

5. NATIONAL STATION, LLC, ZONING MAP AMENDMENT & NATIONAL STATION (FKA BEECHLAND SUBDIVISION, BELLEDALE ADDITION & EAST END ADDITION & right-of-way) ZONING DEVELOPMENT PLAN

- a. MARCV 2015-16: NATIONAL STATION, LLC (9/4/15)* - petition for a zone map amendment from a Two-Family Residential (R-2) zone to a Planned Neighborhood Residential (R-3) zone, for 0.1653 net (0.1908 gross) acre, for property located at 334 Richmond Avenue. A conditional use permit and a dimensional variance are also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. The Goals and Objectives also promote compact and contiguous development and expansion of housing choices, support creating jobs and prosperity, encourage infill and redevelopment of underutilized land, and promote infill that respects an area's context and design features.

The petitioner proposes to rezone the subject property in order construct an accessory parking lot for the adjacent warehouse redevelopment project at the terminus of National Avenue. The proposed parking lot will have 22 parking spaces and will replace a non-conforming warehouse use.

The Staff Recommends: Approval, for the following reason:

1. The proposed Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives encourage expanding housing choices through a variety of housing types and densities (Theme A, Goal #1), which could be accomplished on this site if the conditional request is not approved or is ever removed from the site.
 - b. Several Goals and Objectives encourage well-designed neighborhoods and communities that are compact, contiguous, and respect the area's context (infill development) (Theme A, Goals #2a. & #3, as well as Theme E, Goal #1b.). The zone change will facilitate improving the immediate area by replacing an unsightly, non-conforming warehouse with a parking lot (or alternatively another residential use) that can act as a land use buffer between the B-4 zone and the low density adjoining neighborhood.
 - c. The Goals and Objectives also support infill and redevelopment of our underutilized land (Theme E, Goal #1a.), and creation of jobs and prosperity (Theme C, Goal #1). The petitioner's associated redevelopment of National Station, currently an underutilized area, will help to build on the current renewal along National Avenue for an employment hub.
2. This recommendation is made subject to approval and certification of ZDP 2015-64: National Station, LLC (fka Beechland Subdivision, Belldale Addition & East End Addition), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

b. REQUESTED CONDITIONAL USE

1. A parking lot, accessory to the adjacent business use, in a Planned Neighborhood Residential (R-3) zone.

The Staff Recommends: Approval of the requested conditional use, for the following reasons:

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The proposed parking lot will be used in conjunction with the adjacent business use and is to be designed to meet all of the requirements concerning design, landscaping, storm water, and maintenance. Although difficult to document, there have been at least some non-conforming uses of this property in the past; and, according to the applicant, the previous owner had used this lot as a parking lot. Approval of the conditional use will incentivize the applicant to make improvements that will better the visual quality and the functionality of this use.
- b. All necessary public services and facilities are available and adequate to the subject site, although the proposed use of a parking lot is not expected to have a need for many of these services.

c. REQUESTED VARIANCES

1. To reduce the required 100' setback for the portion of the buildings that have overhead doors in a Wholesale & Warehouse (B-4) zone to 53 feet from an adjacent residential zone.
2. To reduce the required rear yard from 32 & 28 feet to 5 feet for the portion of the property that abuts an adjacent residential zone.

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

The Staff Recommends: Approval of 1) side and rear yard variances to a minimum setback of 15 feet from the property line; and 2) Approval of the overhead door variance from 100' to 53', for the following reasons:

- a. Granting these reduced variances should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity, provided the buildings are set back a minimum of 15 feet from residential properties to lessen the impact of potential uses on the neighboring properties.
- b. A 15' landscape buffer required, in conjunction with buildings that are designed to mitigate the potential negative effects of noise and other nuisances, is a special circumstance that contributes to justifying a reduction in the required side and rear yards at this corner location.
- c. Strict application of the Zoning Ordinance would result in a significant loss of buildable area, but will not necessarily result in a better outcome for either the subject property or the adjacent residential properties, since access could be made in the more open areas.
- d. The appellant has worked to design a redevelopment that is both functional and in compliance with landscaping requirements and other provisions regulating development in the B-4 zone. A more limited variance than has been requested, should not be interpreted as circumvention of the Zoning Ordinance.

