

ORDINANCE NO. 135 -2017

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1B) ZONE TO A HIGHWAY SERVICE BUSINESS (B-3) ZONE, FOR 4.66 NET (6.29 GROSS) ACRES, FOR PROPERTY LOCATED AT 2300 PARIS PIKE. (J. ROGER JONES, III; COUNCIL DISTRICT 12).

WHEREAS, at a Public Hearing held on June 22, 2017 a petition for a zoning ordinance map amendment for property located at 2300 Paris Pike Road from a Single Family Residential (R1-B) zone to a Highway Service Business (B-3) zone for 4.66 net (6.29 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 7-1; 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 2300 Paris Pike Road from a Single Family Residential (R1-B) zone to a Highway Service Business (B-3) zone for 4.66 net (6.29 gross) acres, 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 land use restrictions shall apply for the subject property via conditional zoning:

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, and mobile homes.
- b. Cocktail lounges and nightclubs.
- c. Car wash establishments.
- d. Pawnshops.
- e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.

- f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

Buffer Restrictions

- a. A twenty foot (20') landscape buffer shall be established along the northeast property boundary. Trees shall be planted every thirty feet (30') within the buffer, and selected from the large species list of the planting manual.

These restrictions are necessary and appropriate for the subject property in order to restrict the most intense land uses on the property that could have a negative impact on adjacent agricultural and residential land uses and the aesthetic condition of the Paris Pike corridor.

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: September 12, 2017

MAYOR



ATTEST:



CLERK OF URBAN COUNTY COUNCIL

Published: September 21, 2017-1t

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Legal Description of the Jones/Cottrell Property

J. Roger Jones III & Carolyn Jones &
The Jane Ann Cottrell Family Irrevocable Trust-1998 Under Agreement Dated December 23, 1998 &
Charles Samuel Cottrell Family Irrevocable Trust-1998 Under Agreement Dated December 23, 1998
Zone Change R-1B to B-3
#2300 Paris Pike (US 27 & US 68)
Lexington, Fayette County, Kentucky

All that tract or parcel of land, lying and being located in Fayette County, Kentucky: and situated on the south side of Paris Pike (US 27 & US 68); and more particularly described as follows:

Beginning at a concrete right-of-way marker in the south right-of-way of Paris Pike (US 27 & US 68), a corner to Ralph C. Hughes & Emma Jean Hughes (D.B. 824, Pg. 577); said point being located S.53°17'45"W. 743.82 feet from a found iron pin bearing "Gary D. Roland PLS 3363" in said right-of-way, marking the northeast corner of Garnetta Keller Graham Trust (D.B. 2666, Pg. 166); thence N.39°09'58"W. 65.61 feet to a point in the centerline of said Paris Pike; thence with the centerline of said Paris Pike with a curve to the left having a radius of 2,864.79 feet, an arc length of 302.25 feet, and a chord bearing N.55°29'49"E. 302.11 feet to a point and N.52°28'28"E. 238.66 feet to a point; thence leaving the centerline of said road S.41°18'01"E. 63.53 feet to an iron pin, a corner to Garnetta Keller Graham Trust (D.B. 2666, Pg. 166); thence with said Graham Trust S.41°18'01"E. 478.11 feet to an iron pin, a corner to Trust A U/W John G. Spears (D.B. 2685, Pg. 284); thence with said Spears S.40°46'42"E. 130.83 feet to a point in the north right-of-way of the CSX Railroad; thence S.40°46'42"E. 75.99 feet to a point in the center of the CSX Railroad; thence with the center of said railroad with a curve to the left having a radius of 2,797.03 feet, an arc length of 739.36 feet, and chord bearing N.89°16'40"W. 737.21 feet to point; thence leaving the centerline of said railroad N.39°09'58"W. 58.97 feet to an iron pin, a corner to Ralph C. Hughes & Emma Jean Hughes (D.B. 824, Pg. 577); thence with said Hughes N.39°09'58"W. 182.05 feet to the point of beginning containing an area of 6.289 gross acres and 4.661 net acres.

