

1. **DENNIS R. ANDERSON ZONING MAP AMENDMENT & BERRYCREST SUBDIVISION, LOT 1 ZONING DEVELOPMENT PLAN**

- a. MARV 2016-16: DENNIS R. ANDERSON – (7/31/16)\* petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 0.34 net (0.40 gross) acre, for property located at 151 Pasadena Drive. A dimensional variance is also requested.

**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 Plan's 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 a rezoning to a Neighborhood Business (B-1) zone in order to construct a retail establishment, approximately 2,560 square feet in size, and associated off-street parking. A dimensional variance to increase the front yard from 20 feet to 75 feet has also been requested by the petitioner.

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

The Staff Recommends: **Approval**, for the following reason(s):

1. The proposed Neighborhood Business (B-1) zone is appropriate and the existing Single Family Residential (R-1C) zone is inappropriate, for the following reasons:
  - a. The proposed retail establishment and B-1 zone are generally compatible with the B-1, B-6P and P-1 zoning that exists within the immediate area.
  - b. Existing residentially zoned land in this area is generally suited to a future commercial land use and is awaiting redevelopment.
  - c. This portion of Pasadena Drive has converted from a rural single-family area to a commercial corridor between the Norfolk-Southern railroad to the west of this location, and Nicholasville Road to the east, which was encouraged by Comprehensive Plans dating back to 1988. At that time, the Plan's Land Use Element recommended a mix of professional office and retail trade future land. Again in 2001, the Plan recommendations for the north side of Pasadena Drive were changed by the Planning Commission and incorporated into the Land Use Element of the 2001 Comprehensive Plan, which has allowed for the adjoining Pasadena Plaza to be approved by the Commission and developed into the existing shopping center.
  - d. Historic land use decisions and previously adopted Comprehensive Plans have collectively encouraged a higher intensity of land use and a commercial character for the area to the point where the existing single-family residential zoning is no longer compatible or desirable in this location.

b. **REQUESTED VARIANCE**

Increase the maximum allowable front yard in the B-1 zone from 20 feet to 75 feet.

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

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

1. Granting the requested variance to allow a maximum front setback of 75 feet will not adversely affect the public health, safety or welfare. It will not impact the essential character of the general vicinity because buildings on other nearby properties have been developed at a similar setback many years before the B-1 zone was limited to a front yard maximum of 20 feet from a street's right-of-way.
2. The special circumstances associated with the subject property are the existing shopping center located immediately to the west of this location, and the noticeable slope associated with the subject property. Incorporation of the subject site into the adjacent center can't be accomplished without the approval of such a variance. These features do not apply generally to most B-1 zoned properties in this area.
3. Strict application of the Zoning Ordinance would require the subject site to be developed independently of the adjacent center, or to appear to be more like an outlot to that development. Either scenario could have the effect of providing less opportunity for vehicular circulation to all types of vehicles, including larger service and delivery vehicles, and could exacerbate current stacking problems experienced in front of this site on Pasadena Drive during peak travel times.
4. The requested variance is not an unreasonable circumvention of the Zoning Ordinance, because there are many B-1 zoned properties with a front yard setback greater than 20 feet, and because the setback on the subject site will be consistent with the Pasadena Plaza property next door.
5. This variance is not the result of prior actions taken by this applicant, as no new construction has yet occurred on the

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subject site. The elevation difference between the site and Pasadena Drive is the result of the widening and elevation of Pasadena Drive by the local government several years ago.

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, or as amended by a future Development Plan approved by the Commission.
  3. A note shall be placed on the Zoning Development Plan indicating the variance that the Planning Commission has approved for this property (under Article 6-4(c) of the Zoning Ordinance).
- c. ZDP 2016-56: BERRY CREST SUBDIVISION, LOT 1 (7/31/16)\* - located at 151 Pasadena Drive.  
**(Barrett Partners)**

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Provided the Planning Commission grants the requested variance to Article 8-16(h).
6. Revise note #6 to the approval of the Division of Water Quality.
7. Resolve cross access to adjacent parking area on adjoining B-1 property.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change request and stated that this application is for a rezoning from R-1C to B-1 for 0.34 acres, located on the north side of Pasadena Drive, which connects Harrodsburg Road and Nicholasville Road. Malabu Drive also intersects at Pasadena Drive and Nicholasville Road. Pasadena Drive has mostly commercial land uses between Nicholasville Road and the Norfolk-Southern Railroad line, which is approximately 1,000-1,500 feet west of the subject property. On the other side of the Norfolk-Southern Railroad line, the zoning is predominately residential. Ms. Wade displayed an aerial photograph indicating that the subject property is currently vacant, as is the property directly to the east of it, with the rest the properties in this vicinity having been developed. The area to the north of the subject property is the Regency Shopping Center and to the west is Pasadena Plaza, which is a smaller B-1 zoned property. Across the street, on Pasadena Drive, is professional office land use until Nicholasville Road, then it becomes restaurants.