These recommendations of approval are made subject to the following conditions:

1. Should the subject property be rezoned to R-3, it shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission, with at least a 15' side and rear yard setback along the residentially zoned properties.
 2. All necessary permits, including a Zoning Compliance Permit, Building & Paving permits, shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the new facilities.
 3. The parking lot and driveway shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
 4. The final design of the parking lot, access drive and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
 5. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
 6. A landscape buffer area shall be provided along all property boundaries adjacent to any residential zone and shall include, at a minimum, a 6' tall fence or hedge, and 1 tree every 40 linear feet as required in Article 18-3 of the Zoning Ordinance.
 7. At a minimum, the walls of the new buildings that are within 53' of a residentially zoned property shall be constructed using only stationary windows and pedestrian access doors, and also constructed with insulation & drywall (or similar construction techniques) to provide a sound barrier.
- d. ZDP 2015-64: NATIONAL STATION, LLC (FKA BEECHLAND SUBDIVISION, BELLEDALE ADDITION & EAST END ADDITION & ROW) (9/4/15)*- located at 949 National Avenue and 334, 340, 342 and 346 Richmond Avenue.
(Randy Martin)

The Subdivision Committee Recommended: Postponement. There were some questions whether this development meets all off-street parking and building setback requirements of the Zoning Ordinance.

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Addition of tree protection plan per Art. 26 of the Zoning Ordinance, and document compliance with tree canopy requirements.
6. Correct zoning references in site statistics and on plan face.
7. Denote lot coverage and floor area ratio per Art. 21 of the Zoning Ordinance.
8. Denote height of proposed buildings.
9. Delete notes #5, #7, #8, #9, #10, #11 and #13.
10. Correct note #2 to state "Article 16 of the Code Ordinances".
11. Addition of exterior building dimensions.
12. Complete cross-section details.
13. Denote all existing and proposed easements on the plan.
14. Discuss internal pedestrian circulation.
15. Discuss parking requirements per current BOA application for indoor athletic facility.
16. Discuss plan status (preliminary vs. final).
17. Discuss building setbacks and required landscaping next to residential zones.
18. Discuss restrictions needed on overhead door provisions of Article 8-21(o)(1) of the Zoning Ordinance.
19. Discuss proposed handicap parking locations near the railroad right-of-way.
20. Discuss need for a crosswalk at National Avenue/Richmond Avenue intersection.

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

Staff Presentation: Ms. Wade presented the staff report, noting that, although this zone change request is for a small lot on Richmond Avenue, the corollary zoning development plan includes four parcels located on Richmond Avenue and National Avenue. The subject property is located at the end of Richmond Avenue as it intersects National Avenue. It is on the south side of Richmond Avenue, and is bordered by B-4 zoning to the north and east, and R-2 zoning on the other two sides. Ms. Wade said that the petitioner is requesting the R-3 zone in order to utilize the property as a parking lot, which is permitted only as a conditional use in the R-3, R-4 or R-5 zones. The parking lot is proposed to include 22 spaces, to serve the development that is depicted on the zoning development plan for the property.

Ms. Wade stated that the subject property is currently vacant, but it most recently contained a non-conforming warehouse use. Referring to several photographs of the property, she noted that the adjacent parcels are zoned for single-family or two-family residential use. On the opposite side of the property is a warehouse which was recently approved by the Board of Adjustment for indoor recreation as a conditional use. Across the subject property is an existing single-family residence and a shop of special trade, at the intersection of Richmond Avenue and National Avenue. The southeastern property line of the B-4 parcel is requested for a variance down to 5'; it is currently fenced, and there are existing trees. The rear property line along Owsley Avenue is treed as well, and there is an existing fence.

Ms. Wade stated that the petitioner contends that the requested rezoning is in agreement with the 2013 Comprehensive Plan, particularly the Goals & Objectives which encourage expanding housing choices through a variety of housing types and densities. That could be accomplished if the site were not used as a parking lot, as is requested. The petitioner also contends that the proposed rezoning is in agreement with Theme A, Goals 2a and 3, as well as Theme E, Goal 1b. Those Goals specifically encourage well-designed neighborhoods and communities that are compact, contiguous, and respect the area's context. Ms. Wade said that the staff believes that the proposed rezoning can help to improve the area by replacing a warehouse with a parking lot. The parking can serve as a better buffer for the neighborhood from the additional redevelopment planned for the remainder of the subject property. The proposed rezoning will also help to encourage infill and redevelopment in the area. The area is currently considered underutilized, and the petitioner has cleaned up the property, including removal of a vehicle storage yard/auto parts business. Ms. Wade stated that the staff is recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Note: Mr. Drake left the meeting at this time.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, noting that there are two existing buildings located on the B-4 property. Those two buildings combined have over 27,000 square feet of floor area; following the construction of the building that is proposed on this plan, there will be over 59,000 square feet of B-4 space. Parking is proposed to be associated with each of the B-4 units.

