

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

IN RE: **PLN-MAR-21-00013 NORTH BROADWAY LLC** - a petition for a zone map amendment from an Interchange Service Business zone (B-5P) zone to a Highway Service Business (B-3) zone, for 2.47 net (3.5 gross) acre, for property located at 2275 N. Broadway. (Council District 6)

Having considered the above matter on **October 28, 2021**, 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. A restricted Highway Service Business (B-3) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed project will grow successful neighborhoods (Theme A) by fostering the redevelopment of underutilized property (Theme A, Goal #2.a), and in a manner that is compatible with the existing urban form in the area (Theme A, Goal #2.b).
  - b. The proposed project will incorporate greenspace and open space into the development project (Theme A, Goal #2.c), while promoting positive and safe social interactions with the surrounding neighborhood, by providing pedestrian facilities through the site and connecting neighborhood for pedestrians and other modes of transportation (Theme A, Goal #3.b).
  - c. The proposed rezoning minimizes the disruption of the natural features on the property, providing a fenced area around the environmentally sensitive area and making it a focal point on the site (Theme A, Goal #3.c).
  - d. The development will improve a desirable community (Theme D, Goal #1) by supporting a pedestrian-friendly design (Theme D, Goal #1.a), and including walkways into that design (Theme D, Goal #1.b) that will provide pedestrian connectivity between the development at Parkside Drive and Judy Lane.
  - e. The proposed rezoning seeks to maximize development on vacant and underutilized land with the Urban Service Area (Theme E, Goal #1.d) in an effort to preserve the urban and rural balance (Theme E, Goal #1).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
  - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a commercial development that supports pedestrian mobility and increases the intensity of development along a corridor.
  - b. The proposed rezoning includes safe facilities for the potential users of the site by prioritizing the inclusion of safe pedestrian facilities and connecting the neighboring local street system. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and adds tree canopy coverage in the form of landscape buffers and property perimeter screening.

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are recommended via conditional zoning:
- a. There shall be no exterior lighting greater than twelve (12) feet in height and all lighting be shielded and directed downward within forty (40) feet of residential zoning.
  - b. Inventory of vehicles for sale, display, and repair shall be limited to a total twenty (20) vehicles on the subject property.
  - c. The following uses shall be prohibited:
    - i. Drive-through facilities.
    - ii. Pawnshops.
    - iii. Billboards.
    - iv. Retail sale and dispensing of fuel.
    - v. All underground tanks for the storage of liquid or gas fuel.

These restrictions are appropriate and necessary to reduce the potential impact of the allowable uses on the neighboring lower intensity uses, while also restricting the highest nuisances producing uses in the zone and protecting the environmentally sensitive area.

4. This recommendation is made subject to approval and certification of PLN-MJDP-21-00046: North Parkway Acres (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 15<sup>th</sup> day of November, 2021.

  
Secretary, Jim Duncan

LARRY FORESTER  
CHAIR

Note: The corollary development plan, PLN-MJDP-21-00046: NORTH PARKWAY ACRES (AMD) was approved by the Planning Commission on October 28, 2021 and certified on November 11, 2021.

K.R.S. 100.211(7) requires that the Council take action on this request by January 26, 2022.

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

**OBJECTORS**

- Patty Draus, 608 Allen Ct

**OBJECTIONS**

- Concerned with the function of the sinkhole with extra stormwater runoff and pollutants from the auto repair shop. Also concerned with increased traffic on N. Broadway and the obstruction of view caused from a large two-story building.

VOTES WERE AS FOLLOWS:

AYES: (10) Barksdale, Bell, Davis, de Movellan, Forester, Meyer, Michler, Nicol, Penn, and Worth

NAYS: (0)

ABSENT: (1) Pohl

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of PLN-MAR-21-00013 carried.

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

## MAP AMENDMENT REQUEST (MAR) APPLICATION

### 1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

<b>Applicant:</b> NORTH BROADWAY LLC, 124 KENTUCKY AVENUE, LEXINGTON, KY 40502
<b>Owner(s):</b> NORTH BROADWAY LLC, 124 KENTUCKY AVENUE, LEXINGTON, KY 40502
<b>Attorney:</b> SAM CARNEAL, 201 W. SHORT STREET, STE. 102, LEXINGTON, KY 40507

### 2. ADDRESS OF APPLICANT'S PROPERTY

2275 NORTH BROADWAY, LEXINGTON, KY 40505
--

### 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
B-5P	VACANT	B-3	COMMERCIAL	2.47	3.5

### 4. COMPREHENSIVE PLAN

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	CORRIDOR
b. Utilizing Placebuilder, what Development Type is proposed for the subject site? If residential, provide the proposed density	MEDIUM DENSITY NON-RESIDENTIAL / MIXED-USE

### 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 checked="" 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

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

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
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





GESS MATTINGLY & ATCHISON, P.S.C.  
A TRADITION *of* EXCELLENCE

September 7, 2021

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

**Re: Zone Change and Preliminary Development Plan for  
2275 North Broadway**

Dear Chairman Forester and Commission Members:

I represent North Broadway, LLC (the “Applicant”), the owner of 2275 North Broadway (the “Property”), for which an application for a zone change and preliminary development plan for the Property has been filed. The site is one (1) tract of 2.47 acres, and fronts on North Broadway and Parkside Drive. The current zoning is B-5P, Interchange Service Business, and the Application is to change the zoning to B-3, Highway Service Business.

### **GOALS AND OBJECTIVES**

The development as proposed is in agreement with the 2018 Comprehensive Plan and furthers several of the Goals and Objectives that guide the development and redevelopment of the property, including: (1) growing successful neighborhoods (Theme A) fostering the goals of redevelopment of underutilized property (Goal 2, Objective a), compatibility with the existing urban form in the area (Goal 2, Objective b), incorporating greenspace and open space into the development project (Goal 2, Objective c), promoting positive and safe social interaction with the surrounding neighborhood and connecting with the neighborhood for pedestrians and other modes of transportation (Goal 3, Objective b), and minimizing the disruption of the natural features on the property (Goal 3, Objective c); (2) improving a desirable community (Theme D, Goal 1) by supporting a pedestrian-friendly design (Objective a), and including walkways and greenways into the design (Objective b); and (3) preserving the urban and rural balance (Theme E, Goal 1) by maximizing the development of vacant and underutilized land within the Urban Service Area (Objective d).

## **ENGAGEMENT**

The current spike in Covid-19 cases is presenting a challenge to in-person interaction with the stakeholders in the redevelopment of the Property. The Applicant will be holding at least one (1) Zoom meeting with notice provided to stakeholders with their comments and participation being encouraged.

## **SITE DESCRIPTION**

The property is a 2.47-acre single tract located at 2275 North Broadway, and has been unutilized since it was platted. The Property presents several challenges to redevelopment and utilization that the proposed development seeks to embrace and overcome. Though the property has significant frontage along North Broadway, there is a significant grade change from the road surface to that of the developable area. That makes placing buildings on the property difficult to engage with the roadway. No access from North Broadway to the Property is possible or is being sought. The access to the property is off of Parkside Drive, a street providing access to the adjoining neighborhood. In the middle of the Property is a sinkhole which is subject to a Sinkhole Mitigation Agreement and a drainage easement granted to the Kentucky Transportation Department. Surrounding the property is a neighborhood of single-family homes with existing natural buffer from the Property. Directly adjacent to the Property is a Waffle House restaurant which was subdivided off of the Property in the mid-1980s. In addition to the natural challenges the Property faces there is a private restriction that was put in place when the Waffle House was built that prohibits the Property from being used for a restaurant or the sale of foodstuffs until 2037.

