

ORDINANCE NO. 184-2016

AN ORDINANCE CHANGING THE ZONE FROM A LIGHT INDUSTRIAL (I-1) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 0.35 NET (0.54 GROSS) ACRE, FOR PROPERTIES LOCATED AT 561, 563 AND 565 E. THIRD STREET; AND A DOWNTOWN FRAME BUSINESS (B-2A) ZONE, FOR 2.38 NET (3.95 GROSS) ACRES, FOR PROPERTIES LOCATED AT 556 AND 576 E. THIRD STREET; AND 225, 261 AND 265 MIDLAND AVENUE, AND 250 LEWIS STREET. (COMMUNITY VENTURES PROPERTIES, LLC; COUNCIL DISTRICT 1).

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WHEREAS, at a Public Hearing held on September 22, 2016 a petition for a zoning ordinance map amendment for property located at 561, 563 and 565 E. Third Street from a Light Industrial (I-1) zone to a Neighborhood Business (B-1) zone for 0.35 net (0.54 gross) acre; and a Downtown Frame Business (B-2A) zone for 2.38 net (3.95 gross) acres for properties located at 556 and 576 E. Third Street, and 225, 261 and 265 Midland Avenue, and 250 Lewis Street, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 10-0; 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 561, 563 and 565 E. Third Street from a Light Industrial (I-1) zone to a Neighborhood Business (B-1) zone for 0.35 net (0.54 gross) acre; and a Downtown Frame Business (B-2A) zone for 2.38 net (3.95 gross) acres for properties located at 556 and 576 E. Third Street, and 225, 261 and 265 Midland Avenue, and 250 Lewis Street, 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:

B-2A-Prohibited Uses:

1. Establishments for the display, rental or sale of automobiles, motorcycles, trucks, farm equipment, or boats or supplies for such vehicles.
2. Minor automobile and truck repair.
3. Pawnshops.
4. Wholesale establishments.
5. Machine shop.
6. Passenger transportation terminals (does not include bus stops).
7. Establishments for the retail or package sale of liquor, beer or wine.

**B-1 Zone-Prohibited Uses**

1. Automobile service stations, automobile and vehicle refueling stations, and/or gas pumps.
2. Repair of household appliances, other than computers or electronics.
3. Outdoor miniature golf or putting courses.
4. Circuses or carnivals, even on a temporary basis.
5. Indoor theaters and arcades, including pinball and electronic games.
6. Drive-through facilities.
7. Establishments for the retail or package sale of liquor, beer or wine.

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 3, 2016

ATTEST:

  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

Published: November 10, 2016-1t

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MAYOR

  
\_\_\_\_\_

**LEGAL DESCRIPTION**

Community Ventures, LLC Properties

**Zone Change from I-1 to B-2A**

225, 261 & 265 Midland Avenue, 556 & 576 E. Third Street & 250 Lewis Street,  
Lexington, Fayette County, Kentucky

Being a parcel of land in the city of Lexington, Fayette County, Kentucky and being on the north side of Midland Avenue, being on the southeast side of Lewis Street and being on the southwest side of East Third Street, and more particularly described as:

BEGINNING at a point in the centerline of East Third Street, said point being the intersection of said East Third Street and Withrow Way, and said point having Kentucky State Plane Coordinates of E(X)=1,573,348.20', N(Y)=197,841.91' (NAD 83, KY North Zone, US Survey Feet); thence with the centerline of East Third Street, for four (4) calls:

South 54°58'13" East a distance of 50.72 feet to a point; thence

South 54°49'52" East a distance of 99.20 feet to a point; thence

South 60°43'07" East a distance of 94.34 feet to a point; thence

South 57°37'08" East a distance of 168.25 feet to a point, said point being the point of intersection of the centerline of East Third Street and the centerline of Midland Avenue; thence leaving the centerline of East Third Street and with the centerline of Midland Avenue,

South 81°24'50" West a distance of 873.42 feet to a point, said point being the point of intersection of the centerline of Midland Avenue and Lewis Street, said point being South 16°39'22" West a distance of 56.40 feet from a MAG Nail with steel surveyor's ID tag (PLS 3350), said MAG Nail being the southwest property corner of Community Ventures, LLC (Deed Book 3221, Page 661, designated as 225 Midland Avenue); thence leaving the centerline of Midland Avenue and with the centerline of Lewis Street, for three (3) calls:

North 08°35'10" West a distance of 34.37 feet to a point; thence  
with a curve turning to the right with an arc length of 49.48 feet, with a radius of 50.00  
feet, with a chord bearing of North 19°45'52" E, with a chord length of 47.49 feet to a point;  
thence

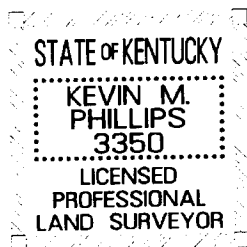
North 48°06'54" East a distance of 531.11 feet to a point, said point being the point of  
intersection of the centerline of Lewis Street and East Third Street; thence leaving the centerline  
of Lewis Street and with the centerline of East Third Street, for two (2) calls:


South 53°47'07" East a distance of 120.89 feet; thence

South 54°58'13" East a distance of 15.58 feet to a point; which is the Point of Beginning,  
having a Gross area of 3.9536 acres, and a Net area of 2.3773 acres.

The bearings used in the description above are based on Kentucky State Plane Grid  
North, North American Datum (NAD) 83. Particularly, the bearings are based on a GNSS  
survey utilizing a Trimble R8 GNSS receiver linked to Continuously Operating Reference  
Station (CORS) "KYTG", having a point designation of "KY HYW DIST 7 CORS ARP" and  
having geographic coordinates of N 38° 04' 31.96484", W 084° 29' 31.91127" and Kentucky  
State Plane Coordinates (South Zone, NAD 83) of N=209,682.94', E=1,570,696.89'.

The description above being based on an actual ground survey of the property conducted  
under the direct supervision of Kevin Phillips (PLS 3350), of Endris Engineering, 771 Enterprise  
Drive, Lexington, Kentucky concluding on March 15, 2016.



  
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Kevin M. Phillips (PLS 3350)  
Endris Engineering, PSC  
771 Enterprise Drive  
Lexington, KY 40510

07-01-2016  
Date



**LEGAL DESCRIPTION**  
Community Ventures, LLC Properties  
**Zone Change from I-1 to B-1**  
561, 563 & 565 East Third Street,  
Lexington, Fayette County, Kentucky

Being a parcel of land in the city of Lexington, Fayette County, Kentucky and being on the northeast side of East Third Street, being on the southeast side of Withrow Way and being on the northwest side of Nelson Avenue, and more particularly described as:

BEGINNING at a point in the centerline of East Third Street, said point being the intersection of said East Third Street and Withrow Way, and said point having Kentucky State Plane Coordinates of E(X)=1,573,348.20', N(Y)=197,841.91' (NAD 83, KY North Zone, US Survey Feet); thence with the centerline of Withrow Way,

North 47°19'20" East a distance of 176.48 feet to a point; thence leaving the centerline of Withrow Way and with a new line across the right-of-way of Withrow Way,

South 42°08'51" East a distance of 12.40 feet to a 5/8" rebar, said point being the northwest property corner of Thi Hoang Nguyen (Deed Book 2484, Page 37); thence with the southwesterly property line of said Thi Hoang Nguyen, for four (4) calls:

South 42°08'51" East a distance of 36.95 feet to a 5/8" rebar with plastic surveyor's cap (PLS 3350); thence

South 42°01'25" East a distance of 39.20 feet to a 5/8" rebar; thence

South 47°45'45" West a distance of 7.37 feet; to a 5/8" rebar ("GRW-AERIAL"); thence South 47°39'52" East a distance of 37.81 feet to a 5/8" rebar with plastic surveyor's cap (PLS 3843), said point being the southwest corner of said Thi Hoang Nguyen, said point being on the northwest right-of-way line of the aforementioned Nelson Avenue; thence leaving the northwest

right-of-way line of Nelson Avenue, and with a new line across the Nelson Avenue right-of-way,

South 47°39'52" East a distance of 22.75 feet to a point on the centerline of Nelson Avenue; thence with the centerline of Nelson Avenue,

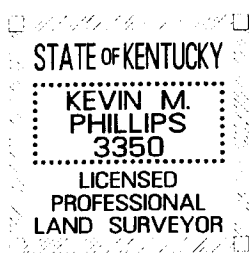
South 48°14'31" West a distance of 141.81 feet to a point, said point being the intersection of the centerline of Nelson Avenue and the aforementioned East Third Street, said point being South 02°32'27" East a distance of 29.21 feet from a MAG Nail with steel surveyor's ID tag (PLS 3350), said MAG Nail being the southwest property corner of Community Ventures, LLC (Deed Book 2736, Page 239, designated as 565 East Third Street); thence leaving the centerline of Nelson Avenue and with the centerline of East Third Street, for two (2) call:

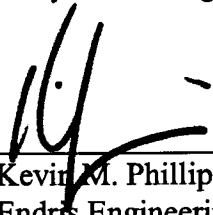
North 54°49'52" West a distance of 99.20 feet to a point; thence

North 54°58'13" West a distance of 50.72 feet to a point; which is the Point of Beginning, having a Gross area of 0.5354 acres, and a Net area of 0.3511 acres.

