

3. JULIE & ANTHONY CHILDRESS ZONING MAP AMENDMENT & JULIE & ANTHONY CHILDRESS PROEPRTY ZONING DEVELOPMENT PLAN

- a. MAR 2013-2: JULIE & ANTHONY CHILDRESS (2/24/13)* - petition for a zone map amendment from a Wholesale & Warehouse Business (B-4) zone to a Lexington Center Business (B-2B) zone, for 0.057 net (0.130 gross) acre, for property located at 430 West Maxwell Street.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 1) recommends a Commercial Residential Mixed Use (MU) land use for the subject property. The petitioner proposes a Lexington Center Business (B-2B) zone in order to re-use the existing structure for residential purposes, and construct an office/garage in a separate building on the same property.

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

The Staff Recommended: **Approval**, for the following reasons:

1. The requested Lexington Center Business (B-2B) zone is in agreement with the 2007 Comprehensive Plan and the Newtown Pike Extension Corridor Plan for the following reasons:
 - a. The property is recommended for a future Commercial Residential Mixed Use (MU) future land use (formerly Retail/Office Mixture), to include residential use.
 - b. The requested B-2B zone is one of several that can implement that future land use recommendation.
 - c. The petitioner proposes a residential use along West Maxwell Street and an office use along Spring Street, all of which are permitted in the B-2B zone.
2. This recommendation is made subject to approval and certification of ZDP 2013-10: Julie & Anthony Childress 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 are to be prohibited at this location via conditional zoning:
 - a. Cocktail lounges and nightclubs.
 - b. Automobile service stations and/or the sale of gasoline.
 - c. Establishments for the display, rental, repair and/or sale of automobiles, motorcycles, trucks, and boats.

These use restrictions are necessary and appropriate for the subject property to ensure that the proposed zoning will only allow for development that would be compatible with future redevelopment projects in the downtown area, and with uses recommended by the Comprehensive Plan.

- b. ZDP 2013-10: JULIE & ANTHONY CHILDRESS PROPERTY (2/24/13)* - located at 430 West Maxwell Street.
(James Black)

The Subdivision Committee Recommended: **Postponement**. There were some concerns about access to the proposed garage.

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

1. Provided the Urban County Council rezones the property B-2B; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Addition of a graphic scale.
7. Addition of adjacent property information.
8. Addition of topographical contours and source information.
9. Denote building height in feet.
10. Addition of any proposed easements.
11. Discuss plan status.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property, directly across from the Rupp Arena High Street parking lot, at the southwest corner of Spring Street and West Maxwell Street. She stated that the petitioner is proposing to rezone the subject property to B-2B in order to bring the use of the property into conformity with the Zoning Ordinance, since the uses on the property have been non-conforming for some time. The first floor of the structure at this location has been used for retail use, and the second floor for residential use, in the past. The petitioner is proposing to use the entirety of the existing structure for residential use, and to construct a two-story garage with usable second-story space on the rear of the property, possibly for an office.

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

Ms. Wade stated that the 2007 Comprehensive Plan recommends Commercial Residential Mixed-Use land use for the subject property, which was carried forward from the adopted Newtown Pike Extension Corridor Plan. The mixed-use land use category "encourages combinations of office and neighborhood retail, with residential above or adjacent to the office or retail use." The intent of the category is to encourage redevelopment by mixing uses and reducing parking requirements. Ms. Wade noted that the proposed B-2B zone meets those criteria, since it has no parking requirements. She said that, because the B-2B zone is one of several zoning categories that can implement this land use recommendation, the staff is recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Ms. Wade explained that the staff is also recommending that a few uses be prohibited on the subject property via conditional zoning restrictions, in order to be consistent with other recent zone changes in the vicinity of the property: 1) cocktail lounges and nightclubs; 2) automobile service stations and/or sale of gasoline; and 3) establishments for the display, rental, repair, or sale of automobiles, motorcycles, trucks and boats.

Commission Question: Mr. Owens asked, with regard to the proposed garage with office space above, if the Zoning Ordinance would permit a second dwelling unit above the garage. Ms. Wade answered that it would. She added that the Zoning Committee also recommended approval of this request.

Development Plan Presentation: Mr. Taylor presented the corollary zoning development plan, noting the location of the existing primary structure and proposed garage on the subject property. He said that the Subdivision Committee recommended postponement of this plan at their last meeting, primarily due to concerns about access to the garage and the possibility of cars backing out onto Spring Street. The staff has received communication from the Division of Traffic Engineering staff, noting that they had met with the petitioner and discussed some possible restrictions to the garage access.

Mr. Taylor stated that, based on the submission of a revised plan that addressed some of the concerns about the garage access, the staff has prepared the following revised recommendation for this zoning development plan:

The Staff Recommends: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-2B; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Addition of a graphic scale.
7. Addition of adjacent property information.
8. Addition of topographical contours and source information.
9. Denote building height in feet.
10. Addition of any proposed easements.
11. Discuss plan status Denote: Garage parking for owner/resident only. A warning device will be incorporated into the garage opening to alert travelers, and mirrors installed to assist visibility.

Mr. Taylor said that the second sentence of the new condition #11 refers to a solution that the Division of Traffic Engineering had discussed with the petitioner, but then decided it might not be appropriate at this location. The staff is requesting, therefore, that that sentence be removed in order to give the petitioner and the Division of Traffic Engineering the flexibility to choose other options, which would be handled as part of Traffic Engineering's sign-off on the plan. Mr. Taylor stated that, with those changes, the staff is recommending approval of this plan.

Commission Question: Mr. Owens asked, with regard to condition #11, what other option might be used to improve the safety of the garage access. Mr. Taylor responded that the staff's last communication with Mr. Neal was just prior to this hearing, when he indicated his preference for the petitioner to have some flexibility in choosing a solution, in case a more appropriate option becomes available.

Petitioner Presentation: Jim Black, engineer, was present representing the petitioner. He stated, with regard to condition #11 for the development plan, that he had met with a representative of Traffic Engineering and reached a reasonable solution for the garage access issue. The garage geometry requires that the face of the structure would be located very close to the sidewalk, possibly as close as one foot away. Mr. Black proposed requirements that the doors of the garage be fully vertical, as opposed to the "swing-out" type, to avoid the door swinging out over the sidewalk; and that an audible device be installed, to sound whenever the garage doors open. Mr. Black opined that mirrors would likely not be effective in this situation, as drivers would be too far into the garage to see approaching traffic in the mirror.

Mr. Black stated that he was under the impression that the Division of Traffic Engineering was satisfied with the proposed solution, but he learned just prior to this meeting that they wanted to leave options open in case a more ap-

propriate solution is found. He noted that the petitioner is willing to continue to work with Traffic Engineering to explore other options, if necessary.

Commission Question: Mr. Owens asked if an audible, beeping alarm would be a nuisance to the nearby residences, particularly late at night. Mr. Neal answered that he had suggested the placement of mirrors, since they are widely used in the community, particularly in the downtown area; but he does not believe there are many locations that use an audible alarm system to alert of exiting traffic. He noted that restricting use of the garage to owners and residents only should reduce the frequency of entering and existing traffic, and increase safety on the subject property.

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

Zoning Action: A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 8-0 (Beatty, Brewer, and Penn absent) to approve MAR 2013-2, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 8-0 (Beatty, Brewer, and Penn absent) to approve ZDP 2013-10, subject to the first ten conditions as listed in the revised staff recommendation, condition #11 deleting the sentence "A warning device will be incorporated into the garage opening to alert travelers, and mirrors installed to assist visibility."