

ORDINANCE NO. 65 -2016

AN ORDINANCE CHANGING THE ZONE FROM AN AGRICULTURAL-URBAN (A-U) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 0.43 NET (0.46 GROSS) ACRE, FOR PROPERTY LOCATED AT 3080 OLD TODDS ROAD (MARY G. GERMOND & GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST; COUNCIL DISTRICT 7).

WHEREAS, at a Public Hearing held on March 24, 2016 a petition for a zoning ordinance map amendment for property located at 3080 Old Todds Road from an Agricultural-Urban (A-U) zone to a Neighborhood Business (B-1) zone for 0.43 net (0.46 gross) acre, 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 3080 Old Todds Road from an Agricultural-Urban (A-U) zone to a Neighborhood Business (B-1) zone for 0.43 net (0.46 gross) acre, 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:


Restricted Uses

- a. Any lighting installed on the subject property shall be directed downward away from any residential zone adjacent to this location.

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: May 12, 2016



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

Published: May 19, 2016-1t

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Legal Description of the
Nicholas A. Gillis Property
Zone Change From A-U to B-1
3080 Old Todds Road
Lexington, Fayette County, Kentucky

ALL THAT TRACT OR PARCEL OF LAND SITUATED ON THE SOUTH SIDE OF OLD TODDS ROAD APPROXIMATELY 350 FEET EAST OF THE INTERSECTION OF MAPLELEAF DRIVE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point in the centerline of Old Todds Road approximately 350 feet east of Mapleleaf Drive; thence along the centerline of Old Todds Road north 84 degrees 13 minutes 36 seconds east 50.00 feet to a point; thence leaving Old Todds Road south 31 degrees 05 minutes 36 seconds east 369.00 feet to a point; thence south 37 degrees 53 minutes 52 seconds west 62.50 feet to a point; thence north 29 degrees 16 minutes 08 seconds west 413.00 feet to the point of beginning and containing 0.46 gross acres and 0.43 net acres.

Rec'd by _____

Date: _____

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

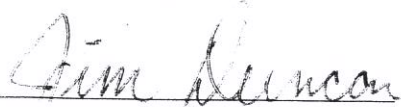
IN RE: **MAR 2016-5: MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST** – petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Neighborhood Business (B-1) zone, for 0.43 net (0.46 gross) acre, for property located at 3080 Old Todds Road. (Council District 7)

Having considered the above matter on **March 24, 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 reason:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan state that the community should work to achieve an effective and comprehensive transportation system by making pedestrian and other transportation connections (Theme D, Goal #1); that infill and redevelopment should respect an area's context and design features (Theme A, Goal #2a); and that underutilized and vacant land should be utilized to encourage compact and contiguous development within the Urban Service Area (Theme E, Goal #1).
 - b. The proposed zoning is compatible with the adjoining shopping center, which is predominantly zoned B-1, as well as most other commercial uses in the vicinity. Additionally, the landscape buffer for the proposed parking lot, along with the adjacent entrance drive, will provide an adequate land use buffer from the townhouses to the west to the shopping center.
 - c. The proposed rezoning will encourage the continued success of a neighborhood commercial node that serves this portion of the Urban Service Area.
 - d. The proposed expansion will not adversely impact the adjoining residential land use and will allow for pedestrian access along Old Todds Road.
 - e. The proposed development of the subject property will put an underutilized tract to a productive use in support of existing businesses in the community.
2. This recommendation is made subject to approval and certification of ZDP 2016-21: Brighton Place Shoppes, Phase II, (Gillis Property), 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 restriction is recommended via conditional zoning for the subject property:
 - a. Any lighting installed on the subject property shall be directed downward away from any residential zone adjacent to this location.

This restriction is appropriate in order to protect the adjacent neighborhoods from potential light pollution.

ATTEST: This 8th day of April, 2016.


Secretary, Jim Duncan

MIKE OWENS
CHAIR

Note: The corollary development plan, ZDP 2016-21: Brighton Place Shoppes, Phase II, (Gillis Property), was approved by the Planning Commission on March 24, 2016, and certified on April 7, 2016.

K.R.S. 100.211(7) requires that the Council take action on this request by June 22, 2016.

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

OBJECTORS _____

- None

OBJECTIONS _____

- none

VOTES WERE AS FOLLOWS:

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

NAYS: (0)

ABSENT: (1) Brewer

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for CONDITIONAL APPROVAL of MAR 2016-5 carried.

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

MAR 2016-5

Date Received 2/1/16

Pre-Application Date 1/12/16

Filing Fee \$ 500.00

GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

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

APPLICANT:	Mary G. Germond & D. Gregory Germond, Co-Trustees of the Mary G. Germond Irrevocable Trust c/o Sperry Van Ness, 300 E. Main Street, Lexington, KY 40507 859.264.0888
OWNER:	Nicholas A. Gillis 35 Bel Air Drive, Pinehurst, NC 28374 859.229.6100
ATTORNEY:	Richard M. Hopgood - Wyatt Tarrant & Combs 250 West Main Street, Suite 1600, Lexington, KY 40507 859.288.7439

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

3080 Old Todd's Road, Lexington, KY 40509

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
A/U	Vacant	B-1	Accessory parking	.43	.46

4. SURROUNDING PROPERTY, ZONING & USE

Property	Use	Zoning
North	Neighborhood Business	B-1
East	Neighborhood Business	B-1
South	Multi-Family Residential	R-3
West	Single family residential	R-1D

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 checked="" type="checkbox"/> NO <u> N/A </u> 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 checked="" type="checkbox"/> more appropriate than the existing zoning <input type="checkbox"/> due to unanticipated changes.