The bearings used in the description above are based on Kentucky State Plane Grid North, North American Datum (NAD) 83. Particularly, the bearings are based on a GNSS survey utilizing a Trimble R8 GNSS receiver linked to Continuously Operating Reference Station (CORS) "KYTG", having a point designation of "KY HYW DIST 7 CORS ARP" and having geographic coordinates of N 38° 04' 31.96484", W 084° 29' 31.91127" and Kentucky State Plane Coordinates (South Zone, NAD 83) of N=209,682.94', E=1,570,696.89'.

The description above being based on an actual ground survey of the property conducted under the direct supervision of Kevin Phillips (PLS 3350), of Endris Engineering, 771 Enterprise Drive, Lexington, Kentucky concluding on March 15, 2016.



  
Kevin M. Phillips (PLS 3350)  
Endris Engineering, PSC  
771 Enterprise Drive  
Lexington, KY 40510

07-01-2016  
Date

Rec'd by T. W. H. K.

Date: 10/13/16

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

**IN RE:** **PLN-MAR-16-00007: COMMUNITY VENTURES PROPERTIES, LLC** – petition for a zone map amendment from a Light Industrial (I-1) zone to a Neighborhood Business (B-1) zone, for 0.35 net (0.54 gross) acres, for properties located at 561, 563, and 565 E Third Street; and a Downtown Frame Business (B-2A) zone, for 2.38 net (3.95 gross) acres, for properties located at 556 and 576 E Third Street; and 225, 261 and 265 Midland Avenue, and 250 Lewis Street. (Council District 1)

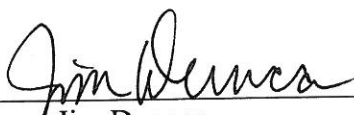
Having considered the above matter on **September 22, 2016**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The requested Neighborhood Business (B-1) zone and Downtown Frame Business (B-2A) zone are in agreement with the 2013 Comprehensive Plan and the East End Small Area Plan, an adopted element of the Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the 2013 Comprehensive Plan recommend expanded housing choices (Theme A, Goal #1); support infill and redevelopment as a strategic component of growth and identify areas of opportunity for infill that respects the area's context and design features (Theme A, Goal #2 and #2a); provide well-designed neighborhoods and communities, including mixed-use and mixed type housing and multi-modal transportation networks (Theme A, Goal #3); support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal # 1); attract the world's finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain our workforce (Theme C, Goal #2); provide for accessible community services to meet the health, safety and quality of life of residents and visitors (Theme D, Goal #2); and uphold the Urban Service Area concept (Theme E, Goal #1).
  - b. East End Small Area Plan goals and objectives recommend to: create housing that is affordable, accessible and attractive to a diverse range of people (#2); promote new commercial development to create a mix of uses that respects and enhances the residential neighborhoods of the East End (#3); create a neighborhood where daily needs can be met by walking, cycling or transit (#5); ensure compatibility and encourage a complimentary relationship between adjacent land uses through strong urban design (#7); protect and enhance personal health and the environment (#9); and grow a locally based economy that offers opportunities to all residents (#12).
  - c. The SAP, as well as the Downtown Master Plan that preceded it in 2007, recommends infill mixed-use future land use along the Midland Avenue and E. Third Street corridors (p.60-62).
  - d. The proposed zone change and land uses meet these goals and objectives in that the petitioner is proposing three mixed-use structures; about 130 dwelling units, some designated for senior living; a community space for area senior citizens, a greenhouse and multiple business opportunities that respects and enhances the residential neighborhoods of the East End; and the project will help to improve the gateway into the East End and downtown Lexington.
  - e. The subject properties are located at a principal intersection that is a gateway into downtown. The proposed business zoning will help meet the vision to create a thriving, and dynamic corridor with a mixture of land uses, urban design, and density.

- f. The proposed B-2A zone is located within the area commonly and historically thought of as “downtown Lexington,” and restrictions will ensure compatibility with surrounding land uses, especially the Charles Young Community Center.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00015: Community Ventures Properties, LLC, 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 following use restrictions shall apply to subject properties:
- a. **B-2A Zone – Prohibited Uses:**
1. Establishments for the display, rental or sale of automobiles, motorcycles, trucks, farm equipment, or boats or supplies for such vehicles.
  2. Minor automobile and truck repair.
  3. Pawnshops.
  4. Wholesale establishments.
  5. Any type of adult entertainment, adult arcades, massage parlors, adult video stores and adult bookstores.
  6. Passenger transportation terminals (does not include bus stops).
  7. Drive-through facilities.
- b. **B-1 Zone – Prohibited Uses:**
1. Automobile service stations, automobile and vehicle refueling stations, and/or gas pumps.
  2. Repair of household appliances, other than computers or electronics.
  3. Outdoor miniature golf or putting courses.
  4. Circuses or carnivals, even on a temporary basis.
  5. Indoor theaters and arcades, including pinball and electronic games.
  6. Drive-through facilities.
  7. Establishments for the retail or package sale of liquor, beer or wine.

These use restrictions are necessary and appropriate for the subject properties in order to ensure compliance with the 2013 Comprehensive Plan and East End Small Area Plan, and to better protect the surrounding neighborhood and the Charles Young Community Center.

ATTEST: This 12<sup>th</sup> day of October, 2016.

  
Secretary, Jim Duncan

WILLIAM WILSON  
CHAIR

Note: The corollary development plan, PLN-MJDP-16-00015: COMMUNITY VENTURES PROPERTIES, LLC was approved by the Planning Commission on September 22, 2016 and certified on October 6, 2016.

Note: Dimensional variances were approved for the B-1 portion of this request by the Planning Commission at this hearing.

K.R.S. 100.211(7) requires that the Council take action on this request by December 21, 2016.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Dick Murphy, attorney.**

**OBJECTORS**

- Alvin Seals, 772 Caden Lane

**OBJECTIONS**

- Has concerns regarding the impact of the

development on the Charles Young recreation center and the consideration of the youth in the area.

VOTES WERE AS FOLLOWS:

AYES: (10) Berkley, Brewer, Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (1) Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of PLN-MAR-16-00007 carried.

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



PLN-MAR-16-00007

Date Received 8/1/16

Pre-Application Date 5/4/16

Filing Fee \$ 500<sup>00</sup>

### GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

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

APPLICANT:	Community Ventures Properties, LLC, 1450 N Broadway, Lexington, KY 40505, (859) 231-0054
OWNER:	Same
ATTORNEY:	Jacob C. Walbourn, 201 East Main Street, Suite 900, Lexington, KY 40507, (859) 231-8780

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

556, 561, 563, 565, 576 E Third Street; 225, 261, 265 Midland Avenue; 250 Lewis Street
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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
I-1	Vacant	B-1	Mixed-use building	0.3511 ac	0.5354 ac
I-1	CVC Pavilion/vacant	B-2A	Mixed-use buildings	2.3773 ac	3.9536 ac

#### 4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Vacant/Residential/Mixed-Use Building	R-3/I-1
East	Isaac Murphy Memorial Art Garden	I-1
South	Lexington Cut Stone Marble	B-1/I-1
West	Charles Young Park	R-3

#### 5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input 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? 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 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 checked="" type="checkbox"/> in agreement with the Comp. Plan <input type="checkbox"/> more appropriate than the existing zoning <input type="checkbox"/> due to unanticipated changes.
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#### 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 \_\_\_\_\_.

