

1. **ANDERSON CAMPUS RENTAL PROPERTIES, LLC, ZONING MAP AMENDMENT & SOUTH BROADWAY PLACE & LYNN GROVE ADDITION ZONING DEVELOPMENT PLAN**

- a. MARV 2012-19: ANDERSON CAMPUS RENTAL PROPERTIES, LLC (2/13/13)* - petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 1.976 net (2.731 gross) acres, for properties located at 116 & 118 Simpson Avenue; 1100-1110 Prospect Avenue; and a portion of 101 & 103 Burley Avenue. A dimensional variance is also requested with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 4) recommends a combination of future land uses for the subject property – Medium Density Residential (MD) future land use for the 10 parcels that have frontage along Simpson and Prospect Avenues and Greenspace/Open Space future land use for the rear portion of 101 and 103 Burley Avenue. The applicant proposes redeveloping the subject property with a mixture of townhouses and apartment buildings; a total of 78 dwelling units are proposed, with 108 bedrooms, and associated off-street parking, for a residential density of 39.47 dwelling units per net acre (28.56 units per gross acre). A dimensional variance is also being requested with this zone change.

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

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

1. The requested High Density Apartment (R-4) zoning for the subject property is not in agreement with the 2007 Comprehensive Plan's recommendation for Medium Density Residential land use, defined as 5–10 dwelling units per net acre. However, a recent zone change request has been granted in the immediate area that has created a major change of a physical and economic nature and that has changed the basic character of the area that were not anticipated by the 2007 Comprehensive Plan. The rezoning of adjacent properties to the R-1T zone has increased the permitted density of land use in this area over that recommended by the Plan.
2. The proposed R-4 zone is appropriate for several reasons:
 - a. The proposed development, including the expansion of University Village Apartments, will create a step-down in density from a very high density residential land use, to the planned redevelopment with frontage along Burley Avenue.
 - b. The highest density development in the neighborhood will be situated adjacent to the railroad, thus buffering the single-family residences from the noise and dust associated with the Norfolk-Southern rail corridor.
 - c. The University Village Apartments, located to the north, are also zoned R-4 and the proposed zoning will allow for the two developments to be integrated.
3. This recommendation is made subject to approval and certification of ZDP 2012-110: South Broadway Place & Lynn Grove 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 VARIANCES

1. Reduce the project exterior yard requirement for a group residential project from twenty (20) feet to three (3) feet for the southwestern property line.

The Staff Recommends: **Approval of the requested setback variance from 20 feet to 3 feet**, for the following reasons:

- a. Granting the requested variance should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity, as the Group Residential Project portion of the development will be interconnected through shared parking and other amenities with the townhouses and detached single-family residential structures to which the required setback applies.
- b. Approval of the variances will not result in an unreasonable circumvention of the Zoning Ordinance. The applicant's proposal for a unified development that transitions and incorporates a variety of residential types and densities is compatible with the surrounding neighborhood.
- c. The unique circumstance that applies to this Project is that the required project exterior yard is unnecessary due to the applicant's desire to blend the proposed housing types and shared parking lot. This is a unique circumstance that does not typically apply to most Group Residential Projects, because the purpose of the exterior yard is to buffer adjacent properties from a typically more intense apartment complex.
- d. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship to the applicant, and would likely not result in a more compatible development proposal.
- e. The circumstances surrounding this request are not the result of actions taken by the applicant, but rather by the desire to retain and blend three detached single-family homes on Burley Avenue with the new townhouses and apartments as a unified development.

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

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, or as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.

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

3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
 4. Prior to any construction, the applicant shall obtain a Zoning Compliance Permit, a building permit and all applicable Federal, State, and Local approvals.
- c. ZDP 2012-110: SOUTH BROADWAY PLACE & LYNN GROVE ADDITION (2/13/13)* - located at 116, 118 & 201 Simpson Avenue; 99-101 and 109-119 Burley Avenue and 1100-1110 Prospect Avenue.
(Barrett Partners)

Note: The purpose of this amendment is to incorporate new townhomes and apartments into the existing multi-family development.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-4; 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. Provided the Planning Commission grants the requested variances.
7. Denote that a waiver of the proposed Simpson Avenue street termination will be required at the final development plan stage.
8. Denote that Urban County Council closure of Prospect Avenue will be required prior to certification of final development plan.
9. Denote compliance with Article 18 requirements for zone-to-zone screening.
10. Resolve extent of proposed underground storm water detention and timing of improvements at final development plan.
11. Resolve proposed townhouse lotting on private street.