8. APPLICANT/OWNER SIGNS THIS CERTIFICATION

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am OWNER or HOLDER of an agreement to purchase this property since November 19, 2015 .

APPLICANT [Signature] Catruster DATE 1/29/16

OWNER _____ DATE _____

LFUCG EMPLOYEE/OFFICER, if applicable _____ DATE _____

Traci Wade
Planner Senior

January 28, 2016

101 East Vine St. Suite 700
Lex 40507

NICHOLAS A. GILLIS
35 Bel Air Drive
Pinehurst, North Carolina 28374

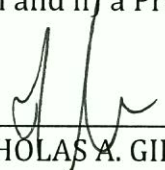
Lexington-Fayette Urban County Planning Commission
Division of Planning - Planning Services Section
200 E. Main Street
Lexington, Kentucky 40507

To Whom It May Concern:

I am the owner of the property located at 3080 Old Todds Road Lexington, Kentucky 40509 (.48+/- acres - Tax Parcel 26621500).

I have a contract to sell that property to Mary G. Germond and D. Gregory Germond, as Co-Trustees of the Mary G. Germond Irrevocable Trust Under Agreements dated December 22, 1988, and January 12, 2015 ("Buyer").

I hereby give my permission to the Buyer to file for and pursue on my behalf i) a zone map amendment for my property from the current Agricultural-Urban (A-U) zone classification to an Neighborhood Business (B-1) zone classification and ii) a Preliminary and Final Development Plan for my property.



NICHOLAS A. GILLIS

Date: 1/29/16

JUSTIFICATION FOR REQUESTED ZONE MAP AMENDMENT
3080 OLD TODDS ROAD LEXINGTON, KENTUCKY 40509

The applicant (the "Germond Family") owns Todds Center located at 3100, 3094 and 3090 Old Todds Road. Todds Center is zoned B-1 (Neighborhood Business). Todds Center is a neighborhood business center in which are located various restaurants, retail and service offices, a dry cleaner, a karate studio and a fitness studio, as well as other neighborhood shops. Todds Center needs more parking space to operate efficiently. There is no unused space in Todds Center to add additional parking spaces.

To remedy this situation, the Germond Family has obtained a contract with Nicholas Gillis to purchase the adjoining property located at 3080 Old Todds Road ("Gillis Tract"). The Gillis Tract is vacant with no improvements on it and contains .46 acres. The Germond Family proposes to construct fifty-one (51) additional parking spaces that will be added to Todds Center by consolidating those two tracts after the zone map amendment is approved and the Germond Family closes on the purchase of the Gillis Tract. The Gillis Tract is zoned Agricultural-Urban (A-U). In order to use the Gillis Tract for parking, a zone map amendment from A-U to B-1 would need to be approved. A zone classification of B-1 would permit the Gillis Tract to be used for parking to support Todds Center as an accessory use.

As set forth below, a zone map amendment from A-U to B-1 is justified as being consistent with the 2013 Comprehensive Plan. Also, the zone map amendment is justified on the basis that the current zoning is inappropriate and the proposed zoning is appropriate.

1. PROPOSED ZONING IS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THE 2013 COMPREHENSIVE PLAN.

The mission statement of the 2013 Comprehensive Plan ("Plan") is to:

"[P]rovide 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. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique landscape that has made Lexington-Fayette County the Horse Capital of the World."

A. Chapter 1 -Theme A - Goal 2 - Objective a. (Growing Successful Neighborhoods) provides that one of the ways to achieve the overall mission of the Plan is to support infill development and identify areas of opportunity for infill development whenever possible. Development of the Gillis Tract from vacant land to parking to support an existing neighborhood center fulfills this goal and objective. Chapter 1 - Theme A. Goal 3 b. seeks positive and safe social interaction in neighborhoods, including neighborhoods that are connected for pedestrians. This proposed use will further that connection with necessary neighborhood shopping with the added connection to adjoining residential property over what is now a vacant grassy field. Likewise, the goal stated in Theme B in Chapter 1 (Protecting the Environment) will be furthered in that there will be no demand on existing

infrastructure in connection with this zone map amendment request. All infrastructure that is needed is existing.

B. One of the goals and objectives of the mission in Chapter 1 -Theme C – Goal 2 d. – (Creating Jobs and Prosperity) is to create a variety of jobs by providing entertainment and other quality of life opportunities that attract young professionals. Todds Center is an established and popular venue for entertainment, restaurants and fitness that serves to meet this objective. By providing additional parking for Todds Center the existing mix of tenants would remain stable and additional tenant uses promoting this goal would be more easily obtained.