## **PLACE-TYPE, DEVELOPMENT TYPE & REQUESTED ZONE**

The property most clearly falls within the place-type of Corridor, defined in the Placebuilder as:

*Lexington's major roadways focused on commerce and transportation. The overriding emphasis of Imagine Lexington is significantly overhauling the intensity of major corridors. The future of Lexington's corridors lies in accommodating the shifting retail economic model by incorporating high density residential and offering substantial flexibility to available land uses.*

Within the Corridor place-type several land use recommendations exist. The most appropriate for the Property is Medium Density Non-Residential. The other place-types recommended in the Corridor place-type of Medium-Density Residential, Medium High Density Residential, High-Density Residential, and High Density Non-Residential are not appropriate for the site given the challenges the site presents outlined above.

The Placebuilder recommends the zones of B-6P (Commercial Center Zone), B-1 (Neighborhood Business Zone), MU-2 (Neighborhood Corridor Zone), MU-3 (Mixed Use Community Zone), R-4 (High Density Apartment), and R-5 (High Rise Apartment).

None of the zones recommended by the Placebuilder are appropriate for the Property and Applicant is seeking the property to be rezoned from its current zoning of B-5P (Interchange Service Business Zone) to B-3 (Highway Service Business). The Property is located near the interchange with I-64 and I-75, but that interchange did not develop in a way where the current zoning uses make sense for the area or the Property in particular. That said, the location and potential uses for the Property are more aligned with the B-3 (Highway Services Business) zone than the B-1 (Neighborhood Business) zone. While the Interstate traveler is unlikely to use this interchange, the traveling public on the corridor of North Broadway can be served by the uses proposed on the Property, while still providing needed services for the neighborhood, all of which can best be accomplished with a change in zoning to B-3.

There are several properties adjacent to the Property or within the same area that have been rezoned to B-3 with great success and benefit to the neighborhood, highway travelers, and the area in general. There are B-3 zoned properties located to the northeast of the Property, including Speedway (located at 2301 North Broadway), a strip mall with a bank and a hair salon (located at 2311 North Broadway), and a large truck sales and service facility (located at 2353 North Broadway and 425 Rogers Road), as well as B-3 zoned property located to the southwest of the Property, including a Dollar General (located at 2167 North Broadway). In addition to the wider-range of potential uses in the B-3 zone the height restriction is greater than in the suggested zone. Given the significant change in grade allowing for a taller structure, particularly at the corner of North Broadway and Parkside Drive, would serve to anchor the corner and provide visibility for the development.

Applicant is proposing the development of the Property in a cohesive and comprehensive manner, while being sensitive to the limitations of the Property and the needs of the neighborhood and the travelers on North Broadway. A daycare is being proposed that will serve not only the immediate neighborhood but also those travelling on North Broadway as they come into Lexington. The proposed auto service facility will serve the neighborhood, with a reach that is greater than just the immediate area. The proposed auto sales will serve the highway traffic. The office uses could provide a range of services, including banking, insurance, healthcare (dental, vision) or other services lacking in the Corridor. Those uses will serve not only the neighborhood but also the highway travelers. The proposed development includes walkways and interior-based parking, well screened from the Corridor and the neighbors. The sinkhole would be maintained and provide an open area allowing the development to breathe and have a sense of openness and space, while still maximizing the usage of the currently underutilized Property. Further, the development proposes to extend the stub street from the Waffle House property to Parkside Drive allowing for ease of circulation for the users of the Property, while the horseshoe-shaped road minimizes the temptation for it to be a cut-through and will calm the traffic using the development helping make it more pedestrian-friendly.

The Applicant believes that rezoning the Property to B-3 and approval of the proposed development plan will put the Property into productive and active use, being an asset to the immediate neighbors as well as the users of North Broadway, fully embracing and promoting the Placebuilder’s goals and objectives.

**DEVELOPMENT CRITERIA**

The following design standards are being met, and are annotated on the development plan:

<b>Site Design, Building Form &amp; Location</b>	<b>Transportation &amp; Pedestrian Connectivity</b>	<b>Greenspace &amp; Environmental Health</b>
A-DS4-2	A-DS1-2	A-DS4-3
A-DS5-3	A-DS5-2	B-PR2-1
A-DS5-4	A-DS13-1	B-PR7-1
A-DS7-1	C-PS10-1	B-PR7-2
A-DS7-2	D-CO5-1	B-PR7-3
A-DN2-2		B-RE1-1
A-DN3-1		B-RE2-1
A-EQ3-1		E-GR3-2
B-PR9-1		
B-SU11-1		
C-L16-1		
C-L17-1		
D-PL10-1		
E-GR10-2		

In addition to those items above shown on the proposed development plan, there are other Placebuilder development criteria that are pertinent to the Property and the proposed zone change and development:

<b>Site Design, Building Form &amp; Location</b>	
C-DI1-1	The proposed uses on the property under B-3 include office jobs, daycare workers, automobile service technicians and salesmen.
C-LI2-2	Though near historic Paris Pike the Property has more intensive uses between it and the protected Paris Pike corridor, and provides a buffer between those more intensive uses (gas station, large truck repair facility) and the neighborhood,
C-PS10-3	The parking proposed is laid out to be sensitive to the needs of the development while not providing over-parking.



D-PL7-1	Stakeholders will be consulted in the safest means available considering the current pandemic.
E-GR9-4	The proposed development intensifies an underutilized property developing vacant land into a meaningful project that will serve the neighborhood and highway travelers.
<b>Transportation &amp; Pedestrian Connectivity</b>	
A-DS1-1	While no mass transit infrastructure is located on the Property, a LexTran bus stop is located immediately across Parkside Drive from the Property.
A-EQ3-2	The development located on the North Broadway corridor is adjacent to a LexTran bus stop and is internally walkable and connected to the adjacent neighborhoods, providing a sidewalk along Parkside Drive where none currently exists.
D-CO1-1	The development allows access to adjacent rights-of-way and multimodal facilities while being designed to provide medium-density non-residential services
D-CO2-1	Safe facilities for all users and modes of transportation are being provided.
D-CO2-2	The development will expand a safe, connected multimodal transportation network that satisfies all users' needs, including those with disabilities.
<b>Greenspace &amp; Environmental Health</b>	
	[Please refer to the proposed development plan]

Lastly, there are several Placebuilder development criteria that are not applicable to the proposed zone change. Those are listed below, along with a brief explanation of why they are not pertinent to our proposal and/or our site.

<b>Site Design, Building Form &amp; Location</b>	
A-DS3-1	No multi-family residential development is being proposed.
A-DS7-3	No parking structures is being proposed.
A-DS8-1	No housing is being proposed.
A-DS10-1	No residential units are being proposed.
A-DS11-1	No public parks or schools are being proposed.
A-DN2-1	No residential uses are being proposed.
A-DN3-2	No residential uses are being proposed.
A-EQ7-1	No schools (other than a daycare) are being proposed.
C-LI2-3	The Property is not located at an existing and proposed gateways as identified in the Rural Land Management Plan.
C-DI5-1	The Property is not in an opportunity zone.
C-LI2-4	The Property is not located along a Historic Turnpike, Scenic Byway, Turnpike, and other scenic roads listed in the RLMP.
C-PS9-2	The Property is currently undeveloped.
C-PS10-2	There are no adjacent parking lots with available spaces to be shared.
D-PL9-1	The Property has no existing structures, historic or otherwise.

