

ORDINANCE NO. 132 -2015

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1D) ZONE TO A HIGH DENSITY APARTMENT (R-4) ZONE, FOR 1.74 NET (1.84 GROSS) ACRES, AND TO A WHOLESALE & WAREHOUSE BUSINESS (B-4) ZONE, FOR 2.43 NET (2.74 GROSS) ACRES, FOR PROPERTY LOCATED AT 2833 LIBERTY ROAD, INCLUDING A DIMENSIONAL VARIANCE (DR. MICHAEL GENTRY & RML CONSTRUCTION, LLP (AMD.); COUNCIL DISTRICT 6).

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WHEREAS, at a Public Hearing held on October 22, 2015, a petition for a zoning ordinance map amendment for property located at 2833 Liberty Road from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone for 1.74 net (1.84 gross) acres, and to a Wholesale & Warehouse Business (B-4) zone, for 2.43 net (2.74 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change including a dimensional variance by a vote of 10-0; 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 2833 Liberty Road from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone for 1.74 net (1.84 gross) acres, and to a Wholesale & Warehouse Business (B-4) zone, for 2.43 net (2.74 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 use and buffering restrictions are proposed for the subject property via conditional zoning:

Prohibited Uses


1. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating.

2. Laundry, clothes cleaning or dyeing shop.
3. Ice plant.
4. Tire re-treading and recapping.
5. Machine shop.
6. Offices of purchases, processors and handlers of agricultural products.
7. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobile, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles boats or supplies for such items.
8. Truck terminals and freight yards.
9. Automobile service stations.
10. Major or minor automobile and truck repair.
11. Establishments for the display and sale of precut, prefabricated or shell homes.
12. Circuses and carnivals.
13. Retail sale of building materials and lumber.
14. Pawnshops.

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: December 3, 2015

  
\_\_\_\_\_  
MAYOR

ATTEST:

  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

Published: December 10, 2015

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

IN RE: **MARV 2015-8: DR. MICHAEL GENTRY & RML CONSTRUCTION, LLP (AMD.)** –  
amended petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 1.74 net (1.84 gross) acres, and to a Wholesale & Warehouse Business (B-4) zone, for 2.43 net (2.74 gross) acres, for property located at 2833 Liberty Road. A dimensional variance is also requested. (Council District 6)

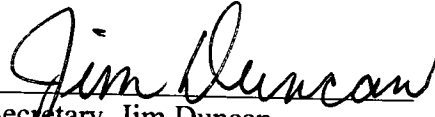
Having considered the above matter on **October 22, 2015**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The requested rezoning to a High Density Apartment (R-4) zone, and for a lesser acreage to a Wholesale and Warehouse Business (B-4) zone, is in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives and policy statements of the Plan encourage the consideration of how proposals relate to existing development in the immediate vicinity, and focus on protecting neighborhoods and residential areas from incompatible land uses. A neighborhood node already exists a short distance away at Man o' War Boulevard and Liberty Road, which will be expanded with this rezoning to R-4.
  - b. The Comprehensive Plan also encourages the placement of residential land and development nearest to our parks and greenways to ensure that they are utilized to highest extent possible. This amended zone change application to an R-4 zone will accomplish this recommendation, since the Brighton Trail is planned for the former railroad line immediately north of this location.
  - c. Some 35-40 persons are to be employed at this location (which equates to about 15 jobs/acre), some of which will be veterinary professionals. Quality pet care and modern animal boarding facilities are an important service that adds to the quality of life in our community.
2. This recommendation is made subject to the approval and certification of **ZDP 2015-49: CADENTOWN SUBDIVISION – ANIMAL HOSPITAL/CLINIC**, prior to forwarding this 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 in any B-4 zoning approved for a portion of the subject property:**
  - a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating.
  - b. Laundry, clothes cleaning or dyeing shop.
  - c. Ice plant.
  - d. Tire re-treading and recapping.
  - e. Machine shop.
  - f. Offices of purchases, processors and handlers of agricultural products.

- g. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
- h. Truck terminals and freight yards.
- i. Automobile service stations.
- j. Major or minor automobile and truck repair.
- k. Establishments for the display and sale of precut, prefabricated or shell homes.
- l. Circuses and carnivals.
- m. Retail sale of building materials and lumber.
- n. Pawnshops.

These use restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant, since they will ensure continued agreement with the 2013 Comprehensive Plan; and, most importantly, since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

ATTEST: This 6<sup>th</sup> day of November, 2015.

  
Secretary, Jim Duncan

MIKE OWENS  
CHAIR

Note: Variances to decrease the minimum distance required for a kennel or animal clinic from a residential zone from 100 feet to 50 feet along the northwest and northeast property lines were approved by the Planning Commission for this property, subject to the rezoning being granted.

Note: The corollary development plan, ZDP 2015-49: Cadentown Subdivision – Animal Hospital/Clinic, was approved by the Planning Commission and certified on November 5, 2015.

K.R.S. 100.211(7) requires that the Council take action on this request by January 20, 2016.

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

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (10) Berkley, Brewer, Cravens, Mundy, Owens, Penn, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (1) Drake

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **MARV 2015-8** carried.

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

# **GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION** (AMENDED)

## **1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)**

APPLICANTS:	Dr. Michael Gentry, 2568 Richmond Road, Lexington, KY 40509 and RML Construction, LLP, PO Box 12950, Lexington, KY 40583
OWNER:	John E. Mink, 346 Huffman Drive, Harrodsburg, KY 40330
ATTORNEYS:	Richard V. Murphy, Murphy & Clendenen, PLLC, 250 West Main Street, Suite 2510, Lexington, Kentucky 40507 (for Dr. Gentry) 859-233-9811 Buddy Goodwin, PO Box 12950, Lexington, KY 40583 (for RML) 859-514-3427

## **2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)**

2833 Liberty Road
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## **3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed—same format.)**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1D	Vacant	B-4	Veterinary clinic and kennel	2.43	2.74
R-1D	Vacant	R-4	Multi-family residential	1.74	1.80
			Total acreage	4.17	4.54

## **4. SURROUNDING PROPERTY, ZONING & USE**

Property	Use	Zoning
North	Vacant and old railroad right-of-way	R-1D, A-U
East	Apartments	R-3, R-4
South	Residential	R-1D
West	Liberty Road and residential	R-1D

## **5. 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 checked="" type="checkbox"/> NO ____ Units

## **6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)**

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input checked="" type="checkbox"/> To be constructed by	<input checked="" type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
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

## **7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)**

This is in...	<input checked="" type="checkbox"/> In agreement with the Comp. Plan	<input checked="" type="checkbox"/> more appropriate than the existing zoning	<input checked="" type="checkbox"/> due to unanticipated changes.
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## **8. APPLICANT/OWNER SIGNS THIS CERTIFICATION**

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am <input type="checkbox"/> OWNER or <input checked="" type="checkbox"/> HOLDER of an agreement to purchase this property since 3/31/15.	
APPLICANT <u>Richard V. Murphy, Attorney at Law</u>	DATE 9/28/15
APPLICANT <u>RML CONSTRUCTION, LLP by [Signature]</u>	DATE 9/28/15
LFUCG EMPLOYEE/OFFICER, if applicable _____	DATE _____

346 Huffman Road  
Harrodsburg, Kentucky 40330

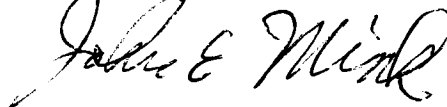
Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, KY 40507

Re: 2833 Liberty Road  
Lexington, KY 40509

Dear Ladies and Gentlemen:

I am the owner of the property located at 2833 Liberty Road, Lexington. I give permission to Dr. Michael Gentry, or a related entity, to apply for a zone change on this property to the B-3 or B-4 zone.