C. Chapter 2 (Accessibility – page 15) also sets forth the goal of more accessibility between neighborhoods and shopping. The parking area proposed will provide a sidewalk between the parking area and Todds Center and provide improved pedestrian access for the Maple Leaf Square Townhomes to Todds Center. This can all be accomplished without any new access to Old Todds Road, as the proposed parking will be accessed through existing entrance/exit points on Old Todds Road from Todds Center.

D. Chapter 3 (Growing Successful Neighborhoods) recommends that there be quality access and connections from housing to neighborhood centers. As noted 1 C. above, this goal would be furthered by this parking improvement.

E. Chapter 5 (Balance Between Urban Uses and Safeguarding Rural Land) places a heavy emphasis on infill development. The requested zone map amendment would allow for a vacant and essentially undevelopable tract due to its size and configuration to be used to improve parking and traffic movement in this area.

In summary, as set forth above, the proposed zone map amendment from A-U to B-1 is consistent with the the themes, goals and objectives of the Plan.

2. CURRENT ZONING IS INAPPROPRIATE AND PROPOSED ZONING IS APPROPRIATE.

This application also meets the standard for a zone map amendment based on the current zoning being inappropriate and the proposed zoning appropriate. The current zoning for the Gillis Tract is A-U. This use is a result of a carry-over from when this area was largely agricultural. That character no longer exists. There are no improvements on the Gillis Tract. The access to Old Todds Road from the Gillis Tract is very limited and would be located very close to existing access points already in use on Old Todds Road. The uses in an A-U Zone are the same as an Agricultural –Rural (A-R) zone. The only principally permitted uses in an A-U Zone are agricultural and single family residence. An agricultural use would not be feasible at this location with the surrounding uses (commercial and residential) and the configuration of the Gillis Tract (50/60' x 369/413'). Likewise, a single family residence would not be suitable on this site because it would adjoin the rear of a commercial shopping center and would result in much of the rear of the property being unused if a residence faced Old Todds Road.

The properties located between the Gillis Tract and Liberty Road are all zoned and developed as either B-1 or Highway Service Business(B-3). The properties located to the south of the Gillis Tract are zoned Planned Neighborhood Residential (R-3). Given the commercial development at Old Todds Road and Liberty Road, the proposed zone classification of B-1 is more appropriate for this area than A-U. This fact is further enhanced by the fact that the Germond Family will be able to develop the Gillis Tract without any new access to Old Todds Road. As noted above, access to these additional parking places would be through Todds Center using existing curb-cuts on Old Todds Road and there will be no need to use any new access point on Old Todds Road. Also, the Gillis Tract can be developed for accessory parking use without any new infrastructure as all required infrastructure is currently in place. A 6' high fence and new tree plantings will be placed along the boundary of the R-3 property to buffer it from this added parking in accordance with the LFUCG Zoning Ordinance.

