

Rec'd by KJ  
Date: 5/10/13

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

**IN RE:** **MARV 2013-9: MICHLER FLORIST, INC.** - petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.9798 net (1.0774 gross) acres, for property located at 417 East Maxwell Street. Dimensional variances were also requested with this zone change. (Council District 3)

Having considered the above matter on **April 25, 2013**, at a Public Hearing, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning

Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reason:

1. The requested Neighborhood Business (B-1) zone, if restricted via conditional zoning limitations, is more appropriate than the existing (and unrestricted) R-3 zoning for the subject property, for the following reasons:
  - a. The proposed B-1 zone will allow the existing historic business, in continuous operation on this site since 1903, to operate as a conforming use in the B-1 zone.
  - b. If restricted via conditional zoning, given the existing H-1 Overlay zone for this site and this area, the proposed B-1 zone should not permit a noticeably more intrusive a land use than what the long time non-conforming use has allowed.
  - c. A restricted B-1 zone, will still allow a small number of additional uses in addition to the existing florist business, and will provide additional off-street parking to accommodate the proposed expansion. Those will complement the existing florist and greenhouses, as well as support the neighborhood.
2. The 2012 Goals and Objectives of the Comprehensive Plan are supportive of neighborhood character preservation, which provide safe and positive social interactions in neighborhoods. The goals and objectives are also supportive of providing incentives to renovate and maintain the historic resources that already enhance a neighborhood's unique identity and image (Goals A.3.a., A.3.b., D.3., D.3.a. and D.3.b.).
3. This recommendation is made subject to approval and certification of ZDP 2013-31: Michler Florist, Inc., prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

**Prohibited Uses:**

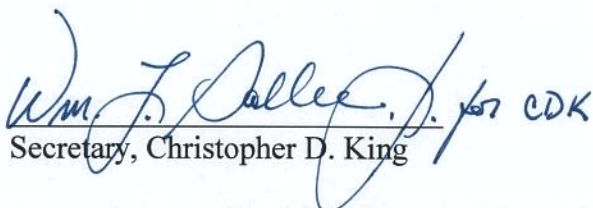
- a. Automobile service stations
- b. Tattoo parlors
- c. Miniatures golf courses
- d. Carnivals and Circuses, even on a temporary basis
- e. Drive-through facilities

- f. Research development and testing laboratories or centers
- g. Indoor theaters
- h. Arcades, including pinball and electronic games
- i. Pawn shops
- j. Gasoline pumps
- k. Mining of non-metallic minerals
- l. Funeral Parlors
- m. Hospitals
- n. Medical Offices and clinics
- o. Kindergartens, nursery schools and child care centers for four or more children
- p. Parking lots and structures, other than as an accessory use
- q. Rental of equipment whose retail sale would otherwise be permitted in a B-1 zone
- r. Minor Automobile repair

These restrictions are appropriate and necessary to ensure that any future redevelopment remains compatible in this established, historic residential neighborhood.

Note: Variances to the perimeter screening requirements along the eastern and western property boundaries were approved by the Planning Commission for this property, subject to the rezoning being granted.

ATTEST: This 10<sup>th</sup> day of May, 2013.

  
 Secretary, Christopher D. King

MIKE OWENS  
 CHAIR

Note: The corollary development plan, ZDP 2013-31: Michler Florist, Inc., was approved by the Planning Commission on April 25, 2013, and certified on May 9, 2013.

K.R.S. 100.211(7) requires that the Council take action on this request by July 24, 2013.

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

OBJECTORS

- Martha Birchfield, 320 Linden Walk

OBJECTIONS

- She is concerned that rezoning the subject property could have a negative impact on property values, and that the petitioner has not specified which types of uses might be added to the property.

VOTES WERE AS FOLLOWS:

AYES: (9) Beatty, Brewer, Cravens, Mundy, Owens, Penn, Plumlee, Roche-Phillips,  
Wilson

NAYS: (0)

ABSENT: (2) Berkley, Blanton

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of MARV 2013-9 carried.

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

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