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

IN RE: **PLN-MAR-17-00019: J. ROGER JONES, III** – a petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Highway Service Business (B-3) zone, for 4.66 net (6.29 gross) acres, for property located at 2300 Paris Pike. (Council District 12)

Having considered the above matter on **June 22, 2017**, at a Public Hearing, and having voted **7-1** 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 2013 Comprehensive Plan's Goal and Objectives, as well as the recommendations of the Paris Pike Corridor Small Area Plan (adopted by the Paris Pike Corridor Commission and by the Planning Commission in 1995), for the following reasons:
 - a. The Goals and Objectives of the 2013 Comprehensive Plan encourages infill development of long-time vacant land within the Urban Service Area (Theme A, Goal #2) and development that will uphold the Urban Service Area concept (Theme E, Goal #1). This site has been within the Urban Service Boundary since its inception in 1958, the subject property is adjacent to existing commercial development, and infrastructure is available or can be extended to serve the subject property.
 - b. The Goals and Objectives also recommend creation of new jobs near residential neighborhoods to promote the "live where you work" concept (Theme C, Goal #1d.). The site is located very near neighborhoods in the Joyland neighborhood, as well as neighborhoods along the northern-most Old Paris Pike.
 - c. The Paris Pike Corridor Small Area Plan (PPCSAP) recommends that the essential character of the corridor be preserved due to its nationally recognized scenic and historic qualities. Further, the SAP recognizes that the corridor is broken into three distinct areas of land use, and within the Lexington "urban end," (where the subject property is located), the SAP recommends future land use consistent with the current Comprehensive Plan
 - d. The proposed B-3 zone is in agreement with the prior 1988 Comprehensive Plan's land use recommendation of Highway Commercial future land use, which was in place at the time the SAP was adopted in 1995. In addition, the most recent land use recommendation for the subject property in 2007 continued to be for Highway Commercial, which is consistent with the Highway Service Business (B-3) zone.
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00046: Jones/Cottrell 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 uses shall be prohibited on the subject property:**
Prohibited Uses
 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, and mobile homes.
 - b. Cocktail lounges and nightclubs.
 - c. Car wash establishments.
 - d. Pawnshops.
 - e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property that could have a negative impact on adjacent agricultural and residential land uses and the aesthetic condition of the Paris Pike Corridor.

ATTEST: This 25th day of July, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

K.R.S. 100.211(7) requires that the Council take action on this request by September 20, 2017.

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

OBJECTORS

- Josie Giurgevich Jones, 689 Kingston Rd.
- William Woodward, 282 Swigert Avenue
- Amy Clark, 415 Marquis, was present on behalf of the Fayette County Neighborhood Council

OBJECTIONS

- Increased traffic and light pollution from this use.
- Increase of commercial development in the area.
- Detrimental effect on neighborhood and this doesn't follow the Corridor Plan.

VOTES WERE AS FOLLOWS:

AYES: (7) Berkley, Cravens, Mundy, Owens, Penn, Richardson, and Wilson

NAYS: (1) Plumlee

ABSENT: (2) Brewer and Drake

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **PLN-MAR-17-00019** carried.

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

MAP AMENDMENT REQUEST (MAR) APPLICATION

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

Applicant: J Roger Jones, III, 405 Holiday Road, Lexington, KY 40502
Owner(s): J ROGER JONES, III; CAROLYN JONES; JANE ANN COTTRELL, TTEE of the JANE ANN COTTRELL FAMILY IRREV TRUST 1998; and CHARLES SAMUEL COTTRELL, TTEE of the CHARLES SAMUEL COTTRELL FAMILY IRREV TRUST 1998; 405 HOLIDAY RD, LEXINGTON, KY 40502
Attorney: Richard Murphy, 250 W Main Street, Suite 2510, Lexington, KY 40507

2. ADDRESS OF APPLICANT'S PROPERTY

2300 PARIS PIKE, LEXINGTON, KY

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

Zoning	Existing		Requested		Acreage	
		Use	Zoning	Use	Net	Gross
R-1B		Vacant	B-3	Commercial	4.661	6.289

4. 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

5. 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



Statement of Justification

The applicant is requesting rezoning from the R-1B zone to the B-3 zone for 4.661 net acres at 2300 Paris Pike.

This parcel is an unusually shaped and situated property. It has been zoned R-1B for over 40 years without developing. It is bordered on the northwest by the four-lane Paris Pike and the B-3 development of Joyland; on the west, it is bordered by a cocktail lounge, the Curb. On the south, it is bordered by the RJ Corman railroad tracks and on the northeast, it is bordered by property zoned R-1B and R-1D.

The existing R-1B zone is no longer appropriate for this property and the proposed B-3 zoning is appropriate for this property. Although all utilities and transportation are available, the property has not developed as R-1B for over 40 years. This is most likely due to the surrounding uses: road access is limited to the four-lane Paris Pike, and there are commercial uses immediately across Paris Pike, including two convenience stores, a strip center including a bank and other uses, and the old Joyland bowling lanes, which has recently been transferred to a truck company. To the west, although the property is zoned R-1B, it is the site of a non-conforming use, the Curb Cocktail Lounge. To the south, the railroad tracks serve as a barrier, separating the property from residential uses. The property is well-screened from uses to the northeast, which consists of houses on larger tracts.

