

1. JULIE BUTCHER ZONING MAP AMENDMENT & EDGEMORE SUBDIVISION, LOT 3 ZONING DEVELOPMENT PLAN

- a. PLN-MAR-19-00016: JULIE BUTCHER (2/23/20)*- a petition for a zone map amendment from a Single Family Residential (R-1C) zone to the Professional Office (P- 1) zone in order to construct an office building on 0.876 net (1.191 gross) acres of property, located at 1918 and 1922 Nicholasville Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community’s resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 has requested a zone change to a Professional Office (P-1) zone for the properties located at 1918 and 1922 Nicholasville Road. The applicant is proposing to construct a two-story office building and the associated parking. The applicant has not indicated a specific user for the subject property, but stresses that the P-1 uses are traditionally less intrusive, due to the typical hours of operation and lower intensity.

The Zoning Committee Recommended: Approval to the full Commission.

The Staff Recommends: Approval, for the following reasons:

1. The requested Professional Office (P-1) zone is in agreement with the 2018 Comprehensive Plan’s Goals and Objectives, for the following reasons:
 - a. The proposed rezoning will respect the context and design features of the surrounding development projects and develop design standards and guidelines to ensure compatibility with the existing urban form (Theme A, Goal #2.b) by implementing the Development Criteria and providing a moderate increase in land use intensity.
 - b. The proposed rezoning will provide a well-designed neighborhood (Theme A, Goal #3) by providing for new services accessible by the residents and business along the Nicholasville Road corridor without significantly disrupting the existing nearby residential neighborhood.
 - c. By proposed rezoning supports the Complete Streets concept, encouraging the use of bicycles and public transportation by prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit, and other vehicles (Theme D, Goal #1.a and c).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that supports pedestrian mobility. Additionally, the proposed rezoning seeks to increase the intensity of use along a major arterial roadway, prioritizing an increase in land uses intensity and allowing for future mixed use.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by prioritizing multi-modal connections and increasing bike and pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, and limits the impacts on the surrounding environment.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
 - a. Prohibited Uses:
 - i. Drive-Through Facilities
 - ii. Stand alone parking lots and structures
 - b. Outdoor speakers or amplification shall be prohibited on the subject property.
 - c. Lighting shall be a maximum of 10 feet in height and shall be shielded and directed away from the neighborhood adjacent to the property.

These restrictions are appropriate and necessary for the following reasons:

1. To reduce the potential impact of allowable professional office uses on the adjacent neighborhood.
2. To reduce the potential impact of lighting and sound on the adjacent neighborhood.

4. This recommendation is made subject to approval and certification of PLN-MJDP-19-00075: Edgemoor Subdivision, Lot 3, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

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

- b. PLN-MJDP-19-00075: EDGEMORE SUBDIVISION, LOT 3 (2/23/20)* - located at 1918 AND 1922 NICHOLASVILLE RD., LEXINGTON, KY.
Project Contact: Barrett Partners

Note: The purpose of this plan is to rezone the property.

The Subdivision Committee Recommended: Postponement. There were some questions regarding the parking requirements and the requested variance.

1. Provided the Urban County Council rezones the property P-1; 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. Urban Forester's approval of tree inventory map.
5. Correct number of stories on plan face to "2 story".
6. Discuss reservation for future bus rapid transit (BRT) on Nicholasville Road including new 30' building line.
7. Discuss parking variance.
8. Discuss compliance with Placebuilder criteria:
 - a. B-SU11-1: Green infrastructure should be implemented in new development.
 - b. A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes.
 - c. A-DS4-1: A plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided.
 - d. A-EQ3-2: Development on corridors should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities).
 - e. E-ST3-1: Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area.

Staff Zoning Presentation – Mr. Baillie said that the staff has received two (2) letters of support and forty (40) letters of opposition for this zone change, which he distributed to the Planning Commission. He presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and aerial photographs of the general area. He said the applicant is proposing this zone change to allow for a 2-story office building and the associated parking. He added that the applicant has not indicated a specific user for the subject properties. He said that the applicant had applied for a variance to reduce the number of required parking, but by reducing the structure from 3-story to 2-story the number of required parking spaces has decreased and the variance request has been removed from the application.

