

4. LEXINGTON VEIN & AESTHETIC CENTER ZONING MAP AMENDMENT & INDIAN HILLS SUBDIVISION (LEXINGTON VEIN CENTER, PLLC)

- a. MAR 2014-6: LEXINGTON VEIN & AESTHETIC CENTER (5/4/14)* - petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Professional Office (P-1) zone, for 0.6610 net (1.0641 gross) acres, for property located at 3116 Harrodsburg Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. The petitioner proposes to rezone the subject property to P-1 in order to develop a new medical office building on the site.

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

The Staff Recommends: Approval for the following reasons:

1. The requested Professional Office (P-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan, and is also in agreement with the land use recommendations of the *Indian Hills Small Area Plan*, adopted as an amendment to the 2001 Comprehensive Plan, which preceded it.
 2. The 2013 Goals and Objectives support infill & redevelopment in all areas of the Urban Services Area (A.2), call for a variety of job opportunities to be provided in the Urban County (C.1.a), and promote growth for healthcare providers and small businesses (C.2.b. & D.2.b.).
 3. The text of the 2013 Comprehensive Plan encourages site redevelopments to accommodate new growth over our planning period (p. 97). Also, growth in healthcare is especially recommended by the Plan (on p. 78) and appropriate employment land uses near neighborhoods are also recommended (on p. 74). Further, the Plan states the need to provide access between neighborhoods and jobs (p. 40 & p. 73), and the need for jobs to be provided locally with higher wages (p. 65).
 4. This recommendation is made subject to approval and certification of ZDP 2014-17: Indian Hills Subdivision (Lexington Vein Center, PLLC) 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 2014-17: INDIAN HILLS SUBDIVISION, UNIT 1 (LEXINGTON VEIN CENTER, PLLC) (5/4/14)* - located at 3116 Harrodsburg Road. **(Wheat & Ladenburger)**

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

1. Provided the Urban County Council rezones the property P-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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote that KYTC approval will be required for access to Harrodsburg Road at time of final development plan.
7. Resolve dumpster location at time of final development plan.
8. Discuss circulation around building and impact on roots of significant Cherry tree.
9. Resolve tree canopy relative to number of Ash trees at time of final development plan.
10. Discuss required landscape buffer per Article 18 of the Zoning Ordinance and Indian Hills Small Area Plan.

Zoning Presentation: Mr. Sallee presented the staff report on the requested zone change, explaining that the petitioner is proposing to rezone the subject property from R-1B to P-1. He displayed an aerial photograph, noting that the subject site is located a short distance away from Fire Station #20, which is one of the predominant land uses in the area, at the corner of Arrowhead Drive and Harrodsburg Road. The subject property is separated from that facility by a Masonic Lodge, and is bounded by the Indian Hills subdivision to the east; the Rabbit Run subdivision to the south; and the Harrods Hill subdivision, across Harrodsburg Road. Mr. Sallee noted that the staff had distributed to the Commission members some excerpts from the Indian Hills Small Area Plan (IHSAP), as well as a revised recommendation from the staff.

Mr. Sallee displayed the following photographs of the subject property and surrounding area: 1) an oblique view from the south, noting the property frontage along a service road, the existing access to the service road, and the existing single family residence on the property, which is proposed to be removed; and 2) a closer view from the south, noting the mature trees along the property frontage and its boundaries with the Rabbit Run subdivision and the Masonic Lodge. Mr. Sallee stated that the zoning surrounding the subject property is R-1B in Indian Hills; R-3 in Rabbit Run; and R-1C in Harrods Hill.

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6. Denote that KYTC approval will be required for access to Harrodsburg Road at time of final development plan.
- ~~7. Resolve dumpster location at time of final development plan.~~
- ~~8. Discuss circulation around building and impact on roots of significant Cherry tree.~~
- 7.9. Resolve Denote that the tree canopy requirements relative to the number of Ash trees shall be addressed at time of final development plan.
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Ms. Gallt stated that condition #7 referred to the location originally proposed for the dumpster, which was located within the 15' buffer area. The revised plan depicts the dumpster in a different location, so that condition could be deleted. Condition #8 referred to the location of the proposed driveway, which was also depicted in the 15' buffer area near the significant Cherry tree. The petitioner is now proposing a slight relocation of the driveway, so that condition could be deleted as well. Condition #10 required the depiction of the 15' buffer area itself on the plan, which has been accomplished on the revised submission. Ms. Gallt said that new condition #7 refers to the numerous existing ash trees that are located along the rear property line. The staff is recommending that this condition be addressed at the time of the Final Development Plan for the property.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff recommendations, including the conditions for approval of the development plan.

