

ORDINANCE NO. 123 -2015

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1C) ZONE AND A NEIGHBORHOOD BUSINESS (B-1) ZONE TO A HIGHWAY SERVICE BUSINESS (B-3) ZONE, FOR 1.12 NET (1.47 GROSS) ACRES, FOR PROPERTY LOCATED AT 1201 SOUTH BROADWAY, 406 PYKE ROAD AND 408 PYKE ROAD (GREER NICK RD. II, LLC; COUNCIL DISTRICT 11).

WHEREAS, at a Public Hearing held on August 27, 2015 and September 24, 2015 a petition for a zoning ordinance map amendment for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke Road from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone for 1.12 net (1.47 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke Road from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone for 1.12 net (1.47 gross) acres, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property via conditional zoning:

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repairs of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Cocktail lounges and nightclubs.
- c. Pawnshops

- d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- e. Advertising signs, also known as billboards, as regulated by Article 17.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 5, 2015



MAYOR

ATTEST


CLERK OF URBAN COUNTY COUNCIL

Published: November 12, 2015
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Rec'd by CP
Date: 10/9/15

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **MAR 2015-13: GREER NICK RD II, LLC** - a zone map amendment from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 1.12 net (1.47 gross) acres, for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke Road. (Council District 11)

Having considered the above matter on **August 27, 2015, & September 24, 2015**, at Public Hearings, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of **ZDP 2015-62: Gibson Park Subdivision, Blk. C**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:**
Prohibited Uses
 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Pawnshops.

- d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

ATTEST: This 9th day of October, 2015.



 Secretary, Jim Duncan

MIKE OWENS
 CHAIR

Note: The corollary development plan, ZDP 2015-62: Gibson Park Subdivision, Block C, was approved by the Planning Commission on September 24, 2015, and certified on October 8, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Matt Carter, engineer.**

OBJECTORS

 • None

OBJECTIONS

 • None

VOTES WERE AS FOLLOWS:

AYES: (8) Brewer, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (2) Penn, Smith

ABSTAINED: (1) Berkley,

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **MAR 2015-13** carried.

Enclosures: Application
 Plat
 Staff Report
 Applicable excerpts of minutes of above meeting

MAR 2015-13

Date Received 7/6/15

Pre-Application Date 5/20/15

Filing Fee \$490⁰⁰

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT: Greer Nick Rd II, LLC, 866 Malabu Dr, Ste 250, LEXINGTON KY, 40502 (859) 269-1966
OWNER: Greer Nick Rd II, LLC, 866 Malabu Dr, Ste 250, LEXINGTON KY, 40502 1201 S Broadway: Greer Petroleum, LLC, 866 Malabu Dr, Ste 252, LEXINGTON, KY, 40502
ATTORNEY: N/A

2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

1201 S Broadway, 406 Pyke Rd and 408 Pyke Rd
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3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed—same format.)

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1C	Single Family	B-3	Commercial	0.33	0.39
	Residential				
B-1	Commercial	B-3	Commercial	0.79	1.08
Total				1.12	1.47

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Residential	R-1C
East	Commercial / Retail / Vacant	B-3
South	Commercial / Retail	B-1
West	Medical	B-1

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40 % of the median income? If yes, how many units? _____ houses are vacant If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO ____ Units

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... <input type="checkbox"/> In agreement with the Comp. Plan <input type="checkbox"/> more appropriate than the existing zoning <input type="checkbox"/> due to unanticipated changes.

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since _____.

APPLICANT Phil Greer DATE 07/10/15

OWNER _____ DATE _____

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

Section 7: Justification for Requested Change

The requested zone change to Highway Service Business (B-3) Zone consists of 1.47 Acres (Gross), 1.12 Acres (Net). Currently the property is zoned as follows; a combined 1.08 Acres (Gross), 0.79 Acres (Net) Neighborhood Business (B-1) Zone located at 1201 South Broadway and 406 Pyke Street; and a combined 0.39 Acres (Gross), 0.33 Acres (Net) Single Family Residential (R-1C) Zone located at the rear of 1201 South Broadway and 408 Pyke Street.

The proposed development is bounded on three sides by public streets. To the North East, this development fronts along Pyke Street for approximately 200 LF and runs from South Broadway to the North West. To the South East, this development fronts along South Broadway, a principal arterial for approximately 300 LF. To the South West, the property faces Gibson Avenue for approximately 200 LF and runs North West from South Broadway.

The requested Zone Change is more appropriate than the current Zone Change due to the location of the property fronting along South Broadway (US 68), an Urban Principal Arterial Street with an ADT of 31,700 Trips per day. The applicant wishes to combine the zone on all of these properties into a single Highway Service Business (B-3) Zone making them one cohesive development more suitably compatible with properties fronting along a busy arterial street. South Broadway could be characterized as a mix of many zones in the general vicinity of this development. Zones fronting along South Broadway include R-4, B-1, B-3, B-4, B-5P and P-1. Considering the classification of roadway and the ADT, this development would be appropriately zoned if it were a Highway Service Business (B-3) Zone.

Currently the property located at 1201 South Broadway has a Thornton's Convenient Store located on it. This property is split zoned with Neighborhood Business (B-1) Zone on the front portion of the property and Single Family Residential (R-1C) Zone located to the rear of the Thornton's Store. This zone change will clean up the split zone and make the property all one zone. The Thornton's Convenient store is compatible with the principal uses found in the Highway Service Business (B-3) Zone.

The applicant wishes to redevelop the properties located at 402, 406 and 408 Pyke Street. The commercial building located at 402 Pyke Street (formerly The Rag Peddler) is zoned Highway Service Business (B-3) and currently sits vacant and underutilized. The property to the rear of this is zoned Neighborhood Business (B-1) and was used as accessory parking by the Rag Peddler. And finally the property located at 408 Pyke Street was recently purchased by the applicant as a Master Commissioner sale. There are no occupants living in the house therefore know one will be displaced. By developing these three properties together, the applicant wants to market this property for a restaurant with a drive through. There will be ample room to the rear to screen from the adjoining residential properties.

With these properties being under a single zone of Highway Service Business (B-3) Zone instead of multiple zones, it creates a better corridor line as you move back towards the residential neighborhood. It eliminates stepping of the commercial zone within the block bounded by Pyke Street to the North East, South Broadway to the South East and Gibson Avenue to the South West. This way none of the residential lots in this block have commercial on two sides making it much easier to screen this development from the adjoining residences.

An additional bonus for granting this zone change will be meeting one of the Goals and Objectives of the 2013 Comprehensive Plan Theme C, Goal 1, Objective A. By keeping the Thornton's active and thriving and building a restaurant in place of the Rag Peddler, we will continue to employ and grow employment opportunities for people living in the general vicinity. Not only will this development provide jobs and careers for some, it will provide a place to work within walking distance of houses and apartments where they could live. This all being part of a successful community concept.

In Conclusion, for the reasons stated above, the proposed zone change request to Highway Service Business (B-3) Zone for properties located at 1201 South Broadway and 406 and 408 Pyke Street is more appropriate than their current zone of Neighborhood Business (B-1) Zone and Single Family Residential (R-1C) Zone.

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Scott County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from B-1 To B-3
For
406 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 45° 55' 27" East 24.59 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence North 45° 55' 27" East 150.01 feet;
Thence North 51° 47' 52" East 153.47 feet to a point on the western Right-Of-Way line of Pyke Street;
Thence North 51° 47' 52" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 31' 30" East 50.00 feet with said centerline;
Thence South 51° 48' 53" West 25.00 feet to a point on the western Right-Of-Way of said Pyke Street;
Thence South 51° 48' 53" West 152.56 feet;
Thence South 41° 34' 05" East 135.03 feet to a point on the northern Right-Of-Way line of South Broadway;
Thence South 41° 34' 05" East 44.00 feet to a point on the centerline of said South Broadway;
Thence South 51° 39' 32" West 174.00 feet with said centerline to the point of centerline intersection of said South Broadway and Gibson Avenue;
Thence North 41° 45' 37" West 261.90 feet to the Point Of Beginning containing 1.08 Gross Acre and 0.79 Net Acre.

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Scott County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1C TO B-3
For
408 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 41° 45' 37" East 50.30 feet with the centerline of Gibson Avenue;
Thence North 47° 36' 27" East 25.00 feet to a point in the eastern Right-of-Way of Gibson Avenue;
Thence North 47° 38' 27" East 149.74 feet;
Thence North 49° 56' 45" East 153.65 feet to a point in the western Right-Of-Way line of Pyke Street;
Thence North 49° 56' 45" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 58' 48" East 50.03 feet;
Thence South 51° 47' 52" West 25.00 feet to a point on the western Right-Of-Way line of said Pyke Street;
Thence South 51° 47' 52" West 153.47 feet;
Thence South 45° 55' 27" West 150.01 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence South 45° 55' 27" West 24.59 feet to the Point of Beginning containing 0.39 Gross Acre and 0.33 Net Acre .

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1C TO B-3
For
408 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 41° 45' 37" East 50.30 feet with the centerline of Gibson Avenue;
Thence North 47° 36' 27" East 25.00 feet to a point in the eastern Right-of-Way of Gibson Avenue;
Thence North 47° 38' 27" East 149.74 feet;
Thence North 49° 56' 45" East 153.65 feet to a point in the western Right-Of-Way line of Pyke Street;
Thence North 49° 56' 45" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 58' 48" East 50.03 feet;
Thence South 51° 47' 52" West 25.00 feet to a point on the western Right-Of-Way line of said Pyke Street;
Thence South 51° 47' 52" West 153.47 feet;
Thence South 45° 55' 27" West 150.01 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence South 45° 55' 27" West 24.59 feet to the Point of Beginning containing 0.39 Gross Acre and 0.33 Net Acre .