Sincerely,

A handwritten signature in cursive script that reads "John E. Mink". The signature is written in dark ink and is positioned above the printed name.

John E. Mink

## 7. Supplement to Justification for Requested Change

We are amending MARV-8 to add RML Construction, LLP, an affiliate of Ball Homes, as a co-applicant, along with Dr. Michael Gentry.

This document supplements the Statement of Justification filed with the original application. Also, on May 26, 2015 we provided additional information in response to a request from the staff. We have also proposed conditional zoning restrictions for the B-4 portion of the property.

In response to comments made during the Subdivision Committee and Zoning Committee meetings, Dr. Gentry opened discussions with neighboring property owners about cooperating on development matters. RML Construction, LLP, an affiliate of Ball Homes, has entered into an agreement with Dr. Gentry to purchase 1.74 net acres at the rear of the property, which adjoins its existing apartment home development. The addition of the apartment homes will allow the Brighton Trail to serve this residential use, and it will serve to strengthen the existing residential areas to the east. It will allow the unused portion of the Gentry property to be used in a manner which has already been found appropriate for the adjoining apartment home development. It will allow this property to be utilized as a veterinary clinic and kennel to serve the residents of this portion of the community, and to supply additional high quality, modern housing compatible with the existing housing next door.

In addition, we will be requesting a variance from 100 feet to 50 feet for buildings along the B-4 portion of the proposed property line through the northeast portion of this property. Both applicants are, of course, fully aware of this request and are agreeable to it. We are requesting this variance for the following reasons:

1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because both applicants are aware of, and plan for the setback. The distance between the residential building and the animal hospital/kennel will still be over 100 feet. The area between the two buildings will be parking area or open space.

2. Granting this variance will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the property is currently vacant and the applicants are coordinating their projects. This is an unusually shaped, eleven-sided tract of land. The proposed development plan results in a beneficial layout for both parties.

3. The special circumstances which apply to this property and which do not generally apply to land in the general vicinity or in the same zone are that granting the variance will allow the unused portion of the property to be utilized for modern, high quality, higher density residential housing, in keeping with the goals and objectives of the Comprehensive Plan of this community.



4. Strict application of the regulations of the Zoning Ordinance would deprive the applicant of a reasonable use of his land or create an unnecessary hardship because the variance is being utilized to allow the property to be utilized for both residential and the animal hospital/kennel uses.

5. The circumstances surrounding the requested variance are not the result of the actions of these applicants taken subsequent to the regulation from which relief is sought. This is an older tract of property which has retained its unusual shape for a number of years.

Thank you for your consideration of this amended zone change and additional variance request.

Richard V. Murphy

Richard V. Murphy, Attorney for Applicant, Dr. Michael Gentry

## **7. JUSTIFICATION FOR REQUESTED CHANGE**

The Applicant, Dr. Michael Gentry, is requesting a zone change for 4.17 net acres of property at 2833 Liberty Road, in order to construct a veterinary clinic and kennel.

Dr. Gentry has a long history of serving Lexington's pets and pet owners at Sheabel Veterinary Hospital and Kennel on Richmond Road. However, the facility has become antiquated and is too small for current needs. For a number of years, Dr. Gentry has been looking for a location to which he could relocate. It is extremely difficult to find a site in Lexington. Dr. Gentry's facility will be a combined veterinary clinic and kennel, which allows the kennel to be supervised by the professional veterinary staff. The B-3 and B-4 zones are the zones which allow such a combination. The number of acres needed make it extremely difficult to find property in either of these commercial zones.

Shaebl's has operated in Lexington for over 60 years, since 1953. It supplies a needed service to local residents and their pets. It employs 35 to 40 people, and we anticipate additional employment because the new location will allow expansion.

The property at 2833 Liberty Road is vacant and underutilized. It has sufficient size (4.1 net acres) to provide all facilities, to set the building back from residential areas, and to retain the extensive screening along the property lines. Also, all vehicular access will use Liberty Road, which is a 4-lane highway with a continuous turn lane at this point. No vehicles will use any residential streets.

The property is oriented toward Liberty Road, and it borders the old railroad right-of-way in the rear, which is planned to become a walking trail. There is extensive screening along all property lines, and the majority of that screening will remain. It is in the same general area as the current location, it can serve the existing customer base.

Because modern veterinary and kennel facilities utilize primarily indoor space, there will be little impact on neighboring properties. Outdoor play areas will be oriented to the back of the property, toward the old railroad property and the commercial properties immediately adjacent.

We are requesting a variance of the required setback for the building from 100 feet to 50 feet along the northwest property line. The outdoor play areas will be oriented to the rear of the property. There is no parking area between the building and the northwest line, and there is an extensive vegetative screening. Thus, there will be no adverse impact on the neighboring property by the grant of the variance. We will meet the 100 foot setback along the southeast and eastern property lines, the sides where there is residential development.

This zone change is in agreement with the 2013 Comprehensive Plan. Theme B relates to "improving a desirable community." Goal B.2. is to "provide for accessible community facilities

and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors". This facility has provided for quality of life needs of Lexington residents for over 60 years and we wish to continue to provide service in a state of the art facility.

Theme C relates to creating jobs and prosperity. As mentioned above, 35-40 people are currently employed, and we hope to increase this at a larger, modern facility. Goal C.1. is to support and showcase local assets to further the creation of a variety of jobs. Goal C.1.d. is to "enable infill and redevelopment that creates jobs where people live." Goal C.2.c. relates to attracting and retaining high-paying jobs, and Goal C.2.d. relates to providing a quality of life that attracts young professionals in a workforce of all ages and talents to Lexington. Providing quality care and boarding facilities for pets is an essential quality of life feature for community residents.

The Comprehensive Plan emphasizes the need to allow business expansion, but within the current Urban Service Area boundary. Goal A.2. is to support infill and redevelopment throughout the Urban Service Area as a strategic component of growth. This plan maintains the buffer areas which is consistent with Goal A.3.d. Importantly, Goal E.1.b. encourages growth within the Urban Service Area, as guided by market demand, to accommodate future growth needs. As mentioned above, there has been a consistent demand for these services for the last 60 years, and the Applicant seeks to continue to meet the demand for quality pet care for Lexington's residents. Goal E.3. is to maintain the current boundaries of the Urban Service Area.