Mr. Murphy noted, with regard to the previous conditions for approval, that the petitioner has been working with Gary Warner of the Division of Solid Waste regarding the dumpster location. He said that the revised plan depicts the dumpster location near the front of the property. The petitioner's medical office does not generate a great deal of waste, so the petitioner does not believe that a dumpster will be necessary. Mr. Warner has agreed to a note to be placed on the plan, to read: "The pad for the dumpster will be constructed, but a dumpster shall not be required, so long as the property does not exceed two 90-gallon roll cart containers. If trash volumes exceed this amount, a dumpster would be required." Mr. Warner's concern was that another use, which would generate more waste, could locate on the property at some point, and a dumpster pad would be needed. The nearby Masonic Lodge, fire station, and bank all use roll cart containers for their waste, so a truck to service those containers will already be in the area each week.

Mr. Murphy stated that the subject property is the only residential use located along this portion of the Harrodsburg Road service road. The subject property has no access via any other roadway besides that service road. Mr. Murphy said that he was involved in the IHSAP, as part of the development of the bank. At that time, there was a great deal of concern among residents of the Indian Hills neighborhood that the Masonic Lodge had bought the lot that fronted the service road, and a lot behind it that had frontage on Apache Trail. The lodge then constructed a driveway access to Apache Trail. The residents of Indian Hills, although in support of the change of use of the properties that fronted on the service road, did not want the traffic from those new uses to have access to the neighborhood streets.

Mr. Murphy displayed an excerpt from the IHSAP, noting that the committee recommended Professional Services use for the subject property, based on the following findings:

1. The undeveloped service road lots are at a lower elevation than the surrounding homes.
2. Two-story structures along the service road would enhance noise attenuation along Harrodsburg Road, which is proposed to be widened.
3. Office use has fewer noise/nuisance complaints than any other use in the community.
4. Harrodsburg Road is generally a residential and professional office corridor."

Mr. Murphy said that, at the time of the IHSAP, the main land uses considered for the three properties that front on the service road were apartments, professional offices, or retail and restaurant uses. The Plan found that Harrodsburg Road has primarily residential and professional service land uses, and it has a special consideration that no conditional use parking be allowed on neighboring lots. That special consideration was based on the Masonic Lodge's purchase of the lot behind them specifically to be used for parking.

Mr. Murphy noted that the IHSAP also stated: "The proximity of Harrodsburg Road to the service road lots, and the future widening, makes it less desirable for residential uses due to noise and traffic on Harrodsburg Road." He said that the subject property contains the last remaining house on this portion of the service road; two other residences remain between the bank and Corporate Center, but they are proposed for professional office use, as well.

Further referring to the IHSAP, Mr. Murphy said that page 27 of that report noted a number of special considerations that were adopted: 1) that no additional land be obtained for off-street parking; 2) detention must be onsite; 3) a minimum 15' landscape buffer is preferred along the residential boundaries; 4) lighting must be directed away from residential uses; 5) access to the professional office uses will be only from the service road; 6) the maximum building height will be 35'; 7) a consideration that relates to the fire station; 8) a consideration that relates to the Masonic Lodge; 9) no conditional use parking on neighboring lots; and 10) commercial and retail uses are inappropriate for

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

The Staff Recommends: Approval for the following reasons:

1. The requested Professional Office (P-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan, and is also in agreement with the land use recommendations of the *Indian Hills Small Area Plan*, adopted as an amendment to the 2001 Comprehensive Plan, which preceded it.
 2. The 2013 Goals and Objectives support infill & redevelopment in all areas of the Urban Services Area (A.2), call for a variety of job opportunities to be provided in the Urban County (C.1.a), and promote growth for healthcare providers and small businesses (C.2.b. & D.2.b.).
 3. The text of the 2013 Comprehensive Plan encourages site redevelopments to accommodate new growth over our planning period (p. 97). Also, growth in healthcare is especially recommended by the Plan (on p. 78) and appropriate employment land uses near neighborhoods are also recommended (on p. 74). Further, the Plan states the need to provide access between neighborhoods and jobs (p. 40 & p. 73), and the need for jobs to be provided locally with higher wages (p. 65).
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The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property P-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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote that KYTC approval will be required for access to Harrodsburg Road at time of final development plan.
7. Resolve dumpster location at time of final development plan.
8. Discuss circulation around building and impact on roots of significant Cherry tree.
9. Resolve tree canopy relative to number of Ash trees at time of final development plan.
10. Discuss required landscape buffer per Article 18 of the Zoning Ordinance and Indian Hills Small Area Plan.