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

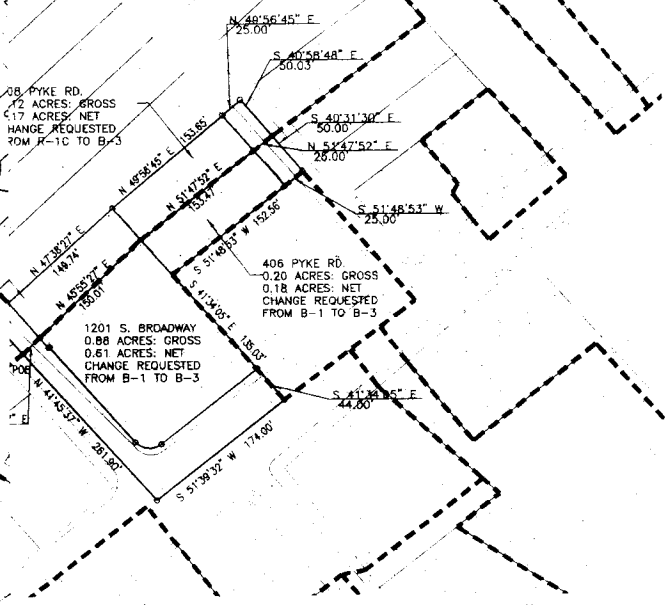
**Zone Change from B-1 To B-3
For
406 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 45° 55' 27" East 24.59 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence North 45° 55' 27" East 150.01 feet;
Thence North 51° 47' 52" East 153.47 feet to a point on the western Right-Of-Way line of Pyke Street;
Thence North 51° 47' 52" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 31' 30" East 50.00 feet with said centerline;
Thence South 51° 48' 53" West 25.00 feet to a point on the western Right-Of-Way of said Pyke Street;
Thence South 51° 48' 53" West 152.56 feet;
Thence South 41° 34' 05" East 135.03 feet to a point on the northern Right-Of-Way line of South Broadway;
Thence South 41° 34' 05" East 44.00 feet to a point on the centerline of said South Broadway;
Thence South 51° 39' 32" West 174.00 feet with said centerline to the point of centerline intersection of said South Broadway and Gibson Avenue;
Thence North 41° 45' 37" West 261.90 feet to the Point Of Beginning containing 1.08 Gross Acre and 0.79 Net Acre.

SITE

VICINITY MAP
NTS



PROPERTY INFORMATION MAP

SCALE: 1"=200'

TITLE: 1201 S. BROADWAY

	FROM	TO	GROSS	NET
	B-1	B-3	0.88	0.61
	R-1C	B-3	0.19	0.16
	B-1	B-3	0.20	0.18
	R-1C	B-3	0.20	0.17
ADDRESS:				
LLC				
E 250				
KY 40502				
RD II, LLC				
ROLEUM, LLC (1201 S BROADWAY)				
N ENGINEERING, LLC				
DATED: JULY 13, 2015			TOTAL	1.47 1.12

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-13: GREER NICK RD II, LLC

DESCRIPTION

Zone Change:

<u>REQUEST</u>		<u>ACREAGE</u>	
<u>FROM</u>	<u>TO</u>	<u>NET</u>	<u>GROSS</u>
R-1C	B-3	0.33	0.39
B-1	B-3	0.79	1.08
TOTAL		1.12	1.47

Location: 1201 South Broadway, 406 & 408 Pyke Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	R-1C & B-1	Residential & Convenience Store
To North	R-1C	Single-Family Residential
To East	B-1 & R-1C	Commercial & Residential
To South	B-3 & B-1	Vacant & Commercial
To West	B-1 & R-1C	Parking Lot & Open Space

URBAN SERVICES REPORT

Roads – The South Broadway/Harrodsburg Road (US 68) corridor provides significant road frontage for the subject site. It is a five-lane major arterial roadway in this vicinity and carries approximately 32,000 daily vehicle trips. Pyke Road and Gibson Avenue are local streets within the Gibson Park neighborhood; both intersect with South Broadway and also provide lot frontage for the proposed redevelopment of the subject properties.

Curb/Gutter/Sidewalks – South Broadway, Gibson Avenue and Pyke Road have curb, gutter and sidewalk facilities.

Storm Sewers – The subject properties are located within the Wolf Run watershed. Storm sewers exist in this portion of the Urban Service Area, and will most likely be adequate to handle the proposed redevelopment at this location. Additional on-site stormwater facilities may be required by the LFUCG Engineering Stormwater Manuals. No FEMA special flood hazard area on the site; however, a significant floodplain area does exist to the west, associated with Vaughn's Branch of Wolf Run Creek.

Sanitary Sewers – The subject properties are located within the Wolf Run sewershed, which is served by the Town Branch Sewage Treatment Facility, located on Old Frankfort Pike, east of New Circle Road. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed redevelopment.

Refuse – The Urban County Government serves this area with refuse collection on Mondays. However, supplemental service by private refuse haulers is commonly utilized for commercial land uses, such as those proposed.

Police – The subject properties are located within the West Sector, and are served by the West Sector Roll Call Center. It is located on Old Frankfort Pike, more than 2 miles to the northwest of the subject properties.

Fire/Ambulance – The nearest fire station (#11) is located approximately ½ mile to the southwest on Harrodsburg Road between St. Joseph Hospital and Picadome Elementary School.

Utilities – All utilities, including gas, electric, water, phone, and cable TV are available in the area, and have served the properties for many years.

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 to maintain the existing Thornton's convenience store near Gibson Avenue and to construct a new fast food restaurant with an accessory drive-through facility on the portion of the zone change area near Pyke Road. The proposed rezoning of the Thornton's parcel and the two parcels to the rear of a vacant tract will bring the land between Gibson Avenue and Pyke Road all into the same zoning category.

CASE REVIEW

The petitioner has requested a zone change from a Single-Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone for 1.12 acres of property at 1201 South Broadway, and 406 and 406 Pyke Road.

The subject site is comprised of three parcels that are being requested for rezoning in order to match the existing Highway Service Business (B-3) zoning that is located at the western corner of the Pyke Road and South Broadway intersection. The parcels proposed for rezoning are 406 and 406 Pyke Road (located to the rear of the vacant B-3 zoned tract at 402 Pyke Road), and 1201 South Broadway. The corollary development plan encompasses these three parcels, as well as the adjoining vacant tract. The subject parcels are currently occupied by two single-family residences (along Pyke Road) and a Thornton's convenience store with accessory gas pumps (along South Broadway and Gibson Avenue).

The South Broadway/Harrodsburg Road corridor is predominantly commercial in nature within the immediate vicinity of the proposed zone change. The Lexington Clinic and the Gay Brewer Freedom Golf Course are located to the west of the subject property. A number of smaller commercial businesses exist along South Broadway to the south and east, including retail sales establishments, restaurants, automobile rental, and professional offices. The Golf View Estates neighborhood (Gibson Park subdivision) borders the subject properties to the north.

The petitioner proposes the rezoning in order to combine the three different zoning categories that exist on the site currently into one, more suitable zoning category. The applicant wishes to develop a new fast food restaurant with an accessory drive-through and maintain the existing convenience store. The proposed Highway Services Business (B-3) zone permits the proposed land uses and is currently on the adjoining parcel. The B-3 zone also permits a more flexible front yard, as well as some of the more intense land uses within the Urban County.

The vacant parcel (formerly the location of the The Rag Peddler fabric store) was rezoned in 1989 to the B-3 zone, with one conditional zoning restriction to prohibit advertising signs (aka billboards). At that time a drive-in restaurant called "Hot N' Now" was proposed, but was never constructed at this location.

The 2013 Comprehensive Plan no longer makes a specific land use recommendation for the subject properties, but rather directs the Planning Commission to consider planning policies and the Goals and Objectives of the Plan for guidance when considering zone change requests. Although more flexible, the Comprehensive Plan does not specifically address modest or minor changes in commercial land use.

The petitioner contends that the proposed rezoning is appropriate and the existing zoning is inappropriate, in support of their request for the rezoning. First, the petitioner wishes to eliminate the

step-back in zoning categories from South Broadway and split-zoning of the properties, which makes redevelopment within this block along South Broadway difficult. They believe the B-3 zone will accommodate those goals, but will still allow for an area of buffering adjoining the residential neighborhood to the northwest. Second, with the properties all being within one zoning category, it creates a better corridor (depth of commercial zoning of approximately 225 feet from South Broadway) without odd stepping along the residential neighborhood. Third, the proposed B-3 zone is designed for the community's most highly traveled corridors, including the South Broadway/Harrodsburg Road corridor, and B-3 zoning is fairly common within the immediate vicinity along with B-1, B-4 and B-6P zoning. Lastly, the R-1C zoning on the Thornton's lot is already being utilized as a landscape buffer, which would not change, and could be continued in a consistent manner across the rear of the proposed restaurant redevelopment by utilizing conditional zoning restrictions.

The staff agrees with the petitioner's justification; however, emphasis should be given to providing an adequate buffer along the single-family residential properties to the northwest in the Gibson Park subdivision. Conditional zoning restrictions are necessary in this location to establish a permanent landscape buffer and prohibit some of the most intense land uses that would otherwise be permitted within an unrestricted B-3 zone.

The Staff Recommends: Approval for the following reason:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of ZDP 2015-62: Gibson Park Subdivision, Block C, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Pawnshops.
 - d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

TLWBJR/WLS

8/5/15

Planning Services/Staff Reports/MAR/2015/MAR2015-13.doc

3. **GREER NICK RD II, LLC, ZONING MAP AMENDMENT & GIBSON PARK SUBDIVISION, BLOCK C, ZONING DEVELOPMENT PLAN**

Note: The Planning Commission continued this hearing from their August 27, 2015, meeting. Mr. Berkley stated that, since he was not present at that hearing, he would be unable to vote on this item.

- a. MAR 2015-13: GREER NICK RD II, LLC (9/24/15)* - continuation of a zone map amendment from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 1.12 net (1.47 gross) acres, for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke 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 to maintain the existing Thornton's convenience store near Gibson Avenue and to construct a new fast food restaurant with an accessory drive-through facility on the portion of the zone change area near Pyke Road. The proposed rezoning of the Thornton's parcel and the two parcels to the rear of a vacant tract will bring the land between Gibson Avenue and Pyke Road all into the same zoning category.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of ZDP 2015-62: Gibson Park Subdivision, Blk. C, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Pawnshops.
 - d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

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

- b. ZDP 2015-62: GIBSON PARK SUBDIVISION, BLK. C (9/24/15)*- located at 1201 S. Broadway & 402, 406 and 408 Pyke Road.
(Vision Engineering)

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

1. Provided the Urban County Council rezones the property B-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. Dimension existing building and canopy height.
6. Discuss access to South Broadway and removal of apron(s).
7. Discuss notes #10 & #14.
8. Discuss need for landscape buffers adjacent to residential lots.