Zoning Presentation: Ms. Wade presented the staff report, explaining that the petitioner is proposing to rezone the subject property, which is comprised of 12 parcels, from R-1D to R-4. The property is approximately two acres in size, located along Simpson Avenue, Prospect Avenue, and Burley Avenue. Ms. Wade noted that the rendered zoning map does not reflect a recent zone change approved for property on Burley Avenue to R-1T. She said that the rest of the American Avenue area is zoned R-1D, with the exception of the University Village apartment complex property to the north, which is zoned R-4. Other zoning in the area includes R-2, closer to the University of Kentucky campus on the other side of the Norfolk-Southern railroad. To the southwest of the subject property is South Broadway and Virginia Avenue is located to the north. The neighborhood is typically accessed via Simpson Avenue, Burley Avenue, or Export Street from Virginia Avenue. The area primarily consists of single family residential uses, with the exception of the apartment complex on Virginia Avenue.

Ms. Wade displayed an aerial photograph of the subject property and surrounding area, noting the location of the University Village apartments to the north; the subject parcels with frontage on Prospect Avenue, which connects Burley Avenue and Simpson Avenue; the two parcels with frontage on Simpson Avenue; the rear portion of the two parcels on Burley Avenue; and the area to the south that was recently rezoned to R-1T. The petitioner is proposing to incorporate those townhouses and single family residences, along with the University Village apartments to the north, and the townhouses and apartments proposed along with this request, into one development. Ms. Wade said that the subject property is essentially the portion of the development between the Burley Avenue townhouses and the University Village apartments to the north. The applicant is proposing to construct 78 dwelling units, with a total of 108 bedrooms, in 72 apartments and six townhouse units. Ms. Wade noted that the property before the Commission at this hearing is only part of a larger development plan, so the total number of units will be larger.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Medium Density Residential land use for the subject property, as well as Greenspace for portions of the two Burley Avenue parcels. The subject property is part of the area that was studied for the South Broadway Corridor Plan, which was adopted in 1990. Several of the recommendations from that Plan related to the subject property and the immediate vicinity, including: Recommendation 13, which called for establishing a buffer along the railroad tracks to help mitigate the noise, vibration and dust associated with train traffic; Recommendation 14, which called for redeveloping properties in the area for Medium Density Residential use, due to the structural condition of most of the buildings; and Recommendation 35, which suggested addressing existing stormwater issues along the railroad tracks. Some of those drainage issues were addressed during the development of the University Village apartments, but the rear portions of the Burley Avenue properties are still low-lying, and a detention basin is located there. Ms. Wade said that the recommendations of the South Broadway Corridor Plan were adopted as part of the 1996 Comprehensive Plan, and the 2007 Plan includes many of those recommendations as well.

Ms. Wade said that the 2007 Comprehensive Plan recommendation calls for up to 10 units per acre. The applicant is proposing 39.5 dwelling units per acre on the property, so the proposed development cannot be found to be in

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agreement with the Plan recommendations. Therefore, the staff evaluated both the appropriateness of the proposed R-4 zone, and whether or not there had been an economic, physical, or social change in the immediate area. Ms. Wade stated that the staff found that the recent rezoning created a physical or economic change to the area that was not anticipated by the 2007 Comprehensive Plan, which would justify a zone change. She noted that, in the 2007 Plan, there is a "line" between the high density apartment uses on the north side of Simpson Avenue, and the medium density uses on the south side. When the zone change was approved on Burley Avenue, that line crossed over into the single-family area; so moving the land use buffer to include the area along Burley Avenue made sense to the staff. The staff also found the proposal to be appropriate. Of note to the staff is that the petitioner is proposing to maintain residential uses in the area in a manner similar to that recommended by the Comprehensive Plan, and they are proposing to locate the highest densities nearest the railroad tracks, with townhouses as a "step-down" to the nearby single-family units.