This zone change is also supported by the policy section of the Comprehensive Plan. "A desirable community must possess quality public and semipublic services." (Page 16). "The ideal structure of a neighborhood is composed of places to reside, work, shop, learn and play." The community strives to provide stable employment and adequate wages, and to expand opportunities for workers to promote their upward mobility in the workforce (Page 62). The Plan calls for flexibility in planning for land use which creates jobs, with new options for neighborhood commercial development. (Page 74). The Plan calls for continuing evaluation of the zoning map to enable job development opportunities and to provide opportunities that attract and retain a talented workforce. (Page 82). Infill should be provided throughout the Urban Service Area, not just downtown, and infill should stimulate investment in established communities. (Pages 97-98).

Thus, allowing this parcel to be utilized for modernization and expansion of a business which has supplied essential services to Lexington for 60 years is fully in agreement with the Comprehensive Plan of this community.

In addition, the proposed zoning which would allow a veterinary clinic and kennel is appropriate for the property, and the previous single-family detached residential zoning is inappropriate for the property. Although the property is currently located in the R-1D zone, this

area of Liberty Road contains a number of uses in addition to residential development. Among those uses are Linkbelt, a new elementary school, and the professional/commercial use behind the property in Hamburg. The only vehicular access available to the property is directly to Liberty Road, which is a 4-lane highway with a continuous middle turn lane. Any single family residential development on this property would be isolated due to lack of street connections to other residential areas. Liberty Road serves as a buffer to the property across the street. The area to the northwest is undeveloped. On the north is located the old railroad bed and the professional/commercial area of Hamburg; to the east is the residential area on Campbell Lane. We propose no access to Campbell Lane, and we propose to keep the extensive screening along property lines. Most all of the use will be indoors, eliminating noise as an issue. The outdoor play areas will be located on the rear side, facing the old railroad tracks and the Hamburg area. We will propose conditional zoning restrictions for the property.

In addition, we are requesting a variance from 100 feet to 50 feet along the northwest property line. The ordinance requires that structures or areas used for animal hospitals and kennels (not including parking areas) shall be at least 100 feet from any residential zone. As mentioned above, the area to the northwest is zoned residential, but is currently vacant. The outdoor play areas will not be located along this line. In addition, there will be a driveway, but no parking between the building and the property line. Finally, the extensive vegetative buffer along this property line shall be maintained, to buffer the subject property from the vacant property to the northwest.

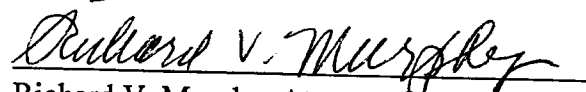
Thus, we are requesting this variance for the following reasons:

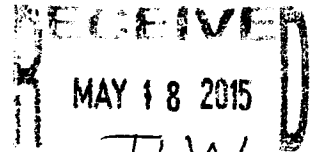
1. Granting this variance will not adversely affect the public health, safety or welfare and will not alter the character of the general vicinity, and will not cause a hazard or nuisance to the public because a setback of 50 feet will be retained along the northwest property line. The adjacent property is currently vacant, and the building will be constructed that so outdoor play areas are oriented to the rear, rather than to the northwest property line. There will be no parking between the building and the northwest property line, and the current vegetative screening shall be retained.
2. Granting these variances will not allow an unreasonable circumvention of the requirements of the zoning ordinance because this is an unusually shaped, 11-sided tract of land. The proposed building could not fit on the property without the grant of this variance.
3. The special circumstances which apply to this property and which do not generally apply to land in the general vicinity or in the same zone are, as mentioned above, that this property is unusually shaped with 11 sides. In order to fit the building in the middle of the property, a variance is necessary. The building has been situated so that a variance along only one property line is requested.

4. Strict application of the regulations of the zoning ordinance would deprive the Applicant of a reasonable use of its land or create an unnecessary hardship because the building is required to be 100 feet from both the southeast and the northwest property lines, and the property could not be utilized without the grant of one variance.

5. The circumstances surrounding the requested variance are not the result of the actions of this Applicant taken subsequent to the regulation from which relief is sought. This is an older tract of property which has retained its unusual shape for a number of years.

Thank you for your consideration of this zone change and variance request.

  
Richard V. Murphy, Attorney for Applicant



**USES PROPOSED TO BE PROHIBITED UNDER CONDITIONAL ZONING  
RESTRICTIONS**

1. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; plastering; metal works; printing; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating.
2. Laundry, clothes cleaning or dyeing shop.
3. Ice plant.
4. Tire re-treading and recapping.
5. Machine shop.
6. Offices of purchases, processors and handlers of agricultural products.
7. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles, such as mini-bikes, motorcycles, bicycles, boats or supplies for such items
8. Truck terminals and freight yards.
9. Automobile service stations.
10. Major or minor automobile and truck repair.
11. Establishments for the display and sale of precut, prefabricated or shell homes.
12. Circuses and carnivals.
13. Retail sale of building materials and lumber.
14. Pawnshops.

JRPHY & CLENDENEN, PLL

ATTORNEYS AT LAW

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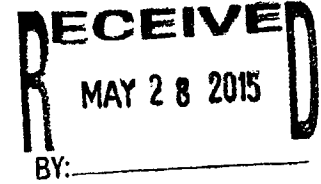
Chris@MurphyCledenlen.com

RICHARD V. MURPHY

CHRISTOPHER M. CLENDENEN

May 26, 2015

Via Email



Ms. Traci Wade  
Division of Planning  
Lexington-Fayette Urban County Government  
101 East Vine Street, 7<sup>th</sup> Floor  
Lexington, KY 40507

Re: 2833 Liberty Road

Dear Traci,

You have asked for additional information concerning this property. I will try to provide that information in the order of your questions:

**1. The proposed trail.** We understand that a walking trail is proposed to be constructed by the government in the old railroad right-of-way immediately adjacent to this property. We welcome the trail, and we would propose to construct a paved or mulched trail entrance from the subject property to the trail.

**2. Outdoor play area.** We propose to have two play or exercise areas. The main area will be a "courtyard" type area which will be open to the sky but surrounded on all four sides by the building. It will thus be inside the perimeter of the building. We propose a secondary exercise area behind the building on the left side, which would be the side farthest away from any houses. As you know, cats or dogs are not sent in groups to the play area. They are sent individually or in small groups and are always supervised.

**3. Modernization of the business.** The applicant's current facility was built about 60 years ago. It is a long, narrow building in which kennels which are half indoors and half outdoors. Quarters are cramped. The new facility will contain all indoor rooms for pets, will have all "luxury" suites, and all units will be rooms with walls, not cages. All rooms will have beds, and some will have television sets. The facilities will be equipped with cameras so that pet owners can remotely check on their pet from the internet, if desired. A pet daycare facility will be provided for working families who wish to drop their pet off during the day.

Also, the veterinary clinic will be constructed to current standards. The applicant has recently entered into an affiliation agreement with Lincoln Memorial University Veterinary School, under which students will serve a rotation at this facility. It is anticipated that four to six students may be on rotation here at any one time. This will enhance service to pets and their owners, and it of course will require more space than the existing facility.