Development Plan Presentation: Mr. Martin stated that the reason for the continuation of this hearing was the discussion of the proposed vehicular access to South Broadway. At the August zone change hearing, the staff noted for the Commission the location of the proposed access points from Pyke Road and South Broadway, and the cross-access between the restaurant site and existing Thornton's station. The discussion centered on the access points located in the Gibson Avenue/South Broadway intersection, and, to a lesser extent, two of the accesses to Gibson Avenue.

Mr. Martin said that the primary issue on the subject property is the need for fuel trucks to be able to access the existing Thornton's station in order to safely deliver fuel. Following the August meeting, the petitioner met with staff from Planning and the Division of Traffic Engineering. At that meeting, the petitioner demonstrated that the Thornton's station does need those two accesses to South Broadway, in order to prevent trucks from backing out onto the roadway. The petitioner has revised the plan, combining one of the two accesses to South Broadway, in order to provide for cross movement between the restaurant property and the gas station. Mr. Martin said that the staff believes that the petitioner has provided a better solution to address the access and circulation on the property. He noted that this is a preliminary plan; and, should the Thornton's property ever be proposed for redevelopment, the access issues will come back up for discussion.

Commission Questions: Mr. Wilson asked what issues were related to the access points to Gibson Avenue. Mr. Martin answered that the staff was originally concerned that three access points were depicted on the plan, and that they did not appear to be necessary. He noted that, if the property was initially being proposed for development, the access situation would be much better controlled; however, since the configuration is existing, it is more difficult to address the challenges.

Mr. Owens asked if the Division of Traffic Engineering was in agreement with the recommendation on the revised plan. Ms. Kaucher indicated that the staff was in agreement.

Petitioner Representation: Matt Carter, Vision Engineering, was present representing the petitioner. He stated that the petitioner had since met with the staff and the Division of Traffic Engineering, and they had agreed that it would be acceptable to combine two of the proposed accesses to South Broadway into one access. Mr. Carter said that the petitioner was in agreement with the conditions for this plan, and he requested approval.

Citizen Comments: Vicky Batzka, 1080 Duncan Avenue, stated that her concerns about the Pyke Road/South Broadway intersection, which she raised at the August hearing, were even more pressing since the Commission had just approved (early this day) another zone change directly across South Broadway from the subject property.

Ms. Batzka stated that she and her neighbors were still concerned about the amount of traffic that could be generated on Pyke Road by the proposed development, and about the inability to make left turns from Pyke Road onto South Broadway due to poor visibility. She said that the proposed development, as well as the recently approved development across South Broadway, will add two sets of traffic onto that roadway within 100' feet, with no traffic signal at Pyke Road.

Robbie Phillips, 506 Pyke Road, agreed with Ms. Batzka that the intersection of Pyke Road and South Broadway is dangerous. He added that he is also concerned that the proposed development could encourage more cut-through traffic through the adjoining neighborhood to Red Mile Road.

Rich Cowden, 1073 Duncan Avenue, stated that the stop sign at the Pyke Road/South Broadway intersection is set back some distance from the intersection itself, which exacerbates the visibility problems caused by the Gatehouse building. He stated that he was also concerned about the possibility of drivers cutting through the Thornton's property to reach Gibson Avenue, and about additional traffic in the neighborhood.

Mr. Cowden displayed two photographs of the Pyke Road/South Broadway intersection, noting that left turns there are nearly impossible due to heavy traffic volumes and poor visibility.

Commission Question: Mr. Owens asked Ms. Kaucher to address the traffic situation at the Pyke Road/South Broadway intersection. Ms. Kaucher stated, with regard to the sight distance at that intersection, that the building on that corner is

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

existing. One of the ways the Division of Traffic Engineering recommended to help address the situation was to provide cross-access between the two lots on the subject property in order to allow for additional exit options. Ms. Kaucher said that she believed that providing cross-access could help to discourage drivers from using the residential area as a cut-through from the subject property to the traffic signal at the Gibson Avenue intersection.

Mr. Berkley asked if the restaurant traffic was expected to use the Pyke Road access. Ms. Kaucher responded that drivers exiting that property are more likely to use the South Broadway access, rather than Pyke Road.

Ms. Kaucher clarified that the previously approved zone change across South Broadway does not include any new access points; the proposed development on that site will use the existing access.

Petitioner Rebuttal: Mr. Carter opined that it could be safer to exit the subject property onto Pyke Road or Gibson Avenue, rather than South Broadway. He said that the petitioner is reducing the number of accesses to Pyke Road by one, and is pushing that access back on the lot to allow for stacking at the intersection.

Staff Rebuttal: The staff had no rebuttal comments.

Mr. Owens declared the public hearing closed at this time.

Commission Discussion: Mr. Drake asked if there were a high number of accidents at the Pyke Road/South Broadway intersection. Ms. Kaucher answered that she had not researched that intersection specifically, but noted that it does not appear on the list of most dangerous intersections for the Urban County.

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve MAR 2015-13, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve ZDP 2015-62, subject to the seven conditions as listed in the revised staff recommendation.

Rec'd by _____

Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **MAR 2015-13: GREER NICK RD II, LLC** - a zone map amendment from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 1.12 net (1.47 gross) acres, for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke Road. (Council District 11)

Having considered the above matter on **August 27, 2015, & September 24, 2015**, at Public Hearings, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of **ZDP 2015-62: Gibson Park Subdivision, Blk. C**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:**

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Cocktail lounges and nightclubs.
- c. Pawnshops.

- d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

ATTEST: This 9th day of October, 2015.



 Secretary, Jim Duncan

MIKE OWENS
 CHAIR

Note: The corollary development plan, ZDP 2015-62: Gibson Park Subdivision, Block C, was approved by the Planning Commission on September 24, 2015, and certified on October 8, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Matt Carter, engineer.**

OBJECTORS _____

- None

OBJECTIONS _____

- None

VOTES WERE AS FOLLOWS:

AYES: (8) Brewer, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (2) Penn, Smith

ABSTAINED: (1) Berkley,

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **MAR 2015-13** carried.

Enclosures: Application
 Plat
 Staff Report
 Applicable excerpts of minutes of above meeting

MAR 2015-13

Date Received 7/6/15

Pre-Application Date 5/20/15

Filing Fee \$490.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT: Greer Nick Rd II, LLC, 866 Malabu Dr, Ste 250, LEXINGTON KY, 40502 (859) 269-1966
OWNER: Greer Nick Rd II, LLC, 866 Malabu Dr, Ste 250, LEXINGTON KY, 40502 1201 S Broadway: Greer Petroleum, LLC, 866 Malabu Dr, Ste 252, LEXINGTON, KY, 40502
ATTORNEY: N/A

2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

1201 S Broadway, 406 Pyke Rd and 408 Pyke Rd
--

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed—same format.)

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1C	Single Family	B-3	Commercial	0.33	0.39
	Residential				
B-1	Commercial	B-3	Commercial	0.79	1.08
Total				1.12	1.47

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Residential	R-1C
East	Commercial / Retail / Vacant	B-3
South	Commercial / Retail	B-1
West	Medical	B-1

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40 % of the median income? If yes, how many units? _____ houses are vacant If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO _____ Units

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... <input type="checkbox"/> In agreement with the Comp. Plan <input type="checkbox"/> more appropriate than the existing zoning <input type="checkbox"/> due to unanticipated changes.

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since _____.

APPLICANT Phil Greer DATE 07/10/15

OWNER _____ DATE _____

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

Section 7: Justification for Requested Change

The requested zone change to Highway Service Business (B-3) Zone consists of 1.47 Acres (Gross), 1.12 Acres (Net). Currently the property is zoned as follows; a combined 1.08 Acres (Gross), 0.79 Acres (Net) Neighborhood Business (B-1) Zone located at 1201 South Broadway and 406 Pyke Street; and a combined 0.39 Acres (Gross), 0.33 Acres (Net) Single Family Residential (R-1C) Zone located at the rear of 1201 South Broadway and 408 Pyke Street.

The proposed development is bounded on three sides by public streets. To the North East, this development fronts along Pyke Street for approximately 200 LF and runs from South Broadway to the North West. To the South East, this development fronts along South Broadway, a principal arterial for approximately 300 LF. To the South West, the property faces Gibson Avenue for approximately 200 LF and runs North West from South Broadway.

The requested Zone Change is more appropriate than the current Zone Change due to the location of the property fronting along South Broadway (US 68), an Urban Principal Arterial Street with an ADT of 31,700 Trips per day. The applicant wishes to combine the zone on all of these properties into a single Highway Service Business (B-3) Zone making them one cohesive development more suitably compatible with properties fronting along a busy arterial street. South Broadway could be characterized as a mix of many zones in the general vicinity of this development. Zones fronting along South Broadway include R-4, B-1, B-3, B-4, B-5P and P-1. Considering the classification of roadway and the ADT, this development would be appropriately zoned if it were a Highway Service Business (B-3) Zone.

Currently the property located at 1201 South Broadway has a Thornton's Convenient Store located on it. This property is split zoned with Neighborhood Business (B-1) Zone on the front portion of the property and Single Family Residential (R-1C) Zone located to the rear of the Thornton's Store. This zone change will clean up the split zone and make the property all one zone. The Thornton's Convenient store is compatible with the principal uses found in the Highway Service Business (B-3) Zone.

The applicant wishes to redevelop the properties located at 402, 406 and 408 Pyke Street. The commercial building located at 402 Pyke Street (formerly The Rag Peddler) is zoned Highway Service Business (B-3) and currently sits vacant and underutilized. The property to the rear of this is zoned Neighborhood Business (B-1) and was used as accessory parking by the Rag Peddler. And finally the property located at 408 Pyke Street was recently purchased by the applicant as a Master Commissioner sale. There are no occupants living in the house therefore know one will be displaced. By developing these three properties together, the applicant wants to market this property for a restaurant with a drive through. There will be ample room to the rear to screen from the adjoining residential properties.

With these properties being under a single zone of Highway Service Business (B-3) Zone instead of multiple zones, it creates a better corridor line as you move back towards the residential neighborhood. It eliminates stepping of the commercial zone within the block bounded by Pyke Street to the North East, South Broadway to the South East and Gibson Avenue to the South West. This way none of the residential lots in this block have commercial on two sides making it much easier to screen this development from the adjoining residences.