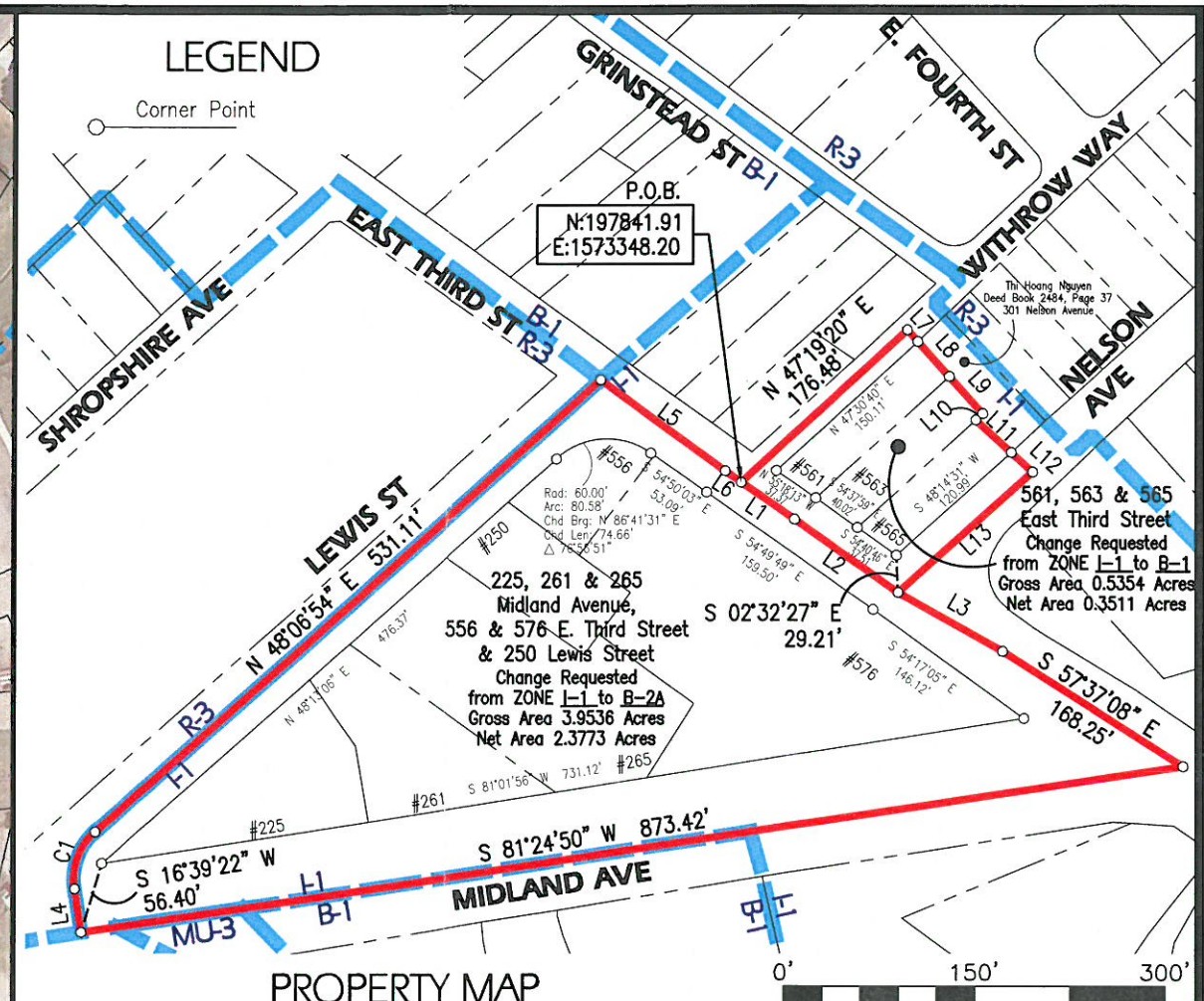
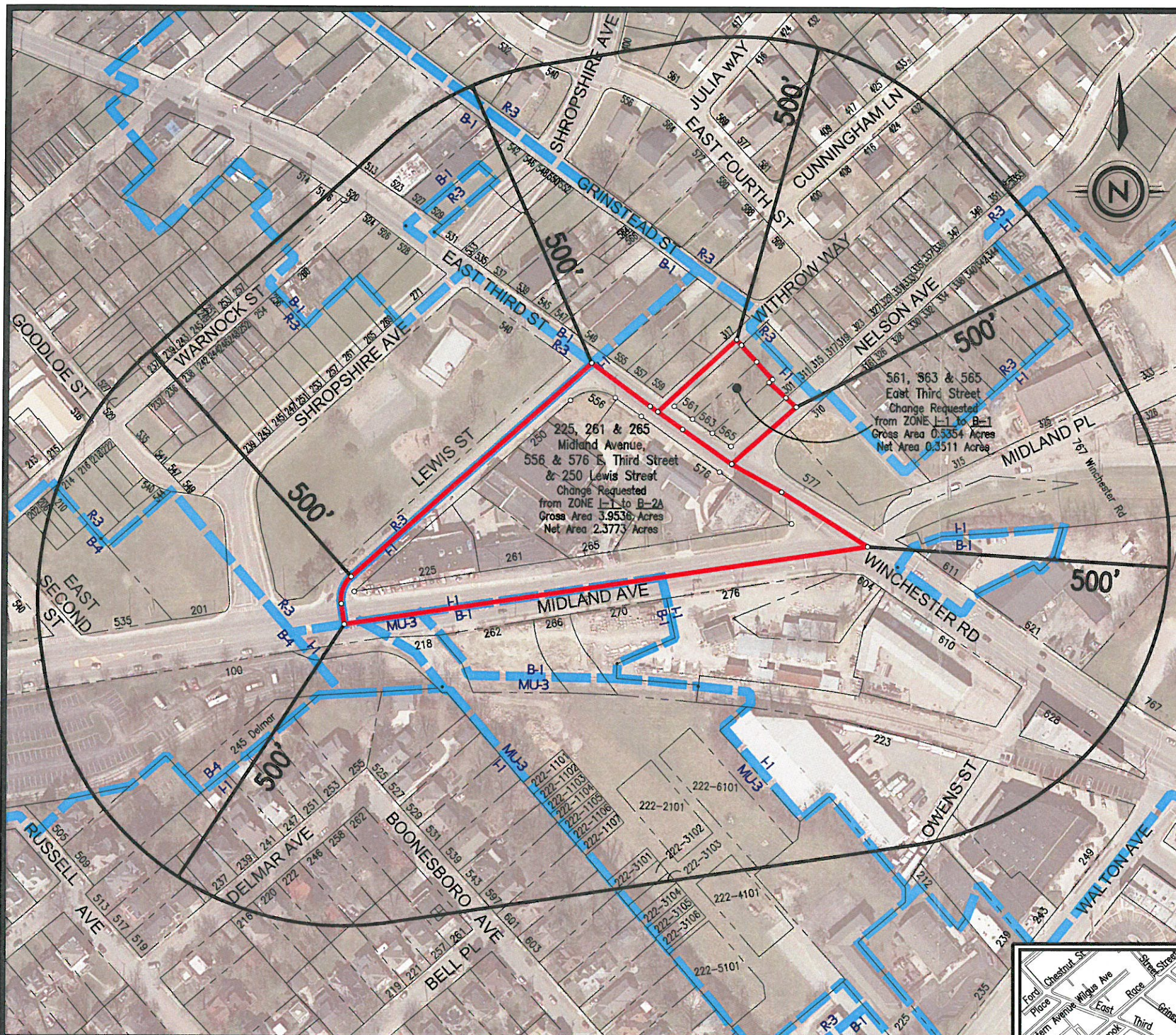
APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

OWNER [Signature] \_\_\_\_\_ DATE 8/1/16

ATTORNEY \_\_\_\_\_

LFUCG EMPLOYEE/OFFICER, if applicable \_\_\_\_\_ DATE \_\_\_\_\_





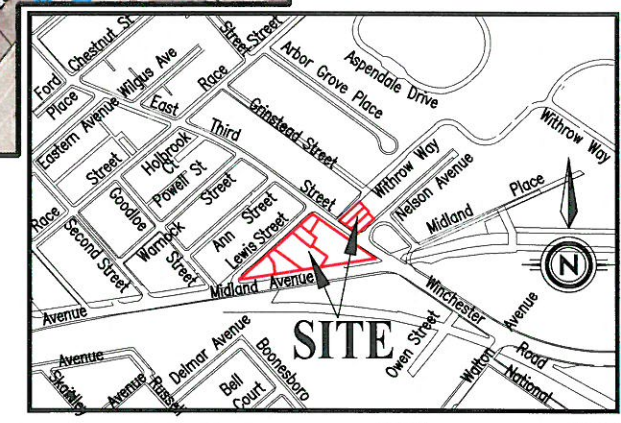
LINE TABLE

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	S 54°58'13" E	50.72'	L8	S 42°08'51" E	36.95'
L2	S 54°49'52" E	99.20'	L9	S 42°01'25" E	39.20'
L3	S 60°43'07" E	94.34'	L10	S 47°45'45" W	7.37'
L4	N 08°35'10" W	34.37'	L11	S 47°39'52" E	37.81'
L5	S 53°47'07" E	120.89'	L12	S 47°39'52" E	22.75'
L6	S 54°58'13" E	15.58'	L13	S 48°14'31" W	141.81'
L7	S 42°08'51" E	12.40'			

CURVE TABLE

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	49.48'	50.00'	56°42'05"	N 19°45'52" E	47.49'

NOTIFICATION AREA MAP  
PREPARED BY:



STATE OF KENTUCKY  
KEVIN M. PHILLIPS  
3350  
LICENSED PROFESSIONAL LAND SURVEYOR  
08-08-2016

FROM	TO	NET	GROSS
I-1	B-1	0.3511	0.5354
I-1	B-2A	2.3773	3.9536

TITLE: Community Ventures, LLC Properties  
ADDRESS: 225, 261 & 265 Midland Avenue; 561, 563, 565, 556 & 576 E. Third Street & 250 Lewis Street  
APPLICANT: Community Ventures, LLC  
OWNER: Community Ventures, LLC  
DATE FILED OR AMENDED: August 8th, 2016

**EE ENDRIS engineering**  
771 ENTERPRISE DRIVE  
LEXINGTON, KY 40510  
PH: 859 253-1425  
FAX: 859 233-1436  
Land Surveyors • Construction Layout • GPS