Previous comprehensive plans, including the 2001 plan and 2007 plan, identify this property for highway commercial use, a category which includes B-3 zoning. There is a dense vegetative buffer along the west, south and northeast property lines. All access is to Paris Pike. The proposed uses, including restaurants and store, are consistent with other uses in the area. The property is relatively flat and suitable for development. All utilities are available including sanitary sewer, water, electricity and telecommunications.

In addition, the proposed use is in conformance with the 2013 Comprehensive Plan. Development of this underutilized property supports infill and redevelopment throughout the Urban Service Area as a strategic component of growth (Goal A.2.). It minimizes disruption of natural features (Objective A.3.c.). Our proposal supports Theme C, Creating Jobs and Prosperity. It creates jobs where people live (Objective C.1.d). This proposal upholds the Urban Service Area concept (Goal E.1.) and encourages compact and contiguous development within the Urban Service Area, as guided by market demand to accommodate future growth needs (Objective E.1.b). The proposal stimulates economic investment in established communities (Page 98) as it will result in utilization of this empty lot, which is dominated by the railroad tracks and Paris Pike. It allows space for new businesses, as called for on Page 62 of the Comprehensive Plan.

Thank you for your consideration of this zone change request.

Richard V. Murphy

**RICHARD V. MURPHY
MURPHY & CLENDENEN, PLLC
Attorneys for Applicant and Owners**

REVISED STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-17-00019: J. ROGER JONES, III

DESCRIPTION

Zone Change: From a Single Family Residential (R-1B) zone
To a Highway Service Business (B-3) zone

Acreage: 4.66 net (6.29 gross) acres

Location: 2300 Paris Pike

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1B	Vacant
To North	R-1B	Agricultural
To East	A-R & R-3	RJ Corman Railroad line, Agricultural & Residential
To South	R-1B	Non-Conforming Cocktail Lounge & Automobile Repair
To West	B-3	Gas Station & Bank

URBAN SERVICES REPORT

Roads – The subject property is located on the east side of Paris Pike (US 27/US 68), a major arterial highway, about ½ mile northeast of Interstates 64 & 75 and the N. Broadway/Paris Pike interchange. Paris Pike is a four-lane divided highway that connects Paris, in Bourbon County, to downtown Lexington (via a roadway name change to N. Broadway along the route, southwest of this location). This roadway was the subject of numerous studies and highway plans, which were implemented in the 1990s to protect a significant scenic highway. The subject site is accessible from Paris Pike, and the applicant is proposing a full access point directly across from Rogers Road.

Curb/Gutter/Sidewalks – Paris Pike was constructed without curb, gutter and sidewalks, although the widened sections of Paris Pike northwest of this location do have (fairly) new curb and gutter. Ordinarily, urban type improvements (1/2 section) are required to be made (by the Land Subdivision Regulations) along a site's unimproved frontage at the time of site development; however, such improvements are along a federal highway under control of the Kentucky Transportation Cabinet, and may or may not be deemed necessary at this location by that agency.

Storm Sewers – The subject property is located within the eastern edge of the Cane Run watershed. No stormwater improvements appear to have been completed along the east side of Paris Pike in this general vicinity, with the exception of drainage swales along the highway. No FEMA special flood hazard area or known flooding issues exist within the immediate area, although there are some documented issues in the Joyland neighborhood across Paris Pike to the northwest of the subject property.

Sanitary Sewers – The subject properties are 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; however, no lines currently extend as far as the subject property. 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 immediate area.

Refuse – Refuse collection is provided by the Urban County Government to this portion of the Urban Service Area on Thursdays. However, commercial uses often contract for more frequent service with private refuse haulers.

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 the subject property. It is located on N. Broadway, less than one mile to the southwest of the site.

Utilities – All utilities, including electric, gas, water, telephone, and cable are within the vicinity, but may need to be extended to serve the subject 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.

The subject property is also located within the jurisdiction of the Paris Pike Corridor Commission. That Commission and the Planning Commission formulated and adopted a Corridor Plan (aka: Small Area Plan) along Paris Pike more than two decades ago. The Corridor Commission is expected to make a recommendation to the Planning Commission regarding the proposed zone change and corollary development plan.

The petitioner proposes a Highway Service Business (B-3) zone in order to construct an automobile service station with convenience retail sales and restaurant, and two additional restaurants, for a total of 22,800 square feet of space and associated off-street parking on the subject property.

