

VI. **ZONING ITEMS** - The Zoning Committee met on Thursday, April 3, 2014, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Mike Cravens, David Drake, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
 - The petitioner concurs with the staff recommendations
 - Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

1. **COLLINS-WATHEN PROPERTIES, LLC, ZONING MAP AMENDMENT & MARY SWIFT, ET AL. PROPERTY, LOT 3, ZONING DEVELOPMENT PLAN**

- a. **MARV 2014-7: COLLINS-WATHEN PROPERTIES, LLC (6/1/14)*** – petition for a zone map amendment from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone, for 0.441 net (0.515 gross) acre, for property located at 508 West Second Street. Dimensional variances are also requested with this application.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's Goals and Objectives recommend identifying opportunities for infill, redevelopment and adaptive reuse that are respectful of an area's context and design features (Theme A, Goal 2a); providing for well-designed neighborhoods and communities (Theme A, Goal 3); providing entertainment and other quality of life opportunities that will attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal 2d); encouraging the renovation, restoration, development and maintenance of historic structures (Theme D, Goal 2b); and encouraging mixed-use sustainable development with the Urban Service Area (Theme E, Goal 1b). The subject property is located within the *Downtown Master Plan* boundary, a 2005 planning effort of the Lexington Downtown Development Authority (DDA).

The petitioner proposes to rezone the property to the B-1 zone in order to renovate the existing structure for a mix of uses, including a restaurant, retail sales, office, and residential. The petitioner is also requesting a variance for landscaping along the shared property line with the Ballard-Griffith Towers.

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

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

1. The requested Neighborhood Business (B-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Goals and Objectives recommend: 1) identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal 2a); and 2) providing a well-designed neighborhood and community (Theme A, Goal 3). This adaptive reuse development will maintain the historic structure, which is already in keeping with the neighborhood and is a contributing structure to the Northside National Register Historic District.
 - b. The Goals and Objectives encourage providing entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal 2d). The applicant is proposing to further the resurgence of the Jefferson Street corridor by including a mixture of uses in their proposed reuse of the site.
 - c. The Goals and Objectives support the renovation, restoration, development and maintenance of historic structures (Theme D, Goal 2b). The petitioner will renovate and restore the existing historic residential structure and its addition for the proposed mixture of uses.
 - d. The Goals and Objectives encourage compact, contiguous and/or mixed use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs (Theme E, Goal 1b). The mixed use, adaptive reuse of the property will, in its own small way, help alleviate pressure to expand the Urban Service Area in the future.
 - e. The Goals and Objectives of the 2013 Comprehensive Plan are supported by the applicant's requested rezoning, and the requested B-1 zone is compatible with the adjacent zoning to both the south (Jefferson Street) and the northeast (West Jefferson Place).
2. This recommendation is made subject to approval and certification of **ZDP 2014-28: Mary Swift, et al. Property (Lot 3)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

* - Denotes date by which Commission must either approve or disapprove request.

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The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

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- The staff has recommended approval of the zone change petition and related plan(s)
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1. **COLLINS-WATHEN PROPERTIES, LLC, ZONING MAP AMENDMENT & MARY SWIFT, ET AL. PROPERTY, LOT 3, ZONING DEVELOPMENT PLAN**

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COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's Goals and Objectives recommend identifying opportunities for infill, redevelopment and adaptive reuse that are respectful of an area's context and design features (Theme A, Goal 2a); providing for well-designed neighborhoods and communities (Theme A, Goal 3); providing entertainment and other quality of life opportunities that will attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal 2d); encouraging the renovation, restoration, development and maintenance of historic structures (Theme D, Goal 2b); and encouraging mixed-use sustainable development with the Urban Service Area (Theme E, Goal 1b). The subject property is located within the *Downtown Master Plan* boundary, a 2005 planning effort of the Lexington Downtown Development Authority (DDA).

The petitioner proposes to rezone the property to the B-1 zone in order to renovate the existing structure for a mix of uses, including a restaurant, retail sales, office, and residential. The petitioner is also requesting a variance for landscaping along the shared property line with the Ballard-Griffith Towers.