Mr. Baillie said that the subject property is mostly surrounded by the Single Family Residential (R-1C) zone with P-1 and B-1 zoning adjacent. He said that the R-1C zone requires a minimum lot size of 8,000 square feet and a frontage of 60 feet. 1918 Nicholasville Road property currently has a frontage of 81 feet and totals approximately 14,435 square feet and 1922 Nicholasville Road currently has a frontage of approximately 138 feet and totals approximately 23,380 square feet. He added that the subject properties are located along the southern edge of the Infill and Redevelopment Area.

Mr. Baillie said that over the course of this application there have been many questions regarding the defined Infill and Redevelopment Area and the practice of the infill and redevelopment. He said that the Infill and Redevelopment Area was established in 2002 and represents the 1934 urban footprint of Lexington. At the same time, Lexington created the Infill and Redevelopment Steering Committee, which consisted of members of the Urban County Council, Planning Commission, Division of Planning staff, and members of the community. Representatives from the Homebuilders Association, the Fayette County Neighborhood Council, and other related interests, are also members. He said that this area was initially established to facilitate for the development of small, non-conforming lots in various residential zones and to implement the Goals & Objectives of the 2001 Comprehensive Plan. The processes developed with that committee streamlined the development process and allowed changes to be made through a modification of Article 6, which allowed for easier modification of the landscape to fit the historic footprint. In addition, the mixed-use zone categories were created to increase mixed-use development similar to historic developments. He said that the subject properties are located within designated Infill and Redevelopment Area; however, the applicant is not applying the allowable parking reductions for the inclusion of bike infrastructure.

Mr. Baillie said that the Infill and Redevelopment Area is different than the practice of infill and redevelopment. Infill is the new development of vacant, abandoned or underutilized land within a previously developed area (generally an urban setting) of the community. It is generally located where infrastructure is already in place and includes the construction of a new building on vacant ground. It most frequently involves small-scale development of scattered vacant land, but can encompass the assemblage and development of larger tracts as well. Redevelopment is categorized as the replacement of existing buildings in previously developed areas, which may include the demolition of structures, construction of new structures, or the substantial renovation of existing structures that may change the form or function of the property and can include the expansion, reuse and/or adaptive reuse of an existing structure. He said that this practice is tied to the need to grow our city and to provide residential and business opportunities

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while being both environmentally and fiscally responsible. He displayed photos of some infill projects that have occurred in our city and some redevelopment areas also.

Mr. Baillie said that the subject properties and the associated structures have gone through various modifications over the course of the last 100 years. The lotting pattern has been modified several times since the initial platting in 1924, which he displayed to the Planning Commission. He then displayed the 1954 plat of the subject properties and said that at that time the lotting was modified again, which left a large lot addressed 1914 Nicholasville Road and a smaller 1920 Nicholasville Road, which is the existing 1922 Nicholasville Road parcel. He said that the properties have been modified and consolidated between 1954 and 2002. In 2002, property was then subdivided to create 1918 and 1922 Nicholasville Road, as well as 103 Edgemoor Drive. The structure on the property was originally constructed in 1924 and has experienced two periods of modification. The most recent addition included the northern wing of the structure, which added approximately 600 square feet to the structure. The structure is a Dutch Colonial Revival style building, characterized by a gambrel roof and curved eaves along the length of the house. The accessory garage for the structure is located on the 1918 Nicholasville Road parcel.

Mr. Baillie said that the subject properties were the subject of a zone change request in 2008, which sought the proposed P-1 zoning. At that time, the staff recommended disapproval of the zone change finding that the proposal was not in agreement with the 2007 Comprehensive Plan land use map, which recommended a Low Density Residential (LD) land use. This was defined as up to five residential dwelling units per net acre. While the requested Professional Office (P-1) zone was at that time not in agreement with the land use recommendation, the existing R-1C zoning was in agreement with the 2007 Comprehensive Plan. Additionally, the subject property was located within the study area for the Nicholasville Road Corridor North Small Area Plan (SAP), and the initial stages of data gathering had already commenced for the plan. The Nicholasville Road Corridor North Small Area Plan was abandoned due to a lack of neighborhood participation. The proposed P-1 zoning was also found to be inappropriate as Edgemoor Drive was considered to be a land use boundary between residential and office land uses in this location. This was exemplified by the six-foot brick wall that delineated that boundary along the south side of Edgemoor Drive. Finally, staff found that there had been no unanticipated change in this area that has affected the basic character of the area since the adoption of the Comprehensive Plan.