An additional bonus for granting this zone change will be meeting one of the Goals and Objectives of the 2013 Comprehensive Plan Theme C, Goal 1, Objective A. By keeping the Thornton's active and thriving and building a restaurant in place of the Rag Peddler, we will continue to employ and grow employment opportunities for people living in the general vicinity. Not only will this development provide jobs and careers for some, it will provide a place to work within walking distance of houses and apartments where they could live. This all being part of a successful community concept.

In Conclusion, for the reasons stated above, the proposed zone change request to Highway Service Business (B-3) Zone for properties located at 1201 South Broadway and 406 and 408 Pyke Street is more appropriate than their current zone of Neighborhood Business (B-1) Zone and Single Family Residential (R-1C) Zone.

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Scott County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from B-1 To B-3
For
406 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 45° 55' 27" East 24.59 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence North 45° 55' 27" East 150.01 feet;
Thence North 51° 47' 52" East 153.47 feet to a point on the western Right-Of-Way line of Pyke Street;
Thence North 51° 47' 52" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 31' 30" East 50.00 feet with said centerline;
Thence South 51° 48' 53" West 25.00 feet to a point on the western Right-Of-Way of said Pyke Street;
Thence South 51° 48' 53" West 152.56 feet;
Thence South 41° 34' 05" East 135.03 feet to a point on the northern Right-Of-Way line of South Broadway;
Thence South 41° 34' 05" East 44.00 feet to a point on the centerline of said South Broadway;
Thence South 51° 39' 32" West 174.00 feet with said centerline to the point of centerline intersection of said South Broadway and Gibson Avenue;
Thence North 41° 45' 37" West 261.90 feet to the Point Of Beginning containing 1.08 Gross Acre and 0.79 Net Acre.

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Scott County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1C TO B-3
For
408 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 41° 45' 37" East 50.30 feet with the centerline of Gibson Avenue;
Thence North 47° 36' 27" East 25.00 feet to a point in the eastern Right-of-Way of Gibson Avenue;
Thence North 47° 38' 27" East 149.74 feet;
Thence North 49° 56' 45" East 153.65 feet to a point in the western Right-Of-Way line of Pyke Street;
Thence North 49° 56' 45" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 58' 48" East 50.03 feet;
Thence South 51° 47' 52" West 25.00 feet to a point on the western Right-Of-Way line of said Pyke Street;
Thence South 51° 47' 52" West 153.47 feet;
Thence South 45° 55' 27" West 150.01 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence South 45° 55' 27" West 24.59 feet to the Point of Beginning containing 0.39 Gross Acre and 0.33 Net Acre .

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1C TO B-3
For
408 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

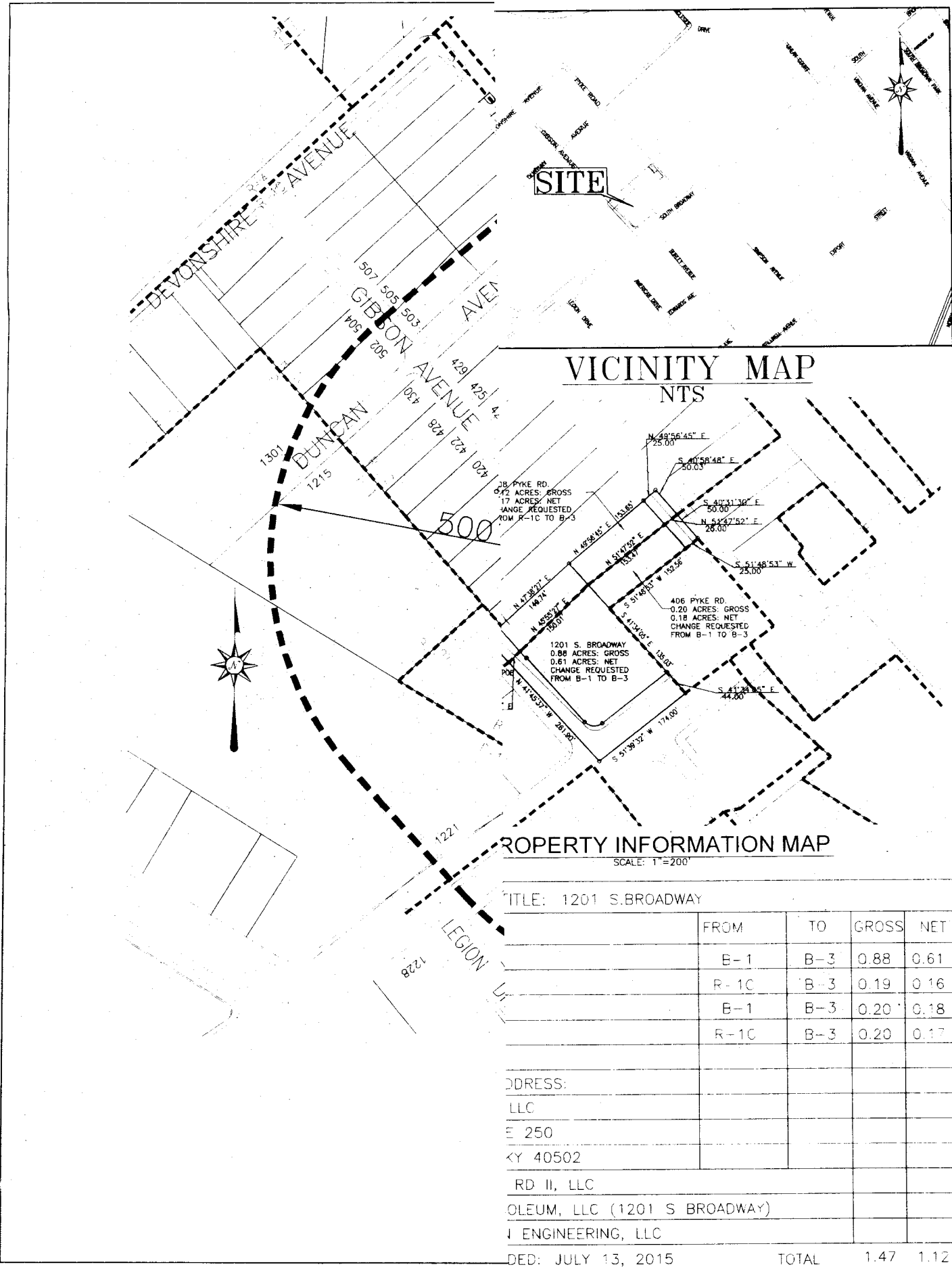
Thence North 41° 45' 37" East 50.30 feet with the centerline of Gibson Avenue;
Thence North 47° 36' 27" East 25.00 feet to a point in the eastern Right-of-Way of Gibson Avenue;
Thence North 47° 38' 27" East 149.74 feet;
Thence North 49° 56' 45" East 153.65 feet to a point in the western Right-Of-Way line of Pyke Street;
Thence North 49° 56' 45" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 58' 48" East 50.03 feet;
Thence South 51° 47' 52" West 25.00 feet to a point on the western Right-Of-Way line of said Pyke Street;
Thence South 51° 47' 52" West 153.47 feet;
Thence South 45° 55' 27" West 150.01 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence South 45° 55' 27" West 24.59 feet to the Point of Beginning containing 0.39 Gross Acre and 0.33 Net Acre .

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from B-1 To B-3
For
406 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 45° 55' 27" East 24.59 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence North 45° 55' 27" East 150.01 feet;
Thence North 51° 47' 52" East 153.47 feet to a point on the western Right-Of-Way line of Pyke Street;
Thence North 51° 47' 52" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 31' 30" East 50.00 feet with said centerline;
Thence South 51° 48' 53" West 25.00 feet to a point on the western Right-Of-Way of said Pyke Street;
Thence South 51° 48' 53" West 152.56 feet;
Thence South 41° 34' 05" East 135.03 feet to a point on the northern Right-Of-Way line of South Broadway;
Thence South 41° 34' 05" East 44.00 feet to a point on the centerline of said South Broadway;
Thence South 51° 39' 32" West 174.00 feet with said centerline to the point of centerline intersection of said South Broadway and Gibson Avenue;
Thence North 41° 45' 37" West 261.90 feet to the Point Of Beginning containing 1.08 Gross Acre and 0.79 Net Acre.



VICINITY MAP
NTS

PROPERTY INFORMATION MAP
SCALE: 1"=200'

TITLE: 1201 S. BROADWAY

	FROM	TO	GROSS	NET
	B-1	B-3	0.88	0.61
	R-1C	B-3	0.19	0.16
	B-1	B-3	0.20	0.18
	R-1C	B-3	0.20	0.17
ADDRESS:				
LLC				
E 250				
CY 40502				
RD II, LLC				
OLEUM, LLC (1201 S BROADWAY)				
J ENGINEERING, LLC				
DED: JULY 13, 2015			TOTAL	1.47 1.12

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-13: GREER NICK RD II, LLC

DESCRIPTION

Zone Change:

<u>REQUEST</u>		<u>ACREAGE</u>	
<u>FROM</u>	<u>TO</u>	<u>NET</u>	<u>GROSS</u>
R-1C	B-3	0.33	0.39
B-1	B-3	0.79	1.08
TOTAL		1.12	1.47

Location: 1201 South Broadway, 406 & 408 Pyke Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	R-1C & B-1	Residential & Convenience Store
To North	R-1C	Single-Family Residential
To East	B-1 & R-1C	Commercial & Residential
To South	B-3 & B-1	Vacant & Commercial
To West	B-1 & R-1C	Parking Lot & Open Space

URBAN SERVICES REPORT

Roads – The South Broadway/Harrodsburg Road (US 68) corridor provides significant road frontage for the subject site. It is a five-lane major arterial roadway in this vicinity and carries approximately 32,000 daily vehicle trips. Pyke Road and Gibson Avenue are local streets within the Gibson Park neighborhood; both intersect with South Broadway and also provide lot frontage for the proposed redevelopment of the subject properties.

Curb/Gutter/Sidewalks – South Broadway, Gibson Avenue and Pyke Road have curb, gutter and sidewalk facilities.

Storm Sewers – The subject properties are located within the Wolf Run watershed. Storm sewers exist in this portion of the Urban Service Area, and will most likely be adequate to handle the proposed redevelopment at this location. Additional on-site stormwater facilities may be required by the LFUGG Engineering Stormwater Manuals. No FEMA special flood hazard area on the site; however, a significant floodplain area does exist to the west, associated with Vaughn's Branch of Wolf Run Creek.