D-SP3-1	No wireless communication networks are being proposed.
D-SP3-2	No cellular tower antennae are being proposed.
D-SP9-1	No housing units are being proposed.
E-GR4-1	There are no existing structures to be reused.
E-GR5-1	There are no structures with demonstrated historic significance.
E-GR9-1	No residential development is being proposed.
E-GR10-3	The Property layout is not conducive to shared common space in commercial developments that can encourage experiential retail programming.
<b>Transportation &amp; Pedestrian Connectivity</b>	
A-DS4-1	The Property layout is not conducive to a connected multimodal network to adjacent neighborhoods, greenspaces, developments and complementary uses.
A-DS5-1	The Property layout is not conducive to provide complete separation of vehicular transport from other modes of transport.
A-EQ7-2	No healthcare or social services facilities are proposed at this time, but may use the proposed office space. In which case the Property has a LexTran bus stop located very close to the entrance on Parkside Drive.
B-SU4-1	The Property layout is not conducive to the provision of greenspace or community centers beyond the provisions being made for the sinkhole on the Property.
D-CO1-1	No new rights-of-way or multimodal facilities are being proposed.
D-CO4-2	No new roadway capacity is being proposed.
D-SP1-3	The Property is not adjacent to a school site.
E-ST3-1	The proposed layout of the Property does not provide the additional space needed for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area.
<b>Greenspace &amp; Environmental Health</b>	
A-EQ7-3	No new community open spaces are being proposed.
B-PR2-2	The Property is not located in a floodplain.
B-PR2-3	The Property is not located in a floodplain.
B-RE2-1	The Property is not located adjacent to a greenspace network.
D-SP2-1	No school site is being proposed.
D-SP2-2	No active or passive recreation opportunities are being proposed.
E-GR3-1	The Property is not located adjacent to an existing greenway network.

## **CONCLUSION**

The Applicant asks that you consider and accept its proposed zone change and development plan. The Applicant's proposal provides a positive redevelopment of a long-vacant 2.47-acre parcel that has significant development challenges. It balances the needs of the neighborhood with the needs of the highway traveling public, providing services needed for both. The design is sensitive to the sinkhole located in the middle of the property, while providing density of use with a minimum of over-parking. Thank you for your consideration of

September 7, 2021  
Page 7

the proposed zone change and we look forward to presenting our case to you at our earliest opportunity. As always, we are glad to answer any questions or concerns you may have at any time.

Sincerely,

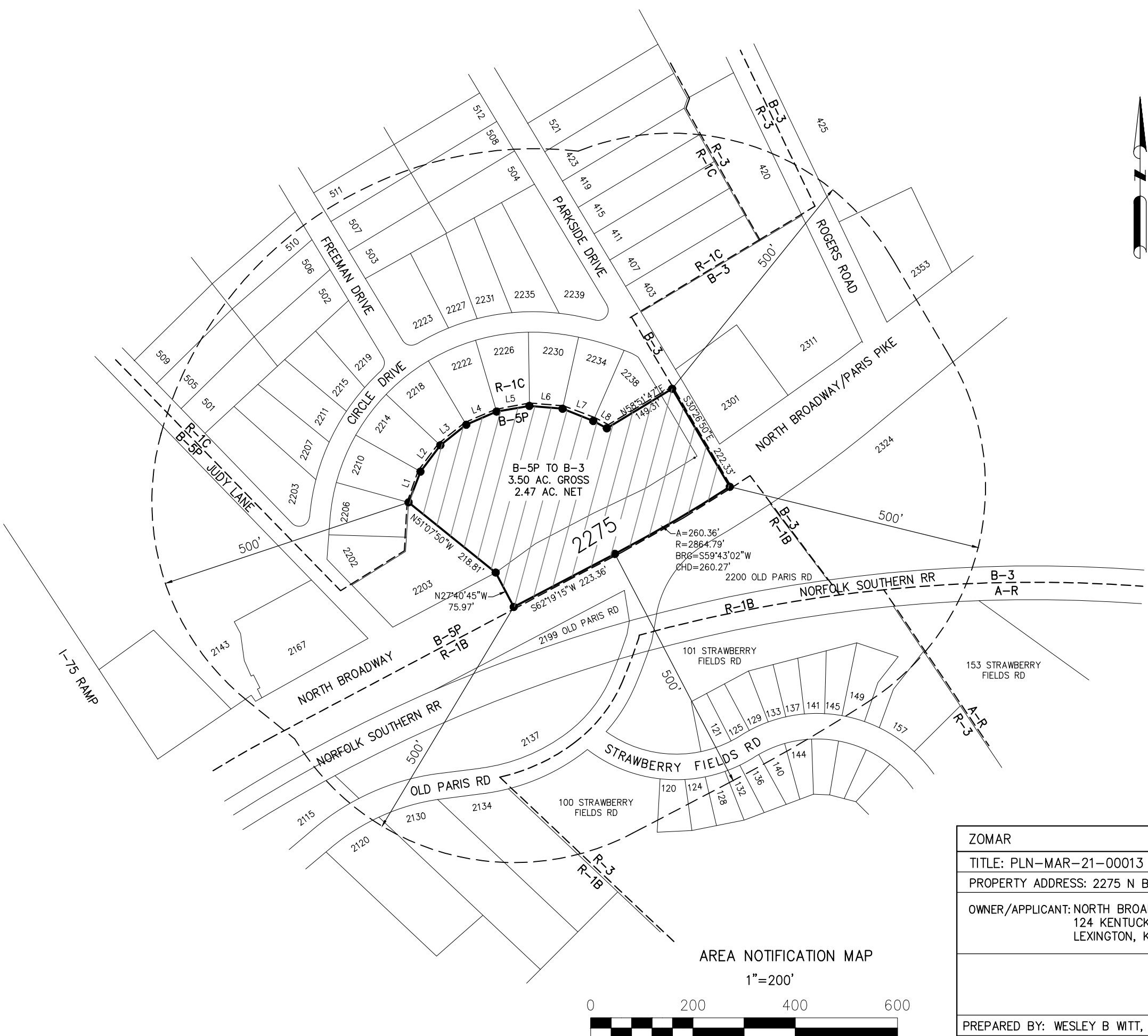
A handwritten signature in blue ink, consisting of several overlapping loops and a horizontal line at the bottom, positioned above the printed name.

Samuel G. Carneal

Legal Description  
North Broadway Company, LLC (applicant)  
Zone Change From B-5P to B-3  
Located at 2275 N. Broadway  
Lexington, Fayette County, Kentucky

ALL THAT TRACT OR PARCEL OF LAND SITUATED AT THE NORTHWEST CORNER OF NORTH BROADWAY AND PARKSIDE DRIVE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the intersection of the centerline of N. Broadway with the centerline of Parkside Drive thence with the centerline of N. Broadway along a curve to the right having an arc length of 260.36 feet, a radius of 2864.79 feet, and a chord bearing south 59 degrees 43 minutes 02 seconds west 260.27 feet; thence south 62 degrees 19 minutes 15 seconds west 223.36 feet to a point; thence leaving N. Broadway north 27 degrees 40 minutes 45 seconds west 75.97 feet to a point; thence north 51 degrees 07 minutes 50 seconds west 218.81 feet to a point; thence north 21 degrees 10 minutes 10 seconds east 64.46 feet to a point; thence north 36 degrees 59 minutes 10 seconds east 64.62 feet to a point; thence north 51 degrees 44 minutes 10 seconds east 64.61 feet to a point; thence north 66 degrees 30 minutes 10 seconds east 64.67 feet to a point; thence north 80 degrees 11 minutes 10 seconds east 65.05 feet to a point; thence south 85 degrees 07 minutes 50 seconds east 65.06 feet to a point; thence south 68 degrees 18 minutes 50 seconds east 64.61 feet to a point; thence south 61 degrees 39 minutes 50 seconds east 30.20 feet to a point; thence north 58 degrees 51 minutes 47 seconds east 149.31 to the centerline of Parkside Drive; thence with the centerline of Parkside Drive south 30 degrees 26 minutes 50 seconds east 222.33 feet to the point of beginning and containing 3.50 gross acres and 2.47 net acres.