CASE REVIEW

The petitioner has requested a zone change from a Single Family Residential (R-1B) zone to a Highway Service Business (B-3) zone for slightly less than five acres of land along the east side of Paris Pike. The subject property is vacant.

This portion of the Paris Pike/North Broadway corridor is characterized predominantly by commercial land uses that are developed mostly for patronage by the traveling public along the adjacent federal highways, as well as several large residential tracts closer to the Urban Service Area boundary. The Urban Service Area boundary adjoins the subject property to the rear (following the RJ Corman railroad line), and is less than ½ mile to the northeast of the subject property where the Lexington Country Club is located just beyond the Urban Service Area boundary. Several restaurants, gas stations and hotels occupy both sides of the folded diamond interstate interchange, along the north side of N. Broadway. The commercial uses that have frontage along the corridor are located within both B-5P and B-3 zones.

The proposed zone change is also located within the jurisdictional review area of the Paris Pike Corridor Commission, a nine-member citizen commission established to implement the Paris Pike Corridor Small Area Plan (adopted by the Planning Commission in 1995) and fulfill the Inter-Local Cooperation Agreement signed (and completed) by the LFUCG, the City of Paris, and Bourbon County on May 27, 1993. The Corridor Commission must review the proposed zone change and development plan in accordance with the agreement.

The petitioner proposes to construct three buildings on the subject property for a total of 22,800 square feet of commercial uses. Preliminarily, the petitioner proposes a service station with convenience retail and drive-through restaurant, plus two additional restaurants and associated off-street parking on the site.

In 1973, the subject property was the subject of a similar zone change, which the Planning Commission recommended approval of subject to a revised development plan. At that time, stormwater issues were a significant concern, as was providing the appropriate traffic control and/or roadway improvements to serve the subject property. The staff cannot find where an alternative plan was ever brought forward to address these concerns; therefore, the zoning atlas was not approved for modification. The site has remained in the R-1B zone since that time, and has remained underdeveloped, as well.

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, historically, the site has been recommended for Low Density Residential (1973 and 1980) or Highway Commercial (1988, 1996, 2001 and 2007) future land use over the past 45 years.

The petitioner contends that the proposed Highway Service Business (B-3) zone is appropriate and the existing Single Family Residential (R-1B) zone is inappropriate for the subject property. They also opine that the proposal is consistent with several of the Goals and Objectives of the 2013 Comprehensive Plan.

The petitioner states that the property does have all utilities and transportation available, but still, the site has not developed. The property is bordered by a non-conforming cocktail lounge and automobile repair shop to the west, an active railroad to the south, and multiple highway commercial uses across Paris Pike from the site. To the northeast along Paris Pike, there are several single-family residences on large tracts between the subject property and the Urban Service Area boundary. The northeast property line does have an existing, dense vegetative buffer, which the petitioner feels will provide an appropriate land use buffer between the proposed commercial uses and the single-family residences. Lastly, the petitioner contends that commercial land uses oriented to the four-lane federal highway are consistent with other uses in the immediate area and will help to serve the traveling public along not only Paris Pike, but also and the Interstate 64/75 corridor.

The petitioner opines that this rezoning is consistent with the Goals and Objectives of the 2013 Comprehensive Plan, specifically through infill development of a long-time vacant site within the Urban Service Area (Theme A, Goal #2); minimized disruption of natural features (Theme A, Goal #3c.); creation of new jobs near residential neighborhoods to promote the "live where you work" concept (Theme C, Goal #1d.); and, lastly, the development of the site will help to uphold the Urban Service Area concept by absorbing underutilized, vacant land and by utilizing the existing infrastructure and transportation networks (Theme E, Goal #1).

The Paris Pike Corridor SAP states that the corridor between Lexington and Paris is broken into three distinct areas, from a land use perspective. The subject property falls within the Lexington "urban end" which creates a transition area between the urbanized area and the core of the agricultural area. The SAP states:

"Within these areas, the gateway to the two communities should be created, both by proper land use and by appropriate parcel size and design guidelines. Land use for these areas is proposed to be consistent with the recommended land use designations already in place in the current comprehensive plans in Bourbon and Fayette Counties."