Sanitary Sewers – The subject properties are located within the Wolf Run sewershed, which is served by the Town Branch Sewage Treatment Facility, located on Old Frankfort Pike, east of New Circle Road. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed redevelopment.

Refuse – The Urban County Government serves this area with refuse collection on Mondays. However, supplemental service by private refuse haulers is commonly utilized for commercial land uses, such as those proposed.

Police – The subject properties are located within the West Sector, and are served by the West Sector Roll Call Center. It is located on Old Frankfort Pike, more than 2 miles to the northwest of the subject properties.

Fire/Ambulance – The nearest fire station (#11) is located approximately ½ mile to the southwest on Harrodsburg Road between St. Joseph Hospital and Picadome Elementary School.

Utilities – All utilities, including gas, electric, water, phone, and cable TV are available in the area, and have served the properties for many years.

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 to maintain the existing Thornton's convenience store near Gibson Avenue and to construct a new fast food restaurant with an accessory drive-through facility on the portion of the zone change area near Pyke Road. The proposed rezoning of the Thornton's parcel and the two parcels to the rear of a vacant tract will bring the land between Gibson Avenue and Pyke Road all into the same zoning category.

CASE REVIEW

The petitioner has requested a zone change from a Single-Family Residential (R-10) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone for 1.12 acres of property at 1201 South Broadway, and 406 and 408 Pyke Road.

The subject site is comprised of three parcels that are being requested for rezoning in order to match the existing Highway Service Business (B-3) zoning that is located at the western corner of the Pyke Road and South Broadway intersection. The parcels proposed for rezoning are 406 and 408 Pyke Road (located to the rear of the vacant B-3 zoned tract at 402 Pyke Road), and 1201 South Broadway. The corollary development plan encompasses these three parcels, as well as the adjoining vacant tract. The subject parcels are currently occupied by two single-family residences (along Pyke Road) and a Thornton's convenience store with accessory gas pumps (along South Broadway and Gibson Avenue).

The South Broadway/Harrodsburg Road corridor is predominantly commercial in nature within the immediate vicinity of the proposed zone change. The Lexington Clinic and the Gay Brewer Pledome Golf Course are located to the west of the subject property. A number of smaller commercial businesses exist along South Broadway to the south and east, including retail sales establishments, restaurants, automobile rental, and professional offices. The Golf View Estates neighborhood (Gibson Park subdivision) borders the subject properties to the north.

The petitioner proposes the rezoning in order to combine the three different zoning categories that exist on the site currently into one, more suitable zoning category. The applicant wishes to develop a new fast food restaurant with an accessory drive-through and maintain the existing convenience store. The proposed Highway Services Business (B-3) zone permits the proposed land uses and is currently on the adjoining parcel. The B-3 zone also permits a more flexible front yard, as well as some of the more intense land uses within the Urban County.

The vacant parcel (formerly the location of the The Rag Peddler fabric store) was rezoned in 1989 to the B-3 zone, with one conditional zoning restriction to prohibit advertising signs (aka billboards). At that time a drive-in restaurant called "Hot N' Now" was proposed, but was never constructed at this location.

The 2013 Comprehensive Plan no longer makes a specific land use recommendation for the subject properties, but rather directs the Planning Commission to consider planning policies and the Goals and Objectives of the Plan for guidance when considering zone change requests. Although more flexible, the Comprehensive Plan does not specifically address modest or minor changes in commercial land use.

The petitioner contends that the proposed rezoning is appropriate and the existing zoning is inappropriate, in support of their request for the rezoning. First, the petitioner wishes to eliminate the

step-back in zoning categories from South Broadway and split-zoning of the properties, which makes redevelopment within this block along South Broadway difficult. They believe the B-3 zone will accommodate those goals, but will still allow for an area of buffering adjoining the residential neighborhood to the northwest. Second, with the properties all being within one zoning category, it creates a better corridor (depth of commercial zoning of approximately 225 feet from South Broadway) without odd stepping along the residential neighborhood. Third, the proposed B-3 zone is designed for the community's most highly traveled corridors, including the South Broadway/Harrodsburg Road corridor, and B-3 zoning is fairly common within the immediate vicinity along with B-1, B-4 and B-6P zoning. Lastly, the R-1C zoning on the Thornton's lot is already being utilized as a landscape buffer, which would not change, and could be continued in a consistent manner across the rear of the proposed restaurant redevelopment by utilizing conditional zoning restrictions.

The staff agrees with the petitioner's justification; however, emphasis should be given to providing an adequate buffer along the single-family residential properties to the northwest in the Gibson Park subdivision. Conditional zoning restrictions are necessary in this location to establish a permanent landscape buffer and prohibit some of the most intense land uses that would otherwise be permitted within an unrestricted B-3 zone.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of ZDP 2015-62: Gibson Park Subdivision, Block C, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Pawnshops.
 - d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

TLWBJR/WLS

8/5/15

Planning Services/Staff Reports/MAR/2015/MAR2015-13.doc

3. GREER NICK RD II, LLC, ZONING MAP AMENDMENT & GIBSON PARK SUBDIVISION, BLOCK C, ZONING DEVELOPMENT PLAN

Note: The Planning Commission continued this hearing from their August 27, 2015, meeting. Mr. Berkley stated that, since he was not present at that hearing, he would be unable to vote on this item.

- a. MAR 2015-13: GREER NICK RD II, LLC (9/24/15)* - continuation of a zone map amendment from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 1.12 net (1.47 gross) acres, for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke 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 to maintain the existing Thornton's convenience store near Gibson Avenue and to construct a new fast food restaurant with an accessory drive-through facility on the portion of the zone change area near Pyke Road. The proposed rezoning of the Thornton's parcel and the two parcels to the rear of a vacant tract will bring the land between Gibson Avenue and Pyke Road all into the same zoning category.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of ZDP 2015-62: Gibson Park Subdivision, Blk. C, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Pawnshops.
 - d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

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

- b. ZDP 2015-62: GIBSON PARK SUBDIVISION, BLK. C (9/24/15)*- located at 1201 S. Broadway & 402, 406 and 408 Pyke Road.
(Vision Engineering)

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

1. Provided the Urban County Council rezones the property B-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. Dimension existing building and canopy height.
6. Discuss access to South Broadway and removal of apron(s).
7. Discuss notes #10 & #14.
8. Discuss need for landscape buffers adjacent to residential lots.

Development Plan Presentation: Mr. Martin stated that the reason for the continuation of this hearing was the discussion of the proposed vehicular access to South Broadway. At the August zone change hearing, the staff noted for the Commission the location of the proposed access points from Pyke Road and South Broadway, and the cross-access between the restaurant site and existing Thornton's station. The discussion centered on the access points located in the Gibson Avenue/South Broadway intersection, and, to a lesser extent, two of the accesses to Gibson Avenue.

Mr. Martin said that the primary issue on the subject property is the need for fuel trucks to be able to access the existing Thornton's station in order to safely deliver fuel. Following the August meeting, the petitioner met with staff from Planning and the Division of Traffic Engineering. At that meeting, the petitioner demonstrated that the Thornton's station does need those two accesses to South Broadway, in order to prevent trucks from backing out onto the roadway. The petitioner has revised the plan, combining one of the two accesses to South Broadway, in order to provide for cross movement between the restaurant property and the gas station. Mr. Martin said that the staff believes that the petitioner has provided a better solution to address the access and circulation on the property. He noted that this is a preliminary plan; and, should the Thornton's property ever be proposed for redevelopment, the access issues will come back up for discussion.

Commission Questions: Mr. Wilson asked what issues were related to the access points to Gibson Avenue. Mr. Martin answered that the staff was originally concerned that three access points were depicted on the plan, and that they did not appear to be necessary. He noted that, if the property was initially being proposed for development, the access situation would be much better controlled; however, since the configuration is existing, it is more difficult to address the challenges.

Mr. Owens asked if the Division of Traffic Engineering was in agreement with the recommendation on the revised plan. Ms. Kaucher indicated that the staff was in agreement.

Petitioner Representation: Matt Carter, Vision Engineering, was present representing the petitioner. He stated that the petitioner had since met with the staff and the Division of Traffic Engineering, and they had agreed that it would be acceptable to combine two of the proposed accesses to South Broadway into one access. Mr. Carter said that the petitioner was in agreement with the conditions for this plan, and he requested approval.

Citizen Comments: Vicky Batzka, 1080 Duncan Avenue, stated that her concerns about the Pyke Road/South Broadway intersection, which she raised at the August hearing, were even more pressing since the Commission had just approved (early this day) another zone change directly across South Broadway from the subject property.

Ms. Batzka stated that she and her neighbors were still concerned about the amount of traffic that could be generated on Pyke Road by the proposed development, and about the inability to make left turns from Pyke Road onto South Broadway due to poor visibility. She said that the proposed development, as well as the recently approved development across South Broadway, will add two sets of traffic onto that roadway within 100' feet, with no traffic signal at Pyke Road.

Robbie Phillips, 506 Pyke Road, agreed with Ms. Batzka that the intersection of Pyke Road and South Broadway is dangerous. He added that he is also concerned that the proposed development could encourage more cut-through traffic through the adjoining neighborhood to Red Mile Road.

Rich Cowden, 1073 Duncan Avenue, stated that the stop sign at the Pyke Road/South Broadway intersection is set back some distance from the intersection itself, which exacerbates the visibility problems caused by the Gatehouse building. He stated that he was also concerned about the possibility of drivers cutting through the Thornton's property to reach Gibson Avenue, and about additional traffic in the neighborhood.

Mr. Cowden displayed two photographs of the Pyke Road/South Broadway intersection, noting that left turns there are nearly impossible due to heavy traffic volumes and poor visibility.

Commission Question: Mr. Owens asked Ms. Kaucher to address the traffic situation at the Pyke Road/South Broadway intersection. Ms. Kaucher stated, with regard to the sight distance at that intersection, that the building on that corner is

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

existing. One of the ways the Division of Traffic Engineering recommended to help address the situation was to provide cross-access between the two lots on the subject property in order to allow for additional exit options. Ms. Kaucher said that she believed that providing cross-access could help to discourage drivers from using the residential area as a cut-through from the subject property to the traffic signal at the Gibson Avenue intersection.

Mr. Berkley asked if the restaurant traffic was expected to use the Pyke Road access. Ms. Kaucher responded that drivers exiting that property are more likely to use the South Broadway access, rather than Pyke Road.

Ms. Kaucher clarified that the previously approved zone change across South Broadway does not include any new access points; the proposed development on that site will use the existing access.

