ensure compatibility with the adjoining residential uses, and to preserve the character of the downtown corridor.