VICINITY MAP

LINE TABLE

L1	N21°10'10"E	64.46'
L2	N36°59'10"E	64.62'
L3	N51°44'10"E	64.61'
L4	N66°30'10"E	64.67'
L5	N80°11'10"E	65.05'
L6	S85°07'50"E	65.06'
L7	S68°18'50"E	64.61'
L8	S61°39'50"E	30.20'

AREA NOTIFICATION MAP

1"=200'



ZOMAR				
TITLE: PLN-MAR-21-00013	FROM	TO	GROSS	NET
PROPERTY ADDRESS: 2275 N BROADWAY	B-5P	B-3	3.50 AC.	2.47 AC.
OWNER/APPLICANT: NORTH BROADWAY, LLC 124 KENTUCKY AVENUE LEXINGTON, KY 40502	<div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">STATE OF KENTUCKY</p> <p style="text-align: center;">WESLEY B. WITT 2187</p> <p style="text-align: center;">LICENSED PROFESSIONAL LAND SURVEYOR</p> <p style="text-align: right;"><i>Wesley B. Witt</i></p> </div>			
PREPARED BY: WESLEY B WITT, INC.				
DATE PREPARED: SEPTEMBER 7, 2021				

# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-21-00013: NORTH BROADWAY, LLC

## DESCRIPTION OF ZONE CHANGE

Zone Change: From a Interchange Service Business (B-5P) zone  
To a Highway Service Business (B-3) zone  
Acreage: 2.47 net (3.50 gross) acres  
Location: 2275 North Broadway



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Properties	B-5P	Vacant
To North	R-1C	Single Family Residential
To East	B-3	Gas Station
To South	R-1B	Bar / Billboard
To West	B-5P / R-1C	Restaurant Single Family Residential

## URBAN SERVICE REPORT

**Roads** - The subject property is located on the north side of North Broadway (US 27/US 68), a major arterial highway, east of Interstates 64 and 75, and 800 feet from the on-ramp to the westbound/northbound lanes to the interstate at the Broadway / Paris Pike interchange. At this location, North Broadway experiences approximately 18,700 average daily trips. The site is bound by Parkside Drive on the east and connects to Judy Lane via an access easement to the west. Both roadways are local streets within the Thoroughbred Acres subdivision.

**Curb/Gutter/Sidewalks** - North Broadway was constructed without curb, gutter and sidewalks in this portion of the Urban Service Area. Parkside Drive also does not have curb, gutter or sidewalks along the subject property's frontage. Improvements (½ section) are required to be made along the unimproved frontages of the subject property at the time of site development.

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

**Storm Sewers** - The subject property is located within the Cane Run watershed. Stormwater swales are currently located along the North Broadway right-of-way. There is a large sinkhole mitigation project located in the center of the subject property. In addition to the care required due to the location of the sinkhole, the developer will be required to address water quality on their site in accord with the adopted Engineering Manuals.

**Sanitary Sewers** - The subject property is located within the Cane Run sewershed, and will be serviced by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue inside New Circle Road, between Leestown Road and Old Frankfort Pike. Sanitary sewers have been constructed within the immediate area. Capacity of the sewer system will need to be verified prior to construction of any use on the subject property. Under the Capacity Assurance Program, there is currently available sanitary sewer capacity in this area.

**Refuse** - The Urban County Government serves this area with refuse collection on Thursdays. However, supplemental service by private refuse haulers is commonly utilized for commercial land uses, such as those proposed on the associated development plan.

**Police** - The Central Sector Roll Call Center is the nearest police station to this location. It is located on Industry Road, near the interchange of Winchester Road and New Circle Road, about 2½ miles to the southwest of the subject property.

**Fire/Ambulance** - Fire Station #8 is the nearest station to this site and is located approximately one (1) mile to the southwest on North Broadway.

**Transit** - LexTran service is available within the immediate area of the subject property. The Northside (#9) has outbound and inbound service across Parkside Drive from the subject property. Additionally, within 1/4 of a mile of the subject properties there is outbound and inbound service to the Hamburg Pavilion Route (#10), and the Newtown Pike Route (#4).

**Parks** - Mary Todd Park is located along Rogers Road, approximately ¼ of a mile walking distance north of the subject property.

## SUMMARY OF REQUEST

The applicant is seeking to rezone the subject properties from a Interchange Service Business (B-5P) zone to the Highway Service (B-3) zone in an effort to construct a commercial center.

## PLACE-TYPE

CORRIDOR

The Corridor Place-Type is Lexington’s major roadways focused on commerce and transportation. The overriding emphasis of Imagine Lexington is significantly overhauling the intensity of the major corridors. The future of Lexington’s corridors lies in accommodating the shifting retail economic model by incorporating high density residential and offering substantial flexibility to available land uses. Adding a mix of land uses to support the existing retail will provide a built-in customer base, create a more desirable retail experience, and allow a greater return on investment for landholders. Additional focus is on increasing the viability of enhanced mass transit, thereby reducing the reliance on single-occupancy vehicles and improving Lexington’s overall transportation efficiency.

## DEVELOPMENT TYPE

MEDIUM DENSITY NON-RESIDENTIAL / MIXED-USE

### Primary Land Use, Building Form, & Design

Primarily community-serving commercial uses, services, places of employment, and/ or a mix of uses within mid-rise structures with a higher Floor Area Ratio. Mixed-use structures typically include more multi-family residential units and places of employment, and retail and commercial options generally draw from a larger geographic area. An activated and pedestrian-scale ground level should be provided. These developments may include more employment space for professional office and can include some larger entertainment spaces.

### Transit Infrastructure & Connectivity

Though they draw more external users, they should still include multi-modal connections allowing for easy neighborhood access. Mass transit infrastructure is to be provided on par with that of other modes, and the higher-density housing types should be located in close proximity.

### Parking

The buildings should be oriented to the street, and developments should avoid over-parking, with provided parking located internally.

## PROPOSED ZONING



This zone is intended to provide for retail and other uses, which are necessary to the economic vitality of the community but may be inappropriate in other zones. The Comprehensive Plan should be used to determine the locations for this zone. Special consideration should be given to the relationship of the uses in the zone to the surrounding land uses and to the adequacy of the street system to serve the traffic needs.

## PROPOSED USE



The petitioner proposes the rezoning of the subject property to the Highway Service Business (B-3) zone to allow for the construction of a commercial center that includes three (3) structures and associated parking. The applicant proposes the inclusion of four (4) commercial uses including retail/office, auto sales/services, offices, and a daycare facility.

## APPLICANT & COMMUNITY ENGAGEMENT



The applicant has indicated that the spike in COVID-19 cases presented a challenge to in-person interaction with the stakeholders near the subject property. The applicant stated that they would be holding at least one (1) Zoom meeting with notice provided to stakeholders with their comments and participation being encouraged. The applicant should indicate when the meeting was held and the comments and questions that were made.



## PROPERTY & ZONING HISTORY



The subject property was initially zoned Single Family Residential District (R-1) until 1969 when it was reclassified to the Single Family Residential (R-1C) zone during the comprehensive rezoning of the city and county. Prior to the consolidation of the Urban County, the subject property was rezoned to the Interchange Service Business (B-5P) zone in 1970 to allow for the construction of commercial and retail development to support the interchange with I-75/I-64. Initially, the subject property was incorporated with the neighboring property, 2203 North Broadway. Both properties remained vacant until the 1980s when a restaurant, the Waffle House, was planned and constructed on the 2203 North Broadway portion.