Petitioner Rebuttal: Mr. Carter opined that it could be safer to exit the subject property onto Pyke Road or Gibson Avenue, rather than South Broadway. He said that the petitioner is reducing the number of accesses to Pyke Road by one, and is pushing that access back on the lot to allow for stacking at the intersection.

Staff Rebuttal: The staff had no rebuttal comments.

Mr. Owens declared the public hearing closed at this time.

Commission Discussion: Mr. Drake asked if there were a high number of accidents at the Pyke Road/South Broadway intersection. Ms. Kaucher answered that she had not researched that intersection specifically, but noted that it does not appear on the list of most dangerous intersections for the Urban County.

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve MAR 2015-13, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve ZDP 2015-62, subject to the seven conditions as listed in the revised staff recommendation.

Rec'd by _____

Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **MAR 2015-13: GREER NICK RD II, LLC** - a zone map amendment from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 1.12 net (1.47 gross) acres, for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke Road. (Council District 11)

Having considered the above matter on **August 27, 2015, & September 24, 2015**, at Public Hearings, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of **ZDP 2015-62: Gibson Park Subdivision, Blk. C**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:**

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Cocktail lounges and nightclubs.
- c. Pawnshops.

- d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

ATTEST: This 9th day of October, 2015.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, ZDP 2015-62: Gibson Park Subdivision, Block C, was approved by the Planning Commission on September 24, 2015, and certified on October 8, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by December 23, 2015.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Matt Carter, engineer.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (8) Brewer, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Wilson

NAYS: (0)

ABSENT: (2) Penn, Smith

ABSTAINED: (1) Berkley,

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **MAR 2015-13** carried.

Enclosures: Application
Plat
Staff Report
Applicable excerpts of minutes of above meeting

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)

APPLICANT: Greer Nick Rd II, LLC, 866 Malabu Dr, Ste 250, LEXINGTON KY, 40502 (859) 269-1966
OWNER: Greer Nick Rd II, LLC, 866 Malabu Dr, Ste 250, LEXINGTON KY, 40502 1201 S Broadway: Greer Petroleum, LLC, 866 Malabu Dr, Ste 252, LEXINGTON, KY, 40502
ATTORNEY: N/A

2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)

1201 S Broadway, 406 Pyke Rd and 408 Pyke Rd

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed—same format.)

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1C	Single Family	B-3	Commercial	0.33	0.39
	Residential				
B-1	Commercial	B-3	Commercial	0.79	1.08
			Total	1.12	1.47

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Residential	R-1C
East	Commercial / Retail / Vacant	B-3
South	Commercial / Retail	B-1
West	Medical	B-1

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40 % of the median income? If yes, how many units? _____ houses are vacant If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO _____ Units

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)

This is in... In agreement with the Comp. Plan more appropriate than the existing zoning due to unanticipated changes.

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since _____.

APPLICANT Phil Greer DATE 07/10/15

OWNER _____ DATE _____

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

Section 7: Justification for Requested Change

The requested zone change to Highway Service Business (B-3) Zone consists of 1.47 Acres (Gross), 1.12 Acres (Net). Currently the property is zoned as follows; a combined 1.08 Acres (Gross), 0.79 Acres (Net) Neighborhood Business (B-1) Zone located at 1201 South Broadway and 406 Pyke Street; and a combined 0.39 Acres (Gross), 0.33 Acres (Net) Single Family Residential (R-1C) Zone located at the rear of 1201 South Broadway and 408 Pyke Street.

The proposed development is bounded on three sides by public streets. To the North East, this development fronts along Pyke Street for approximately 200 LF and runs from South Broadway to the North West. To the South East, this development fronts along South Broadway, a principal arterial for approximately 300 LF. To the South West, the property faces Gibson Avenue for approximately 200 LF and runs North West from South Broadway.

The requested Zone Change is more appropriate than the current Zone Change due to the location of the property fronting along South Broadway (US 68), an Urban Principal Arterial Street with an ADT of 31,700 Trips per day. The applicant wishes to combine the zone on all of these properties into a single Highway Service Business (B-3) Zone making them one cohesive development more suitably compatible with properties fronting along a busy arterial street. South Broadway could be characterized as a mix of many zones in the general vicinity of this development. Zones fronting along South Broadway include R-4, B-1, B-3, B-4, B-5P and P-1. Considering the classification of roadway and the ADT, this development would be appropriately zoned if it were a Highway Service Business (B-3) Zone.

Currently the property located at 1201 South Broadway has a Thornton's Convenient Store located on it. This property is split zoned with Neighborhood Business (B-1) Zone on the front portion of the property and Single Family Residential (R-1C) Zone located to the rear of the Thornton's Store. This zone change will clean up the split zone and make the property all one zone. The Thornton's Convenient store is compatible with the principal uses found in the Highway Service Business (B-3) Zone.

The applicant wishes to redevelop the properties located at 402, 406 and 408 Pyke Street. The commercial building located at 402 Pyke Street (formerly The Rag Peddler) is zoned Highway Service Business (B-3) and currently sits vacant and underutilized. The property to the rear of this is zoned Neighborhood Business (B-1) and was used as accessory parking by the Rag Peddler. And finally the property located at 408 Pyke Street was recently purchased by the applicant as a Master Commissioner sale. There are no occupants living in the house therefore know one will be displaced. By developing these three properties together, the applicant wants to market this property for a restaurant with a drive through. There will be ample room to the rear to screen from the adjoining residential properties.

With these properties being under a single zone of Highway Service Business (B-3) Zone instead of multiple zones, it creates a better corridor line as you move back towards the residential neighborhood. It eliminates stepping of the commercial zone within the block bounded by Pyke Street to the North East, South Broadway to the South East and Gibson Avenue to the South West. This way none of the residential lots in this block have commercial on two sides making it much easier to screen this development from the adjoining residences.

An additional bonus for granting this zone change will be meeting one of the Goals and Objectives of the 2013 Comprehensive Plan Theme C, Goal 1, Objective A. By keeping the Thornton's active and thriving and building a restaurant in place of the Rag Peddler, we will continue to employ and grow employment opportunities for people living in the general vicinity. Not only will this development provide jobs and careers for some, it will provide a place to work within walking distance of houses and apartments where they could live. This all being part of a successful community concept.

In Conclusion, for the reasons stated above, the proposed zone change request to Highway Service Business (B-3) Zone for properties located at 1201 South Broadway and 406 and 408 Pyke Street is more appropriate than their current zone of Neighborhood Business (B-1) Zone and Single Family Residential (R-1C) Zone.

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Scott County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from B-1 To B-3
For
406 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 45° 55' 27" East 24.59 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence North 45° 55' 27" East 150.01 feet;
Thence North 51° 47' 52" East 153.47 feet to a point on the western Right-Of-Way line of Pyke Street;
Thence North 51° 47' 52" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 31' 30" East 50.00 feet with said centerline;
Thence South 51° 48' 53" West 25.00 feet to a point on the western Right-Of-Way of said Pyke Street;
Thence South 51° 48' 53" West 152.56 feet;
Thence South 41° 34' 05" East 135.03 feet to a point on the northern Right-Of-Way line of South Broadway;
Thence South 41° 34' 05" East 44.00 feet to a point on the centerline of said South Broadway;
Thence South 51° 39' 32" West 174.00 feet with said centerline to the point of centerline intersection of said South Broadway and Gibson Avenue;
Thence North 41° 45' 37" West 261.90 feet to the Point Of Beginning containing 1.08 Gross Acre and 0.79 Net Acre.

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Scott County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1C TO B-3
For
408 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 41° 45' 37" East 50.30 feet with the centerline of Gibson Avenue;
Thence North 47° 36' 27" East 25.00 feet to a point in the eastern Right-of-Way of Gibson Avenue;
Thence North 47° 38' 27" East 149.74 feet;
Thence North 49° 56' 45" East 153.65 feet to a point in the western Right-Of-Way line of Pyke Street;
Thence North 49° 56' 45" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 58' 48" East 50.03 feet;
Thence South 51° 47' 52" West 25.00 feet to a point on the western Right-Of-Way line of said Pyke Street;
Thence South 51° 47' 52" West 153.47 feet;
Thence South 45° 55' 27" West 150.01 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence South 45° 55' 27" West 24.59 feet to the Point of Beginning containing 0.39 Gross Acre and 0.33 Net Acre .

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1C TO B-3
For
408 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

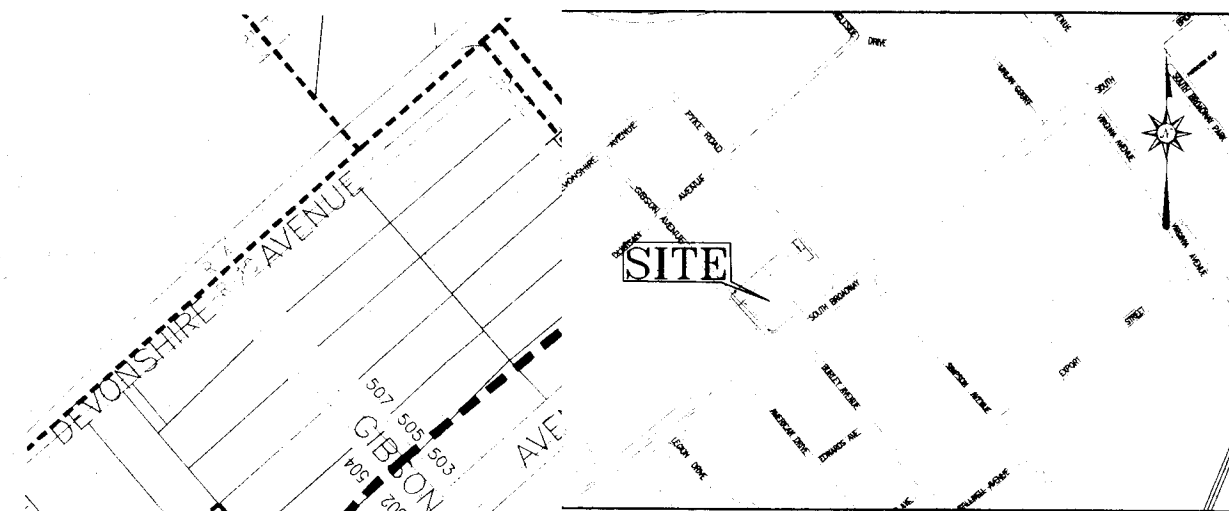
Thence North 41° 45' 37" East 50.30 feet with the centerline of Gibson Avenue;
Thence North 47° 36' 27" East 25.00 feet to a point in the eastern Right-of-Way of Gibson Avenue;
Thence North 47° 38' 27" East 149.74 feet;
Thence North 49° 56' 45" East 153.65 feet to a point in the western Right-Of-Way line of Pyke Street;
Thence North 49° 56' 45" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 58' 48" East 50.03 feet;
Thence South 51° 47' 52" West 25.00 feet to a point on the western Right-Of-Way line of said Pyke Street;
Thence South 51° 47' 52" West 153.47 feet;
Thence South 45° 55' 27" West 150.01 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence South 45° 55' 27" West 24.59 feet to the Point of Beginning containing 0.39 Gross Acre and 0.33 Net Acre .