1:36:00 Boundary & Topographic Survey - Midland Ave, Lewis St and E Third St Zone Change/Seu Notification Map.dwg, 8/8/2016 7:35:06 AM, T.T. Endris Engineering, KMP



JACOB C. WALBOURN  
jwalbourn@mmlk.com



201 EAST MAIN STREET, SUITE 900  
LEXINGTON, KY 40507  
859.231.8780 EXT. 102

August 1, 2016

Mr. Mike Owens, Chairman  
Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, Kentucky 40507

RE: Zone Change Application from I-1 to B-1/B-2A  
556, 561, 563, 565, and 576 E Third Street; 225, 261, and 265 Midland Ave;  
and 250 Lewis Street

Dear Chairman Owens:

Please be advised that we represent Community Ventures Corporation ("Community Ventures"), which is the owner of 556, 561, 563, 565, and 576 E Third Street; 225, 261, and 265 Midland Ave; and 250 Lewis Street on the east end of Lexington. My client desires to rezone the above-mentioned parcels from their current industrial zoning categories to the Neighborhood Business Zone (B-1) (for 563, 565, 567 E Third Street) and Downtown Frame Business Zone (B-2A) (for the remaining parcels). We believe these parcels can be redeveloped to more effectively serve the surrounding neighborhood in accord with the goals and objectives of the 2013 Comprehensive Plan.

This project is significant in both its scope and potential impact on the community. The East End neighborhood, according to the East End Small Area Plan, originally grew as a result of the American Civil War, and became a hub for Lexington's African-American community. In the age of segregation, the East End provided offices, businesses, and residences for the African-American community. However, in the 1960s, as segregation drew to a close and the age of the suburbs arose, many businesses and individuals relocated from the East End area and left vacant homes, businesses, and parcels.

This is not to say that Lexington has forgotten about the East End, however. Since the first Comprehensive Plan, adopted in 1931, and several times subsequently, the East End has been studied and recommendations made regarding redevelopment and revitalization of this area. In fact, in 1983, the East End Neighborhood Development Plan was developed, emphasizing the need for quality housing choices, improving public facilities, providing for transportation improvements, and improving the character of commercial areas. In 2009, the East End Small Area Plan was completed and adopted, again focusing on similar themes. Notwithstanding the focus on this area, and some notable improvements, redevelopment and revitalization in this area has been slow.



The East End is a neighborhood with many difficulties, but also, with opportunity. The average household income in the East End is about half of Lexington's city wide average. The unemployment rate in this area is the highest in the city. Further, over 600 housing units have been lost in the past decade, and there is only a 21% home ownership rate in the area. The existing environment consists of many vacant lots, lower density development, and unused or underutilized buildings. With a lack of adequate housing and a lack of commercial opportunities (for both purchase of goods and employment opportunities), it is clear the East End is crying out for housing choice and economic opportunity.

Recognizing the need and opportunity in the East End area, Community Ventures has crafted the proposal that is the subject of this application. Community Ventures is an organization premised on strengthening communities by helping people achieve greater economic opportunities. It is dedicated to helping individuals own homes and start businesses. Since its founding in 1982, Community Ventures has helped start or expand over 5,000 businesses, created over 10,000 jobs, and helped more than 600 individuals purchase a home. The East End is precisely the type of neighborhood that Community Ventures seeks to serve. In fact, Community Ventures has had facilities in the East End since 2003.

This rezoning proposal will allow Community Ventures to craft a development that meets many needs of the East End community. The proposal is in accord with not only the principles articulated in the East End Small Area Plan, but also with the 2013 Comprehensive Plan. The proposal provides for mixed use buildings, comprised of both commercial and residential space. The residential space will provide for a mix of market rate and affordable housing. Due to the preliminary nature of the project at this time, particular tenants for the commercial spaces are difficult to identify with certainty, but it is anticipated that the commercial tenants will provide goods and services needed for the community. Additionally, it provides for an opportunity to create a more desirable entrance to the downtown core, as Midland Avenue is one of the gateways utilized by Lexington residents and visitors alike to visit the downtown core.

For ease of discussion, there are two principal sites involved in this application. The "Third Street" site (563, 565, 567 E Third Street) is proposed as one, three-story, mixed-use building, providing for retail on the first floor with residential units above. This site is proposed to be zoned B-1, and includes an application for a height variance. This variance is not to increase residential density, but in fact to allow for a roof feature that can help make the building appear more like the existing neighborhood, notwithstanding its larger size. The "Triangle Site," consisting of the remaining properties, provides for multiple mixed-use structures of varying heights, providing for a mix of residential and retail space. It also calls for the installation of a greenhouse to provide locally grown food, and for community space for area senior citizens. Additionally, underground parking will be provided at this location. The Triangle Site is proposed for B-2A zoning.

In sum, we believe this is an exciting and needed project for the East End of Lexington. We believe this development, coupled with the Town Branch Trail project currently underway by the LFUCG, could begin a rebirth of the East End. This project endeavors to improve the quality of life of residents of the East End while simultaneously providing for the type of entry level employment opportunities and affordable housing opportunities so vitally necessary in this neighborhood. We are extremely excited about this project, and are very proud and honored to bring it forward to the Planning Commission for its consideration. We would respectfully request your approval of this proposal, and we look forward to discussing it with you as we move through the zone change process.

Our conclusion that this rezoning request is in agreement with the 2013 Comprehensive Plan (hereinafter “Comp Plan”) and 2009 East End Small Area Plan (hereinafter “East End Plan”) is based on the following:

### **Comprehensive Plan**

#### Growing Successful Neighborhoods

Theme A of the Comp Plan embraces several goals regarding residential life in Fayette County. We believe this redevelopment proposal embraces all three Goals articulated in Theme A of the Comp Plan.

*Expand housing choices.* The objectives of this goal call for housing that addresses “all market needs” for Lexington-Fayette County, including safe, affordable housing for seniors and disadvantaged citizens. This proposal seems to be exactly what this goal of the Comp Plan was seeking (see, e.g., Comp Plan, p. 40). The proposal will provide needed housing stock in both the market rate and affordable categories. It provides the opportunity to reside near the urban core, where there are many job opportunities. It also provides for the opportunity to “live where you work” for individuals that may find employment in the commercial space in the development. Finally, it provides for a variety of housing choices. The East End’s residential selection is primarily, currently, single family houses. This project will provide the additional choice of apartment living.

*Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.* This goal is accomplished by identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area’s context and design features whenever possible. This project would add necessary residential and commercial space to support the existing neighborhood, as well as provide for growth. As you are no doubt aware, 95% of Fayette County’s population resides within the Urban Services Area (“USA”), and this number is expected to rise by nearly 35,000 people by 2020 (Comp Plan, p. 13). It is anticipated that the USA will reach its capacity within the next 12 to 17 years. Thus, redevelopment is needed to provide housing and services to the ever increasing population within the USA. The Comp Plan calls for quality connections with parks, schools, and stores, and pedestrian friendly streets and amenities (Comp Plan, p. 39). The mixed use

nature of this project is designed to serve both residents of the project and residents of the neighborhood. Additionally, it is in close proximity to Charles Young Park.

*Provide well designed neighborhoods and communities.* The Comp Plan calls not only for well-designed new developments, but to provide enhancements to existing neighborhoods to increase their desirability (Comp Plan, p. 38). Our proposed development will add needed residential commercial space that is convenient project and East End residents, as well as individuals travelling to or from downtown. The East End currently has a low rate of automobile ownership, so this development can serve those without reliable automobile transportation. However, it will also allow for the opportunity for commuters to patronize development businesses as they traverse this downtown entryway corridor, which will infuse outside capital to the East End. Additionally, this site is served by LexTran Route #10, which will allow residents access to public transportation.

### Creating Jobs and Prosperity

Theme C of the Comp Plan embraces goals related to continued economic prosperity in Fayette County. We believe this redevelopment proposal embraces elements of Theme C of the Comp Plan.

*Support and showcase local assets to further the creation of a variety of jobs.* The Comp Plan notes that a variety of employment is necessary to lead to prosperity for all Lexington residents. Further, the Comp Plan emphasizes the importance of living near your workplace (Comp Plan, p. 74). This proposal will allow new employment opportunities for neighborhood residents that will enable them to walk or ride to work (or, perhaps, just to walk downstairs). In fact, the Comp Plan includes the following passage:

“Adaptive reuse, infill, and redevelopment are not only about preserving farms and important buildings and making better use of existing infrastructure. They are also about putting jobs where people live. Many of Lexington’s businesses – large and small – can thrive as neighbors in and near neighborhoods. Land use regulations should enable opportunities to live where you work” (Comp Plan, p. 74).

As noted above, the East End has lagged behind in employment opportunities. This project will provide commercial space, with a goal of employing area residents.