Mr. Martin stated that the staff is concerned about the conditional use permit that was approved for an indoor athletic facility on the property. Under the B-4 zoning, the building requires 20 parking spaces; the Board of Adjustment required 36 spaces as part of the conditional use permit. A condition was recommended to denote that number in the parking statistics, so that the staff can reconcile the parking requirement for the total site. There is an existing shared parking agreement, which must address hours of operation, etc., in order to share parking with the existing indoor soccer facility. The staff wants to ensure that the petitioner can meet the parking requirements for the overall property.

Mr. Martin stated that this version of the plan was a revision, with which the petitioner cleaned up the conditions considerably. The staff is recommending approval, subject to the following revised conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Addition of tree protection plan per Art. 26 of the Zoning Ordinance, and document compliance with tree canopy requirements.
6. ~~Correct zoning references in site statistics and on plan face.~~
6. Denote lot coverage and floor area ratio per Art. 21 of the Zoning Ordinance.
8. ~~Denote height of proposed buildings.~~
9. ~~Delete notes #5, #7, #8, #9, #10, #11 and #13.~~
10. ~~Correct note #2 to state "Article 16 of the Code Ordinances".~~
11. ~~Addition of exterior building dimensions.~~
12. ~~Complete cross section details.~~

- ~~13. Denote all existing and proposed easements on the plan.~~
- ~~14. Discuss internal pedestrian circulation.~~
- 7.15. Discuss Revise parking requirements to reflect the per-current BOA approval of a conditional use permit application for indoor athletic facility (36 spaces).
- ~~16. Discuss plan status (preliminary vs. final).~~
- ~~17. Discuss building setbacks and required landscaping next to residential zones.~~
- 8.18. Discuss restrictions needed on overhead door provisions of Provided the Planning Commission grants a variance to Article 8-21(o)(1) of the Zoning Ordinance.
- ~~19. Discuss proposed handicap parking locations near the railroad right-of-way.~~
- ~~20. Discuss need for a crosswalk at National Avenue/Richmond Avenue intersection.~~
9. Revise off-street parking required and gross sq. ft. site statistics for warehouse uses.
10. Document compliance with off-street parking requirements.

Conditional Use and Variance Presentation: Mr. Emmons presented the report on the requested conditional use and variances. He explained that parking lots are allowed as conditional uses in the R-3 zone, as long as they are adjacent to, and used in conjunction with, a neighboring business zone.

Mr. Emmons said that, in researching the history of the subject property, the staff found that it had been used for a warehouse and apartment building, among other uses, but it was never used for single-family or two-family residences. That history was a major factor in the staff's consideration of the appropriateness of the requested conditional use for parking.

Mr. Emmons said that the staff believes that the requested parking area could serve as a buffer between the adjacent residential zones and the more intense B-4 uses on the subject property. Allowing a parking lot on the subject property could also provide the opportunity to require landscaping and stormwater improvements in order to bring the property up to code. Mr. Emmons stated that the staff is recommending approval of the requested conditional use, for the reasons listed in the staff report and on the agenda.

With regard to the requested variances, Mr. Emmons said that an L-shaped building is proposed on the subject property. Referring to the rendered development plan, he noted the location of the existing structure. The B-4 zone has no requirements for front and side yard setbacks; however, when the side or rear yard of a B-4 zone adjoins a property with more restrictive setbacks, the more restrictive requirements must be met. On Marne and Owsley Avenues, the residential lots have a setback of approximately 30 feet. Mr. Emmons explained that, in addition, the Zoning Ordinance requires that, for buildings in the B-4 zone with overhead doors, the doors must be located at least 100 feet away from a residential zone. That provision is in place to provide some measure of protection for adjoining residences, since the B-4 zone allows uses that could potentially be noisy.

Mr. Emmons stated that the petitioner contends that the proposed L-shaped building itself provides a buffer for the adjoining residential uses, and they originally proposed that it be allowed a 5-foot setback from the adjoining residential properties. The staff felt that five feet was too close, and recommended a 15-foot setback. The staff is also recommending that all of the walls of the building adjacent to residential zones have insulation and drywall in order to use the building wall as a sound buffer. Mr. Emmons noted that the site could be redesigned so that no variance would be necessary for the overhead doors, but the staff does not believe that configuration would provide as much of a buffer for the neighborhood as would the proposed layout.