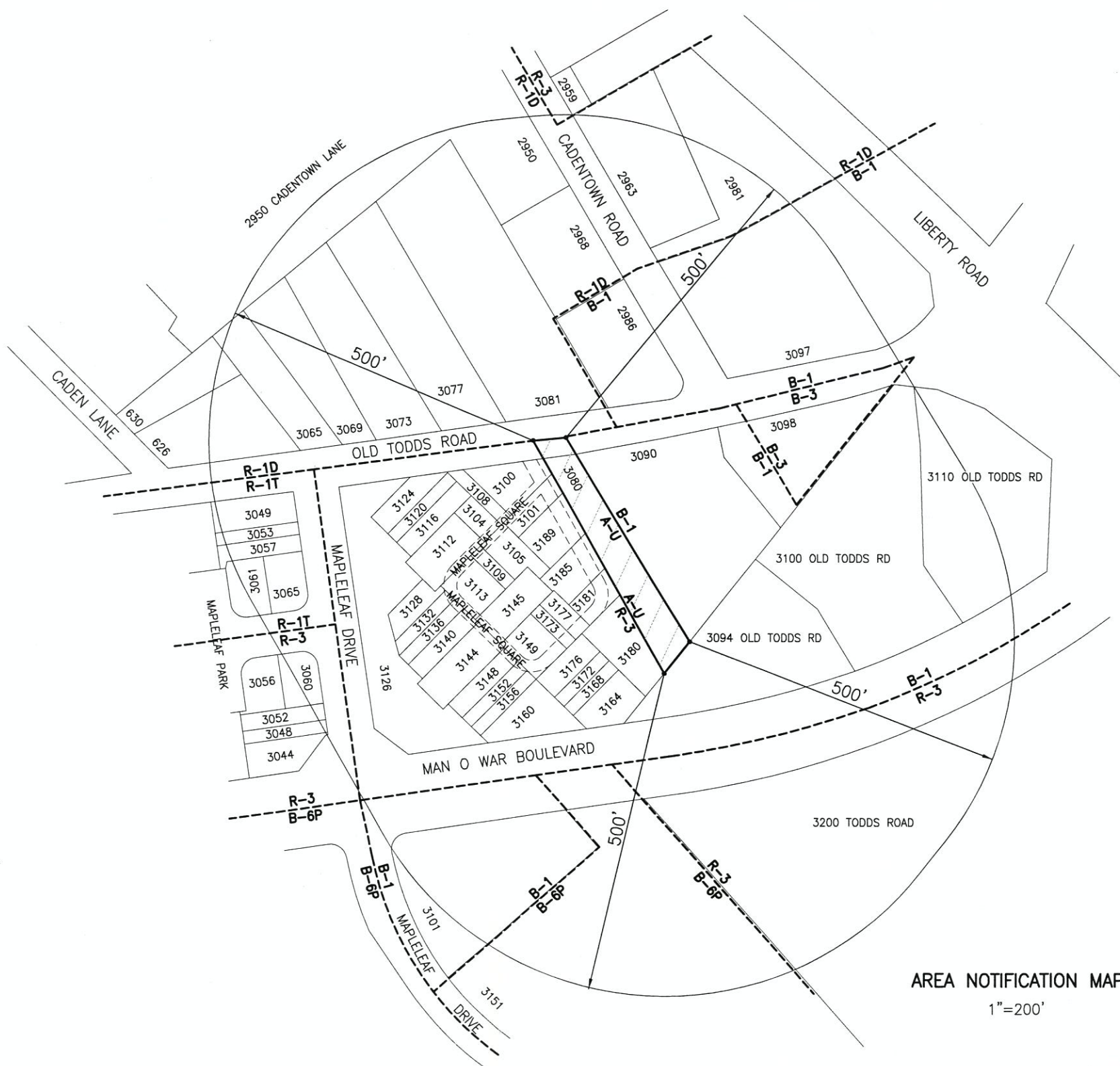
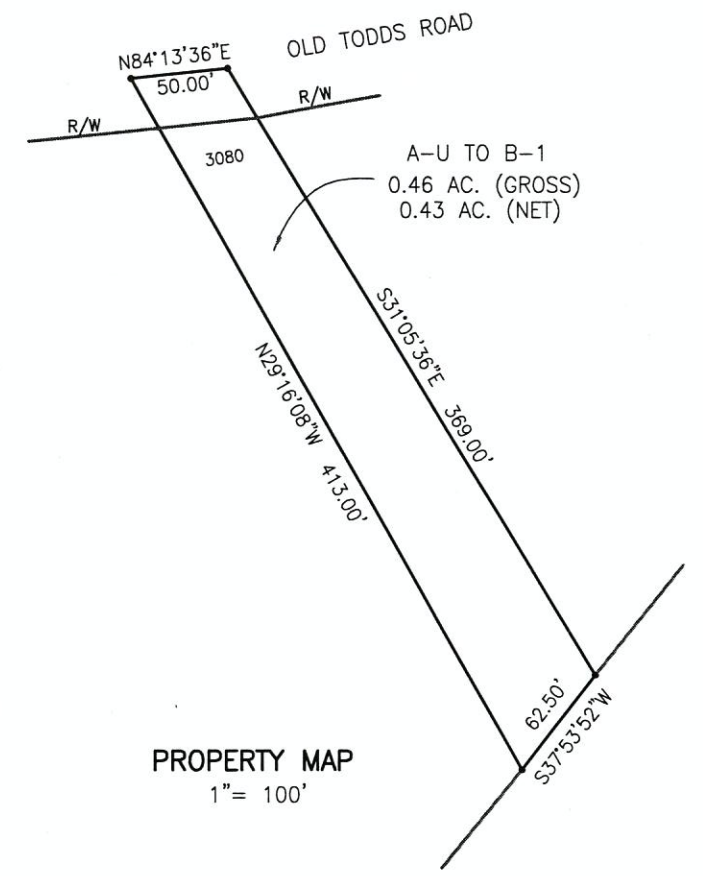
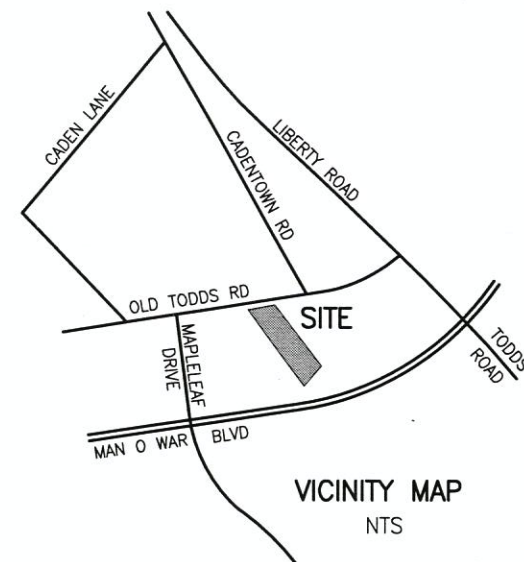
In summary, as set forth above, the proposed zone classification of A-U is inappropriate for the Gillis Tract and the proposed zone classification of B-1 is appropriate.