One aspect of the site that has been a limiting factor on development is the presence of a sinkhole and the associated permanent drainage easement. Since the initial platting and review of the site, the plans have reflected the location of the sinkhole at the center of the site. Any future development must protect and mitigate the impacts on this environmentally sensitive area.

## COMPREHENSIVE PLAN COMPLIANCE



The 2018 Comprehensive Plan, *Imagine Lexington*, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 applicant opines that the proposed rezoning for the subject property is in agreement with the 2018 Comprehensive Plan.

### GOALS & OBJECTIVES

The applicant opines that they are in agreement with the adopted Goals, Objectives, and Policies of the 2018 Comprehensive Plan. The applicant indicates that the proposed project will grow successful neighborhoods (Theme A) by fostering the redevelopment of underutilized property (Theme A, Goal #2.a), and in a manner that is compatible with the existing urban form in the area (Theme A, Goal #2.b). The proposed project seeks to incorporate greenspace and open space into the development project (Theme A, Goal #2.c), while promoting positive and safe social interactions with the surrounding neighborhood and connecting with the neighborhood for pedestrians and other modes of transportation (Theme A, Goal #3.b). The applicant is also seeking to minimize the disruption of the natural features on the property (Theme A, Goal #3.c).

Additionally, the applicant indicates that the proposed development seeks to improve a desirable community (Theme D, Goal #1) by supporting a pedestrian-friendly design (Objective a), and including walkways into that design (Theme D, Goal #1.b). The applicant is seeking to provide pedestrian facilities across the site, which will provide pedestrian connectivity between the development at Parkside Drive and Judy Lane.

Finally, the applicant indicates that the proposed project seeks to maximize development on vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.d) in an effort to preserve the urban and rural balance (Theme E, Goal #1).

### PLACE-TYPE, DEVELOPMENT TYPE, AND ZONE

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, applicants are asked to identify a Place-Type based on the location of the subject property. Within each Place-Type there are recommended Development Types based on the form and function of the proposed development. Based on the Place-Type and Development Type there are also several recommended zones that are most appropriate based on the Goals, Objectives, and Policies of the 2018 Comprehensive Plan. While these zones are the ideal zoning categories to develop within a specified area, other zones may be considered, provided there is an appropriate justification addressing the unique situation and provided the development is able to adequately meet the associated Development Criteria.

The applicant indicates that the project is located within the Corridor Place-Type and is a Medium Density Non-Residential / Mixed-Use Development Type. The Corridor Place-Type is Lexington's major roadways focused on commerce and transportation and is the only Place-Type that is mapped within the Comprehensive





Plan. The proposed development is located along North Broadway and is seeking to situate itself along that roadway rather than towards the established residential neighborhood to the west. Staff agrees with the applicant's assessment of the proposed Corridor Place-Type.

Additionally, the applicant is seeking to apply the Medium Density Non-Residential / Mixed-Use Development Type. This Development Type is recommended within the Corridor Place-Type and is meant to be comprised of community-serving commercial uses, services, places of employment, and/or a mix of uses within mid-rise structures with a higher Floor Area Ratio (FAR). The applicant has proposed the development of three structures with four different uses. One structure is proposed to be two-stories and located at the intersection of North Broadway and Parkside Drive. While the FAR of the site is relatively low, the constructibility of the site is impacted by the environmental and drainage features on the site. Staff agrees that the proposed Development Type can be appropriate for the subject property.

Finally, the applicant has requested the rezoning of the property to the Highway Service Business (B-3) zone for the subject property, which is not specifically recommended by the Comprehensive Plan for this Place-Type and Development Type. Within the Corridor Place-Type and Medium Density Non-Residential / Mixed Use Development Type, there are six recommended zones: Commercial Center (B-6P), Neighborhood Business (B-1) with a form-based project, Mixed-Use Corridor (MU-2), Mixed-Use Community (MU-3), High Density Apartment (R-4), and High-Rise Apartment (R-5) zones. While there is some overlap between the B-3 zone, and the recommended zones, the primary difference is that the B-3 zone is limited in the capacity to promote dense mixed-use development.

The applicant indicates that the location of the subject property and potential uses for the property are more aligned with the B-3 zone and is compatible with the established context of the area, while also increasing the developable area. They state that while the Interstate traveler is unlikely to use this interchange, the traveling public on the corridor of North Broadway can be served by the uses proposed on the subject property, while still providing needed services for the neighborhood, which can best be accomplished with a change in zoning to the B-3 zone. They indicate that there are several properties adjacent to the subject property or within the same area that have been rezoned to B-3 with great success and benefit to the neighborhood, highway travelers, and the area in general, including the Speedway (located at 2301 North Broadway), a strip mall with a bank and a hair salon (located at 2311 North Broadway), and a large truck sales and service facility (located at 2353 North Broadway and 425 Rogers Road), as well as the B-3 zoned property located to the southwest of the subject property, including a Dollar General (located at 2167 North Broadway). Additionally, the applicant states that the wider-range of potential uses in the B-3 zone allows for greater development than in the suggested zone. Given the significant change in grade from the portion of the property from North Broadway to the rear of the property, they are able to construct a taller structure, at the corner of North Broadway and Parkside Drive, which will serve to anchor the corner, providing visibility for the development, and meet the goal of intensifying development along a major corridor.

Staff agrees that the applicant's request to change the property's zoning to the B-3 zone can be appropriate for the site. Despite staff's agreement with the potential appropriateness of the B-3 zone, there is a significant concern regarding one of the proposed uses described on the applicant's associated development plan. Building "C" is noted as being a daycare facility for sixty (60) children. Daycare facilities are not an allowable use within the B-3 zone unless they are sponsored and licensed by established places of religious assembly and non-profit community-based groups, and/or where enrollment may be limited to children of employees and staff of an office, business or commercial establishment which is located on or abutting the same lot as the proposed childcare facility. Staff would like the applicant to discuss the use and how it complies with the intended zone.

#### **DEVELOPMENT CRITERIA**

The development criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The development criteria represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed Corridor Place-Type and Medium Density Non-Residential / Mixed-Use Development Type.



### 1. Site Design, Building Form and Location

Despite compliance with several of the criteria for Site Design, Building Form and Location, there is one criterion that necessitated added discussion and warranted a staff response.

*C-PS10-3 Over-parking of new developments should be avoided. (B-SU5)*

The applicant states that within the letter of justification that the site is not over-parked; however, the associated development plan indicates a 46% overage of parking. Staff would like the applicant to describe the extra parking and denote any auto sale display spaces.

### 2. Transportation and Pedestrian

Despite compliance with several of the criteria for Transportation and Pedestrian, there are two criteria that necessitated added discussion and warranted a staff response.

*A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).*

The applicant should seek to work with LexTran to see if seating and a shelter would be desired at this location. The nearby transit stop would be advantageous to those utilizing or working at the proposed development and upgrade facilities may be an added benefit.

*D-CO2-1 Safe facilities for all users and modes of transportation should be provided.*

The proposed project is seeking to provide safe pedestrian facilities through the site, in lieu of facilities along North Broadway. The applicant should indicate an access easement across the site so that pedestrians may utilize those facilities, whether or not they are seeking the proposed services.

### 3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will increase tree canopy coverage and provides significant protection of the sinkhole mitigation area, designating it as a focal point on the site.