The Paris Pike Corridor Commission (PPCC) held a special meeting on June 5, 2017 to review and make a recommendation to the Planning Commission regarding the proposed zone change and the corollary development plan. The PPCC discussed several land uses that may be undesirable at this end of the corridor, the intent and language of the adopted Small Area Plan, and the traffic/access issues associated with the subject property. At the conclusion of nearly 90 minutes of discussion, they made a recommendation of "Approval" to the Planning Commission (by a 7-1 vote). The staff agrees with this recommendation, given that the future land use recommendation of Highway Commercial (HC) was in place when the Paris Pike Corridor SAP was adopted, and the Highway Service Business (B-3) has historically been considered one of the most appropriate zoning categories to implement that past land use recommendation.

The staff recommends that conditional zoning restrictions be employed in order to ensure that the entrance to the Paris Pike corridor is more aesthetically pleasing and that it provide an appropriate transition from commercial to residential and agricultural land uses.

A traffic study was required by Article 6 of the Zoning Ordinance for the proposed zone change and corollary development. The Transportation Planning/MPO staff will review the submitted study and prepare a written report to the Planning Commission.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan's Goal and Objectives, as well as the recommendations of the Paris Pike Corridor Small Area Plan (adopted by the Paris Pike Corridor Commission and by the Planning Commission in 1995), for the following reasons:
 - a. The Goals and Objectives of the 2013 Comprehensive Plan encourages infill development of long-time vacant land within the Urban Service Area (Theme A, Goal #2) and development that will uphold the Urban Service Area concept (Theme E, Goal #1). This site has been within the Urban Service Boundary since its inception in 1958, the subject property is adjacent to existing commercial development, and infrastructure is available or can be extended to serve the subject property.
 - b. The Goals and Objectives also recommend creation of new jobs near residential neighborhoods to promote the "live where you work" concept (Theme C, Goal #1d.). The site is located very near neighborhoods in the Joyland neighborhood, as well as neighborhoods along the northern-most Old Paris Pike.
 - c. The Paris Pike Corridor Small Area Plan (PPCSAP) recommends that the essential character of the corridor be preserved due to its nationally recognized scenic and historic qualities. Further, the SAP recognizes that the corridor is broken into three distinct areas of land use, and within the Lexington "urban end," (where the subject property is located), the SAP recommends future land use consistent with the current Comprehensive Plan.
 - d. The proposed B-3 zone is in agreement with the prior 1988 Comprehensive Plan's land use recommendation of Highway Commercial future land use, which was in place at the time the SAP was adopted in 1995. In addition, the most recent land use recommendation for the subject property in 2007 continued to be for Highway Commercial, which is consistent with the Highway Service Business (B-3) zone.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00046: Jones/Cottrell 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 uses shall be prohibited on the subject property:

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Cocktail lounges and nightclubs.
- c. Car wash establishments.
- d. Pawnshops.
- e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property that could have a negative impact on adjacent agricultural and residential land uses and the aesthetic condition of the Paris Pike Corridor.

2. J. ROGER JONES, III ZONING MAP AMENDMENT & JONES/COTTRELL PROPERTY ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00019: J. ROGER JONES, III (7/30/17)*- petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Highway Service Business (B-3) zone, for 4.66 net (6.29 gross) acres, for property located at 2300 Paris Pike.

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 subject property is also located within the jurisdiction of the Paris Pike Corridor Commission. That Commission and the Planning Commission formulated and adopted a Corridor Plan (aka: Small Area Plan) along Paris Pike more than two decades ago. The Corridor Commission is expected to make a recommendation to the Planning Commission regarding the proposed zone change and corollary development plan.

The petitioner proposes a Highway Service Business (B-3) zone in order to construct an automobile service station with convenience retail sales and restaurant, and two additional restaurants, for a total of 22,800 square feet of space and associated off-street parking on the subject property.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan's Goal and Objectives, as well as the recommendations of the Paris Pike Corridor Small Area Plan (adopted by the Paris Pike Corridor Commission and by the Planning Commission in 1995), for the following reasons:
 - a. The Goals and Objectives of the 2013 Comprehensive Plan encourages infill development of long-time vacant land within the Urban Service Area (Theme A, Goal #2) and development that will uphold the Urban Service Area concept (Theme E, Goal #1). This site has been within the Urban Service Boundary since its inception in 1958, the subject property is adjacent to existing commercial development, and infrastructure is available or can be extended to serve the subject property.
 - b. The Goals and Objectives also recommend creation of new jobs near residential neighborhoods to promote the "live where you work" concept (Theme C, Goal #1d.). The site is located very near neighborhoods in the Joyland neighborhood, as well as neighborhoods along the northern-most Old Paris Pike.
 - c. The Paris Pike Corridor Small Area Plan (PPCSAP) recommends that the essential character of the corridor be preserved due to its nationally recognized scenic and historic qualities. Further, the SAP recognizes that the corridor is broken into three distinct areas of land use, and within the Lexington "urban end," (where the subject property is located), the SAP recommends future land use consistent with the current Comprehensive Plan.
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2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00046: Jones/Cottrell 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.
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 Prohibited Uses
 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Car wash establishments.
 - d. Pawnshops.
 - e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property that could have a negative impact on adjacent agricultural and residential land uses and the aesthetic condition of the Paris Pike Corridor.