Zoning Presentation: Mr. Sallee presented the staff report on the requested zone change, explaining that the petitioner is proposing to rezone the subject property from R-1B to P-1. He displayed an aerial photograph, noting that the subject site is located a short distance away from Fire Station #20, which is one of the predominant land uses in the area, at the corner of Arrowhead Drive and Harrodsburg Road. The subject property is separated from that facility by a Masonic Lodge, and is bounded by the Indian Hills subdivision to the east; the Rabbit Run subdivision to the south; and the Harrods Hill subdivision, across Harrodsburg Road. Mr. Sallee noted that the staff had distributed to the Commission members some excerpts from the Indian Hills Small Area Plan (IHSAP), as well as a revised recommendation from the staff.

Mr. Sallee displayed the following photographs of the subject property and surrounding area: 1) an oblique view from the south, noting the property frontage along a service road, the existing access to the service road, and the existing single family residence on the property, which is proposed to be removed; and 2) a closer view from the south, noting the mature trees along the property frontage and its boundaries with the Rabbit Run subdivision and the Masonic Lodge. Mr. Sallee stated that the zoning surrounding the subject property is R-1B in Indian Hills; R-3 in Rabbit Run; and R-1C in Harrods Hill.

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Displaying an excerpt from the IHSAP, Mr. Sallee stated that the future of the area was extensively considered more than a decade ago as part of the process of drafting that plan. That SAP predominantly considered the properties that front the Harrodsburg Road service road, between the subject property and Corporate Drive. The SAP found that the land uses in the area were Professional Office/Professional Services, or Residential. The Plan recommended that the properties along the service road, including the subject property and three other residences, convert to Professional Services in the future. One of those residences, at the opposite corner of Arrowhead Drive, has converted to a branch bank. The Plan also recommended that the three office uses along the frontage at Corporate Drive remain in use for Professional Services in the future. The IHSAP was vetted with the neighbors in the area, and was adopted in 2003 as an amendment to the 2001 Comprehensive Plan.

Mr. Sallee said that the petitioner's justification for the requested zone change is that it is in agreement with the new 2013 Comprehensive Plan. In the justification, the petitioner cited Goals & Objectives that were furthered, one of which notes that there is specific text within the Plan that calls for the growth of medical and health-related land uses in the community, because they are a vital part of the region's economy. In the report, the staff cited two other statements from the Comprehensive Plan, recommending the location of good-paying jobs close to neighborhoods, and a need for jobs with higher wages in general.

Mr. Sallee stated that the staff agreed with the petitioner's justification, and that the proposed zone change is in agreement with the 2013 Comprehensive Plan. The staff considered recommending conditional zoning for the subject property, based on a recommendation in the IHSAP that specific land use buffers be developed and implemented at the time that the properties along the Harrodsburg Road frontage convert to non-residential use. That Plan included a strong recommendation for a minimum of a 15' buffer for the subject property, from the adjacent residential uses. At the Zoning Committee meeting three weeks ago, that landscape buffer was not proposed along the side of the property that abuts the Rabbit Run subdivision, but it has been included as part of a revised development plan. A 15' buffer is also proposed along the rear property line. The trees along the Rabbit Run property line are a mix of species, included a significant cherry tree that was of concern to the staff at the time of the Zoning Committee meeting. Along the rear property line, many of the trees are ash, which could be susceptible to the emerald ash borer that has invaded the region in recent years.

Mr. Sallee stated that the Zoning Committee recommended approval of this requested zone change, and the staff recommended approval as well, for the following revised reasons:

1. The requested Professional Office (P-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan, and is also in agreement with the land use recommendations of the *Indian Hills Small Area Plan*, adopted as an amendment to the 2001 Comprehensive Plan, which preceded it.
2. The 2013 Goals and Objectives support infill & redevelopment in all areas of the Urban Services Area (A.2), call for a variety of job opportunities to be provided in the Urban County (C.1.a), and promote growth for healthcare providers and small businesses (C.2.b. & D.2.b.), *which this proposal also supports*.
3. The text of the 2013 Comprehensive Plan encourages site redevelopments to accommodate new growth over our planning period (p. 97). Also, growth in healthcare is especially recommended by the Plan (on p. 78) and appropriate employment land uses near neighborhoods are also recommended (on p. 74). Further, the Plan states the need to provide access between neighborhoods and jobs (p. 40 & p. 73), and the need for jobs to be provided locally with higher wages (p. 65).
4. This recommendation is made subject to approval and certification of ZDP 2014-17: Indian Hills Subdivision (Lexington Vein Center, PLLC) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Development Plan Presentation: Ms. Gallt presented the corollary preliminary zoning development plan, noting that a revised staff recommendation had been distributed to the Commission members prior to the start of the hearing. She said that the petitioner is proposing to maintain the existing driveway access to the property, and to construct another access, closer to the northern side of the property. The revised plan also depicts the 15' landscape buffer as recommended by the IHSAP along two of the property lines.