## **CONDITIONAL ZONING RESTRICTIONS**

While the proposed rezoning is in agreement with the Comprehensive Plan, staff thinks that it is important to lessen the impact of and transition from a more intense development to a lower intensity development, as well as to protect the visual character of North Broadway, which is defined as major gateway into the City of Lexington, while also protecting the identified environmentally sensitive area. The staff recommends the use of Conditional Zoning Restrictions to buffer the subject property and to limit uses on the subject property that might negatively impact the area. Staff recommends that there shall be no exterior lighting greater than twelve (12) feet in height and that all lighting be shielded and directed downward within forty (40) feet of residential zoning. The limitation on lighting, coupled with the property perimeter screening will protect against light spillage on neighboring properties. Additionally, staff recommends prohibiting drive-through facilities, pawnshops, billboards, the retail sale and dispensing of fuel, and the use of underground tanks for the storage of liquid or gas fuel. These uses could result in a negative impact on the neighborhood, the roadway, and the environmentally sensitive area. Finally, staff recommends limiting the quantity of vehicles for sale on the site to a total of twenty (20) vehicles on site. As displayed on the associated development plan, the site is split between the auto sales and the other uses. This will allow for the development of the entirety of the site, without causing a proliferation of the sales component to dominate the entirety of the development and decreasing the density of uses described by the applicant in their letter of justification.

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



1. A restricted Highway Service Business (B-3) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed project will grow successful neighborhoods (Theme A) by fostering the redevelopment of underutilized property (Theme A, Goal #2.a), and in a manner that is compatible with the existing urban form in the area (Theme A, Goal #2.b).
  - b. The proposed project will incorporate greenspace and open space into the development project (Theme A, Goal #2.c), while promoting positive and safe social interactions with the surrounding neighborhood, by providing pedestrian facilities through the site and connecting neighborhood for pedestrians and other modes of transportation (Theme A, Goal #3.b).
  - c. The proposed rezoning minimizes the disruption of the natural features on the property, providing a fenced area around the environmentally sensitive area and making it a focal point on the site (Theme A, Goal #3.c).
  - d. The proposed development will improve a desirable community (Theme D, Goal #1) by supporting a pedestrian-friendly design (Theme D, Goal #1.a), and including walkways into that design (Theme D, Goal #1.b) that will provide pedestrian connectivity between the development at Parkside Drive and Judy Lane.
  - e. The proposed rezoning seeks to maximize development on vacant and underutilized land with the Urban Service Area (Theme E, Goal #1.d) in an effort to preserve the urban and rural balance (Theme E, Goal #1).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
  - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a commercial development that supports pedestrian mobility and increases the intensity of development along a corridor.
  - b. The proposed rezoning includes safe facilities for the potential users of the site by prioritizing the inclusion of safe pedestrian facilities and connecting the neighboring local street system. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and adds tree canopy coverage in the form of landscape buffers and property perimeter screening.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are recommended via conditional zoning:
  - a. There shall be no exterior lighting greater than twelve (12) feet in height and all lighting be shielded and directed downward within forty (40) feet of residential zoning.
  - b. Inventory of vehicles for sale shall be limited to a total twenty (20) vehicles on the subject property.
  - c. The following uses shall be prohibited:
    - i. Drive-through facilities.
    - ii. Pawnshops.
    - iii. Billboards.
    - iv. Retail sale and dispensing of fuel.
    - v. All underground tanks for the storage of liquid or gas fuel.These restrictions are appropriate and necessary to reduce the potential impact of the allowable uses on the neighboring lower intensity uses, while also restricting the highest nuisances producing uses in the zone and protecting the environmentally sensitive area.
4. This recommendation is made subject to approval and certification of PLN-MJDP-21-00046: North Parkway Acres (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

HBB/TW  
10/6/2021

Planning Services/Staff Reports/MAR/2021/PLN-MAR-21-00013 NORTH BROADWAY, LLC.pdf

## UPDATED STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-21-00013: NORTH BROADWAY, LLC



Since the October Zoning Committee Meeting, staff members associated with Zoning Compliance section of the Division of Planning voiced concerns regarding the conditional zoning restrictions that were recommended during the Zoning Committee. The staff initially recommended that the inventory of vehicles for sale be limited to a total of twenty (20) vehicles on the subject property. There is a concern with Zoning Compliance that since there is a proposed joint use of the property for both the repair of vehicles and the sale of vehicles on site, that there is the potential for vehicles to be categorized as for repair when also for sale. This has created issues in determining compliance with the restrictions elsewhere in the Urban County. Staff recommends the modification of the proposed conditional zoning restrictions to state:

“Inventory of vehicles for sale, display, and repair shall be limited to a total twenty (20) vehicles on the subject property.”

This will allow for the development of the entirety of the site, without causing a proliferation of the sales component to dominate the entirety of the development and decreasing the density of uses described by the applicant in their letter of justification. It will also allow for proper enforcement of the proposed conditional zoning restrictions.

### UPDATED STAFF RECOMMENDATION: **APPROVAL**, FOR THE FOLLOWING REASONS:



1. A restricted Highway Service Business (B-3) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed project will grow successful neighborhoods (Theme A) by fostering the redevelopment of underutilized property (Theme A, Goal #2.a), and in a manner that is compatible with the existing urban form in the area (Theme A, Goal #2.b).
  - b. The proposed project will incorporate greenspace and open space into the development project (Theme A, Goal #2.c), while promoting positive and safe social interactions with the surrounding neighborhood, by providing pedestrian facilities through the site and connecting neighborhood for pedestrians and other modes of transportation (Theme A, Goal #3.b).
  - c. The proposed rezoning minimizes the disruption of the natural features on the property, providing a fenced area around the environmentally sensitive area and making it a focal point on the site (Theme A, Goal #3.c).
  - d. The proposed development will improve a desirable community (Theme D, Goal #1) by supporting a pedestrian-friendly design (Theme D, Goal #1.a), and including walkways into that design (Theme D, Goal #1.b) that will provide pedestrian connectivity between the development at Parkside Drive and Judy Lane.
  - e. The proposed rezoning seeks to maximize development on vacant and underutilized land with the Urban Service Area (Theme E, Goal #1.d) in an effort to preserve the urban and rural balance (Theme E, Goal #1).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
  - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a commercial development that supports pedestrian mobility and increases the intensity of development along a corridor.
  - b. The proposed rezoning includes safe facilities for the potential users of the site by prioritizing the inclusion of safe pedestrian facilities and connecting the neighboring local street system. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and adds tree canopy coverage

**UPDATED STAFF RECOMMENDATION: APPROVAL, FOR THE FOLLOWING REASONS:**



in the form of landscape buffers and property perimeter screening.

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are recommended via conditional zoning:
  - a. There shall be no exterior lighting greater than twelve (12) feet in height and all lighting be shielded and directed downward within forty (40) feet of residential zoning.
  - b. Inventory of vehicles for sale, display, and repair shall be limited to a total twenty (20) vehicles on the subject property.
  - c. The following uses shall be prohibited:
    - i. Drive-through facilities.
    - ii. Pawnshops.
    - iii. Billboards.
    - iv. Retail sale and dispensing of fuel.
    - v. All underground tanks for the storage of liquid or gas fuel.

These restrictions are appropriate and necessary to reduce the potential impact of the allowable uses on the neighboring lower intensity uses, while also restricting the highest nuisances producing uses in the zone and protecting the environmentally sensitive area.

4. This recommendation is made subject to approval and certification of PLN-MJDP-21-00046: North Parkway Acres (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

**1. NORTH BROADWAY LLC ZONING MAP AMENDMENT & NORTH PARKWAY ACRES (AMD) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-21-00013 NORTH BROADWAY LLC (12/06/21)\*- a petition for a zone map amendment from an Interchange Service Business zone (B-5P) zone to a Highway Service Business (B-3) zone, for 2.47 net (3.5 gross) acre, for property located at 2275 N. Broadway.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 applicant is seeking to rezone the subject properties from an Interchange Service Business (B-5P) zone to the Highway Service (B-3) zone in an effort to construct a commercial center.