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

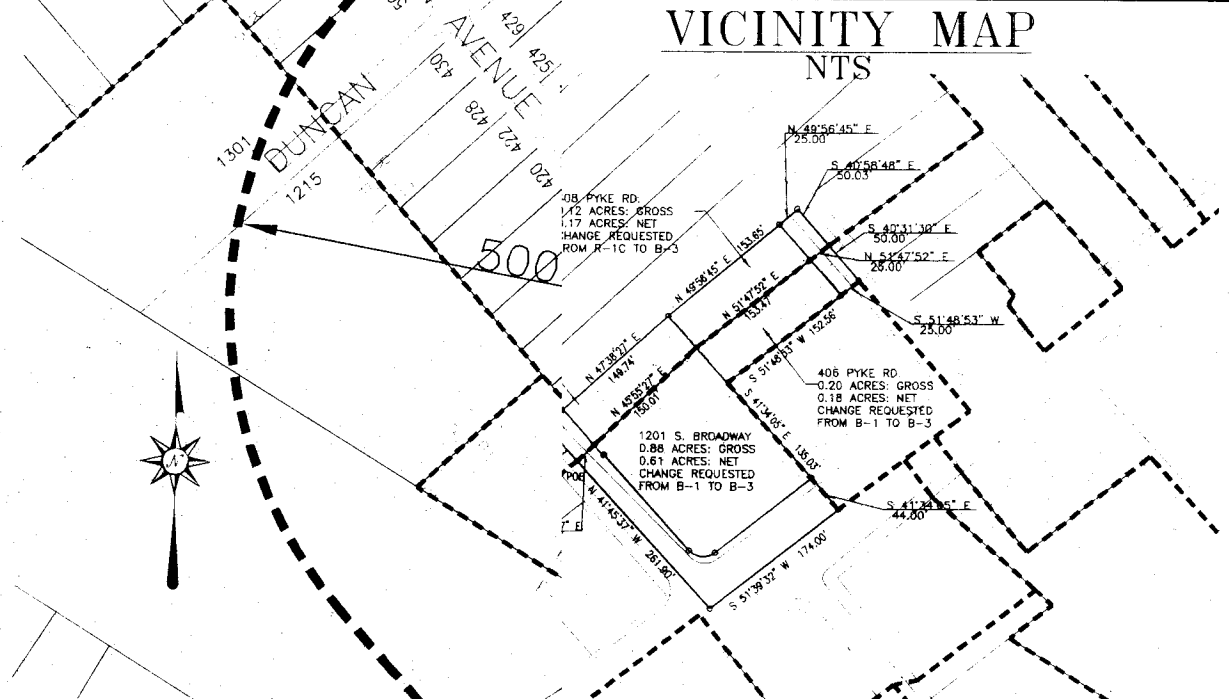
**Zone Change from B-1 To B-3
For
406 Pyke and a Portion of 1201 South Broadway
Lexington, Ky. 40502**

Beginning at a point on the centerline of Gibson Avenue, said point being North 41° 45' 37" West 261.90 feet from the centerline intersection of said Gibson Avenue and South Broadway;

Thence North 45° 55' 27" East 24.59 feet to a point on the eastern Right-Of-Way line of Gibson Avenue;
Thence North 45° 55' 27" East 150.01 feet;
Thence North 51° 47' 52" East 153.47 feet to a point on the western Right-Of-Way line of Pyke Street;
Thence North 51° 47' 52" East 25.00 feet to a point on the centerline of said Pyke Street;
Thence South 40° 31' 30" East 50.00 feet with said centerline;
Thence South 51° 48' 53" West 25.00 feet to a point on the western Right-Of-Way of said Pyke Street;
Thence South 51° 48' 53" West 152.56 feet;
Thence South 41° 34' 05" East 135.03 feet to a point on the northern Right-Of-Way line of South Broadway;
Thence South 41° 34' 05" East 44.00 feet to a point on the centerline of said South Broadway;
Thence South 51° 39' 32" West 174.00 feet with said centerline to the point of centerline intersection of said South Broadway and Gibson Avenue;
Thence North 41° 45' 37" West 261.90 feet to the Point Of Beginning containing 1.08 Gross Acre and 0.79 Net Acre.



VICINITY MAP
NTS



PROPERTY INFORMATION MAP
SCALE: 1"=200'

TITLE: 1201 S. BROADWAY

	FROM	TO	GROSS	NET
	B-1	B-3	0.88	0.61
	R-1C	B-3	0.19	0.16
	B-1	B-3	0.20	0.18
	R-1C	B-3	0.20	0.17

ADDRESS:				
LLC				
E 250				
KY 40502				
RD II, LLC				
OLEUM, LLC (1201 S BROADWAY)				
N ENGINEERING, LLC				
DED: JULY 13, 2015		TOTAL	1.47	1.12

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-13: GREER NICK RD II, LLC

DESCRIPTION

Zone Change:	<u>REQUEST</u>		<u>ACREAGE</u>	
	<u>FROM</u>	<u>TO</u>	<u>NET</u>	<u>GROSS</u>
	R-1C	B-3	0.33	0.39
	B-1	B-3	0.79	1.08
	TOTAL		1.12	1.47

Location: 1201 South Broadway, 406 & 408 Pyke Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	R-1C & B-1	Residential & Convenience Store
To North	R-1C	Single-Family Residential
To East	B-1 & R-1C	Commercial & Residential
To South	B-3 & B-1	Vacant & Commercial
To West	B-1 & R-1C	Parking Lot & Open Space

URBAN SERVICES REPORT

Roads – The South Broadway/Harrodsburg Road (US 68) corridor provides significant road frontage for the subject site. It is a five-lane major arterial roadway in this vicinity and carries approximately 32,000 daily vehicle trips. Pyke Road and Gibson Avenue are local streets within the Gibson Park neighborhood; both intersect with South Broadway and also provide lot frontage for the proposed redevelopment of the subject properties.

Curb/Gutter/Sidewalks – South Broadway, Gibson Avenue and Pyke Road have curb, gutter and sidewalk facilities.

Storm Sewers – The subject properties are located within the Wolf Run watershed. Storm sewers exist in this portion of the Urban Service Area, and will most likely be adequate to handle the proposed redevelopment at this location. Additional on-site stormwater facilities may be required by the LFUCG Engineering Stormwater Manuals. No FEMA special flood hazard area on the site; however, a significant floodplain area does exist to the west, associated with Vaughn's Branch of Wolf Run Creek.

Sanitary Sewers – The subject properties are located within the Wolf Run sewershed, which is served by the Town Branch Sewage Treatment Facility, located on Old Frankfort Pike, east of New Circle Road. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed redevelopment.

Refuse – The Urban County Government serves this area with refuse collection on Mondays. However, supplemental service by private refuse haulers is commonly utilized for commercial land uses, such as those proposed.

Police – The subject properties are located within the West Sector, and are served by the West Sector Roll Call Center. It is located on Old Frankfort Pike, more than 2 miles to the northwest of the subject properties.

Fire/Ambulance – The nearest fire station (#11) is located approximately ½ mile to the southwest on Harrodsburg Road between St. Joseph Hospital and Picadome Elementary School.

Utilities – All utilities, including gas, electric, water, phone, and cable TV are available in the area, and have served the properties for many years.

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 to maintain the existing Thornton's convenience store near Gibson Avenue and to construct a new fast food restaurant with an accessory drive-through facility on the portion of the zone change area near Pyke Road. The proposed rezoning of the Thornton's parcel and the two parcels to the rear of a vacant tract will bring the land between Gibson Avenue and Pyke Road all into the same zoning category.

CASE REVIEW

The petitioner has requested a zone change from a Single-Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone for 1.12 acres of property at 1201 South Broadway, and 406 and 408 Pyke Road.

The subject site is comprised of three parcels that are being requested for rezoning in order to match the existing Highway Service Business (B-3) zoning that is located at the western corner of the Pyke Road and South Broadway intersection. The parcels proposed for rezoning are 406 and 408 Pyke Road (located to the rear of the vacant B-3 zoned tract at 402 Pyke Road), and 1201 South Broadway. The corollary development plan encompasses these three parcels, as well as the adjoining vacant tract. The subject parcels are currently occupied by two single-family residences (along Pyke Road) and a Thornton's convenience store with accessory gas pumps (along South Broadway and Gibson Avenue).

The South Broadway/Harrodsburg Road corridor is predominantly commercial in nature within the immediate vicinity of the proposed zone change. The Lexington Clinic and the Gay Brewer Piedmont Golf Course are located to the west of the subject property. A number of smaller commercial businesses exist along South Broadway to the south and east, including retail sales establishments, restaurants, automobile rental, and professional offices. The Golf View Estates neighborhood (Gibson Park subdivision) borders the subject properties to the north.

The petitioner proposes the rezoning in order to combine the three different zoning categories that exist on the site currently into one, more suitable zoning category. The applicant wishes to develop a new fast food restaurant with an accessory drive-through and maintain the existing convenience store. The proposed Highway Services Business (B-3) zone permits the proposed land uses and is currently on the adjoining parcel. The B-3 zone also permits a more flexible front yard, as well as some of the more intense land uses within the Urban County.

The vacant parcel (formerly the location of the The Rag Peddler fabric store) was rezoned in 1989 to the B-3 zone, with one conditional zoning restriction to prohibit advertising signs (aka billboards). At that time a drive-in restaurant called "Hot N' Now" was proposed, but was never constructed at this location.