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

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

1. The requested Neighborhood Business (B-1) zone for the subject property is in agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Goals and Objectives recommend: 1) identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal 2a); and 2) providing a well-designed neighborhood and community (Theme A, Goal 3). This adaptive reuse development will maintain the historic structure, which is already in keeping with the neighborhood and is a contributing structure to the Northside National Register Historic District.
 - b. The Goals and Objectives encourage providing entertainment and other quality of life opportunities that attract young professionals and a workforce of all ages and talents to Lexington (Theme C, Goal 2d). The applicant is proposing to further the resurgence of the Jefferson Street corridor by including a mixture of uses in their proposed reuse of the site.
 - c. The Goals and Objectives support the renovation, restoration, development and maintenance of historic structures (Theme D, Goal 2b). The petitioner will renovate and restore the existing historic residential structure and its addition for the proposed mixture of uses.
 - d. The Goals and Objectives encourage compact, contiguous and/or mixed use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs (Theme E, Goal 1b). The mixed use, adaptive reuse of the property will, in its own small way, help alleviate pressure to expand the Urban Service Area in the future.
 - e. The Goals and Objectives of the 2013 Comprehensive Plan are supported by the applicant's requested rezoning, and the requested B-1 zone is compatible with the adjacent zoning to both the south (Jefferson Street) and the northeast (West Jefferson Place).
2. This recommendation is made subject to approval and certification of **ZDP 2014-28: Mary Swift, et al. Property (Lot 3)**, 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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b. **REQUESTED VARIANCES**

1. Reduce the zone-to-zone screening requirements along the northwest and southwest property lines: a) the required width from 15' to 5', and b) the hedge requirement from a double row 6-foot high hedge to a single row 3-foot high hedge.

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

The Staff Recommends: **Approval of the requested landscape variances**, for the following reasons:

- a. Granting the requested landscape variances will not adversely affect the public health, safety or welfare; will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public. The variances are requested because no physical change or expansion of the existing building or parking lot is proposed by the applicant, and because it would be impossible to provide a 15-foot buffer with a double-row hedge without losing a substantial amount of parking, which will be needed for the uses proposed with the redevelopment of the property.
- b. Granting the requested landscape variances will not result in an unreasonable circumvention of the Zoning Ordinance because the previous use of the property (Planned Parenthood) required only vehicular use area screening, which currently exists. Planned Parenthood was a non-residential use of a residentially-zoned property and maintained only the required (although minimal) vehicular use area screening. It is because the zoning of the property is changing that the zone-to-zone screening would be required. The proposed use will likely not be much, if any, more intense than the previous use of the property, and the existing screening will be enhanced to meet current requirements.
- c. The special circumstance that applies to this property that does not generally apply to land in the general vicinity is that the two sides of the property that require the zone-to-zone screening are bounded by parking lots and a local street that provides access to the subject property, as well as other properties. There are existing trees along those two property lines that will be supplemented with a 3-foot hedge, which is consistent with vehicular use area screening, and which meets the intent of the landscape requirements.
- d. Strict application of the requirements of the Zoning Ordinance would deprive the applicant of a reasonable use of the property and would create an unnecessary hardship because there is already screening between this property and the adjacent properties. The applicant is not planning any substantial change to the existing parking area; and there are no physical changes (other than interior) associated with the property, which has been occupied as a non-residential use for decades, although under residential zoning.
- e. Although the circumstances surrounding the requested variances are due to the proposed zone change, the property was used as a community center/health facility for approximately 40 years. The proposed uses of the property will likely be no more intense than the previous use. The vehicular use area, which is existing, will remain unchanged except for supplementing the landscaping to meet current requirements of the Zoning Ordinance for vehicular use areas. The rezoning has been requested to allow the property to mesh with the revitalization of the Jefferson Street Corridor and to provide a transitional use between the existing commercial uses of the corridor and the residential uses that adjoin the subject property.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval of this variance is null and void.
 2. Should the property be rezoned, it shall be developed in accordance with the approved Development Plan, as amended by a future Development Plan approved by the Commission, or as a Minor Amendment permitted under Article 21-7 of the Zoning Ordinance.
 3. A note shall be placed on the Zoning Development Plan indicating the variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].
 4. Prior to obtaining an Occupancy Permit, the applicant shall obtain a Zoning Compliance Permit from the Division of Planning.
 5. The vehicular use area shall be landscaped with a continuous 3-foot hedge, as generally required by the Zoning Ordinance for vehicular use areas. This shall be completed prior to issuance of a Certificate of Occupancy for any of the proposed uses.
 6. A note shall be added to the development plan indicating that the need for additional landscaping will be considered along the property lines in the event a future redevelopment is proposed for the subject property.
- c. ZDP 2014-28: MARY SWIFT, ET AL. PROPERTY, LOT 3 (6/1/14)* - located at 508 West Second Street.
(Barrett Partners)