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

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

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed project will grow successful neighborhoods (Theme A) by fostering the redevelopment of underutilized property (Theme A, Goal #2.a), and in a manner that is compatible with the existing urban form in the area (Theme A, Goal #2.b).
  - b. The proposed project will incorporate greenspace and open space into the development project (Theme A, Goal #2.c), while promoting positive and safe social interactions with the surrounding neighborhood, by providing pedestrian facilities through the site and connecting neighborhood for pedestrians and other modes of transportation (Theme A, Goal #3.b).
  - c. The proposed rezoning minimizes the disruption of the natural features on the property, providing a fenced area around the environmentally sensitive area and making it a focal point on the site (Theme A, Goal #3.c).
  - d. The proposed development will improve a desirable community (Theme D, Goal #1) by supporting a pedestrian-friendly design (Theme D, Goal #1.a), and including walkways into that design (Theme D, Goal #1.b) that will provide pedestrian connectivity between the development at Parkside Drive and Judy Lane.
  - e. The proposed rezoning seeks to maximize development on vacant and underutilized land with the Urban Service Area (Theme E, Goal #1.d) in an effort to preserve the urban and rural balance (Theme E, Goal #1).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
  - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a commercial development that supports pedestrian mobility and increases the intensity of development along a corridor.
  - b. The proposed rezoning includes safe facilities for the potential users of the site by prioritizing the inclusion of safe pedestrian facilities and connecting the neighboring local street system. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and adds tree canopy coverage in the form of landscape buffers and property perimeter screening.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are recommended via conditional zoning:
  - a. There shall be no exterior lighting greater than twelve (12) feet in height and all lighting be shielded and directed downward within forty (40) feet of residential zoning.
  - b. Inventory of vehicles for sale shall be limited to a total twenty (20) vehicles on the subject property.
  - c. The following uses shall be prohibited:
    - i. Drive-through facilities.
    - ii. Pawnshops.
    - iv. Billboards.
    - iv. Retail sale and dispensing of fuel.
    - v. All underground tanks for the storage of liquid or gas fuel.

---

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



These restrictions are appropriate and necessary to reduce the potential impact of the allowable uses on the neighboring lower intensity uses, while also restricting the highest nuisances producing uses in the zone and protecting the environmentally sensitive area.

4. This recommendation is made subject to approval and certification of PLN-MJDP-21-00046: North Parkway Acres (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-21-00046: NORTH PARKWAY ACRES (AMD) (12/06/21)\* - located at 2275 NORTH BROADWAY, LEXINGTON, KY.  
Project Contact: Barrett Partners, Inc.

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. United States Postal Service's approval of kiosk locations or easement.
8. Discuss building fenestration and articulation along North Broadway.
9. Discuss amount of overparking proposed.
10. Discuss proposed land use of building C; childcare centers are limited in the proposed zone.
11. Discuss Placebuilder criteria.

Staff Zoning Presentation – Mr. Baillie presented the revised staff report and recommendations for the zone change application. He said that the applicant is proposing to build a commercial complex that will include the retail sale of vehicles, auto servicing of vehicles, a proposed child care facility, and office space along with the associated required parking. He displayed photographs of the subject property and aerial photographs of the general area. The property is surrounded by the Single Family Residential (R-1C) zone on the northwest boundary. Southeast of the subject property there are non-conforming lots that are associated with the Single Family Residential (R-1B) zone. He said that there is a significant amount of Highway Service Business (B-3) zoning to the northeast, as well as Interchange Service Business (B-5P) zoning to the southwest. On the aerial photograph, he identified a sinkhole mitigation area that is located in the center of the subject property. He said that this is a significant constraint in the development of this site, as this is an important environmentally sensitive feature. He said that currently there are no pedestrian facilities located along Parkside Drive and the applicant will be required to add those to their site and along their frontage to N. Broadway.

Mr. Baillie said that the applicant submitted their application under the Corridor Place-Type, which is located along the major arterial roadways and identified within the Comprehensive Plan. The applicant is also seeking a Medium-Density Non-Residential / Mixed Use Development Type, which is a recommended type within this Place-Type. He said that the staff initially had concerns with this development, but with the addition of the two-story structure that is being proposed at the corner of Parkside Drive and N. Broadway, as well as the two other uses on the site, the applicant has adequately met the intensity of the Medium-Density Non-Residential / Mixed Use Development Type. When the staff reviews the Floor Area Ratio (FAR), or the land use on this portion of land, they remove the environmentally sensitive area, as the area can't be developed. He said that the applicant is not applying for a recommended zone within the Comprehensive Plan for this Place-Type and Development Type, and the applicant has justified why this proposed zone is the most appropriate zone. The applicant provided justification for how the B-3 zone is complementary to the area and how they can make this area a more corridor-oriented type of development by including multiple types of uses. He said that the staff agreed that a B-3 zone could be appropriate at this location and the development criteria is in agreement with the Comprehensive Plan.

Mr. Baillie said that the staff had concerns with how this proposed development would interact with the neighboring single-family residential development to the rear of the subject property. He said that the applicant is showing a significant amount of buffer between the parking of the proposed development and the single-family residential development to the northwest. He added that the staff also recommended condition zoning restrictions on this site to further ensure that there will no impact on the surrounding residential area. He said that Zoning Compliance officers within the Division of Planning voiced a concern about a conflict of sales and repair on this site and there have been complaints from members of the community that operators define vehicles as being repaired and then being sold, essentially doubling on site inventory. Initially, the staff was interested in limiting the amount of vehicles that would be for sale on site, but since there is repair and sale, the staff recommends a change to the conditional zoning restrictions to the following:

- a. There shall be no exterior lighting greater than twelve (12) feet in height and all lighting be shielded and directed downward within forty (40) feet of residential zoning.
- b. Inventory of vehicles for sale, display, and repair shall be limited to a total twenty (20) vehicles on the subject property.

---

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

- c. The following uses shall be prohibited:
  - i. Drive-through facilities.
  - ii. Pawnshops.
  - iii. Billboards.
  - iv. Retail sale and dispensing of fuel.
  - v. All underground tanks for the storage of liquid or gas fuel.

These restrictions are appropriate and necessary to reduce the potential impact of the allowable uses on the neighboring lower intensity uses, while also restricting the highest nuisances producing uses in the zone and protecting the environmentally sensitive area.

Mr. Baillie said that during the October 7, 2021, Zoning Committee meeting, Commission member Mr. Pohl asked why this number of vehicles was chosen by the staff. Mr. Baillie said that is specifically meant to make sure that there is not a proliferation of the sales or repair across the entirety of the site, which would limit the intensity of development on this corridor. He said that within the applicant's justification that the B-3 zone is appropriate because it was heavily tied to the other uses on this site: the office use and the child care facility. He said that in the B-3 zone, a child care facility is a restricted principal use, it is only an allowable use if it is associated with either a non-profit or a religious organization, which the applicant intends to do in the future. He said that the staff is recommending approval for this zone change.

Development Plan Presentation – Mr. Martin presented a revised rendering of the preliminary development plan associated with this zone change. He said that revised conditions were distributed to the Planning Commission, as follows:

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. United States Postal Service's approval of kiosk locations or easement.
8. ~~Discuss~~ Resolve building fenestration and articulation along North Broadway at the time of Final Development Plan.
9. ~~Discuss amount of overparking proposed.~~ Denote location of vehicle display area.
10. ~~Discuss~~ Resolve proposed land use of building C; childcare centers are limited in the proposed zone at the time of Final Development Plan.
11. ~~Discuss Placebuilder criteria.~~

Mr. Martin said that there will be a Final Development plan that will be brought back to the Planning Commission for review and approval, before any development takes place on this property. He then displayed a color rendering and identified Parkside Drive and Judy Lane. He said that there is an access easement that was designed and required to serve this property. He pointed to the access point that aligns with an intersection across the street. He identified the location on the plan where the applicant is proposing the auto repair and sales, the location of the child care facility, and to the location of the retail/professional office building. The proposed auto repair building is 4,800 square feet, the sales building is approximately 1,700 square feet, the child care facility is 5,000 square feet, and the office building is approximately 1,600 square feet. He said that currently there is a buffer area between the single family homes and the proposed development on this site. He pointed to the parking area and said that the site has more spaces than required and said that the applicant needs to delineate location of the vehicular sales. The parking design does provide vehicular and pedestrian access through the site from the local streets.