Mr. Emmons said that the staff is recommending approval of the requested variance, with a modification to the setback variance of 15', and a requirement that the rear wall be insulated, for the reasons as listed in the staff report and on the agenda, and subject to the seven conditions as listed.

Petitioner Representation: Charles Curry, attorney, was present representing the petitioner. He said that the petitioner is in agreement with the staff's recommendations, and he requested approval.

Dal Harper, also representing the petitioner, stated that the petitioner would like to amend his application in order to request a 15' setback variance, and a variance of 53' for the overhead doors, in agreement with the staff's recommendations.

Citizen Support: There were no citizens present in support of this request.

Citizen Comments: Damien Mallen, Kenwick Neighborhood Association, stated that he had an encouraging conversation with the petitioner prior to the start of the hearing, and the petitioner answered some of the residents' questions. The residents had questions about the height of the buildings and stormwater management, and the petitioner was able to answer them satisfactorily.

Mr. Mallen said that the Kenwick Neighborhood Association is not opposed to the proposed development; rather, the neighborhood residents are enthused about the redevelopment of the National Avenue corridor. The petitioner's

proposal seems to continue the mixed-use type development that is occurring in the area, with space for businesses that might not otherwise be able to locate in that area. The Kenwick residents also appreciate that the petitioner has cleaned up the property.

Mr. Mallen stated that the Kenwick residents do remain concerned, primarily about additional traffic in the neighborhood. He said that he believed that it would be more appropriate to designate National Avenue as the "commercial corridor," since Richmond Avenue is very narrow, with parking on both sides, and it is developed solely with residential uses. If the neighbors had some assurance that all traffic to the subject property would use National Avenue as their only point of ingress and egress, they would be totally in support of the proposed development. Residents are particularly concerned about large truck traffic, since Richmond Avenue is far too narrow to accommodate that type of vehicle.

Mr. Mallen said that the Kenwick residents would like to suggest the installation of signage limiting the weight or number of axles on vehicles, in order to discourage the use of Richmond Avenue for truck traffic traveling to the subject property. The petitioner proposed placing some signage on the subject property, instructing drivers to use National Avenue as they exit, and the residents suggested changing the shape of the curb near the subject property in order to direct traffic away from Richmond Avenue. In addition, the residents would like for the entirety of the subject property to have a National Avenue address, as they believe that could also discourage travel on Richmond Avenue. Mr. Mallen stated that the petitioner has indicated an intent to create a contract with the parents who use the indoor soccer facility, requiring that they use National Avenue for ingress and egress to the subject property; the Kenwick residents would encourage that type of clause in the lease for each of the 27 units on the property.

Petitioner Rebuttal: Tom Jones, petitioner, stated that he intends to consolidate the parcels and rename the entirety of the property National Station, after which it will have a National Avenue address. He said that he was aware that such an agreement was not enforceable, but the owner of the soccer facility suggested that parents use National Avenue, and other tenants could do the same. Mr. Jones stated that National Avenue is clearly the preferred method of ingress and egress for the property, since Richmond Avenue is narrow and "daunting" due to the amount of traffic and on-street parking.

Ms. Kaucher stated that street signage is approved and installed by the Division of Traffic Engineering, and the petitioner would not be allowed to install signs as suggested. She said a "no through trucks" sign is already in place on Richmond Road at Richmond Avenue, and Traffic Engineering does not install signage restricting the type of vehicle or number of axles.

Mr. Curry stated that he believed that changing the address for the subject property would help, and that he did not believe that drivers of large trucks would want to attempt to navigate Richmond Avenue.

Zoning Action: A motion was made by Mr. Penn, seconded by Mr. Smith, and carried 7-0 (Berkley, Drake, Richardson, and Wilson absent) to approve MARCV 2015-16, for the reasons provided by staff.

Conditional Use Action: A motion was made by Mr. Penn, seconded by Mr. Smith, and carried 7-0 (Berkley, Drake, Richardson, and Wilson absent) to approve the requested conditional use, for the reasons provided by staff, and subject to the conditions as recommended by staff.

Variance Action: A motion was made by Mr. Penn, seconded by Mr. Smith, and carried 7-0 (Berkley, Drake, Richardson, and Wilson absent) to approve the associated variances, as recommended by staff, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Penn, seconded by Mr. Smith, and carried 7-0 (Berkley, Drake, Richardson, and Wilson absent) to approve ZDP 2015-64, subject to the 10 conditions as listed in the revised staff recommendation.