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

- b. PLN- MJDP-17-00046: JONES/COTTRELL PROPERTY (7/3017)* - located at 2300 Paris Pike
(Barrett Partners)

The Subdivision Committee Recommended: Postponement There is missing tree inventory information, the property may not have sanitary sewers & traffic impacts are based on a traffic signal which is not currently proposed.

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

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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote existing and proposed utility easements.
7. Adjust convenience store building to meet the minimum A-R setback (25' from a "more restrictive zone").
8. Discuss proposed access alignment with Rogers Road.
9. Discuss sanitary sewer access availability to this site.
10. Discuss Art. 18 buffer requirements adjacent to railroad and A-R zoned property.
11. Discuss anticipated subdivision of the property and compliance with the Land Subdivision Regulations access standards requirements.
12. Discuss right-in/right-out access proposed to Paris Pike and possible waiver.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She displayed several photographs of the subject property and the general area and said that the subject property is currently vacant. She distributed to the Planning Commission, the draft minutes from the June 5, 2017 Paris Pike Corridor Commission meeting, to be entered as part of the record. She said that the subject property is located within an area that is in the area of jurisdiction of the Paris Pike Corridor Commission. She displayed a map from the 1995 Paris Pike Corridor Small Area Plan that depicts the size of all of the properties between Paris and Lexington that is incorporated in the Paris Pike Corridor Small Area Plan. That plan is part of the jurisdiction of the Commission under the Interjurisdictional Agreement between LFUCG, the City of Paris, and Bourbon County. She said the subject property has been recommended for several land use categories. She referenced Comprehensive Plans from the past 45 years that have recommended Low Density Residential and then Highway Commercial land use at this location.

Ms. Wade said that the applicant's justification states that this zone change is in agreement with the 2013 Comprehensive Plan and the Paris Pike Corridor Small Area Plan. She then summarized the Paris Pike Corridor Small Area Plan and its recommendations. She said the Paris Pike Corridor Commission met on June 5, 2017 and had a lengthy discussion about this zone change and about the development plan. She said that they did make a recommendation of approval of the zone change, to this Commission although they did have concerns about traffic impacts. She said the staff recommends approval of this request with six prohibited uses via conditional zoning restrictions.

Ms. Wade said the staff received one email, which was circulated to the Planning Commission at this time.

Development Plan Presentation – Mr. Martin presented the revised staff report on the Preliminary Development Plan associated with this zone change, which was displayed with a rendering, which he also handed it out to the Commission with revised conditions, as follows:

The Staff 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote existing and proposed utility easements.
7. Adjust convenience store building to meet the minimum A-R setback (25' from a "more restrictive zone").
8. ~~Discuss~~ Revise proposed access to alignment with Rogers Road.
9. ~~Discuss~~ Resolve sanitary sewer access availability to this site at time of the final development plan.
10. ~~Discuss~~ Resolve Art. 18 buffer requirements adjacent to railroad and A-R zoned property at time of the final development plan.
11. ~~Discuss~~ Resolve anticipated subdivision of the property and compliance with the Land Subdivision Regulations access standards requirements at time of the final development plan.
12. ~~Discuss~~ Remove right-in/right-out access proposed to Paris Pike and possible waiver.

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

Mr. Martin identified the new access point proposed (which is to be aligned with Rogers Road), parking and the detention basin. He said that there are serious development challenges for this site, mostly with the sanitary sewer, access, and traffic. He said there was a handout distributed with a statement that needs to be on the plan addressing the traffic concern at this property. He said the staff didn't receive a revised plan, but has provided the Planning Commission with revised recommendations, which are mostly clean up items and sign-offs. He said that the access and alignment of Rogers Road can be revised; but the sanitary sewer, the buffering requirements along the railroad, and the subdivision of the property, can be resolved at the time of the Final Development Plan. He also said there was originally a waiver for the right-in/right-out access proposed to Paris Pike. The Division of Traffic Engineering, Transportation Planning, and the Division of Planning staff believe it's best to remove the right-in/right-out access from the plan, at this time.