Ms. Wade said that, at the time of the nearby rezoning, staff was concerned about the parking configuration and that traffic would be going through the single-family residential area to access the townhouses. With the petitioner's proposal to close Prospect Avenue and a portion of Simpson Avenue, most of that traffic would be moved to Simpson, which is already a more heavily-used local street, and would remove the traffic and parking from Burley Avenue, which the staff believes is a positive as well. The R-4 zone proposed by the petitioner is also compatible with the existing University Village development. For these reasons, the staff concluded that the proposed rezoning to R-4 is appropriate, and they are recommending approval. The Zoning Committee also recommended approval.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, explaining that the area proposed for rezoning overlaps an existing area to the north, which is already zoned and is governed by a final development plan. Referring to a rendered copy of the development plan, he noted the area proposed for rezoning, and explained that the petitioner intends to incorporate it and the remainder of the original plan into one cohesive development.

Mr. Martin briefly oriented the Commission to the location of the subject property, noting that Prospect Avenue is proposed to be closed. He said that the petitioner proposes to construct a five-story apartment building and several townhouses, and extend Simpson Avenue into the subject property to serve as parking and an access point to the development. The petitioner proposes to construct three new apartment buildings in the interior of the property, and townhouse units closer to Burley Avenue, near the townhouse units proposed at the time of the more recent rezoning. Mr. Martin said that the development plan submitted in conjunction with that zone change depicted a circulation pattern that took traffic from Burley Avenue, through the development, and back out onto either Prospect or Burley Avenue. The petitioner is now proposing to make the access from Burley Avenue one-way only, so that traffic will be forced to move back through the proposed development and out to Simpson Avenue. The petitioner is also proposing to construct a pedestrian bridge to cross the railroad tracks and connect the proposed five-story apartment building with the University of Kentucky. Mr. Martin said that the petitioner is proposing to construct 72 new dwelling units in the area proposed for rezoning; 26 new units in the area of the plan amendment, including apartments and six townhouses; and 15 townhouses in the Burley Avenue area.

Mr. Martin stated, with regard to the recommended conditions for approval with this plan, that the applicant will be required to request a waiver for termination of Simpson Avenue at the time of a final development plan for the property. The petitioner is also requesting the closure of Prospect Avenue, which will be required to be completed prior to the certification of a final development plan. The staff is requesting that the petitioner denote compliance with Article 18 of the Zoning Ordinance along the adjacent R-1C area, and along the zone line near the railroad tracks, although there is existing vegetation at that location. Mr. Martin said that condition #10 refers to the petitioner's proposal of a very large underground detention area; he noted the location of that proposed basin on the rendered development plan. He said that the petitioner has already engaged in conversations with the staff of the Divisions of Water Quality and Engineering about the basin, to discuss how it will function. He noted that all detention basins are inspected by the Division of Engineering once a year to ensure that they are functioning correctly. Condition #11 refers to a revision that was made to the original plan in order to satisfy one of the staff's concerns; the staff later determined that the changes made would create the need for an additional variance. Mr. Martin said that that condition can be easily resolved by adding the townhouse lotting back to either a preliminary subdivision plan or the final development plan.

Variance Presentation: Mr. Emmons presented the staff report, explaining that the requested variance is to the project exterior yard for a Group Residential Project along one property boundary. Referring to a rendered graphic, he noted the area where the variance is proposed, as well as the boundary of the Group Residential Project. The project exterior yard for a Group Residential Project is comprised of both the side and rear yard requirements in an apartment or townhouse complex, and is generally required to be either the height of the building, or 20 feet, whichever is less. In this instance, one of the proposed apartment buildings is to be constructed less than 20 feet from the edge of the Group Residential Project boundary. However, because the petitioner is proposing a blend of apartments, townhouses, and single-family residences as one unified development plan, with three single-family units along Burley Avenue, the Group Residential Project boundary could not be extended to the edge of the proposed development along Burley. Rather, the boundary for the

Group Residential Project had to be set behind those three single-family residences. Mr. Emmons stated that the purpose of a project exterior yard is typically to provide a buffer in situations where an apartment complex is located close to the property line of a less intense use. In this instance, however, the townhouses and single-family homes along Burley Avenue will share in the parking and other amenities for the overall unified development, thereby decreasing the need for such a buffer. Article 15 states that the purpose of the Infill & Redevelopment regulations is to promote compatibility between new infill projects and older neighborhoods; sometimes variances are needed to achieve that compatibility. Mr. Emmons stated that the staff is recommending approval of the requested variance from a 20' yard to a 3' yard on the southwestern property line, for the reasons as listed in the staff report and on the agenda, subject to the four conditions as listed.

Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioner. He distributed an exhibit packet to the Planning Commission members, explaining that the focal point of the proposed development will be a five-story apartment building along the railroad tracks, adjacent to University Village. That building is not in the area currently proposed for rezoning, but will be in a portion of the property that is already zoned R-4. Mr. Murphy noted that the larger area is depicted on the development plan because the petitioner intends for the entire complex to be integrated into one cohesive development.

Mr. Murphy stated that the entire parking and circulation system for the development is proposed to be internal, with a "grand entrance" from Simpson Avenue. The petitioner proposes to transition from the large apartment building to smaller buildings and townhouses closer to the single-family residences on Burley Avenue. Prior to the revision of the development plan, all three of the access points led to Burley Avenue; the petitioner believes that the configuration currently depicted represents a great improvement to the traffic pattern. Mr. Murphy said that, by closing Prospect Avenue, the petitioner was able to close two of the proposed access points on Burley Avenue, and make the remaining access "entrance-only." This configuration is intended to encourage all exit traffic to use the signalized intersection at Virginia Avenue, via Export Street.

Mr. Murphy noted that the petitioner is also proposing to construct a pedway across the railroad tracks, which is subject to approval by numerous agencies. Referring to a graphic in his exhibit packet, he noted the proposed terminus of the pedway on UK property, near the planned expanded medical complex. The target residents for the proposed development are medical professionals, rather than UK students, and the petitioner believes that the proposed one- and two-bedroom units will cater specifically to them. The amenities and degree of the luxury of the five-story building will also be geared more toward young professionals than students.

Mr. Murphy stated that the petitioner is in complete agreement with the staff's recommendations. He noted that every Comprehensive Plan in the last 20 years, including the 2007 and 2012 Comprehensive Plans, focus on infill as a "strategic component of growth in Lexington." Infill is particularly encouraged near employment centers, and the petitioner contends that the UK Medical Center and its related uses make up the biggest and most important healthcare employers in the state. The petitioner intends to provide housing so that those employees will be able to walk to work via the proposed pedway, and still have some separation from the activities on campus.

With regard to the staff's comments about stormwater, Mr. Murphy said that there is a pipe in the vicinity of the area proposed for the pedway that drains water from the UK property under the railroad tracks. He explained that the petitioner is sharing information with UK about stormwater flows, so that the calculations for their underground detention will ensure that that facility can accommodate runoff from the University, as well as the subject property. The petitioner's engineer recently met with staff of the Divisions of Engineering and Water Quality to craft a series of notes for the plan. In addition, the petitioner will be required to submit a stormwater and sewer study contemporaneously with the Final Development Plan, subject to their approval.

With regard to the recommended conditions for approval of the zoning development plan, Mr. Murphy said that the petitioner is agreeable to adding the lotting pattern back to the plan in order to satisfy condition #11.

Mr. Murphy stated, in conclusion, that the petitioner has been working on the proposed development for the last ten years, and he believes that it will be the best possible solution for the subject property. He added that the apartment complex will have on-site local management, which the petitioner believes will be key to the success of the development.

Dennis Anderson, petitioner, stated that the graphic of the proposed pedway that Mr. Murphy displayed was prepared for him by the University, as part of their collaboration on the pedway and stormwater detention. He stated that the original plan for the subject property included a large parking area near the entrance. He redesigned the development to make the proposed five-story apartment building the centerpiece, adding that he plans to construct an outdoor kitchen, hot tub, and glassed-in fitness center on the roof of the building.

Citizen Opposition: Ginny Daley, 136 Burley Avenue, requested that the Planning Commission disapprove this request because she believes that the proposed development is too dense for the neighborhood and will cause problems with traffic, parking, stormwater, sewer, noise, and trash. She added that she believes that the

proposed development will also take away affordable single-family dwellings and replace them with "expensive student barracks."