61452472.1

Legal Description of the
Nicholas A. Gillis Property
Zone Change From A-U to B-1
3080 Old Todds Road
Lexington, Fayette County, Kentucky

ALL THAT TRACT OR PARCEL OF LAND SITUATED ON THE SOUTH SIDE OF OLD TODDS ROAD APPROXIMATELY 350 FEET EAST OF THE INTERSECTION OF MAPLELEAF DRIVE IN LEXINGTON, FAYETTE COUNTY, KENTUCKY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point in the centerline of Old Todds Road approximately 350 feet east of Mapleleaf Drive; thence along the centerline of Old Todds Road north 84 degrees 13 minutes 36 seconds east 50.00 feet to a point; thence leaving Old Todds Road south 31 degrees 05 minutes 36 seconds east 369.00 feet to a point; thence south 37 degrees 53 minutes 52 seconds west 62.50 feet to a point; thence north 29 degrees 16 minutes 08 seconds west 413.00 feet to the point of beginning and containing 0.46 gross acres and 0.43 net acres.



STATE OF KENTUCKY
 WESLEY B. WITT
 2187
 LICENSED PROFESSIONAL LAND SURVEYOR
Wesley B Witt

ZOMAR: A-U TO B-1				
PROPERTY ADDRESS:	FROM	TO	GROSS	NET
3080 OLD TODDS ROAD	A-U	B-1	0.46 AC	0.43 AC
APPLICANT: MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST				
OWNER: NICHOLAS A. GILLIS				
PREPARED BY: MIDWEST ENGINEERING, INC.				
DATE PREPARED: FEBRUARY 1, 2016	TOTAL		0.46 AC	0.43 AC

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

**MAR 2016-5: MARY G. & D. GREGORY GERMOND, CO-TRUSTEES OF
THE MARY G. GERMOND IRREVOCABLE TRUST**

DESCRIPTION

Zone Change: From An Agricultural Urban (A-U) zone
To a Neighborhood Business (B-1) zone

Acreeage: 0.43 net (0.46 gross) acres

Location: 3080 Old Todds Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	A-U	Vacant
To North	R-1D/H-1	Single Family Residential /Historic District
To East	B-1	Shopping Center
To South	B-1 & R-3	Parking & Multi-Family Residential
To West	R-3	Townhouse Residential

URBAN SERVICES REPORT

Roads – Old Todds Road is a collector street that was formerly a rural state highway. It borders the subject property to the north, a very short distance west of its intersection with Cadentown Road – formerly Liberty Road. Old Todds Road extends beyond that intersection to a signalized intersection with the relocated Liberty Road. The intersection of Man o’ War Boulevard with Liberty Road and Todds Road is one of the busiest in this portion of the Urban Service Area. No access is proposed to the subject property itself from Old Todds Road; only parking lot connections to the adjacent commercial property are proposed at this time.

Curb/Gutter/Sidewalks – The frontage of the subject property has no curb, gutter or sidewalks. However, properties on both sides of the subject site do have these urban roadway improvements. Such improvements should be considered for the subject site.

Storm Sewers – The subject property is located in the upper reaches of the East Hickman watershed. The subject property drains to a storm water retention basin to the south of Man o’ War Boulevard. From there, the storm water drains through the Mapleleaf Forest Park, and then to the Jacobson Reservoir to the south. Given the small size of the subject site, it is uncertain as to whether or not its development will require additional storm water facilities.

Sanitary Sewers – The subject property is located in the East Hickman sewershed, which is served by the West Hickman Wastewater Treatment Plant in northern Jessamine County. The existing use does not have sanitary sewer service, and the proposed parking lot use of the site will not require any sanitary sewers to serve the property.

Refuse – The Urban County Government serves this portion of the Urban Service Area with collection on Fridays. Although commercial developments often supplement this service by using a private service provider to accommodate the specific needs of businesses, the proposed use of the property will not generate the need for this service.

Police – The subject property is located within the Police Sector 3 (East Sector), although the nearest police station is located approximately 3½ miles northwest of the property, at the Central Sector Roll Call Center near Eastland Shopping Center.

Fire/Ambulance – The nearest fire station to the property is Station #21, located about ¼ of a mile to the south, at the intersection of Mapleleaf Drive and Dabney Drive.

Utilities – Natural gas, telephone service, electric, water, streetlights, and cable television all currently serve or are available to the area surrounding the subject property, although few of those utilities will be required for the proposed use of the property.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan’s mission statement is to “provide flexible planning guidance to ensure that development of our community’s resources and infrastructure preserves our quality of life, and fosters regional planning and economic development.” The mission statement notes that this will be accomplished while protecting the

environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. 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 petitioner proposes a Neighborhood Business (B-1) zone in order to expand the available off-street parking for the adjoining Todds Center, a neighborhood shopping center, by approximately 48 spaces.

CASE REVIEW

The petitioner has requested a zone change from an Agricultural Urban (A-U) zone to a Neighborhood Business (B-1) zone for about ½ acre located on the south side of Old Todds Road, west of its intersection with Liberty Road.

The subject property is located immediately west of the Todds Center shopping center, which is anchored by a Buffalo Wild Wings restaurant and a Ken Towery's Auto Service Center. The subject site has been in an Agricultural Urban (A-U) zone since 1969, although residential development borders the property to the north and west, and commercial developments have occurred to the south and east.

The petitioner proposes to expand the center's off-street parking onto the subject property in order to better serve the existing tenants in the shopping center. Due to the mix of tenants, there are times when available parking spaces are very limited. The additional 48 parking spaces proposed will allow for adequate parking during those times and will permit a wider range of possible tenants in the available space in the shopping center.