Traffic Impact Study – Mr. Emmons presented the MPO staff report on the submitted Traffic Impact Study for this zone change. He said the traffic study showed that there will be a signalized intersection at Rogers Road and Paris Pike, where there is not one currently. He said that at the Zoning Committee meeting, the staff was very concerned with the timing of the signalization of Rogers Road and Paris Pike intersection. He said that both the staff and the applicant agree that if the property does develop as proposed, a signal will need to be installed at this location, as well as other transportation improvements. He also said that most of the staff's concern is with the "what-if" scenarios associated with this conceptual plan.

Mr. Emmons referenced the handout that was distributed the Planning Commission, as follows:

13. Denote on the Preliminary Development plan:
 - a. The applicant shall submit an updated Traffic Impact Study at the time of the final development plan, which will address the appropriate infrastructure improvements and timing thereof for the cumulative effect of the development of this entire property.

Mr. Emmons said this note should be added the Development Plan as the 13th condition. He said the staff has four recommendations for this plan: 1) the addition of a signalized intersection; 2) the removal of the right-in/right-out; 3) the addition of a right turn lane at the Rogers Road intersection; and 4) the addition of sidewalks and crosswalks for the subject property.

Petitioner Presentation – Dick Murphy, attorney, was present representing the petitioner. He gave a brief history of the property; stating the difficulties of selling the property before it is zoned for commercial development. He displayed slides from the 1988, 1996, 2001, and 2007 Comprehensive Plans depicting the recommended land use as Highway Commercial, which was designated by the Paris Pike Corridor Commission. He said this application is also in agreement with the 2013 Comprehensive Plan.

Mr. Murphy said the applicant did present this to the Paris Pike Corridor Commission meeting on June 5, 2017, and after discussion, they voted to approve this zone change and the development plan.

Mr. Murphy requested a modification to the conditional zoning restriction 3.a., was presented by staff as follows:

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.

He said that the applicant is seeking a NAPA auto parts store in the proposed B-3 zone, and with this conditional zoning restriction including "supplies for such items," it would not be allowed. He asked the Planning Commission if that phrase could be deleted so that the applicant could sell auto part supplies on the subject property.

Mr. Murphy said that the development plan has been maximized because they don't have a set end user for the subject property yet. He said they wanted to show the maximum this property would support and when the applicant returns to the Planning Commission to have the Final Development Plan approved, with the end user, it will most likely be with a lower traffic generating use that may not require all traffic improvements.

Mr. Murphy said that the applicant is agreeable with the proposed note for the Development Plan by Mr. Emmons. He said that the applicant will conduct a Traffic Impact Study to show if they meet the level or not to get a traffic signal installed, by the Kentucky Department of Highways, at the intersection. He said that he would like this note to apply to the right-in/right-out also.

Mr. Murphy said the sanitary sewer is in a pipe, under the railroad, and the landscaping buffer will be resolved at the Final Development stage. He said the service road issue will be resolved after the final user is known.

Mr. Murphy said that he has been communicating with a resident who is concerned about headlight screening; the applicant has agreed to install a 6-foot solid wood privacy fence along the subject property boundary and along the railroad track with landscaping barrier. He said this will be added to the plan before it will be certified.

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Diane Zimmerman, Traffic Engineer, said that right-in/right-outs generally lessen the traffic load at the traffic signal. She said that eliminating it will place more traffic load on the side roads. She said that she would evaluate this at the time of the Final Development Plan.

The following citizens were present in opposition to this application:

Josie Giurgevich Jones, 689 Kingston Rd., representing the Joyland Neighborhood Association, said that this is the gateway to the historic and famous Paris Pike Corridor and she is concerned that this will be the beginning of a new business area, which will affect the current farm owners. She said that traffic is a major concern and there are currently five gas/convenient stores, three restaurants, and three hotels within an eight block area. She is also concern with the light pollution from automobiles and the parking lot. She also said the neighborhood currently has major flooding issues, even with detention basins.

William Woodward, 282 Swigert Avenue, displayed a photo of the posted notice sign that was attached to a pole and couldn't be seen clearly. He stated the past Paris Pike Commission promised that there will never be any commercial development on this corridor. He is concerned why the zone change is happening before the development plan is complete and/or ready; that once the zone change is in place, anything could be developed on that property. He is also concerned about more commercial development being built on an historic area and increased traffic.