**3A. Hours that employees will be on the site.** The kennel portion of the facility will be attended 24 hours a day. The veterinary clinic may be attended 24 hours if needed, for instance if there is a sick animal that requires around the clock attendance.

**4. Parking.** We are revising the development plan to reduce the parking to a number which is close to the minimum required. Additional parking had been placed on the plan because of uncertainty about the number of required spaces.

**5. Shared access to Liberty Road.** The applicant is agreeable to providing shared access to the parcels to the northwest. We would anticipate providing an easement over the applicant's property. Any additional driveway to serve adjoining properties would be at the cost of the owners of the adjoining properties. Also, an agreement would have to be worked out regarding cost sharing for maintenance.

**6. Other sites which have been considered.**

a. Dr. Gentry's first consideration was demolition of his existing site and rebuilding. However, the existing site is a long and narrow site which would not facilitate the courtyard exercise area as described above, and which would make layout of the indoor rooms difficult. Also, it would require closing the applicant's business for an extended period during construction.

b. The applicant has previously had a contract on the Thoroughbred Chevrolet property on Richmond Road. However, this contract required the acquisition of an adjacent parcel under different ownership and bringing in other development partners, and could not be worked out.

c. The Land Rover dealership at Man-O-War Boulevard and Palumbo drive. This parcel was purchased by the library.

d. 1.4 acre site in Hamburg. However, the site was not large enough.

e. Another site on Liberty Road which the applicant was informed was not for sale.

f. The applicant has checked into a number of shopping center locations. As you know, some veterinary clinics are located in shopping centers, but the combination with the kennel facility requires much more space. Shopping center developers do not have the additional



space for the kennel. Also, there is a concern that kennel customers would not be generating walk-in business for other shopping center uses.

g. The applicant has been searching for a new space in the area between Winchester Road and Tates Creek Road for the last 2-3 years. He would be happy to talk to the staff about any additional sites that the staff is aware of.

**7. The subject property.** This is a triangular piece of property bounded by a 5-lane highway, the old railroad tracks and the property on Campbell Lane. Although it may theoretically be possible to construct a residential subdivision on this property, this subdivision will be isolated from other residential neighborhoods with access only to Liberty Road, because Campbell Lane is extremely substandard. This property had been designated residential for many years, but has never developed.

We want to provide a service for residents of the community, and it is important that we be as close and convenient to pet owners as possible. This parcel is extremely well screened and the use and buildings are located away from residential areas. With an entry to the trail, it will be possible for many pet owners to walk their pet to the clinic and kennel, if desired.

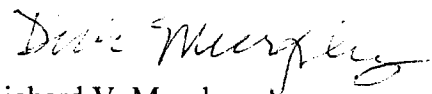
The architecture of the building will help us to minimize barking. In kennels, barking is often created by situations in which dogs have periods of eye to eye contact with each other. This facility will be designed with rooms, not cages, and dogs will not be able to look across the hallway and see another dog. Play areas will be used on an individual or small group basis. There are no mass exercise sessions. The new facility will allow the attendants to give a greater level of service to the pet.

As you know, we have proposed a number of conditional zoning restrictions for the property.

Please contact me if you need more information.

Thank you.

Sincerely,



Richard V. Murphy

RVM/prb

Cc: Dr. Michael Gentry, Jerry Herndon and Matt Carter

Letter to Traci Wade 5-22-15.doc

346 Huffman Road  
Harrodsburg, Kentucky 40330

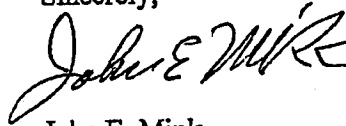
Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, KY 40507

Re: 2833 Liberty Road  
Lexington, KY 40509

Dear Ladies and Gentlemen:

I am the owner of the property located at 2833 Liberty Road, Lexington. I give permission to Dr. Michael Gentry and RML Construction, LLP, to apply for zone changes on this property to the R-3, R-4 and/or B-4 zone.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Mink". The signature is fluid and cursive, with the first name "John" being the most prominent.

John E. Mink

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1D to B-4  
For  
A portion of 2833 Liberty Road  
Lexington, Ky. 40509**

Beginning at a point along the right of way of Liberty Road, said point being **N 36° 08' 07" W** a distance of **246.32'** more or less from the intersection of Liberty Road and Campbell Lane; said point being the point of beginning:

Thence **N 59°22'01" E** a distance of **95.20'**;

Thence **S 27°47'25" E** a distance of **57.52'**;

Thence **N 62°40'23" E** a distance of **299.00'**;

Thence **N 27°19'42" W** a distance of **225.27'**;

Thence **N 79°19'20" W** a distance of **96.21'**;

Thence **S 59°04'14" W** a distance of **335.00'**;

Thence **N 30°55'46" W** a distance of **50.00'**;

Thence **S 59°01'09" W** a distance of **72.75'** to a point on the centerline of Liberty Road:

Thence with centerline of Liberty Road **S 36°08'07" E** a distance of **261.75'**;

Thence **N 60°28'50" E** a distance of **51.34'** to a point in the right of way of Liberty Road which is the point of beginning, containing **2.74 Gross Acres** and **2.43 Net Acres** more or less.

The following description is intended for zoning purposes only. The description represents information depicted on documents of record found in the Fayette County Clerk's office. This description does not represent a boundary survey and should not be used for real estate conveyance or transfer.

**Zone Change from R-1D to R-4  
For  
A portion of 2833 Liberty Road  
Lexington, Ky. 40509**

Beginning at a point along the right of way of Campbell Lane at the common corner to properties found at 831 Campbell Lane and 2833 Liberty Road, said point being the point of beginning;

Thence **S 27°19'42" E** a distance of **9.00'**;

Thence **N 62°40'18" E** a distance of **301.00'**;

Thence **N 27°19'42" W** a distance of **9.00'**;

Thence **N 36°41'21" W** a distance of **162.93'**;

Thence **N 79°19'20" W** a distance of **348.37'**;

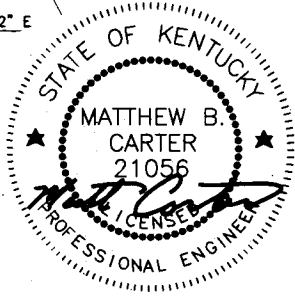
Thence **S 27°19'42" E** a distance of **225.27'**;

Thence **S 27°19'42" E** a distance of **150.00'** to a point which is the point of beginning, containing **1.80 Gross Acres** and **1.74 Net Acres** more or less.