The 2013 Comprehensive Plan focuses 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 Plan no longer relies upon a future land use map. However, the general concepts, policies and guiding principles of the Plan should always be considered.

The petitioner contends that the proposed rezoning is in agreement with the 2013 Comprehensive Plan, in that the subject site can support the existing Todds Center, part of the neighborhood node that supports this portion of the Urban Service Area; the proposed shopping center expansion is compatible with the land use and zoning of the area (respectful of the area's context) (Theme A, Goal #2a); the proposed expansion will not impact the adjoining residential land use and will allow for pedestrian access along Old Todds Road (Theme D, Goal #1); and the proposed development of the subject property will place underutilized land to a productive use in support of existing businesses in the community (Theme E).

The site remains an underutilized site, and should be considered for a possible change to an alternative use in order to better serve the needs of the community and permit one underutilized site to be re-purposed within the Urban Service Area. In addition, the development will be able to use the existing infrastructure and transportation networks (which are adequate to serve both the traveling public and the expanded shopping center use), with the exception of the sidewalk and curb improvements that would be required along Old Todds Road. Lastly, the proposed zoning is consistent with the adjoining shopping center, and compatible with other commercial uses and the townhouse development to the immediate west. The required land use buffer and landscaping, as well as the existing entrance drive for the residential development will provide an adequate buffer for the proposed parking lot, itself a very low intensity land use. For these reasons, the staff agrees that the proposed zone change is in agreement with the Comprehensive Plan and is appropriate at this location.

The Staff Recommends: Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan state that the community should work to achieve an effective and comprehensive transportation system by making pedestrian and other transportation connections (Theme D, Goal #1); that infill and redevelopment should respect an area's context and design features (Theme A, Goal #2a); and that underutilized and vacant land should be utilized to encourage compact and contiguous development within the Urban Service Area (Theme E, Goal #1).
 - b. The proposed zoning is compatible with the adjoining shopping center, which is predominantly zoned B-1, as well as most other commercial uses in the vicinity. Additionally, the landscape buffer for the proposed parking lot, along with the adjacent entrance drive, will provide an adequate land use buffer from the townhouses to the west to the shopping center.
 - c. The proposed rezoning will encourage the continued success of a neighborhood commercial node that serves this portion of the Urban Service Area.

- d. The proposed expansion will not adversely impact the adjoining residential land use and will allow for pedestrian access along Old Todds Road.
 - e. The proposed development of the subject property will put an underutilized tract to a productive use in support of existing businesses in the community.
2. This recommendation is made subject to approval and certification of ZDP 2016-21: Brighton Place Shoppes, Phase II, (Gillis Property), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/BJR/WLS

3/3/2016

Planning Services/Staff Reports/MAR/2016/MAR2016-5.doc

1. **MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST ZONING MAP AMENDMENT & BRIGHTON PLACE SHOPPES, PHASE II (GILLIS PROPERTY) ZONING DEVELOPMENT PLAN**

- a. **MAR 2016-5: MARY G. GERMOND & D. GREGORY GERMOND, CO-TRUSTEES OF THE MARY G. GERMOND IRREVOCABLE TRUST (5/1/16)*** – petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Neighborhood Business (B-1) zone, for 0.43 net (0.46 gross) acre, for property located at 3080 Old Todd's Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. 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 petitioner proposes a Neighborhood Business (B-1) zone in order to expand the available off-street parking for the adjoining Todds Center, a neighborhood shopping center, by approximately 48 spaces.

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

The Staff Recommends: Approval, for the following reason:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan state that the community should work to achieve an effective and comprehensive transportation system by making pedestrian and other transportation connections (Theme D, Goal #1); that infill and redevelopment should respect an area's context and design features (Theme A, Goal #2a); and that underutilized and vacant land should be utilized to encourage compact and contiguous development within the Urban Service Area (Theme E, Goal #1).
 - b. The proposed zoning is compatible with the adjoining shopping center, which is predominantly zoned B-1, as well as most other commercial uses in the vicinity. Additionally, the landscape buffer for the proposed parking lot, along with the adjacent entrance drive, will provide an adequate land use buffer from the townhouses to the west to the shopping center.
 - c. The proposed rezoning will encourage the continued success of a neighborhood commercial node that serves this portion of the Urban Service Area.
 - d. The proposed expansion will not adversely impact the adjoining residential land use and will allow for pedestrian access along Old Todds Road.
 - e. The proposed development of the subject property will put an underutilized tract to a productive use in support of existing businesses in the community.
 2. This recommendation is made subject to approval and certification of **ZDP 2016-21: Brighton Place Shoppes, Phase II, (Gillis Property)**, 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. **ZDP 2016-21: BRIGHTON PLACE SHOPPES, PHASE II (GILLIS PROPERTY) (5/1/16)*** - located at 3080 Old Todds Road. **(Midwest Engineering)**

The Subdivision Committee Recommended: Postponement. There are some questions regarding the lack of required information on the plan (per Article 21 requirements) and the timing of consolidation to the adjoining property.