Ms. Daley stated that she is also concerned that, if the proposed development is approved, the petitioner will pursue additional construction projects in the neighborhood, which is "demoralizing for the residents to live in a constant demolition/construction zone."

Ms. Daley said that she believes that the proposed development will do nothing for the existing residents of the neighborhood. She stated that, since the rezoning in July of 2012, she has been tracking crime in the neighborhood, and has discovered that the majority of the crime occurs in student housing developments, primarily on Simpson Avenue. Expanding that apartment complex, therefore, could cause more crime, and it could spread further into the existing neighborhood. Ms. Daley also said that the scale of the proposed apartment buildings, juxtaposed against the small single-family cottages typical in the neighborhood, "contradicts the Infill & Redevelopment guidelines." Displaying a photograph of appropriate infill that was presented by the Planning staff at a public meeting discussion of the 2012 Comprehensive Plan, Ms. Daley opined that that type of housing would be perfect for the neighborhood. She said that the petitioner owns several such structures in the neighborhood, so he could construct more of those rather than large multi-family dwellings. Ms. Daley read the following from Goal A.2.a. of the 2012 Comprehensive Plan Goals & Objectives:

"Identify areas of opportunity for infill, redevelopment, and adaptive reuse that respect the area's context and design features whenever possible."

Ms. Daley displayed a sketch representing the scale of the existing single-family residences and the proposed apartment buildings, along with the topography of the area. She said that the University Village development is somewhat lower than the single-family residences, so their additional height is not as noticeable. However, she believes that the proposed three-story apartment buildings, located directly behind the small single-family homes, will tower over them.

Ms. Daley stated that she does not agree with the staff's contention that the proposed townhouses will provide a step-down in density, since only a few are proposed at the margins of the apartment development. Referring to the staff's assertion in their findings for approval that locating the highest density development along the railroad track will provide a buffer for the single-family residences, she said that the current residents are not seeking such a buffer. They are not concerned about noise and dust from the railroad, so they do not believe that the placement of the apartment building there will be of any benefit to them. In addition, Ms. Daley said she did not believe that it is appropriate to use any type of housing as a railroad buffer. She said that that would also contradict the Comprehensive Plan Objective that states, "provide well-designed neighborhoods and communities." Ms. Daley also did not believe that the proposed development is better for the residents of that development, the existing neighborhood, or the community.

Faye Atkins, 116 Burley Avenue, stated that she has lived in her residence for 43 years. She said that her home is directly across from Prospect Avenue, which the petitioner is proposing to close, and she is opposed to the proposed development.

Ms. Atkins stated that, when she first moved to Burley Avenue, the area was almost rural in character and the homes were affordable. She said that she wants to be able to sit on her front porch and see grass and trees, not a large apartment development.

Ms. Atkins added that the student residents of the neighborhood have large, noisy parties until the early morning hours and leave liquor bottles and other trash in residents' yards. She added that she was once awakened in the middle of the night by students jumping on residents' vehicles, and she does not believe that it would be appropriate to add even more students to the area.

Priscilla Pemberton, 139 Burley Avenue, stated that she believes that the petitioner "likes money" and wants more students' parents to pay the high rents for his townhouses and apartment units. She said that, contrary to the petitioner's assertions, professionals working at the University of Kentucky will not want to live in the proposed development because the students are too disruptive.

Ms. Pemberton stated that she has lived in her home for 14 years, but she put it on the market when she learned of the proposed development. She asked that the petitioner leave her "nice, little neighborhood" alone.

Mary Fay Miniard, 128 Burley Avenue, said that she believes that the demolition and construction of the proposed development will be uncomfortable for the Burley Avenue residents. She added that those residents are self-supporting, taxpaying citizens, and their desires for their neighborhood should be considered.

Ms. Miniard stated that she and her son had their home built on Burley Avenue 12 years ago, in order for her son, who is a disabled veteran, to be close enough to the area hospitals that he could travel there in a motorized wheelchair, if needed.

Their home was paid off just over a year ago, and they are very comfortable there. Their intent was to live there for the rest of their lives without having to make a rent or mortgage payment.