Ms. Gallt stated that the Subdivision Committee recommended approval of this plan, subject to the 10 conditions as listed on the agenda. Since that meeting, the staff received a revised plan that depicts the 15' landscape buffer. With the filing of that revised plan, the petitioner was able to meet three of the original conditions. The staff is now recommending approval of this request, subject to the following conditions:

1. Provided the Urban County Council rezones the property P-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. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.

6. Denote that KYTC approval will be required for access to Harrodsburg Road at time of final development plan.
7. ~~Resolve dumpster location at time of final development plan.~~
8. ~~Discuss circulation around building and impact on roots of significant Cherry tree.~~
- 7.9. Resolve Denote that the tree canopy requirements relative to the number of Ash trees shall be addressed at time of final development plan.
10. ~~Discuss required landscape buffer per Article 18 of the Zoning Ordinance and Indian Hills Small Area Plan.~~

Ms. Gallt stated that condition #7 referred to the location originally proposed for the dumpster, which was located within the 15' buffer area. The revised plan depicts the dumpster in a different location, so that condition could be deleted. Condition #8 referred to the location of the proposed driveway, which was also depicted in the 15' buffer area near the significant Cherry tree. The petitioner is now proposing a slight relocation of the driveway, so that condition could be deleted as well. Condition #10 required the depiction of the 15' buffer area itself on the plan, which has been accomplished on the revised submission. Ms. Gallt said that new condition #7 refers to the numerous existing ash trees that are located along the rear property line. The staff is recommending that this condition be addressed at the time of the Final Development Plan for the property.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff recommendations, including the conditions for approval of the development plan.

Mr. Murphy noted, with regard to the previous conditions for approval, that the petitioner has been working with Gary Warner of the Division of Solid Waste regarding the dumpster location. He said that the revised plan depicts the dumpster location near the front of the property. The petitioner's medical office does not generate a great deal of waste, so the petitioner does not believe that a dumpster will be necessary. Mr. Warner has agreed to a note to be placed on the plan, to read: "The pad for the dumpster will be constructed, but a dumpster shall not be required, so long as the property does not exceed two 90-gallon roll cart containers. If trash volumes exceed this amount, a dumpster would be required." Mr. Warner's concern was that another use, which would generate more waste, could locate on the property at some point, and a dumpster pad would be needed. The nearby Masonic Lodge, fire station, and bank all use roll cart containers for their waste, so a truck to service those containers will already be in the area each week.

Mr. Murphy stated that the subject property is the only residential use located along this portion of the Harrodsburg Road service road. The subject property has no access via any other roadway besides that service road. Mr. Murphy said that he was involved in the IHSAP, as part of the development of the bank. At that time, there was a great deal of concern among residents of the Indian Hills neighborhood that the Masonic Lodge had bought the lot that fronted the service road, and a lot behind it that had frontage on Apache Trail. The lodge then constructed a driveway access to Apache Trail. The residents of Indian Hills, although in support of the change of use of the properties that fronted on the service road, did not want the traffic from those new uses to have access to the neighborhood streets.

Mr. Murphy displayed an excerpt from the IHSAP, noting that the committee recommended Professional Services use for the subject property, based on the following findings:

1. The undeveloped service road lots are at a lower elevation than the surrounding homes.
2. Two-story structures along the service road would enhance noise attenuation along Harrodsburg Road, which is proposed to be widened.
3. Office use has fewer noise/nuisance complaints than any other use in the community.
4. Harrodsburg Road is generally a residential and professional office corridor."

Mr. Murphy said that, at the time of the IHSAP, the main land uses considered for the three properties that front on the service road were apartments, professional offices, or retail and restaurant uses. The Plan found that Harrodsburg Road has primarily residential and professional service land uses, and it has a special consideration that no conditional use parking be allowed on neighboring lots. That special consideration was based on the Masonic Lodge's purchase of the lot behind them specifically to be used for parking.