The 2013 Comprehensive Plan no longer makes a specific land use recommendation for the subject properties, but rather directs the Planning Commission to consider planning policies and the Goals and Objectives of the Plan for guidance when considering zone change requests. Although more flexible, the Comprehensive Plan does not specifically address modest or minor changes in commercial land use.

The petitioner contends that the proposed rezoning is appropriate and the existing zoning is inappropriate, in support of their request for the rezoning. First, the petitioner wishes to eliminate the

step-back in zoning categories from South Broadway and split-zoning of the properties, which makes redevelopment within this block along South Broadway difficult. They believe the B-3 zone will accommodate those goals, but will still allow for an area of buffering adjoining the residential neighborhood to the northwest. Second, with the properties all being within one zoning category, it creates a better corridor (depth of commercial zoning of approximately 225 feet from South Broadway) without odd stepping along the residential neighborhood. Third, the proposed B-3 zone is designed for the community's most highly traveled corridors, including the South Broadway/Harrodsburg Road corridor, and B-3 zoning is fairly common within the immediate vicinity along with B-1, B-4 and B-6P zoning. Lastly, the R-1C zoning on the Thornton's lot is already being utilized as a landscape buffer, which would not change, and could be continued in a consistent manner across the rear of the proposed restaurant redevelopment by utilizing conditional zoning restrictions.

The staff agrees with the petitioner's justification; however, emphasis should be given to providing an adequate buffer along the single-family residential properties to the northwest in the Gibson Park subdivision. Conditional zoning restrictions are necessary in this location to establish a permanent landscape buffer and prohibit some of the most intense land uses that would otherwise be permitted within an unrestricted B-3 zone.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of ZDP 2015-62, Gibson Park Subdivision, Block C, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Pawnshops.
 - d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - e. Advertising signs, also known as billboards, as regulated by Article 17.

4

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

TLWBJR/WLS

8/5/15

Planning Services/Staff Reports/MAR/2015/MAR2015-13.doc

3. **GREER NICK RD II, LLC, ZONING MAP AMENDMENT & GIBSON PARK SUBDIVISION, BLOCK C, ZONING DEVELOPMENT PLAN**

Note: The Planning Commission continued this hearing from their August 27, 2015, meeting. Mr. Berkley stated that, since he was not present at that hearing, he would be unable to vote on this item.

- a. **MAR 2015-13: GREER NICK RD II, LLC (9/24/15)*** - continuation of a zone map amendment from a Single Family Residential (R-1C) zone and a Neighborhood Business (B-1) zone to a Highway Service Business (B-3) zone, for 1.12 net (1.47 gross) acres, for property located at 1201 South Broadway, 406 Pyke Road and 408 Pyke 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 to maintain the existing Thornton's convenience store near Gibson Avenue and to construct a new fast food restaurant with an accessory drive-through facility on the portion of the zone change area near Pyke Road. The proposed rezoning of the Thornton's parcel and the two parcels to the rear of a vacant tract will bring the land between Gibson Avenue and Pyke Road all into the same zoning category.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is appropriate, and the combined Single-Family Residential (R-1C) and Neighborhood Business (B-1) zoning is inappropriate, for the following reasons:
 - a. The restricted B-3 zone is compatible with the existing zoning along this portion of the South Broadway corridor. The subject site is primarily surrounded by business zoning (B-1, B-3, B-4, & B-6P).
 - b. The proposed rezoning will eliminate a split-zoning condition on the site, which should encourage its redevelopment.
 - c. The existing B-1 zone now has a more restrictive setback not conducive to the type of redevelopment planned or consistent with the character of the corridor, which makes it less appropriate than a restricted B-3 zone.
 - d. The existing R-1C zone is no longer appropriate, because the two lots are already being utilized as a landscape buffer and/or transition area to the adjoining residential neighborhood. Redevelopment of a portion of the site (along Pyke Road) will allow for a more consistent landscape buffer treatment between the neighborhood and the South Broadway corridor.
 - e. The depth of business zoning between Pyke Road and Gibson Avenue will be consistent at approximately 235 feet from the right-of-way of South Broadway.
 - f. The required landscape buffer will provide an appropriate transition between the proposed B-3 zone and the adjacent residential neighborhood.
2. This recommendation is made subject to approval and certification of **ZDP 2015-62: Gibson Park Subdivision, Blk. C**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted in the following manner, via conditional zoning:**

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Pawnshops.
 - d. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - e. Advertising signs, also known as billboards, as regulated by Article 17.

Landscape Buffering & Lighting Restrictions

- a. A 20-foot wide landscape buffer shall be provided along the northwest site boundary, between the existing residential subdivision and the site. The landscape buffer shall contain a 6-foot privacy fence, shrubs, and a tree every forty (40) feet on center, selected from Group A or B in the Planting Manual.
- b. All outdoor lighting shall be shielded to reduce glare and shall be arranged so as to reflect lights away from all adjacent residences and residential zoning districts. Exterior light poles shall not exceed twenty (20) feet in height and shall not be located within the designated landscape buffer.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

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

- b. ZDP 2015-62: GIBSON PARK SUBDIVISION, BLK. C (9/24/15)*- located at 1201 S. Broadway & 402, 406 and 408 Pyke Road.
(Vision Engineering)

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

1. Provided the Urban County Council rezones the property B-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. Dimension existing building and canopy height.
6. Discuss access to South Broadway and removal of apron(s).
7. Discuss notes #10 & #14.
8. Discuss need for landscape buffers adjacent to residential lots.

Development Plan Presentation: Mr. Martin stated that the reason for the continuation of this hearing was the discussion of the proposed vehicular access to South Broadway. At the August zone change hearing, the staff noted for the Commission the location of the proposed access points from Pyke Road and South Broadway, and the cross-access between the restaurant site and existing Thornton's station. The discussion centered on the access points located in the Gibson Avenue/South Broadway intersection, and, to a lesser extent, two of the accesses to Gibson Avenue.

Mr. Martin said that the primary issue on the subject property is the need for fuel trucks to be able to access the existing Thornton's station in order to safely deliver fuel. Following the August meeting, the petitioner met with staff from Planning and the Division of Traffic Engineering. At that meeting, the petitioner demonstrated that the Thornton's station does need those two accesses to South Broadway, in order to prevent trucks from backing out onto the roadway. The petitioner has revised the plan, combining one of the two accesses to South Broadway, in order to provide for cross movement between the restaurant property and the gas station. Mr. Martin said that the staff believes that the petitioner has provided a better solution to address the access and circulation on the property. He noted that this is a preliminary plan; and, should the Thornton's property ever be proposed for redevelopment, the access issues will come back up for discussion.

Commission Questions: Mr. Wilson asked what issues were related to the access points to Gibson Avenue. Mr. Martin answered that the staff was originally concerned that three access points were depicted on the plan, and that they did not appear to be necessary. He noted that, if the property was initially being proposed for development, the access situation would be much better controlled; however, since the configuration is existing, it is more difficult to address the challenges.

Mr. Owens asked if the Division of Traffic Engineering was in agreement with the recommendation on the revised plan. Ms. Kaucher indicated that the staff was in agreement.

Petitioner Representation: Matt Carter, Vision Engineering, was present representing the petitioner. He stated that the petitioner had since met with the staff and the Division of Traffic Engineering, and they had agreed that it would be acceptable to combine two of the proposed accesses to South Broadway into one access. Mr. Carter said that the petitioner was in agreement with the conditions for this plan, and he requested approval.

Citizen Comments: Vicky Batzka, 1080 Duncan Avenue, stated that her concerns about the Pyke Road/South Broadway intersection, which she raised at the August hearing, were even more pressing since the Commission had just approved (early this day) another zone change directly across South Broadway from the subject property.

Ms. Batzka stated that she and her neighbors were still concerned about the amount of traffic that could be generated on Pyke Road by the proposed development, and about the inability to make left turns from Pyke Road onto South Broadway due to poor visibility. She said that the proposed development, as well as the recently approved development across South Broadway, will add two sets of traffic onto that roadway within 100' feet, with no traffic signal at Pyke Road.

Robbie Phillips, 506 Pyke Road, agreed with Ms. Batzka that the intersection of Pyke Road and South Broadway is dangerous. He added that he is also concerned that the proposed development could encourage more cut-through traffic through the adjoining neighborhood to Red Mile Road.

Rich Cowden, 1073 Duncan Avenue, stated that the stop sign at the Pyke Road/South Broadway intersection is set back some distance from the intersection itself, which exacerbates the visibility problems caused by the Gatehouse building. He stated that he was also concerned about the possibility of drivers cutting through the Thornton's property to reach Gibson Avenue, and about additional traffic in the neighborhood.

Mr. Cowden displayed two photographs of the Pyke Road/South Broadway intersection, noting that left turns there are nearly impossible due to heavy traffic volumes and poor visibility.

Commission Question: Mr. Owens asked Ms. Kaucher to address the traffic situation at the Pyke Road/South Broadway intersection. Ms. Kaucher stated, with regard to the sight distance at that intersection, that the building on that corner is

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

existing. One of the ways the Division of Traffic Engineering recommended to help address the situation was to provide cross-access between the two lots on the subject property in order to allow for additional exit options. Ms. Kaucher said that she believed that providing cross-access could help to discourage drivers from using the residential area as a cut-through from the subject property to the traffic signal at the Gibson Avenue intersection.

Mr. Berkley asked if the restaurant traffic was expected to use the Pyke Road access. Ms. Kaucher responded that drivers exiting that property are more likely to use the South Broadway access, rather than Pyke Road.

Ms. Kaucher clarified that the previously approved zone change across South Broadway does not include any new access points; the proposed development on that site will use the existing access.

Petitioner Rebuttal: Mr. Carter opined that it could be safer to exit the subject property onto Pyke Road or Gibson Avenue, rather than South Broadway. He said that the petitioner is reducing the number of accesses to Pyke Road by one, and is pushing that access back on the lot to allow for stacking at the intersection.

Staff Rebuttal: The staff had no rebuttal comments.

Mr. Owens declared the public hearing closed at this time.

Commission Discussion: Mr. Drake asked if there were a high number of accidents at the Pyke Road/South Broadway intersection. Ms. Kaucher answered that she had not researched that intersection specifically, but noted that it does not appear on the list of most dangerous intersections for the Urban County.

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve MAR 2015-13, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Penn and Smith absent; Berkley abstained) to approve ZDP 2015-62, subject to the seven conditions as listed in the revised staff recommendation.