Ms. Miniard opined that, eventually, "big business will prevail," and the entire Simpson/Burley/American Avenue area will be taken over for student housing. She asked that the Planning Commission consider the welfare of those who have purchased homes there, most of whom could not afford to buy a house in a more expensive neighborhood. Ms. Miniard concluded by explaining that she is trying to plan for her future, and would like to have some degree of certainty about whether or not the petitioner or some other developer intends to purchase the rest of the property in her neighborhood.

Petitioner Rebuttal: Mr. Murphy stated that the petitioner understands the neighborhood concerns about security, and he has already met with Commissioner Paulsen to discuss possible Secure by Design features for the subject property. One of those features is the provision of only one access point to Burley Avenue, since it has been shown that developments with fewer entrance points are typically better-controlled. The petitioner has centralized, on-site management for the University Village apartments, which will also be the management for the proposed residential development.

With regard to Ms. Miniard's comments about the petitioner's commitment to the community, Mr. Murphy said that the petitioner had become aware of two homeowners in the area, one on Burley Avenue and one on Camden Avenue, who were willing to "trade houses." He stated that the petitioner does not have control over the future of the neighborhood, since there are a number of other developers working in the area as well. The petitioner contends, however, that a large integrated development such as the one proposed is a better option for the neighborhood than piece-by-piece single-lot development. The petitioner also believes that the proposed development will provide an appropriate step-down of uses for the existing residents, and can help to serve both the neighborhood and the University of Kentucky with needed student housing.

Citizen Rebuttal: Ms. Daley stated, with regard to Mr. Murphy's comments about routing traffic out of the neighborhood via Simpson Avenue, that that area is typically a "major bottleneck" during peak-hour traffic. Referring to the aerial photograph of the neighborhood shown earlier, she said that she believes that residents of the proposed development will instead use the signalized intersection at South Broadway and American Avenue, since there are no other opportunities for drivers to make a left-hand turn out of the neighborhood onto South Broadway. Ms. Daley stated that she appreciates the petitioner's attempt to change the traffic pattern, but she does not believe it will work unless the traffic light configuration changes on South Broadway. She said she does not believe that the neighborhood can support the additional traffic from the proposed 197-bed development.

Chairman Comment: Mr. Owens announced that the hearing was now closed.

Commission Discussion: Ms. Plumlee thanked the neighbors for their attendance, and said that she understands their concerns. She said that, from their perspective, it is difficult to tell if the changes to their neighborhood are "progress or an ultimate taking," and that the proposed rezoning is in agreement with the recommendations of the 2007 Comprehensive Plan and the 2012 Goals and Objectives.

Ms. Roche-Phillips said that, prior to hearing the information provided by the area residents, she was unaware of the "incremental, piecemeal chipping away at the neighborhood." She stated that she would advocate closer study of this area, possibly as a small area plan through the 2012 Comprehensive Plan process, because the area is being heavily impacted by the expansion of the UK Medical Center. Ms. Roche-Phillips added that she had thought this proposed rezoning was a fairly straightforward case, before the neighbors brought their issues to the Commission's attention.

Mr. Penn stated that he had worked and grown up at his family's tobacco warehouse in the Burley Avenue area, and he is very familiar with the neighborhood and the changes that have been occurring there. He said that those changes ultimately resulted in the closure of the tobacco warehouse and storage facility after they were no longer economically viable. Mr. Penn stated that no progress occurs without hurting someone, and he is aware that it is difficult to be forced to leave your home. His major concern, however, is that the neighborhood has become, not a place to live, but "to rent a place and go from one point to the next." Mr. Penn said that someone needs to determine how the more transient residents can coexist with the residents who choose to make the area their permanent home. He said he has great empathy for the residents of this area.

Zoning Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 10-1 (Roche-Phillips opposed) to approve MARV 2012-19, for the reasons provided by staff.

Variance Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 11-0 to approve the requested variance, for the reasons provided by staff, subject to the four conditions as listed in the staff report and on the agenda.

Development Plan Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 11-0 to approve ZDP 2012-110, subject to the 11 conditions as listed on the agenda.

Chairman Comment: Mr. Owens stated that the Commission recognizes the residents' concerns, and will do everything possible to help rectify their situation.