Mr. Martin that the applicant will need to resolve the fenestration and architectural details of the building at the time of the Final Development Plan. The detail is regarding the child care facility also needs to be resolved at the time of the Final Development Plan.

Mr. Martin said that the sinkhole is an important environmental feature that has been studied, and that more evaluations will need to take place. He said that it is part of their stormwater drainage system, which leads to the possibility of Federal permits. He said that the staff is recommending approval of this development plan.

Commission Questions – Mr. Penn asked if there will be more studies of the sinkhole by the time of the Final Development Plan. Mr. Martin said that prior to that plan being certified, they will need to study the sinkhole and submit information to the Division of Engineering and the Department of Environmental Quality, and possibly Federal or state agencies, because when a sinkhole is utilized as part of the drainage system, it becomes an injection well. Mr. Penn also asked if the sinkhole is part of the Royal Springs Aquifer. Mr. Martin said that it is not part of that aquifer.

Mr. de Movellan asked where the location of the vehicles for sale will be parked. Mr. Martin said that the applicant hasn't determined that location. Mr. Baillie said that the staff hasn't specified an area, but has divided the site in half with the sales

---

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



area located on the east side of this development. Mr. Martin added that this issue will be discussed in greater detail at the time of the Final Development Plan.

Applicant Presentation – Mr. Sam Carneal, attorney, and Tony Barrett, Barrett Partners, Inc. were present representing the petitioner. Mr. Carneal said that they are in agreement with the staff's recommendations. He said that this is a challenging site with a significant grade difference and the sinkhole. They believe that this proposed development is an appropriate density for this corridor and that the neighborhood will benefit from the child care facility and office uses. He said that he is available for any questions.

Commission Questions – Mr. Penn asked Mr. Carneal if they intend to review and study the sinkhole. Mr. Carneal said that they are currently under a mitigation plan and that there will need to be more research and analysis completed with the Division of Engineering, the Department of Environmental Quality, and possibly Federal regulations prior to any construction. He said that there are existing stormwater drainage easements into this sinkhole. Mr. Penn then asked if their intent is to use the sinkhole as their stormwater drainage. Mr. Carneal said it is currently being utilized that way. He said that the usage of the sinkhole will be determined prior to the Final Development Plan.

Citizen Comments – Patty Draus, 608 Allen Ct., distributed a newspaper article and map of auto sales locations in the area, to the Planning Commission members. She said that she is opposed to this development. She is concerned with the sinkhole and the additional stormwater runoff. She said that the character of the existing land will be changed by this development and the current runoff into the sinkhole needs to be rerouted to a different location. She believes that an additional conditional zoning restriction should be placed on the property to allow only businesses that are less likely to pollute, rather than an auto repair shop and parking lot full of cars. She also said the trash receptacles (dumpsters) need to be relocated, so that trash doesn't get blown into the sinkhole. She is also concerned with increased traffic on N. Broadway due to the 2020 Russel Cave Road development that is underway and this proposed development. She said that the current average daily traffic count is 19,340 vehicles per day, with high peak time traffic between 7:30 a.m. and 9:00 a.m. and between 3:00 p.m. and 6:00 p.m. on N. Broadway. Between Rogers Road and Kingston Road is currently very congested, which makes it very difficult to exit the Joyland neighborhood. She also believes that the proposed two-story building will be an obstruction to vehicular visibility exiting Parkside Road and there are already many automobile accidents at this location. She discussed the map of the current automobile sales/businesses located on the northeast side of Lexington. She read the list of sale locations to the Planning Commission and said that this area doesn't need another auto sales business.

Commission Questions – Mr. Penn said that he still has concern with the auto repair in regards to the sinkhole and would like to see more of the mitigation of that on the Final Development Plan.

Mr. Nicol agreed with Mr. Penn and also said that this proposed zone change is considered as a down-zoning from the current Interchange Service Business (B-5P) zone, which allows uses that have a much greater intensity than uses that are being proposed. He added that protecting our waterways is also of great concern.

Mr. Penn added that it is a down-zone with conditional zoning restrictions.

Ms. Worth said that the buffering along the residential boundary will also change the drainage into the sinkhole and asked if that had been factored into the mitigation of the sinkhole. Mr. Carneal said that has not been determined at this preliminary point and it will be developed and engineered upon the Final Development Plan. He said that the sinkhole is currently the drain for the single family neighborhood.

Mr. Carneal addressed Mr. Penn's question of the auto repair and sales, stating that the property is currently zoned to allow auto repair and sales. Mr. Barrett said that the design of the parking lot surrounding the sinkhole provides a twenty-foot setback from the defined sinkhole area. He said that within that 20-foot setback they can deflect the grade of the site away from the sinkhole, if that's appropriate. He said that they can contain the stormwater and treat it to collect debris prior to reaching the sinkhole for drainage.

Mr. Nicol asked Mr. Barrett to identify where the neighborhood is currently draining into the sinkhole. Mr. Barrett pointed to storm drains coming into the sinkhole from the residential neighborhood to the north and also from the south side of N. Broadway. Mr. Nicol asked if that was appropriate. Mr. Barrett said that is how the neighborhood was designed and that is not a practice that developers do at this time.

Mr. Baillie said that once water is flowing into a sinkhole, changing that flow can be detrimental. The goal is to maintain that specific amount of water entering the sinkhole to not cause any environmental changes to the sinkhole. He also said that the B-5P zone does allow for gas station, hotels, restaurant, and automobile service stations, which is minor automobile repairs and different than this proposed use. He added that major automobile repair is first allowed within B-3 zone.

Mr. Martin said that he is a representative on the Royal Springs Aquifer Committee reiterated Mr. Barrett's comment that there are engineered systems that help to separate pollutants out of the stormwater are utilized. He said that if, necessary, the repair

---

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

shop can have filters and separators placed into a gutter, so that if a spill occurs, it can be collected. He added that this area was developed prior to the flood insurance program and the engineering standards were very different at that time. During that time, it was alright to direct water into sinkholes, which is currently reviewed very carefully.

Ms. Meyer asked who will be assigned to make sure these safety measures are being met. Mr. Martin said the Division of Engineering monitors new development.

Mr. Penn stated for the record that the Planning Commission can approve this zone change and this development plan will or will not be built. This land could be sold to someone else and a different development plan can be submitted for approval. He said that this development will not increase the flow of water into the sinkhole. Mr. Martin said that the engineering standards will not change the amount of water flowing into the sinkhole.

Mr. Nicol said that the Planning Commission has the ability to place additional restrictions on this plan at the time of the Final Development Plan, if necessary.

Zoning Action – A motion was made by Mr. Bell, seconded by Mr. Nicol, and carried 10-0 (Pohl absent) to approve PLN-MAR-21-00013 NORTH BROADWAY LLC, for the reasons provided by the staff, with the revised conditional zoning restrictions

Development Plan Action – A motion was made by Mr. Bell, seconded by Penn, and carried 10-0 (Pohl absent) to approve PLN-MJDP-21-00046: NORTH PARKWAY ACRES (AMD), as presented by the staff.