*Attract the world’s finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community.* One way to attract new jobs and young professionals to Lexington is by providing entertainment and other quality of life opportunities that will bring a workforce of all ages and talents to the city. The proposed development will allow members of the working community to patronize businesses and obtain needed products or services near

their residences, for those already residing downtown and/or in the East End. This, in turn, will enhance the convenience of living in these neighborhoods, making Lexington a more desirable place to live. Further, it provides for an extremely convenience arrangements for those individuals that will choose to live in or near the development itself. This site is immediately adjacent to the Isaac Murphy Memorial Garden, which is the proposed trailhead for both the Town Branch and Legacy Trail. It is envisioned that this development can provide commercial opportunity not only for development and East End residents, but to those who might be using Lexington's trail system as well.

#### Improving a Desirable Community

Theme D of the Comp Plan embraces goals related to improving the quality of life.

*Provide for accessible community facilities and services to meet the health, safety, and quality of life needs of Lexington-Fayette County's residents and visitors.* Among the many amenities contemplated as part of this development is a community space for area senior citizens. Lexington has recently decided to relocate the Senior Center, providing for a new facility better served to meet the needs of Lexington's seniors. This facility, however, is in the area of the former Turfland Mall, which is 4 ½ miles from the East End. As senior citizens, particularly in the East End, may have difficulty travelling this distance given the low percentage of car ownership in the neighborhood, this amenity provides the opportunity to have a gathering place much closer to home. Likewise, there are few gathering places for the general public in the East End. This development contemplates large plaza areas, where residents and customers can congregate.

#### Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land

Theme E of the Comp Plan embraces goals related to preserving rural land while encouraging growth. We believe this redevelopment proposal embraces elements of Theme E of the Comp Plan.

*Uphold the Urban Services Area concept.* This goal requires close monitoring of the absorption of vacant or under-utilized land in the Urban Service Area as well as encouraging the compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs. This project will allow more support of an existing neighborhood, including the provision of additional housing stock, making it more desirable, and thus reducing the demand for new housing and an expansion of the USA.

The Comp Plan also encourages maintenance of this balance by encouraging infill, redevelopment, and adaptive reuse. The project discussed here would involve both infill and redevelopment concepts. The Comp Plan provides guidelines in what it calls "context-sensitive design." This allows for a project to approach the development with an eye towards the exterior and architectural features that reflect, relate to, or are in proportion to

the surrounding neighborhood (Comp Plan, p. 98). Context-sensitive design can quell many of the fears expressed by neighborhood residence when presented with an infill project (Comp Plan, p. 101). Infill and redevelopment are geared towards improvement, reinvigoration, and development of the quality neighborhoods that create compact development, livable neighborhoods, and viable neighborhood commercial centers (Comp Plan, p. 98). The Comp Plan admits that to successfully achieve infill and redevelopment, regulatory change to the Zoning Ordinance must be reviewed on a regular basis (Comp Plan, p. 99). Of course, we are committed to a context-sensitive development. Though the change contemplated is significant for the subject site, this location is located very near the urban core and thus, larger buildings should not significantly impact the neighborhood. Furthermore, the development is almost precisely the type of development called for under the East End Plan.

### East End Small Area Plan

The East End Plan was completed in 2009 and provides a vision for the revitalization of the East End neighborhood. The East End Plan articulates thirteen (13) goals for the neighborhood (East End Plan, p. 42). Among the goals addressed by this project are the following:

- *Create housing that is affordable, accessible, and attractive to a diverse range of people.* The mixed income nature of the housing units proposed addresses this goal.
- *Promote new commercial development to create a mix of uses that respects and enhances the residential neighborhoods of the East End.* This project provides for commercial space that is badly lacking in the East End, that can both provide employment and goods and services for East End and development residents.
- *Create a neighborhood where daily needs can be met by walking, cycling, or transit.* The development will include both commercial and residential space, in close proximity to many East End residents. Further, it is located on a LexTran route.
- *Enhance and enliven the streetscape with landscaping, art, and signage.* This project will take underutilized and vacant land and replace it with attractive buildings with appropriate landscaping and signage.
- *Ensure compatibility and encourage a complimentary relationship between adjacent land uses through strong urban design.* The development, though large in scale and size, is located on a primary route to downtown Lexington and on the edge of the East End neighborhood. It is compatible with many of the adjacent commercial uses, and the uses proposed should complement the neighborhood and its needs.
- *Protect and enhance personal health and the environment.* Because of its location in the East End, the development will be walkable for many area residents. This both encourages personal health and decreases reliance on personal automobiles or public transit. Additionally, among many features, the development calls for a greenhouse to provide for locally grown food.
- *Grow a locally based economy that offers opportunities to all residents.* The development will provide for entry level commercial jobs in an area with high unemployment.



This is merely an example of the numerous ways this proposed development comports with the East End Plan. The Development Framework/Preferred Land Use Map in the document calls for mixed-use at these sites (East End Plan, p. 59-60) – precisely what has been proposed. A close reading of the Plan reveals that this is among the variety of projects contemplated, and indeed, encouraged by the Plan.

VariANCES Requested

As is common with most significant projects near the urban core, a few minor variances will be required to create a commercially viable, attractive development that functions internally and with the neighborhood. The following variances are requested:

Third Street Site – proposed B-1 zoning

*Height Variance* – from 35 feet to 50 feet. This variance is necessitated for a roof feature. It is not contemplated to add additional residential density, but rather, to provide for a pitched roof that resembles roofs of existing buildings in the neighborhood. It also provides for taller ceilings in the commercial space, which make the spaces more marketable. This variance will not impact the public health, safety, or welfare, and is requested in order to integrate with the neighborhood's current character. It is not an unreasonable circumvention of the Zoning Ordinance as it does not provide for any additional density. The urban character of the area, as well as the East End Small Area Plan, contemplate taller buildings at these locations, thus making this unique from general B-1 land. Strict application of the height requirements would be detrimental to the marketability of the commercial spaces. This variance has been requested prior to construction, and thus is not a willful violation of any zoning regulation.

*Front Yard Variance* – from 10 feet to 5 feet along Withrow Way. This variance is necessitated due to the size of the site. This site actually has three separate street frontages, with Withrow Way functioning more as an alley than a significant thoroughfare. It is narrower than the adjacent streets, and does not provide direct access to any properties that border it. Furthermore, if this frontage was considered a side yard, as the building is oriented towards Third Street, there would be no minimum yard required. This will not have any impact on the health, safety, or welfare of neighborhood residents, nor will it negatively impact the character of the neighborhood. Instead, it is a reasonable request designed to maximize available space for the economic success of the development. Strict application of the Zoning Ordinance may make development of this site infeasible for the purposes contemplated in the East End Small Area Plan. This variance has been requested prior to construction, and thus is not a willful violation of any zoning regulation.

*Parking Variance* – from 28 spaces to 16 spaces. This variance is necessitated due to the size of the site. It is anticipated that this development will serve area residents, thus decreasing reliance on automobile traffic. Further, the adjacent triangle site has a surplus of

available parking (more than 150 spaces beyond legal requirements). This also does not account for the street parking available in the area. Because of the available parking on the triangle site, as well as street parking, and the desire to serve area residents, this will not have an adverse impact on the health, safety, or welfare of area residents, and will not impact the neighborhood's character negatively. Strict application of the Zoning Ordinance would make the project infeasible financially, and between the two sites, there are more than sufficient spaces to satisfy the legal parking requirements. This variance has been requested prior to construction, and thus is not a willful violation of any zoning regulation.

Triangle Site – proposed B-2A zoning

*Front Yard Setback* – from 10 feet to 0 feet for both buildings. This variance is requested in order to create a more urban style development for the Triangle site. This variance is appropriate because of the Town Branch Commons/Town Branch Trail project, which is anticipated to utilize space in the right of way along Midland Avenue. This, coupled with open plaza areas for public congregation, demonstrates that functionally, the loss of front yard space will not be noticed by patrons or residents of the development. Furthermore, the Town Branch Trail/Town Branch Commons areas along Midland will also offset the impact of this variance. This variance will not negatively impact the public health, safety, or welfare, nor will it impact the general character of the area. As above, the urban environment, coupled with the recommendations from the East End Small Area Plan, contemplate an urban streetscape. It is not an unreasonable circumvention of the Zoning Ordinance, and in fact, the Town Branch Trail/Town Branch Commons project can effectively serve as the project's "front yard" as it concerns setback from the public street (Midland Avenue). This variance has been requested prior to construction, and thus is not a willful violation of any zoning regulation.

Conclusion

As you can see, this proposal comports with many of the applicable goals and objectives of the Comp Plan and East End Plan. We believe this project is an important first step towards a potential East End revitalization. This development is precisely the sort of development we think should be encouraged in urban neighborhoods like the East End – providing for mixed income housing options while simultaneously providing for commercial space that is badly lacking in the East End – both from the perspective of those seeking employment and those seeking to obtain goods and services closer to their home. With the Town Branch and Legacy Trails both having trail heads in the neighborhood, this is a prudent time to begin investing in this long neglected neighborhood. In short, this project complies with the goals and objectives of the 2013 Comprehensive Plan and 2009 East End Small Area Plan.