The Subdivision Committee Recommended: **Approval**, 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 and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.

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5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Resolve off-site parking.
12. Resolve required open space and use and maintenance of detention basin to meet those requirements.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property. Using the rendered zoning map, she noted that the frontage of the subject property is located approximately 60 feet from the intersection of Jefferson and West Second Streets. The area is predominantly characterized by B-1 zoning along Jefferson Street, and across West Second Street, for the location of the West Jefferson Place office development. Other zoning in the area is primarily multi-family residential, with R-4 to the southeast, north, and west; and R-5 in the Griffith-Ballard Towers adjacent to the subject property. Also in the general vicinity are single family residential zoning along Maryland Avenue; Harrison Elementary School, on Bruce Street; and some new restaurant and entertainment venues along Jefferson Street.

Ms. Wade stated that the petitioner is proposing to rezone the subject property to B-1 in order to re-use the existing building for offices on the third floor; residential uses on the second and third floors; and retail and restaurant uses on the first floor. She said that there is an existing parking lot on the subject property. Displaying a photograph of the subject property and surrounding area, she explained that the Griffith-Ballard Towers are the predominant structures in the vicinity, which have frontage on Jefferson Street and Tower Plaza. The existing structure on the property was once used as a single-family residence; however, in the 1970s, Planned Parenthood purchased the property in order to occupy the building as a community center. A large addition was later constructed to the rear of the original structure. Planned Parenthood recently sold the property and relocated to another portion of the community, and the property was then purchased by the petitioner.

Ms. Wade said that the petitioner contends that the proposed B-1 zone is in agreement with the recommendations of the 2013 Comprehensive Plan, specifically citing several Goals & Objectives that could be furthered if the property is rezoned and adaptively re-used. The staff found that at least five Goals & Objectives were applicable to this request, which were related to: identifying opportunities for infill and redevelopment and adaptive reuse; providing for well-designed neighborhoods and communities; providing entertainment and other quality of life opportunities within the community; encouraging the renovation, restoration, and rehabilitation of historic structures; and encouraging mixed-use and sustainable development within the Urban Service boundary. In addition, the staff believes that the proposed mixed-use development would be appropriate at this location as a land use transition between the B-1 uses along Jefferson Street and the multi-family Tower Plaza development on the other side of the subject property. Ms. Wade stated 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 final development plan, further orienting the Commission to the location of the subject property. Using a rendered development plan, he explained that the petitioner is proposing to maintain the existing three-story structure on the property, which includes a three-story addition and a two-story connecting structure. The structure, which was formerly used as a residence, is just over 8,000 square feet in size. The petitioner is proposing a restaurant use for just over 2,200 square feet of the building, with apartments, to be located on the second and third floors, for just over 4,000 square feet. Mr. Martin stated that the only physical change proposed to the property is the addition of a walk-in cooler for the restaurant.