**SITE**

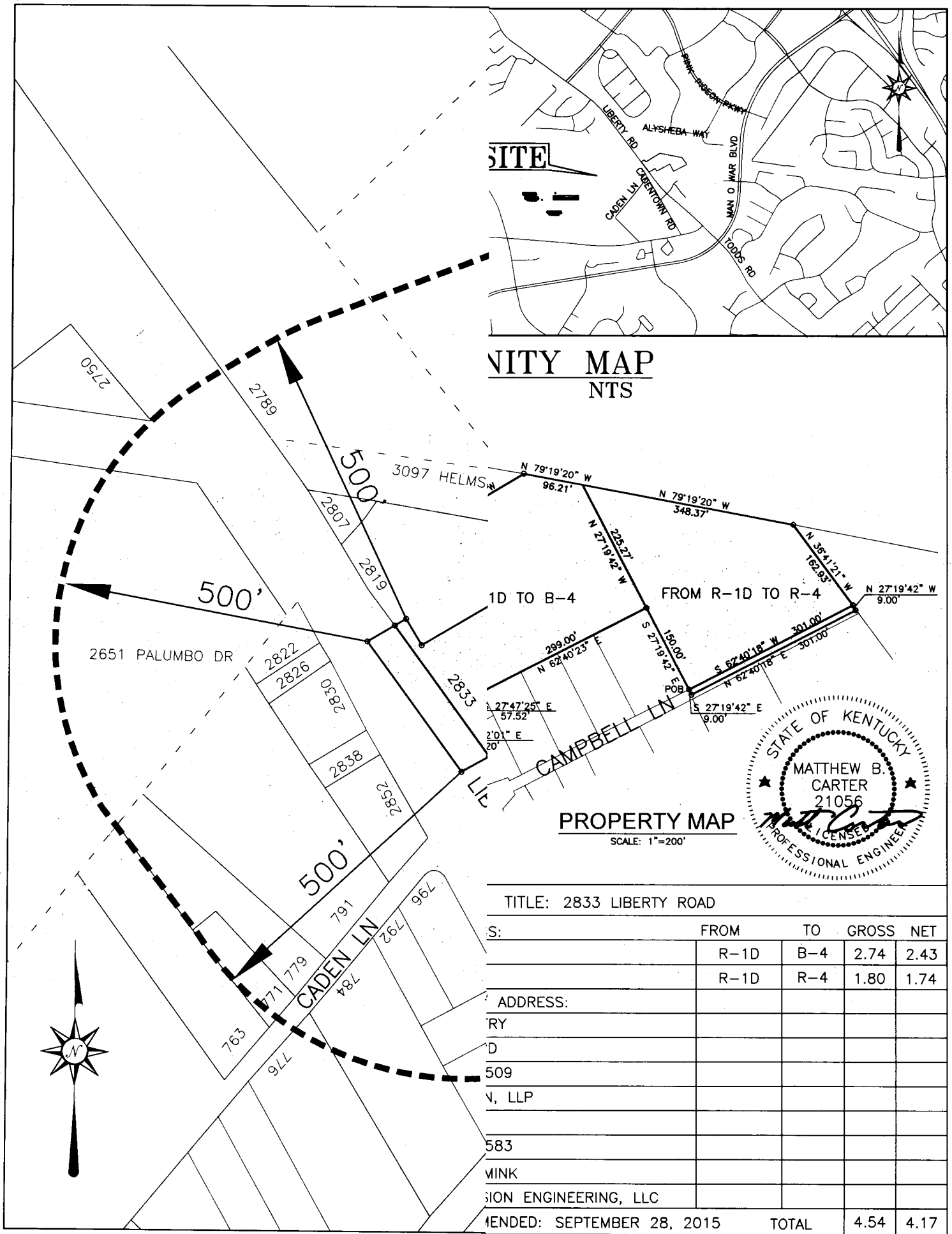
# **UNITY MAP** NTS

## **PROPERTY MAP** SCALE: 1"=200'



TITLE: 2833 LIBERTY ROAD

S:	FROM	TO	GROSS	NET
	R-1D	B-4	2.74	2.43
	R-1D	R-4	1.80	1.74
ADDRESS:				
RY				
D				
509				
N, LLP				
583				
WINK				
SION ENGINEERING, LLC				
ENDED: SEPTEMBER 28, 2015			TOTAL	
			4.54	4.17



**REVISED STAFF REPORT ON AMENDED PETITION FOR ZONE MAP AMENDMENT**

**MARV 2015-8: DR. MICHAEL GENTRY & RML CONSTRUCTION (AMD.)**

**DESCRIPTION**

Zone Change:

<b><u>REQUEST</u></b>		<b><u>ACREAGE</u></b>	
<b><u>FROM</u></b>	<b><u>TO</u></b>	<b><u>NET</u></b>	<b><u>GROSS</u></b>
R-1D	B-4	2.43	2.74
R-1D	R-4	1.74	1.80
<b><u>TOTAL</u></b>		4.17	4.54

Location: 2833 Liberty Road

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Property	R-1D	Vacant
To North	A-U & P-1	Future Trail/Access to KU Sub-Station & Offices
To East	R-3 & R-4	Multi-Family Residential
To South	R-1D	Single-Family Residential
To West	R-1D/H-1 & I-1	Single-Family Residential & Link-Belt

**URBAN SERVICES REPORT**

**Roads** – Liberty Road (KY 1927) was significantly improved in 2008, including a re-alignment of the roadway, widening and intersection improvements with Old Todds Road (formerly Todds Road) near Man o' War Boulevard. It is a minor arterial that has a major signalized intersection at Man o' War Boulevard. The re-configured intersection of Liberty Road and Old Todds Road, just north of Man o' War Boulevard, has improved traffic flow and roadway capacity in this portion of the Urban Service Area. The subject property fronts on Liberty Road for approximately 210', and fronts on Campbell Lane, a sub-standard local street (an old county road), for approximately 300'. No new access to the property is proposed along Campbell Lane since it is a narrow roadway serving only nine single-family residences.

**Curb/Gutter/Sidewalks** – Within the past decade, the re-alignment and widening of Liberty Road allowed for improvements, including construction of curb, gutter and sidewalks on both sides of that roadway. Campbell Lane is lacking all of these typical urban improvements.

**Storm Sewers** – The subject property is located in the upper reaches of the East Hickman watershed. There is no FEMA special flood hazard area designated for the property, and there are no known flooding problems within the immediate area. Currently, there are no storm sewers or other stormwater improvements on the subject property. The developer has not yet indicated how they plan to accommodate stormwater for this 4+ acre site, but will be required to document compliance with the Division of Engineering Stormwater Manuals prior to any construction on the subject property.

**Sanitary Sewers** – The subject property is located within the East Hickman watershed, which is served by the West Hickman Wastewater Treatment Plant in northern Jessamine County. No sanitary sewers are currently available to the subject property, but it could be connected to the sanitary sewer system through nearby existing lines.

**Refuse** – The Urban County Government serves this portion of the Urban Service Area with collection on Tuesdays. If approved for a commercial development, refuse collection may need to be supplemented by a private service provider to accommodate the specific needs of this business.

**Police** – The subject property is located within Police Sector 3 (East Sector), although the nearest police station is located approximately 4 miles northwest of the subject property, at the Central Sector Roll Call Center near Eastland Shopping Center.

**Fire/Ambulance** – The nearest fire station to the property is Station #21, located approximately ¼ mile southwest of the subject property at the intersection of Mapleleaf Drive and Dabney Drive, across Man o' War Boulevard.