Mr. Murphy noted that the IHSAP also stated: "The proximity of Harrodsburg Road to the service road lots, and the future widening, makes it less desirable for residential uses due to noise and traffic on Harrodsburg Road." He said that the subject property contains the last remaining house on this portion of the service road; two other residences remain between the bank and Corporate Center, but they are proposed for professional office use, as well.

Further referring to the IHSAP, Mr. Murphy said that page 27 of that report noted a number of special considerations that were adopted: 1) that no additional land be obtained for off-street parking; 2) detention must be onsite; 3) a minimum 15' landscape buffer is preferred along the residential boundaries; 4) lighting must be directed away from residential uses; 5) access to the professional office uses will be only from the service road; 6) the maximum building height will be 35'; 7) a consideration that relates to the fire station; 8) a consideration that relates to the Masonic Lodge; 9) no conditional use parking on neighboring lots; and 10) commercial and retail uses are inappropriate for

the area. He stated that, typically in the P-1 zone, the landscape buffer can be reduced to 5' if a fence is provided along the property line. There is an existing fence along the property line, and the petitioner originally proposed to reduce the landscape buffer to less than 15'. The Division of Fire and Emergency Services staff was concerned about the proposed buffer, because they needed a full 20' driveway in the rear of the property in order to provide access for their trucks. Since the Subdivision Committee meeting, the petitioner has reduced the size of the proposed building, in order to fully comply with the 15' landscape buffer, as well as the Division of Fire's request for a 20' driveway. Mr. Murphy reiterated that this proposal meets all eight of the ten IHSAP special considerations that apply to the subject property.

Mr. Murphy displayed the following photographs of the subject property: 1) an aerial view of the property, noting the location of the home of an objector to this request, and the extent of the existing landscaping along the shared property boundary; and 2) a closer view of the existing landscaping on the property, noting the existing 6' fence, which is proposed to remain in place. Mr. Murphy said that the petitioner intends to maintain the existing landscape buffers, and is aware that some of the trees are ash and might need to be removed. The petitioner does not intend, however, to remove all of the ash trees at once, as that would leave gaps in the buffer. The intention is to examine the ash trees, and treat those that are determined to be healthy enough to do so.

Mr. Murphy stated that, although the petitioner would be permitted to construct a two-story building on the subject site, a one-story building is proposed. He noted that most of the houses that border the subject property are two stories in height. The petitioner is as interested in maintaining privacy for his staff and patients as the neighbors on Blenheim Way are in keeping their homes private.

Mr. Murphy concluded by reiterating that the proposed zone change meets every requirement of the Indian Hills Small Area Plan, which was developed following six months of study and many public meetings. He added that the 2013 Comprehensive Plan places a strong emphasis on redevelopment and the provision of health care jobs.

Commission Question: Ms. Plumlee asked if the petitioner would consider treating the ash trees for the emerald ash borer, since spring is a good time of year for the treatment. Mr. Murphy answered that the petitioner would consider treating the trees, once he has purchased the property.

Citizen Objection: Justin Tincer, 3016 Blenheim Way, stated that he was concerned about the height of the subject property relative to the residential properties along Blenheim Way. He said that, due to that grade difference, his two-story house is "on eye level" with the structure on the subject property. Mr. Tincer believes that, unless the petitioner is willing to grade the subject property to a lower elevation, he will lose privacy on his property.

Mr. Tincer stated that he was also concerned about additional stormwater runoff, since the proposed structure on the subject property is nearly twice the size of the existing residence, and more impervious surface will be added. He displayed a photograph taken from his back deck, noting that his back yard is quite steep. He said that he has not had any flooding issues to date, but he believes that the additional impervious surface on the subject property could create such issues.

Petitioner Rebuttal: Mr. Murphy stated that the IHSAP noted that the subject property was actually lower than most of the surrounding uses. He noted that the proposed new building on the property will be constructed further away from the Blenheim Way property line than the existing residence. A stormwater detention system, likely underground, will be added to the property, and a stormwater plan will be required at the time of a Final Development Plan for the property. The petitioner does propose to add some paving to the property, but will not increase the impervious surface a great deal, since there is an existing pool and patio area to the rear of the residence.

Staff Rebuttal: The staff had no rebuttal comments.

Commission Question: Mr. Owens asked who owns the 6' fence along the property line. Mr. Murphy answered that the fence belongs to Mr. Tincer.

Zoning Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) to approve MAR 2014-6, for the reasons provided by staff.

Development Plan Action: A motion was made by Ms. Blanton, seconded by Ms. Mundy, and carried 10-0 to approve ZDP 2014-17, with the seven revised conditions as recommended by staff, adding a new condition #8 according to add the email presented from Gary Warner of the Division of Solid Waste.