Mr. Martin said that the development plan depicts a location for solid waste roll carts, since the subject property is too small to accommodate a traditional dumpster. He explained that it is not uncommon for businesses in the Jefferson Street area to use Herbie roll cart service, for that reason. The plan also depicts 23 existing parking spaces, which meets the Zoning Ordinance requirements, following the petitioner's usage of the allowable transit stop parking reduction. Referring to the green crosshatched areas on the rendered development plan, Mr. Martin stated that the petitioner is depicting the required open space on the property, including some balconies, which is part of the residential component. The plan also depicts a detention basin, which is shared with the adjoining property. There were some initial concerns about utilizing that detention basin as part of the required open space. The staff is not averse to the use of a detention basin as open space, but they believe that it should be reviewed on a case-by-case basis. Mr. Martin said that, after a great deal of review and discussion, the staff is comfortable with that use of the basin on the subject property. The basin is small and shallow, but the property is fully developed, and only a small amount of square footage is proposed to be added; so the staff is not concerned about the creation of additional runoff. The detention basin will be maintained by the owners of both properties, as required by the Stormwater Manuals.

Commission Questions: Mr. Owens asked if conditions #11 and #12 had been resolved. Mr. Martin answered that those conditions had been resolved, and they could be deleted.

Mr. Penn stated that the Grey Goose restaurant had been leasing parking spaces on the subject property, and asked if that agreement was still in place. Mr. Martin responded that it was the staff's understanding that there are no longer any leases in place for off-site parking on the subject property.

Variance Presentation: Mr. Sallee presented the staff's report on the requested variance, explaining that the petitioner was requesting to: 1) reduce the width of the required landscaping between the business zone and residential zone from 15' to 5'; and 2) eliminate the requirement for a 6' hedge, replacing it with a 3' hedge. He said that the zone-to-zone screening is required on the northwest and southwest property lines, where the business zone abuts residential zoning. Referring to an aerial photograph of the subject property, he noted that there are existing parking lots on both sides of those property boundaries, which provide additional separation from the more typical adjacent residential uses. At the Zoning Committee meeting, the staff denoted that as a unique circumstance to the subject property that warrants some justification for the requested variance.

Mr. Sallee stated that the Landscape Review Committee reviewed this request at their meeting on March 18th, although there was no quorum present. The members in attendance at that meeting did express general agreement that the landscaping along the northwestern and southwestern property lines was more similar to that for a parking lot, than for a traditional business zone to residential zone configuration. That was also, in essence, the basis of the petitioner's justification for the requested variance. Mr. Sallee said that the staff has reviewed that justification, and agrees with the petitioner's assessment. There is existing landscaping material in place already, and the members of the Landscape Review Committee who reviewed this application recommended that it be maintained. Mr. Sallee added that the staff had received at least one phone call from a resident of the area who was comforted that the existing landscape material would be maintained. He said that the staff is recommending approval of the requested variance, for the reasons as listed in the staff report and on the agenda, and subject to the six conditions as listed.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He said that the petitioner purchased the property approximately six months ago from the Planned Parenthood organization.

Mr. Murphy stated that the petitioner is proposing to create a mixed-use development on the subject property, with a restaurant on the first floor; residential use on the second and third floors; and a small office for the restaurant on the third floor. The petitioner's father owns the successful Nick Ryan's restaurant, which is located near the subject property, and he intends to operate the small restaurant proposed for the subject property as well.

Mr. Murphy said that the petitioner is in agreement with the staff's recommendations, including the conditions for approval of the variance. He explained that the variance was not being requested in order to change the site, but rather to maintain it the way it currently exists. He said that, if the petitioner was forced to meet the landscape requirement along the northwest property line, the landscaping would eliminate a large amount of the existing parking.

Citizen Comment: There were no citizens present to comment on this request.

Zoning Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Blanton, Brewer, and Drake absent) to approve MARV 2014-7, for the reasons provided by staff.

Variance Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-0 (Blanton, Brewer, and Drake absent) to approve the requested variance, for the reasons provided by staff, subject to the six conditions as listed in the staff report and on the agenda.

Development Plan Action: A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 8-0 (Blanton, Brewer, and Drake absent) to approve ZDP 2014-28, with the first 10 conditions as listed, deleting #11 and #12.

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