On March 1st, the applicant provided a revised submission of this plan to the staff. It has addressed several conditions identified by the Technical Committee at their February 24th meeting. However, there are still several discussion issues that the applicant has not addressed. However, the staff can now offer a revised listing of possible conditions for this zoning development plan.

The Staff Recommends: Postponement. There are some questions regarding the timing of consolidation to the adjoining property and Old Todds Road improvements.

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

1. Provided the Urban County Council rezones the property **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. **Denote**: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.

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- ~~6. Addition of graphic scale on plan.~~
- ~~6. 7. Correct note #3.~~
- ~~8. Denote final record plan information or owners' names for adjoining property.~~
- ~~9. Denote zoning for adjoining property on plan.~~
- ~~10. Denote existing and proposed zoning for subject property, in site statistics.~~
- ~~11. Denote construction access location on plan.~~
- ~~12. Replace tree preservation plan with tree inventory information per the requirements of Articles 21 & 26 of the Zoning Ordinance.~~
- ~~13. Denote that there shall be no access to Todds Road from this property.~~
- ~~14. Clarify property's location on vicinity map.~~
- 7.15. Denote 20' building line from Todds Road on plan.
- ~~16. Revise plan title.~~
- ~~17. Identify interior landscape area (3180 s.f.) on plan.~~
- 8.18. Discuss timing of consolidation of property to the adjoining property.
- 9.19. Discuss width of landscape screening adjacent to R-3 property, and possible need for a variance.
- 10.20. Discuss timing of Todds Road right-of-way dedication.
- 11.24. Discuss storm water management requirements for new impervious surface.
- 12.22. Discuss parking lot access and circulation relative to Todds Road access and drive-through.

Zoning Presentation: Ms. Wade presented the staff report on this rezoning request, briefly orienting the Commission to the location of the subject property on the south side of Old Todds Road, near its intersection with Liberty Road and Man o' War Boulevard. The subject property is currently zoned A-U; it is bounded to the west by a townhouse development, and the Todds Center shopping center to the east, with the Cadentown Historic District located to the north. The petitioner is requesting the B-1 zone in order to provide additional parking for the shopping center. Their intent is to consolidate the subject property into the shopping center parcel, and to provide approximately 50 additional parking spaces for that use. This would help to ease the parking situation in the center at peak times, and would allow the property owners more flexibility in leasing to tenants.

Ms. Wade displayed several photographs of the subject property, noting that the single-family residence that had been located there has since been removed. She noted that Todds Road along the subject property has not yet been improved, and it lacks sidewalks. There is a significant pin oak tree located on the front of the property, but it has been identified as diseased by the Urban Forester, and will be removed.

Ms. Wade stated that the petitioner contends that the proposed rezoning is in agreement with the 2013 Comprehensive Plan, because it will provide support for the existing shopping center, and the zoning will be compatible with the B-1 use. The petitioner also contends that developing the subject property as a parking lot will provide pedestrian connectivity in the area via the construction of sidewalks, and that it will allow for an underutilized parcel to become productive without negatively impacting the adjoining residential use.

Ms. Wade said that there had been some concerns about landscaping for the subject property; specifically, what type of buffer would be provided along the shared property line with the adjoining multi-family residential development. The petitioner is required to provide a 15' buffer between residential and business zoning, with trees every 40 feet, and shrubs. The petitioner could also reduce the buffer width by providing a solid screening fence. Ms. Wade explained that the staff did not believe that additional landscaping would be necessary at this location, because the portion of the multi-family property immediately adjacent to the subject property contains only a drive aisle; the residential units are located further away from the subject property. Ms. Wade said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, noting that the staff had recommended revised conditions, which were distributed to the Commission members.

Mr. Martin explained that this is a preliminary development plan, depicting approximately 48 parking spaces. With the revised plan, the petitioner addressed several of the issues originally raised at the Subdivision Committee meeting three weeks ago. The circulation pattern on the property has been revised slightly to provide two-way access in some areas, with one-way traffic near the entrance to the parking lot to avoid conflict between vehicles. The shopping center that will be served by the parking lot includes a busy drive-through liquor store, so staff was concerned about the functionality of the drive aisles, and the entrance conflict.

With regard to the conditions for approval, Mr. Martin said that condition #10 refers to the need for stormwater management, given the addition of impervious surface to the property. Condition #9 would require the petitioner to denote on the plan the timing of right-of-way dedication on Old Todds Road, which will be necessary for the construction of road improvements. Mr. Martin noted that the Commission will see a Final Development Plan for this property, as well as a

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consolidation plat, at some point in the future. He said that the staff is recommending approval of this plan, subject to the following conditions:

1. Provided the Urban County Council rezones the property 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. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Correct note #3.
7. Denote 20' building line from Todds Road on plan.
8. ~~Discuss~~ Denote timing of consolidation of property to the adjoining property on plan.
9. ~~Discuss width of landscape screening adjacent to R-3 property, and possible need for a variance.~~
- 9.40. ~~Discuss~~ Denote the timing of Todds Road right-of-way dedication on plan.
- 10.44. Discuss Denote that storm water management requirements for new impervious surface shall be determined at the time of a Final Development Plan.
12. ~~Discuss parking lot circulation relative to drive-through.~~

Commission Question: Mr. Owens asked if the staff had received additional information about the proposed landscape buffer on the property. Mr. Martin answered that the staff was initially concerned about the petitioner's ability to provide the required 15' landscape buffer. However, with the revised plan, the petitioner is now demonstrating the ability to meet the Article 18 requirements of a 5' buffer with a fence. He reiterated that there will be a Final Development Plan on the property, which must also demonstrate compliance with Article 18 requirements.