[ MCBRAYER ]

Based on the foregoing, we respectfully request approval of our application as submitted. We look forward to presenting this application to you and discussing it with you. Thank you for your consideration of this request.

Sincerely,



Jacob C. Walbourn  
Counsel for Community Ventures

JCW/klm  
Enclosures

4841-6791-5828, v. 3



**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**PLN-MAR-16-00007: COMMUNITY VENTURES PROPERTIES, LLC**

**DESCRIPTION**

<b>Zone Change:</b>	<b><u>REQUEST</u></b>	<b><u>ACREAGE</u></b>	
	<b><u>FROM</u></b>	<b><u>TO</u></b>	<b><u>NET</u></b>
	I-1	B-1	0.35
	I-1	B-2A	<u>2.38</u>
	Total .....		<u>4.49</u>

**Location:** 556, 561, 563, 565, & 576 E Third Street; 225, 261 & 265 Midland Avenue and 250 Lewis Street

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Properties	I-1	Vacant, Community Ventures Corporation
To North	I-1 & B-1	Catering Establishment
To East	I-1 & R-3	Industrial, Residential, Park
To South	I-1, MU-3, B-1	Townhouses/Mixed-Use Project, Industrial
To West	R-3	Charles Young Community Center

**URBAN SERVICES REPORT**

**Roads** – Midland Avenue/Winchester Road (US 60) is a four-lane, major arterial roadway into downtown from the east. It handles more than 18,000 vehicle trip per day near its intersection with E. Third Street. The signalized intersection of Midland Avenue and E. Third Street, due to the odd angle of the street intersection, functions so that left-hand turns from Midland Avenue on to E. Third Street are possible, but highly discouraged. Lewis Street, Withrow Way and Nelson Avenue are all local streets that form minor T-intersections with E. Third Street. Lewis Street is currently a one-way street from E. Third Street to Midland Avenue, but the petitioner proposes that it become a two-way street in order to improve ingress and egress from the subject site. Primary access to each of the sites will be from the local streets and not from the arterial roadways.

**Curb/Gutter/Sidewalks** – Curb, gutter and sidewalks do exist along Midland Avenue, and E. Third Street; however, these urban improvements do not exist along the subject properties’ frontage along Lewis Street. With the proposed redevelopment, typical street cross-section improvements will be required to be constructed by the developer. The Town Branch Commons Trail is planned to be located along the site’s Midland Avenue frontage, occupying the right-of-way and connecting across E. Third Street to the Isaac Murphy Garden, which serves as a trailhead for the Legacy Trail.

**Storm Sewers** – The subject properties are located within the Town Branch watershed. Stormwater improvements, such as detention basins, do not exist on the subject properties; however, storm sewer lines do exist within the right-of-way of Midland Avenue, Lewis Street, and portions of E. Third Street and Nelson Avenue. Although historically no detention basins existed to serve the subject properties, on-site stormwater quantity and quality may need to be addressed by the developer in order to comply with the Division of Engineering Stormwater Manuals. For mixed-use developments, underground storage basins are often constructed.

**Sanitary Sewers** – Sanitary sewers lines exist along Midland Avenue, E. Third Street, and Lewis Street, but may need to be improved in this older portion of the community to adequately serve the proposed high density/mixed-use development. The Capacity Assurance Program can issue reservation letters to applicants to ensure available capacity remains accessible for a proposed project. The Town Branch Wastewater Treatment Plant, located about 2½ miles to the northwest of the subject properties, will service this area of the Urban Service Area.

**Refuse** – The Urban County Government serves this portion of the Urban Service Area on Tuesday. Mixed-Use developments often utilize compactors which are serviced by private refuse companies.

**Police** – The Police Headquarters, located on E. Main Street, is located approximately 3/4 mile to the northwest of the site. The property is located within the Central Sector (Sector 2).

**Fire/Ambulance** – The closest station is Fire Station #1 and Headquarters, located on E. Third Street, between Elm Tree Lane and Martin Luther King Boulevard, located approximately one-half mile northwest of the subject properties.

**Utilities** – All public utilities are available to serve the redevelopment site, including gas, electric, cable, water and telephone services. Street lights are also available in the immediate area.

### **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 Plan's 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. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The subject site is located within the boundary of the Downtown Master Plan (2007) as well as the adopted East End Small Area Plan (2009). Both plans encourage infill mixed-use development along the Midland Avenue and E. Third Street corridors.

The petitioner proposes a rezoning to create a mixed-use project with about 272,000 square feet of space. The project is planned to include retail space, a greenhouse, 102 apartment/condominium dwelling units, 30 senior living dwelling units, a senior community space, a greenhouse, professional offices, and an associated off-street parking area. Dimensional variances are requested with the zone change and a traffic impact study has also been prepared.

### **CASE REVIEW**

The petitioner has requested a zone change from a Light Industrial (I-1) zone to a Neighborhood Business (B-1) zone and a Downtown Frame Business (B-2A) zone for less than three acres of property at the eastern edge of downtown Lexington.

The subject properties are generally located at the intersection of Midland Avenue and E. Third Street. The area proposed for the Downtown Frame Business (B-2A) zone includes six parcels bounded by E. Third Street, Midland Avenue and Lewis Street – a triangular site. The area proposed for the Neighborhood Business (B-1) zone is comprised of another three parcels bounded by E. Third Street, Withrow Way and Nelson Avenue (on the north side of E. Third Street).

The Midland Avenue corridor is one of several primary gateways into downtown Lexington. It has historically been characterized as a business and industrial corridor near downtown with uses such as the Lexington Herald-Leader printing and office building, Smuckers Jif Peanut Butter manufacturing plant, Big Ass Fans offices and warehouses, Lexington Cut Stone and several other smaller businesses. The area between Main Street and Walton Avenue is primarily zoned B-1, B-4, and I-1, which naturally provides a mixture of land uses. E. Third Street, between its intersection with Midland Avenue and Race Street to the northwest was once a popular commercial area for the East End neighborhoods (B-1 zoning), and serves as a gateway entrance to the East End of downtown. Lewis Street (one-way traffic from north to south), Withrow Way and Nelson Avenue are all local streets that intersect with E. Third Street within 500 feet of its intersection with Midland Avenue.

The petitioner proposes a rezoning to create a mixed-use project with about 272,000 square feet of space, split between two sites - the larger triangular site and the Third Street site. The project is planned to include retail space, a greenhouse, 102 apartment/condominium dwelling units, 30 senior living dwelling units, a senior community space, a greenhouse, professional offices, and an associated off-street parking area. Dimensional variances are requested with the zone change and a traffic impact study has been prepared.

The 2013 Comprehensive Plan no longer relies upon a future land use map, but does focus on general land use policies, such as land use compatibility; well-designed neighborhoods; improving a desirable community; and making the best use of land inside the Urban Service Boundary for the protection of the surrounding rural areas. The subject properties are also located within the East End Small Area Plan (SAP) boundary, which encompasses the area bounded by Midland Avenue, E. Short Street, Elm Tree Lane, the RJ Corman Railroad, and Winchester Road. This SAP was adopted by the Planning Commission in April 2009. After much public input, the East End developed a neighborhood vision through 13 goal statements (p. 18) and a top ten list of planning priority projects (p. 19). The site is also situated within the Downtown Master Plan boundary, which was prepared by the Downtown Development Authority in 2007.

The petitioner contends that the proposal is in agreement with both the 2013 Comprehensive Plan and the adopted 2009 East End SAP. They opine that the proposed zone and development proposal will: provide for expanded housing choices (Theme A, Goal #1); support infill and redevelopment as a strategic component of growth and identify areas of opportunity for infill that respects the area's context and design features (Theme A, Goal #2 and #2a); provide well-designed neighborhoods and communities, including mixed-use and mixed type housing and multi-modal transportation networks (Theme A, Goal #3); support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal # 1); attract the world's finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain our workforce (Theme C, Goal #2); provide for accessible community services to meet the health, safety and quality of life of residents and visitors (Theme D, Goal #2); and uphold the Urban Service Area concept (Theme E, Goal #1).

Additionally, the petitioner states that their proposal will further the following East End Small Area Plan goals and objectives: create housing that is affordable, accessible and attractive to a diverse range of people (#2); promote new commercial development to create a mix of uses that respects and enhances the residential neighborhoods of the East End (#3); create a neighborhood where daily needs can be met by walking, cycling or transit (#5); ensure compatibility and encourage a complimentary relationship between adjacent land uses through strong urban design (#7); protect and enhance personal health and the environment (#9); and grow a locally based economy that offers opportunities to all residents (#12). The SAP, as well as the Downtown Master Plan, recommends infill mixed-use future land use along the Midland Avenue and E. Third Street corridors (p.60-62).

The staff agrees that the proposed zone change application is in agreement with the Comprehensive Plan and the East End Small Area Plan for this site for the following reasons: mixed-use future land use is recommended and the applicant is proposing three mixed-use structures; the Plan encourage a diversity of housing that is affordable and accessible and the applicant proposes about 130 dwelling units, some designated for senior living; the Comprehensive Plan calls for accessible community facilities and employment opportunities for all, and the applicant is proposing a community space for area senior citizens, a greenhouse and multiple business opportunities that respects and enhances the residential neighborhoods of the East End; and the proposed mixed-use project will help to improve the gateway into the East End and downtown Lexington.