**Utilities** – Natural gas, telephone service, electric, water, streetlights, and cable television are all available to the areas surrounding the subject property, and can easily be extended to serve the 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 petitioners propose to construct a veterinary clinic with an associated animal kennel, and a 28-unit apartment building with associated off-street parking. The proposed vet clinic and kennel facility will be enclosed ( $\pm$  20,000 square feet of space), with a small outdoor play area planned, and will also have considerable off-street parking.

### **CASE REVIEW**

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to a Wholesale and Warehouse Business (B-4) zone and a High Density Apartment (R-4) zone, for slightly more than four acres of property located on the east side of Liberty Road between the signalized intersections at Star Shoot Parkway and Old Todds Road. The applicants have decided to amend the original request (rezoning the entire subject property from R-1D to B-4), following the review comments from the Planning staff and the Planning Commission's Subdivision and Zoning (sub)Committees.

The subject property is located to the north of Campbell Lane, an old rural subdivision of only a handful of lots, and it is situated to the east of Cadentown, a local historic district. The property is also situated to the south of the access into a Kentucky Utilities sub-station, located near Man o' War Boulevard. This access was formerly a railroad right-of-way and is proposed for a future connection between the existing Liberty and Brighton Rail Trail extension. Beyond the utility access, the Pink Pigeon Professional Office Park is part of the larger Hamburg Farm Development.

Different types of residential land uses exist in the vicinity. To the south of Campbell Lane is a townhouse development (Kennedy Landing) and an apartment complex (Brighton 3050), and to the northwest exists vacant land, also zoned residentially. Further to the northwest, along Liberty Road, there is a LFUCG greenway with a shared-use trail, several churches, and Liberty Elementary School, as well as several single-family residential neighborhoods (Rambling Creek and Danby Corners). Non-residential land uses in the immediate vicinity include Link-Belt (which is accessed from Palumbo Drive), and several neighborhood businesses closer to Man o' War Boulevard within the Todds Center and Brighton Place Shoppes shopping centers (both in a restricted zoned B-1 zone). The area includes restaurants, a pharmacy, a convenience store, professional service businesses, and a car wash.

In 2008, Liberty Road was widened and realigned so that it connected directly to Man o' War Boulevard, and that change slightly altered the subject property's frontage. The re-alignment and improvement of Liberty Road has enhanced the traffic patterns in this portion of the Urban Service Area. Further, the more recent signalization of the Old Todds Road and Liberty Road intersection has reduced some traffic conflicts that existed when the new intersection was first opened.

The petitioners request a rezoning of the front portion of the subject property to a B-4 zone in order to relocate the Sheabel Pet Care Center, which includes a veterinary clinic and animal kennel, from their current location near the New Circle Road and Richmond Road interchange. The business has occupied the current site for 60 years, but now wishes to expand and modernize its operation. In order to do so, they are seeking to relocate to a larger site. The petitioner proposes a 20,000 square-foot building on the site with associated off-street parking, and has submitted a list of possible conditional zoning restrictions for the property to limit the impact of the proposed zone. A dimensional variance is also being requested with the zone change application in order to reduce the 100-foot setback from a residential zone for the proposed kennel and veterinary clinic (only along the northern property boundary).

The 2013 Comprehensive Plan no longer includes a parcel-based land use element; rather, it encourages land use decisions to be made based upon small area plan recommendations, policy statements and the Goals and Objectives of the Plan. The petitioner contends that the requested rezoning for a Wholesale and Warehouse Business (B-4) zone is in agreement with the Comprehensive Plan, specifically to "provide for accessible community facilities and services to meet the health, safety and quality of life needs" (Theme D, Goal #2); to "enable infill and redevelopment that creates jobs where people live" (Theme C, Goal #1.d.); to attract and retain high-paying jobs (Theme C, Goal #2.c.); "to support infill and redevelopment that respects the area's context and design features" (Theme A, Goal #2.a.); and to uphold the Urban Service Area concept by encouraging "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 #1.b.).

The petitioners also claim that their request is supported by the policy sections of the Comprehensive Plan, including citations relating to the provision of quality public and semipublic services; "the ideal structure of a neighborhood" that includes places to work (such as Sheabel); the desire to provide opportunities for workforce improvement and growth; and continual evaluation of the zoning map to enable job development opportunities. The amendment, to include



-3-

rezoning close to two acres to R-4 zoning for the rear portion of the subject site, will allow the planned Brighton Trail to serve the subject property. The rear portion of the property can then develop in a similar fashion to the Brighton 3050 apartment complex, which has previously been found to be an appropriate type of housing in this vicinity.

In evaluating Dr. Gentry's original zone change application, the staff noted in the staff report that the 2013 Comprehensive Plan goals and objectives that promote business expansion, improving the quality of life and providing services to the community are important priorities, but they must also be balanced with the community's need for additional residential land use. While the proposed veterinary clinic and kennel provides a service to the community (which some might argue is a critical service), the new amendment provides the expanded business to balance with the need for 28 new residential dwelling units.

The 2013 Comprehensive Plan encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as the protection of neighborhoods and residential areas from incompatible land uses. The Goals and Objectives encourage expanding housing choices (Theme A, Goal #1); planning for housing near employment and commercial areas, but not replacing residential land to create a new node for employment (Theme A, Goal #1.b.); and supporting infill and redevelopment if it is respectful of the area's context and design features (Theme A, Goal #2.a.).

Beyond the goals and objectives, policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, compatibility of land uses and creating neighborhood nodes of commercial development or a focal point. A neighborhood node already exists a short distance away at Man o' War Boulevard and Liberty Road in this immediate vicinity, which will be expanded with this zone change. The Comprehensive Plan also encourages the placement of residential land and development nearest to our parks and greenways to ensure that they are utilized to the highest extent possible. The proposed R-4 zoning category is more complementary of these specific recommendations at this location, which are overarching ideas of the Plan. Further, the proposed R-4 rezoning of the subject property would generally be compatible with the existing single-family residential development along Campbell Lane, with the historic Cadentown area, and what may occur on the vacant, smaller parcels to the north.

Although no other B-4 zoning currently exists in the immediate vicinity, the service nature of the animal clinic and indoor kennel is not inconsistent with uses in shopping centers such as the two small centers on either side of the Man o' War intersection with Liberty Road. However, its scale and the owner's desire for a modern expansion of their similarly situated clinic on Richmond Road, require the larger location now proposed on the subject site.

With the more recent amendment to the original application, the staff finds that the proposed zone change is now in agreement with the Comprehensive Plan, and is much more in keeping with the character of the immediate area, and the more detailed policy provisions of the Plan.