Petitioner Representation: Richard Hopgood, attorney, was present representing the petitioner. He stated that the shopping center with which the subject property is proposed to be consolidated is family-owned. It was constructed in 2000, and currently needs additional parking. The subject property became available, so the petitioners placed it under a purchase contract, subject to approval of the zone change.

Mr. Hopgood said that the shopping center currently has a mix of tenants, including an insurance agency; a karate studio; Penn Station and Buffalo Wild Wings restaurants; a nail salon; a barber shop; a cocktail lounge; a liquor store; and a piano store. Due to a number of high-traffic uses, the petitioner believes that providing additional parking will alleviate congestion and the need for patrons to park across Old Todds Road. The subject property is only approximately 50' in width along the Todds Road frontage, so the petitioner contends that it would be unsuitable for agricultural use.

Mr. Hopgood said that the petitioner is planning to extend the existing sidewalk along Old Todds Road to the shopping center, in order to improve pedestrian connectivity in the area. The petitioner is also proposing to construct a sidewalk alongside the parking lot, so that pedestrians will not be required to walk through moving traffic. In order to address concerns from the Division of Traffic Engineering staff, the petitioner revised the entrance configuration to eliminate internal vehicular conflicts with the existing access to Todds Road. Mr. Hopgood noted that an area near the front of the property will be maintained as greenspace, in order to help meet the tree canopy requirement for the property. The subject property will be consolidated with the shopping center, and it will not have its own dedicated access to Old Todds Road. Stormwater will be directed toward the existing detention system in the shopping center.

Mr. Hopgood stated that the petitioner has met with owners in the adjoining Mapleleaf Townhomes, and plans to construct a 6' privacy fence and 5' of landscaping all along the entirety of the shared boundary in order to provide a buffer between that property and the proposed parking lot.

Mr. Hopgood said that the petitioner contends that the proposed zone change is in agreement with the 2013 Comprehensive Plan, and he requested approval.

Commission Question: Mr. Owens asked if the proposed fence would be 6' in height, which Mr. Hopgood answered affirmatively. He added that property owners in the Mapleleaf Townhomes development requested a fence, all along the property line. He noted that the petitioner had also spoken with the head of the Cadentown Neighborhood Association and the pastor of the Cadentown Missionary Baptist Church, who were not opposed to the proposed zone change.

Citizen Support: Holly Bauman, owner of the barber shop located in the existing shopping center, stated that the additional parking would benefit all of the businesses in the center. She said that, during peak times, overflow parking is required to locate across Old Todds Road, and patrons must cross the street to access the shopping center.

Gatewood Gay, property owner in Mapleleaf Square townhomes, stated that the HOA is in favor of the proposed zone change, but the residents would like for as much of the existing treeline as possible to be maintained as a natural buffer between the two properties. Residents are also concerned about mitigation of lighting from the subject property.

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Donna Culver, manager of Cocktails Bar and Grill, stated that her business has sometimes lost customers due to insufficient parking in the shopping center during evening hours. She said that she supports the proposed zone change.

Citizen Opposition: There were no citizens present in opposition to this request.

Petitioner Rebuttal: Mr. Hopgood stated that the petitioner would work with the Mapleleaf Square property owners to identify existing trees to be maintained as part of the landscape buffer, and would denote those trees on the Final Development Plan for the property. He added that there is old wire fencing along the property line, which the petitioner will clean up, along with the removal of some scrub trees.

Staff Rebuttal: Ms. Wade stated that the staff would not suggest regulating the landscaping via conditional zoning since the situation is somewhat irregular, with the neighbors involved in requesting the maintenance of some trees. The staff could draft a conditional zoning restriction related to lighting, however, if the Commission so chose.

Commission Question: Mr. Penn asked if the Commission could include a conditional zoning restriction to require that lighting on the subject property be diffused. Ms. Wade answered that staff would typically recommend a restriction requiring that lighting be directed away from any residential uses, and placing a 20' or 25' height limit on any lighting. Mr. Sallee displayed on the overhead the staff's draft conditional zoning restriction language:

1. Any lighting shall be directed downward and away from any residential zone adjacent to this location.

This restriction is necessary to protect the adjacent neighborhoods from potential light pollution.

Mr. Sallee noted that this should be added to the findings in the staff report and on the agenda, and listed as item #3.

Mr. Hopgood indicated that the petitioner would be agreeable to the addition of the proposed conditional zoning restriction.

Zoning Action: A motion was made by Mr. Cravens, seconded by Mr. Berkley, and carried 10-0 (Brewer absent) to approve MAR 2016-5, for the reasons provided by staff, subject to the conditional zoning restriction as proposed by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve ZDP 2016-21, subject to the conditions as listed in the revised staff recommendation.