The staff would note that a extensive discussion was had about extending B-2A zoning to Third Street in this vicinity, because the proposed zone would not be contiguous to another downtown business zone. The staff reviewed the Small Area Plan and the Downtown Master Plan, and determined that both corridors are envisioned to be thriving corridors with a mixture of land uses, urban design, and density so that the area can regain its dynamic. The staff opines that Third Street and Midland Avenue have historically been the "edge" of downtown and the B-2 zones offer a lot of design and land use flexibility for the applicant. That being said, since the proposed B-2A zone is not contiguous to another downtown business zone and the Charles Young Community Center and park (recently listed on the National Register of Historic Places) are located to the immediate northwest, conditional zoning restrictions are necessary for the triangle site. Likewise, the staff recommends restrictions for the Third Street site, similar to those established for other nearby neighborhood business zoning.

A traffic impact study was required by the Zoning Ordinance for the proposed development. A separate staff report, prepared by the Transportation Planning staff in the Metropolitan Planning Organization (MPO), will be presented at the public hearing for this case. Several dimensional variances have also been requested with the proposed rezoning and will also be addressed with a separate staff report.

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

1. The requested Neighborhood Business (B-1) zone and Downtown Frame Business (B-2A) zone are in agreement with the 2013 Comprehensive Plan and the East End Small Area Plan, an adopted element of the Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the 2013 Comprehensive Plan recommend expanded housing choices (Theme A, Goal #1); support infill and redevelopment as a strategic component of growth and identify areas of opportunity for infill that respects the area's context and design features (Theme A, Goal #2 and #2a); provide well-designed neighborhoods and communities, including mixed-use and mixed type housing and multi-modal transportation networks (Theme A, Goal #3); support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal # 1); attract the world's finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain our workforce (Theme C, Goal #2); provide for accessible

- community services to meet the health, safety and quality of life of residents and visitors (Theme D, Goal #2); and uphold the Urban Service Area concept (Theme E, Goal #1).
- b. East End Small Area Plan goals and objectives recommend to: create housing that is affordable, accessible and attractive to a diverse range of people (#2); promote new commercial development to create a mix of uses that respects and enhances the residential neighborhoods of the East End (#3); create a neighborhood where daily needs can be met by walking, cycling or transit (#5); ensure compatibility and encourage a complimentary relationship between adjacent land uses through strong urban design (#7); protect and enhance personal health and the environment (#9); and grow a locally based economy that offers opportunities to all residents (#12).
  - c. The SAP, as well as the Downtown Master Plan that preceded it in 2007, recommends infill mixed-use future land use along the Midland Avenue and E. Third Street corridors (p.60-62).
  - d. The proposed zone change and land uses meet these goals and objectives in that the petitioner is proposing three mixed-use structures; about 130 dwelling units, some designated for senior living; a community space for area senior citizens, a greenhouse and multiple business opportunities that respects and enhances the residential neighborhoods of the East End; and the project will help to improve the gateway into the East End and downtown Lexington.
  - e. The subject properties are located at a principal intersection that is a gateway into downtown. The proposed business zoning will help meet the vision to create a thriving, and dynamic corridor with a mixture of land uses, urban design, and density.
  - f. The proposed B-2A zone is located within the area commonly and historically thought of as "downtown Lexington," and restrictions will ensure compatibility with surrounding land uses, especially the Charles Young Community Center.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-000015: Community Ventures Properties, LLC, 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 following use restrictions shall apply to subject properties:
    - a. **B-2A Zone – Prohibited Uses:**
      1. Establishments for the display, rental or sale of automobiles, motorcycles, trucks, farm equipment, or boats or supplies for such vehicles.
      2. Minor automobile and truck repair.
      3. Pawnshops.
      4. Wholesale establishments.
      5. Any type of adult entertainment, adult arcades, massage parlors, adult video stores and adult bookstores.
      6. Passenger transportation terminals (does not include bus stops).
      7. Drive-through facilities.
    - b. **B-1 Zone – Prohibited Uses:**
      1. Automobile service stations, automobile and vehicle refueling stations, and/or gas pumps.
      2. Repair of household appliances, other than computers or electronics.
      3. Outdoor miniature golf or putting courses.
      4. Circuses or carnivals, even on a temporary basis.
      5. Indoor theaters and arcades, including pinball and electronic games.
      6. Drive-through facilities.
      7. Establishments for the retail or package sale of liquor, beer or wine.

These use restrictions are necessary and appropriate for the subject properties in order to ensure compliance with the 2013 Comprehensive Plan and East End Small Area Plan, and to better protect the surrounding neighborhood and the Charles Young Community Center.

2. **COMMUNITY VENTURES PROPERTIES, LLC, ZONING MAP AMENDMENT & COMMUNITY VENTURES PROPERTIES, LLC ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-16-00007: COMMUNITY VENTURES PROPERTIES, LLC – petition for a zone map amendment from a Light Industrial (I-1) zone to a Neighborhood Business (B-1) zone, for 0.35 net (0.54 gross) acres, for properties located at 561, 563, and 565 E Third Street; and a Downtown Frame Business (B-2A) zone, for 2.38 net (3.95 gross) acres, for properties located at 556 and 576 E Third Street; and 225, 261 and 265 Midland Avenue, and 250 Lewis Street. Dimensional variances are also requested.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The Plan's 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. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The subject site is located within the boundary of the Downtown Master Plan (2007) as well as the adopted East End Small Area Plan (2009). Both plans encourage infill mixed-use development along the Midland Avenue and E. Third Street corridors.

The petitioner proposes a rezoning to create a mixed-use project with about 272,000 square feet of space. The project is planned to include retail space, a greenhouse, 102 apartment/condominium dwelling units, 30 senior living dwelling units, a senior community space, a greenhouse, professional offices, and an associated off-street parking area. Dimensional variances are requested with the zone change and a traffic impact study has also been prepared.

**The Zoning Committee Recommended: Approval.**

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

1. The requested Neighborhood Business (B-1) zone and Downtown Frame Business (B-2A) zone are in agreement with the 2013 Comprehensive Plan and the East End Small Area Plan, an adopted element of the Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives of the 2013 Comprehensive Plan recommend expanded housing choices (Theme A, Goal #1); support infill and redevelopment as a strategic component of growth and identify areas of opportunity for infill that respects the area's context and design features (Theme A, Goal #2 and #2a); provide well-designed neighborhoods and communities, including mixed-use and mixed type housing and multi-modal transportation networks (Theme A, Goal #3); support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal # 1); attract the world's finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain our workforce (Theme C, Goal #2); provide for accessible community services to meet the health, safety and quality of life of residents and visitors (Theme D, Goal #2); and uphold the Urban Service Area concept (Theme E, Goal #1).
  - b. East End Small Area Plan goals and objectives recommend to: create housing that is affordable, accessible and attractive to a diverse range of people (#2); promote new commercial development to create a mix of uses that respects and enhances the residential neighborhoods of the East End (#3); create a neighborhood where daily needs can be met by walking, cycling or transit (#5); ensure compatibility and encourage a complimentary relationship between adjacent land uses through strong urban design (#7); protect and enhance personal health and the environment (#9); and grow a locally based economy that offers opportunities to all residents (#12).
  - c. The SAP, as well as the Downtown Master Plan that preceded it in 2007, recommends infill mixed-use future land use along the Midland Avenue and E. Third Street corridors (p.60-62).
  - d. The proposed zone change and land uses meet these goals and objectives in that the petitioner is proposing three mixed-use structures; about 130 dwelling units, some designated for senior living; a community space for area senior citizens, a greenhouse and multiple business opportunities that respects and enhances the residential neighborhoods of the East End; and the project will help to improve the gateway into the East End and downtown Lexington.
  - e. The subject properties are located at a principal intersection that is a gateway into downtown. The proposed business zoning will help meet the vision to create a thriving, and dynamic corridor with a mixture of land uses, urban design, and density.
  - f. The proposed B-2A zone is located within the area commonly and historically thought of as "downtown Lexington," and restrictions will ensure compatibility with surrounding land uses, especially the Charles Young Community Center.

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\* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

2. This recommendation is made subject to approval and certification of PLN-MJDP-16-000015: Community Ventures Properties, LLC, 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 following use restrictions shall apply to subject properties:
  - a. **B-2A Zone – Prohibited Uses:**
    1. Establishments for the display, rental or sale of automobiles, motorcycles, trucks, farm equipment, or boats or supplies for such vehicles.
    2. Minor automobile and truck repair.
    3. Pawnshops.
    4. Wholesale establishments.
    5. Any type of adult entertainment, adult arcades, massage parlors, adult video stores and adult bookstores.
    6. Passenger transportation terminals (does not include bus stops).
    7. Drive-through facilities.
  - b. **B-1 Zone – Prohibited Uses:**
    1. Automobile service stations, automobile and vehicle refueling stations, and/or gas pumps.
    2. Repair of household appliances, other than computers or electronics.
    3. Outdoor miniature golf or putting courses.
    4. Circuses or carnivals, even on a temporary basis.
    5. Indoor theaters and arcades, including pinball and electronic games.
    6. Drive-through facilities.
    7. Establishments for the retail or package sale of liquor, beer or wine.