Amy Clark, representing the Fayette County Neighborhood Council, referenced the Paris Pike Corridor Small Area Plan and the 2013 Comprehensive Plan and whether this zone change is in agreement with those documents or not. She asked the Planning Commission how they distinguish this zone change and project from any other that is not protected by the Paris Pike Corridor Small Area Plan and is this zone change being treated any differently than others. She displayed a photo of this property for sale and said that the sign was asking for a very high price. She also displayed the Paris Pike Corridor Commission's Primary Goal, and considerable information and references to the transition zone.

Petitioner Rebuttal – Mr. Murphy said this application is based upon the 2013 Comprehensive Plan of the community, which includes the Paris Pike Corridor Small Area Plan. He said that the staff report states the uses that were proposed in the Paris Pike Corridor Small Area Plan for this property along the Lexington "urban end." He said the Comprehensive Plan's designation for this property has been for Highway Commercial since 1995, because it is located inside of the Urban Service Boundary.

Mr. Murphy displayed photos of adjacent properties, which have been designated Highway Commercial since the 1988 Comprehensive Plan; including a Speedway gas station, Whitaker Bank, and a second convenient store.

Mr. Murphy replied to the light pollution comment that the applicant will have downward directed lights, to limit the direct light onto neighboring properties, in addition to the six-foot tall fence and landscaping along the railroad tracks.

Mr. Murphy said that the applicant is before the Planning Commission to "plan" the uses of the property, to be specific of what can be done to the property when developing.

Citizen Rebuttal – Ms. Clark stated that the staff's passage it stating to "respect the existing use designation" and the citizen's passage, from the Paris Pike Corridor Small Area Plan, states "respect existing uses." She said that the passage that the staff is referring is from the 1988 Goals and Objectives, which is outdated. She displayed maps from the Paris Pike Corridor Small Area Plan. She cited the 2013 Comprehensive Plan, (C.1.b.), "Strengthen regulations and policies that propel the agricultural economy, including but not limited to, local food productions and distribution, agri-tourism, and the equine industry that showcase Lexington-Fayette Count as the horse-capital of the world."

Staff Rebuttal – Ms. Wade displayed pages 29 and 30 from the Paris Pike Corridor Small Area Plan that was adopted in 1995. She said that the Lexington end has a transition zone of approximately a 1½ mile, which the subject property is located within. She said that Ms. Clark was speaking of the transition area from the Fayette County Urban Service Boundary to where the Paris Pike Overlay was put in place, at Johnson Road. She said the staff cited the Goals and Objectives from the 2013 Comprehensive Plan, not from the 1988 Comprehensive Plan.

Mr. Martin said that the applicant requested the right-in/right-out remain on the plan, however, Traffic Engineering, Transportation Planning, and the Planning staff have all recommended removing it. If it is proven to be needed by the applicant's traffic impact study, they can prove it then, at the final development plan stage.

Commission Question – Mr. Cravens asked about the staff's recommendation for prohibited uses 3.a. to remove "or supplies for such items". Mr. Sallee said that the staff didn't review that and the Planning Commission could remove it.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Cravens, and carried 7-1 (Plumlee opposed; Brewer and Drake absent) to approve PLN-MAR-17-00019: J. ROGER JONES, III, for the reasons provided by the staff, with the prohibited uses via conditional zoning, as follows:

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Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, ~~or supplies for such items.~~
- b. Cocktail lounges and nightclubs.
- c. Car wash establishments.
- d. Pawnshops.
- e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

Discussion of Motion - Ms. Plumlee commended the neighbors for their effort in this decision.
Mr. Penn commended the staff for their hard work.

Development Plan Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 7-1 (Plumlee opposed; Brewer and Drake absent) to approve PLN- MJDP-17-00046: JONES/COTTRELL PROPERTY, for the revised conditions provided by the staff with the addition of condition #13, 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote existing and proposed utility easements.
7. Adjust convenience store building to meet the minimum A-R setback (25' from a "more restrictive zone").
8. ~~Discuss~~ Revise proposed access to alignment with Rogers Road.
9. ~~Discuss~~ Resolve sanitary sewer access availability to this site at time of the final development plan.
10. ~~Discuss~~ Resolve Art. 18 buffer requirements adjacent to railroad and A-R zoned property at time of the final development plan.
11. ~~Discuss~~ Resolve anticipated subdivision of the property and compliance with the Land Subdivision Regulations access standards requirements at time of the final development plan.
12. ~~Discuss~~ Remove right-in/right-out access proposed to Paris Pike ~~and possible waiver~~.
13. Denote on the Preliminary Development plan:
 - a. The applicant shall submit an updated Traffic Impact Study at the time of the final development plan, which will address the appropriate infrastructure improvements and timing thereof for the cumulative effect of the development of this entire property.