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

1. The requested rezoning to a High Density Apartment (R-4) zone, and for a lesser acreage to a Wholesale and Warehouse Business (B-4) zone, is in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives and policy statements of the Plan encourage the consideration of how proposals relate to existing development in the immediate vicinity, and focus on protecting neighborhoods and residential areas from incompatible land uses. A neighborhood node already exists a short distance away at Man o' War Boulevard and Liberty Road, which will be expanded with this rezoning to R-4.
  - b. The Comprehensive Plan also encourages the placement of residential land and development nearest to our parks and greenways to ensure that they are utilized to highest extent possible. This amended zone change application to an R-4 zone will accomplish this recommendation, since the Brighton Trail is planned for the former railroad line immediately north of this location.
  - c. Some 35-40 persons are to be employed at this location (which equates to about 15 jobs/acre), some of which will be veterinary professionals. Quality pet care and modern animal boarding facilities are an important service that adds to the quality of life in our community.
2. This recommendation is made subject to the approval and certification of **ZDP 2015-49: CADENTOWN SUBDIVISION - ANIMAL HOSPITAL/CLINIC**, prior to forwarding this 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 in any B-4 zoning approved for a portion of the subject property.**
  - a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstery; tile, mosaic and terrazzo work; electroplating; interior decorating.
  - b. Cocktail lounges and nightclubs, or the serving of alcoholic beverages.



- c. Laundry, clothes cleaning or dyeing shop.
- d. Ice plant.
- e. Tire re-treading and recapping.
- f. Machine shop.
- g. Offices of purchases, processors and handlers of agricultural products.
- h. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
- i. Truck terminals and freight yards.
- j. Automobile service stations.
- k. Major or minor automobile and truck repair.
- l. Establishments for the display and sale of precut, prefabricated or shell homes.
- m. Circuses and carnivals.
- n. Retail sale of building materials and lumber.
- o. Pawnshops.

These use restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant, since they will ensure continued agreement with the 2013 Comprehensive Plan, and, most importantly, since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

TLW/BJR/WLS

8/4/2015

9/30/15 rev.

Planning Services/Staff Reports/MAR Amended/MARV 2015-8amr.doc

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, October 1, 2015, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Mike Cravens, David Drake, Carolyn Richardson, and Bill Wilson. The Committee members reviewed applications and made recommendations as noted.

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

1. **DR. MICHAEL GENTRY & RML CONSTRUCTION, LLP, (AMD.) ZONING MAP AMENDMENT & CADENTOWN SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. **MARV 2015-8: DR. MICHAEL GENTRY & RML CONSTRUCTION (10/22/15)\*** – amended petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 1.74 net (1.80 gross) acres, and to a Wholesale & Warehouse Business (B-4) zone, for 2.43 net (2.74 gross) acres, for property located at 2833 Liberty Road. 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 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 petitioners propose to construct a veterinary clinic with an associated animal kennel, and a 28-unit apartment building with associated off-street parking. The proposed vet clinic and kennel facility will be enclosed (± 20,000 square feet of space), with a small outdoor play area planned, and will also have considerable off-street parking.

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

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

1. The requested rezoning to a High Density Apartment (R-4) zone, and for a lesser acreage to a Wholesale and Warehouse Business (B-4) zone, is in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The Goals and Objectives and policy statements of the Plan encourage the consideration of how proposals relate to existing development in the immediate vicinity, and focus on protecting neighborhoods and residential areas from incompatible land uses. A neighborhood node already exists a short distance away at Man o' War Boulevard and Liberty Road, which will be expanded with this rezoning to R-4.
  - b. The Comprehensive Plan also encourages the placement of residential land and development nearest to our parks and greenways to ensure that they are utilized to the highest extent possible. This amended zone change application to an R-4 zone will accomplish this recommendation, since the Brighton Trail is planned for the former railroad line immediately north of this location.
  - c. Some 35-40 persons are to be employed at this location (which equates to about 15 jobs/acre), some of which will be veterinary professionals. Quality pet care and modern animal boarding facilities are an important service that adds to the quality of life in our community.
2. This recommendation is made subject to the approval and certification of **ZDP 2015-49: CADENTOWN SUBDIVISION – ANIMAL HOSPITAL/CLINIC**, prior to forwarding this 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 in any B-4 zoning approved for a portion of the subject property:**
  - a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstery; tile, mosaic and terrazzo work; electroplating; interior decorating.
  - b. Cocktail lounges and nightclubs, or the serving of alcoholic beverages.
  - c. Laundry, clothes cleaning or dyeing shop.
  - d. Ice plant.
  - e. Tire re-treading and recapping.
  - f. Machine shop.
  - g. Offices of purchasers, processors and handlers of agricultural products.
  - h. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
  - i. Truck terminals and freight yards.
  - j. Automobile service stations.
  - k. Major or minor automobile and truck repair.
  - l. Establishments for the display and sale of pre-cut, prefabricated or shell homes.
  - m. Circuses and carnivals.

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

- n. Retail sale of building materials and lumber.
- o. Pawnshops.

These use restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant; since they will ensure continued agreement with the 2013 Comprehensive Plan; and, most importantly, since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

b. REQUESTED VARIANCE

- 1. Decrease the minimum distance required for a kennel or animal clinic from a residential zone from 100 feet to 50 feet along the northwest and northeast property lines.

The Staff Recommends: Approval, for the following reasons:

- a. Granting the requested variance to 50 feet will not adversely affect the public health, safety or welfare. It will not negatively impact the essential character of the general vicinity because this modern kennel/animal clinic is primarily designed to keep the pets indoors; and in this case, the kennel/hospital will be more than 130 feet from the nearest residence. Additionally, the property to the northwest is currently vacant and is buffered by a heavy line of vegetation that is proposed to remain.
  - b. There is a special circumstance regarding this property (a 9-sided lot) that makes standard development more difficult. It applies to this property but does not generally apply to most commercial properties, which are generally much more rectangular in shape. Additionally, the proposed variance along the northwestern property line was chosen because the adjoining property is vacant, whereas there are occupied residential properties to the southeast on Campbell Lane.
  - c. Although a facility could be constructed on this site without a variance, it would not likely result in a better design or outcome. Strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship for the applicant, because the design of the facility would need to be less efficient and could impact the operational needs of the proposed kennel/animal clinic.
  - d. The requested variance is not an unreasonable circumvention of the Zoning Ordinance, because the setback requirements for this use are to buffer nearby residential uses from the potential nuisances of this use. This facility, like most modern kennels, will be built in such a way that the majority of the animal keeping is indoors, and more than 130 feet from any existing or proposed dwellings.
  - e. The circumstances surrounding the requested variance are a result of the odd shape and other special considerations and are not the result of prior actions taken by this applicant, as no construction has yet occurred on the subject site.
- c. ZDP 2015-49: CADENTOWN SUBDIVISION – ANIMAL HOSPITAL/KENNEL (10/22/15)\*- located at 2833 Liberty Road.  
(Vision Engineering)

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

- 1. Provided the Urban County Council rezones the property B-4 and R-4; 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
- 6. Provided the Planning Commission grants the requested variance to the building setback requirements.
- 7. Denote access locations across Liberty Road on plan.
- 8. Denote proposed stormwater detention area on plan for both proposed developments.
- 9. Denote lot coverage and floor area ratio site statistics for the proposed R-4 development.
- 10. Discuss access entrance proposed to Campbell Lane.
- 11. Discuss access to proposed trail for the proposed R-4 development.
- 12. Discuss pedestrian access from the proposed R-4 development to the existing apartment complex, and to Liberty Road.