These use restrictions are necessary and appropriate for the subject properties in order to ensure compliance with the 2013 Comprehensive Plan and East End Small Area Plan, and to better protect the surrounding neighborhood and the Charles Young Community Center.

b. **REQUESTED VARIANCES**

1. Increase the maximum height from 35' to 50' (in the B-1 zone)
2. Reduce the minimum front yard from 10' to 5' along Withrow Way
3. Reduce the minimum off-street parking from 28 spaces to 16 spaces (in the B-1 zone)
4. Reduce the minimum front yard from 10' to 0' (in the B-2A zone)

The Staff Recommends: Postponement of the requested front yard variance from 10' to 0' in a B-2A zone, for the following reasons:

- a. Approval of this variance could compromise the integrity of the Town Branch Trail project, since no detailed construction plans have been created for that work. Building setbacks from property are justified through Zoning Ordinances to protect private property from work in public rights-of-way, and vice versa.
- b. The existing building at the corner is justified in seeking a variance to these setback requirements, but the extent of the variances requested exceeds the applicant's request.
- c. A variance to the required Midland Avenue setback could be sought in the near future from the Board of Adjustment, once more information is known about the extent of the Town Branch Trail project.
- d. The two new B-2A buildings, as proposed, can be redesigned on the site to meet the required 10' front yard.

The Staff Recommends: Approval of a height variance from 35' to 44', and approval of the other two requested variances in a B-1 zone, for the following reasons:

- a. There will be no adverse health, safety or welfare impact to the adjoining neighborhood from these variances. The height variance is necessary to add a roof feature on the proposed building, and to allow it to have a pitched roof, as have others in the East End neighborhood. Parking will be available on the street and across the street in the future, and Withrow Way will be improved with curb, gutter and sidewalk once the B-1 building is completed. There will be no adverse impact to the Isaac Murphy Memorial Garden, directly across Nelson Avenue from this location.
- b. The unusual circumstance surrounding the proposed B-1 property is that it is encumbered by three (out of four) front yard requirements, which is rare for a single building, even in and near the downtown area.
- c. Strict application of the Zoning Ordinance would make the B-1 building less interesting and diverse from other (smaller) buildings in the general vicinity, with the exception of the applicant's building directly across East Third Street from this location. The applicant firmly believes that this project is infeasible without the granting of these variances.
- d. Approval of these variances would not result in an unreasonable circumvention of the Zoning Ordinance, as other commercial and mixed use buildings within ¼ mile of this location are similarly situated and/or deficient in off-street parking on their lots.
- e. The variances have been requested prior to construction and development of the property, and thus, there is no willful violation of any existing zoning regulation by the applicant.



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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
4. Prior to obtaining an Occupancy Permit, the applicant shall obtain a Zoning Compliance Permit from the Division of Planning.
5. The parking lot shall be screened and landscaped as required by Article 18 of the Zoning Ordinance.
6. A pedestrian crosswalk shall be installed by the applicant across Withrow Way at the corner of East Third Street, to the approval of the Division of Traffic Engineering.

- c. PLN-MJDP-16-00015: COMMUNITY VENTURES PROPERTIES, LLC (10/30/16)\* - located at 561 E. Third Street. **(Carman & Assoc.)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding the requested variances and compliance with the open space requirements of the zone.

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

1. Provided the Urban County Council rezones the property B-2A/B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Documentation of Division of Water Quality's approval of the Capacity of Assurance Program requirements, prior to plan certification.
8. Dimension the proposed buildings.
9. Denote building height in feet.
10. Clarify lot coverage and floor area ratio in site statistics.
11. Delete rear and side yard no limitation references.
12. Provided the Planning Commission grants the requested variances.
13. Denote adjoining property owner's information for B-1 property.
14. Delete notes #4 and #11.
15. Denote compliance with the Downtown Streetscape Master Plan will be achieved at time of Final Development Plan.
16. Dimension exterior of all buildings.
17. Denote required open space area per B-2 requirements.
18. Delete TPA information and replace with required Tree Inventory.
19. Discuss right-of-way and Legacy Trail on Midland Avenue.
20. Discuss timing of the construction of the proposed B-1 and B-2A properties.
21. Discuss street improvements and two way movement on Lewis Street.
22. Discuss stormwater detention and water quality measures.
23. Discuss environmental easement (covenant) under Building B.
24. Discuss sanitary sewer easement under Building B.
25. Discuss use of small building behind Building C.

Staff Zoning Presentation – Ms. Wade presented the staff report and recommendations on this zone change. She said that she has received a letter of support from the East End Community Development Corporation. She said that the staff as well as the Zoning Committee is recommending approval of this zone change.

Commission Comments – There were questions in regard to the proximity of the Town Branch Trail, which will run along Midland Avenue.

Development Plan Presentation - Mr. Martin presented the updated staff report on this development plan, which was handed out to the Commission. He pointed out that the underground parking is vital to this development. The revised conditions are:

1. Provided the Urban County Council rezones the property B-2A/B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.

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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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Clarify limits of existing building and label as such.
8. Denote that existing building shall have no front yard setback limitation along Midland Avenue and E. Third Street.
9. Provided the Planning Commission grants the requested variances.
10. Denote right-of-way and Legacy Trail on Midland Avenue shall be resolved at the time of Final Development Plan.
11. Denote timing of the construction of the proposed B-1 and B-2A properties shall be resolved at the time of Final Development Plan.
12. Denote street improvements and two way movement on Lewis Street shall be resolved at the time of Final Development Plan.
13. Denote stormwater detention and water quality measures shall be resolved at the time of Final Development Plan.
14. Denote sanitary sewer easement under Building B conflict shall be resolved at the time of Final Development Plan.
15. Denote that architectural elements and fenestration shall be discussed at the time of Final Development Plan.

Variance – Mr. Sallee presented the staff report on the variances for this development and discussed the four conditions that the staff has recommended. He said that the staff understands that the petitioner will be withdrawing requested variance number four.

Traffic Impact Study – Mr. Emmons presented the staff report of the Traffic Study, prepared by Adam Kirk Engineering, for this development and said that this will have a traffic calming effect as a dense urban environment will slow the vehicular traffic.

Petitioner Presentation – Jacob Walbourn, McBrayer, McGinnis, Leslie & Kirkland, PLLC, was present representing the petitioner and said that he believes the applicant is in agreement with the staff's recommendations. He said the applicant is not in favor of vehicular transportation; that he is a large proponent of bicycling and pedestrian facilities, which is the focus of this development.

Mr. Walbourn said that the applicant has withdrawn the requested variance number four, to reduce the minimum front yard setback from 10' to 0' (in the B-2A zone). He also said that the applicant had met with the neighborhood, and listened to their concerns, before the application was filed. He said that the applicant is committed to working with the neighborhood to address issues before the Final Development Plan stage.

Mr. Phil Halobeck, developer representing Community Ventures, presented the design guidelines of the proposed development and discuss how it met the goals of the East End Small Area Plan and the 2013 Comprehensive Plan.

The following citizens were present in favor to this case:

Mr. Thomas Tolliver, 335 E. 3<sup>rd</sup> Street, said that he welcomes this development and wants the East End to have more diversity and is exactly is the East End needs.

Ms. Anita Franklin, near E. 6<sup>th</sup> Street, President of the Windmills Round Association and member of the Board of Charles Young Community Center, does welcome Community Ventures' vision, but has concerns about the young adults in the neighborhood finding employment.

The following citizens were present in opposition to this case:

Mr. Alvin Seals, 772 Caden Lane and member of the Board of Charles Young Community Center, has concerns about the recreation center and consideration of the youth in the area.

Petitioner Rebuttal – Mr. Walbourn said that he believes this proposed development will be an asset to the Charles Young Center.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion.



Zoning Action – A motion was made by Mr. Brewer, seconded by Mr. Owens, and carried 10-0 (Penn absent) to approve PLN-MAR-16-00007: COMMUNITY VENTURES PROPERTIES, LLC, for the reasons provided by the staff, including the conditional zoning restrictions.

Variance Action – A motion was made by Mr. Brewer, seconded by Ms. Richardson, carried 9-0 (Owens abstained, Penn absent) to approve the Requested Variances, for the reasons provided by the staff and to amend condition number one to the maximum height to 44' and to withdraw variance number 4 (in the B-2A zone).

Development Plan Action – A motion was made by Mr. Brewer, seconded by Ms. Richardson, carried 10-0 (Penn absent) PLN-MJDP-16-00015: COMMUNITY VENTURES PROPERTIES, LLC, with the revised conditions provided by the staff.