Ms. Wade stated that the applicant is proposing the rezoning to the Neighborhood Business zone in order to develop a small retail establishment on this property. In addition to the requested rezoning, the applicant is also requesting a variance to the front yard setback requirements. She said that in terms of the 2013 Comprehensive Plan, since there is no longer a land use map, the Planning Commission relies on policy statements, goals and objectives, and small area plan recommendations to evaluate whether or not an area is in agreement with the Comprehensive Plan. The applicant contends that the existing zone of R-1C is inappropriate and the proposed business zone is appropriate at this location, and the staff agrees with this assessment. Business and office zoning is more prominent in this vicinity; and the requested B-1 zone is consistent with the neighboring B-1 zones, as well as with the B-6P zone to the north of the subject property.

Land along this portion of Pasadena Drive was reviewed, and the land use recommendation was modified in the 1988 Comprehensive Plan and again in 2001, at which time the Pasadena Plaza was rezoned and developed. In the prior land use element, this property was recommended for Retail/Trade and Professional Services use, which is consistent with the B-1 zone. The staff does believe that the request and the reasons for the rezoning are appropriate and has recommended approval subject to approval and certification of the zoning development plan. Ms. Wade said that the Zoning Committee also recommended approval for this zone change.

Development Plan Presentation - Mr. Martin presented the staff report on this development plan and displayed the plan rendering of the subject property. He stated that there are two areas of concern with this property. The first area of concern is the subject of the variance request, the required build-to line of between 10 and 20 feet. Pasadena Drive was widened as part of a public improvement project that affected the frontage of the properties in the area. The second area of concern is the lack of cross access available, due to the amount of traffic on Pasadena Drive that backs up considerably at Nicholasville Road during rush hour. Over time, the staff and Planning Commission have worked with the properties to the west of the subject property to create internal access in order to minimize the traffic flow onto Pasadena Drive. The staff has agreed with the applicant to resolve these issues at the final development stage.

Mr. Martin stated that there are seven conditions recommended on the development plan and that it has been recommended for approval by the Subdivision Committee.

Variance Report - Mr. Sallee presented the staff report on the variance, stating that the petitioner is requesting to increase the allowable front yard in the B-1 zone from 20 feet to 75 feet. The property is configured so that it could be easily incorporated

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into the adjacent shopping center. With the property sloping away from Pasadena Drive to the rear, across the property, it is possible to develop this property with a building as close as 20 feet to Pasadena Drive. However, this configuration would affect either the access to the property or the ability to connect the two parking lots. The staff had suggested to the Zoning Committee that the B-3 zone would also allow the building to set back farther than 20 feet; however that zone was rejected several years ago.

Mr. Sallee said that the 75-foot setback that is proposed is the least amount of variance that would allow the building to align with the other buildings in the existing Pasadena Plaza. The vehicular stacking of traffic along Pasadena Drive is another reason the staff is interested in preserving the ability to connect the parking lots, at the time of the final development plan. The staff also doesn't believe this variance would adversely affect the public's health, safety, or welfare or cause any harm in the essential character of the area of the subject property. The proposed variance will not result in an unreasonable circumvention of the Zoning Ordinance, since there are numerous buildings with a setback much greater than 20 feet in the B-1 zone. The staff and the Zoning Committee have recommended approval of this requested variance for the reasons listed on the report, with three recommended conditions.

Commission Question - Mr. Penn asked, if connecting the two shopping centers, the entrance/exit is going to be on Pasadena Drive. Mr. Sallee said that in the staff's view, an access to Pasadena Drive will not be absolutely necessary, and the existing access farther to the west could be sufficient, but it's also possible that there could still be the need for another access to Pasadena Drive.

Petitioner Presentation - Richard Murphy, attorney, was present representing the petitioner. He said that Mr. Tony Barrett, Barrett Partners, was also present in the audience. He said that they agree with all of the staff's conditions as well as the hope for inter-connection between the properties. At this point, they don't have an end user, so this is a generic building shown on their plan. It's a preliminary development plan; and when they get a user, they will come back with a final plan and will be able to make a better decision about where the connection and the access points should be. He said that condition number seven will be complete at the final development plan stage.

Audience Comments - There were no comments at this time.

Chairman's Comments - Chairman Cravens stated that the hearing was now "closed," and he opened the floor for discussion.

Zoning Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 10-0 (Owens absent) to approve MARV 2016-16: DENNIS R. ANDERSON, for the reasons provided by the staff.

Variance Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 10-0 (Owens absent) to approve the requested variance as recommended by the staff.

Development Plan Action - A motion was made by Mr. Berkley, seconded by Mr. Smith, and carried 10-0 (Owens absent) to approve ZDP 2016-56: BERRY CREST SUBDIVISION, LOT 1, for the reasons provided by the staff.