Zoning Presentation: Ms. Wade presented the staff report for this amended rezoning request, briefly orienting the Commission to the location of the subject property on the east side of Liberty Road, to the north of the intersection of Liberty and Man O' War Boulevard. She stated that the subject property is approximately four acres in size. Zoning in the immediate vicinity includes R-1D surrounding the subject property, along with several R-3 and R-4 parcels along Campbell Lane that are part of the Brighton 3050 multi-family residential development. One parcel, which serves as an access for a Kentucky Utilities parcel along Man O' War Boulevard, is zoned A-U; it is the former right-of-way for the abandoned rail line, and the future location of a Rails-to-Trails shared use path that will connect the existing Liberty and Brighton paths. Also in the vicinity are the Link-Belt manufacturing facility, which has access to Palumbo Drive; several churches, single-family residential developments, and an elementary school to the northeast; and two small shopping centers to the south.

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

Ms. Wade explained that the original petitioner modified his rezoning application in order to request a kennel and animal hospital on the front of the property, and a multi-family residential building with 28 dwelling units on the rear of the property. The petitioners contend that the proposed rezoning is in agreement with several of the Goals & Objectives and policy statements of the 2013 Comprehensive Plan, including providing accessible community facilities; enabling infill & redevelopment that creates jobs; attracting and retaining high-paying jobs; supporting infill & redevelopment within the Urban Service Area boundary; and encouraging and expanding housing choices throughout the community. The staff recognized that the proposed zone change would expand the existing neighborhood node at Man O' War Boulevard and Liberty Road, by providing more business opportunities and an expanded residential use. Ms. Wade stated that the staff is recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Ms. Wade noted that the petitioner provided a list of proposed conditional zoning restrictions that would prohibit several uses in the B-4 zone. The staff report included a typographical error; item "b" identified cocktail lounges and nightclubs as a prohibited use; however, that use is not currently allowed in the B-4 zone, so item "b" could be deleted from the staff's findings for approval.

Ms. Wade indicated that the staff had received two letters of opposition to this request, which she distributed to the Commission members for their review.

Development Plan Presentation: Mr. Martin presented the revised preliminary development plan, explaining that it includes the new animal hospital/kennel, which is proposed to be approximately 20,000 square feet in size. Access to the animal hospital is proposed from Liberty Road, with an associated off-street parking area. A connection is provided to the R-4 portion of the property, where a three-story apartment building is proposed, with 21 one-bedroom units and four three-bedroom units. Parking is provided separately for the apartment building, and it will have access to Campbell Lane. There is an existing emergency access gate on Campbell Lane, such that the new that access point will not access that roadway, but instead will tie the proposed apartment building on the subject property to the existing Brighton 3050 development. That will provide a route through the apartment development, which will allow drivers to use Liberty Road for access, rather than Campbell Lane, which is very substandard.

With regard to the discussion items, Mr. Martin explained that they relate to the proposed multi-family building, and how it will relate to the existing R-4 development. The staff is also concerned about providing access from the subject property to the proposed Brighton East Rail Trail. The staff is comfortable, however, with deferring the discussion items to the final development plan stage. Mr. Martin said that the staff and the Subdivision Committee recommended approval of this plan, subject to the 12 conditions as listed on the agenda.

Variance Presentation: Mr. Emmons stated that the petitioner was requesting a variance in conjunction with this rezoning, to reduce the 100' distance requirement for a kennel/animal clinic from a residential zone to 50', along the northwest and northeast property boundaries. Referring to the rendered development plan, he noted the area that would be buildable for the kennel/animal hospital, should the requested variance be granted.

Mr. Emmons said that the staff is recommending approval of the requested variances. As the proposed kennel will be a new, modern facility, most of their activities will take places indoors, so the staff does not believe that the proposed use will have a negative impact on the nearby residences. In addition, the northwest property line is heavily vegetated, so it should help to provide a buffer for the residence.

Commission Questions: Mr. Wilson asked where the Link-Belt facility is located relative to the subject property. Mr. Emmons indicated the location on the rendered zoning map, noting that it is across Liberty Road, catty-corner from the subject property. Mr. Wilson asked what the distance is between the two properties. Ms. Wade responded that the distance is approximately 200', across the Liberty Road right-of-way. She noted that Link-Belt typically uses the rear portion of their property, nearest to Liberty Road, for storage only. Their property frontage along Liberty Road is also very narrow, with most of their activity located on their property much closer to Palumbo Drive.

Mr. Owens asked how access would be provided to the residential portion of the subject property. Mr. Emmons answered that access would be through the existing apartment complex.

Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioners. He stated that the petitioners were in agreement with the staff's recommendations for the zone change, variances, and development plan.

Mr. Murphy said that, at the Planning Commission sub-committee meetings, there were concerns about the possible use of the rear portion of the subject property, and the lack of residential use in the area. Dr. Gentry, who was the petitioner for the original application, discovered that Ball Homes was interested in developing the rear portion of the

property. They formed a partnership wherein RML Construction would purchase that rear portion and develop it as part of the adjoining Brighton 3050 complex.

With regard to the emergency access between the subject property and the existing residential development, Mr. Murphy explained that apartment residents will not use Campbell Lane at all; rather, all traffic will be directed through the complex to the other access.

Mr. Murphy said that the animal hospital is also an important component of the proposed development, not just the kennel. The petitioners do propose a small outdoor exercise area for the kennel use, but the main exercise area will be enclosed in a courtyard.

With regard to the two opposition letters received, Mr. Murphy said that representatives of the Link-Belt company were concerned about the proposed residential development. The petitioner is proposing to construct the animal hospital and kennel between the residential use and the Link-Belt property, which should help to provide a buffer for the residences. The other letter was from the owner of the adjoining property, with whom the petitioner attempted to negotiate a purchase price for that parcel. Those negotiations were unsuccessful, and the property owner is now objecting to the proposed development.

Mr. Murphy said that RML Construction has extensive experience in constructing multi-family residential development, and the petitioners believe that they can provide sufficient screening to adequately buffer the proposed residential building from the animal hospital/kennel. The petitioners also contend that the proposed development will benefit the area by supplying quality jobs, and that it is fully in agreement with the recommendations of the 2013 Comprehensive Plan.

Zoning Action: A motion was made by Ms. Richardson, seconded by Ms. Mundy, and carried 10-0 (Drake absent) to approve MARV 2015-8, for the reasons provided by staff, deleting item "b" from the list of conditional zoning restrictions.

Variance Action: A motion was made by Ms. Richardson, seconded by Mr. Penn, and carried 10-0 (Drake absent) to approve the requested variances, for the reasons provided by staff, subject to the conditions as listed on the agenda.

Development Plan Action: A motion was made by Ms. Richardson, seconded by Ms. Mundy, and carried 10-0 (Drake absent) to approve ZDP 2015-49, subject to the 12 conditions as listed, changing #10-#12 to read "Resolve at the time of final development plan."