Mr. Baillie said that a review of land use for the Nicholasville Road corridor has recently been started with the Coordinated Corridor Land Use Plan and Transportation Study. The difference between this study and the small area plan can be found in both the focus and scope of each of the studies. The small area plan was focused on the neighborhoods desires and needs for future development of the area, as well as ways to guide potential change in and around established neighborhoods. This necessitated intensive neighborhood participation and included a scope that was well beyond this section of the corridor. The new study is meant to identify opportunities for intensifying residential and mixed land uses along the whole of the Nicholasville Road. Seeking to identify potential impacts and solutions for transit, non-motorized and vehicular travel that will result from a more intensive land use of those areas, by also estimating the costs and recommend phasing of needed transportation improvements and their relationship to densification thresholds, and preparing a detailed regulatory framework for implementing the plan. This may include site specific land use recommendations and corridor-based design guidelines and/or standards. This study's focus is on the continued intensification of corridor, allowing for transit-oriented development and focused development, in an effort to maintain the continuity and integrity of neighborhoods, while also providing new opportunities for our growing community. The scope of the study is the corridor itself, rather than all of the neighborhoods that interact with the corridor. Additionally, while the new Corridor Study has selected a consultant, it is still in the very early stages of review. The previous small area plan had moved beyond the goals and objectives stage, and was working towards action items when the 2007 application was submitted.

Mr. Baillie said that the applicant has chosen a Corridor Place-Type for their application, which the staff concurs with and continues to state that the 2018 Comprehensive Plan does recommend the Medium Density Non- Residential/Mixed Use Development Type for areas located along corridors. This recommendation is supported by several policies within the 2018 Comprehensive Plan. He said that staff must review the relationship of the subject properties with the surrounding area. He said that due to the location of the subject properties and its adjacency to various land uses, including a bank, restaurants, and a hotel, staff agrees that this proposed development type can be appropriate for this location.

Mr. Baillie said that staff also reviewed the intent of the proposed P-1 zone, which is primarily used for office and retail uses; however, retail sales are prohibited except where directly associated with other functions. This zone does allow for a mix of commercial and residential use providing that the dwelling units are not located on the first floor of the structure, and that the first floor is occupied by other or another use/uses that are available in the P-1 zone, with no mixing of other permitted uses and dwelling units on any floor. The P-1 zone is the least intrusive commercial zone and is meant to act as a buffer between residential and more intensive corridor land uses and commercial zones.

Mr. Baillie said that the applicant indicates that they will seek to respect the context and design features of the area's surrounding development, develop design standards and guidelines to ensure compatibility with the existing urban form by implementing the Development Criteria and providing a moderate increase in land use intensity, transitioning from residential uses to professional office uses. They also indicated they are seeking to provide a well-designed neighborhood by providing for new services accessible by the residents and business along the Nicholasville Road corridor without significantly disrupting the existing nearby residential

neighborhood. The applicant is also proposing to support the Complete Streets concept, encouraging the use of bicycles and public transportation by prioritizing a pedestrian-first design that also accommodates the needs of bicycle, transit, and other vehicles. He said that the staff agrees that these Goals & Objectives of the Comprehensive Plan can be met with this rezoning.

Mr. Baillie said that at the January 9, 2020 Zoning Committee meeting, there was concern with the applicant not addressing five (5) development criteria, which includes green infrastructure, mass transit infrastructure, multi-modal networks and connecting adjacent neighborhoods, transit-oriented development and the increase and intensity of internal walkability of an area, and the inclusion of pick-up and drop-off locations. He said that since that meeting, the applicant has revised their development plan to address these concerns. He said that they will also be adding sidewalk facilities along the Edgemoor Drive side. He said that the applicant has withdrawn their request for a reduction in the parking, which necessitated a greater focus on transit infrastructure offsite. They have also indicated that they will continue to discuss with LexTran offsite improvements, as well as onsite improvements. He said that the staff agrees that the applicant has applied the development criteria to the subject properties and is in agreement with the Comprehensive Plan.

Mr. Baillie said that while the staff agrees that the proposed zone can be appropriate at this location, the positioning of the site still requires the inclusion of conditional zoning restrictions to reduce the potential impacts on the adjacent neighborhood. He said the staff recommends prohibiting auto-oriented uses including drive-through facilities, and stand-alone parking lots. The staff also recommends prohibiting the use of outdoor speaker systems, and limiting lighting to a maximum of ten (10) feet in height, and shield and direct any lighting away from the adjacent neighborhood. He said that the staff is recommending approval of this zone change as the applicant is meeting the Goals & Objectives of the 2018 Comprehensive Plan. He said that the justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan, as the proposed development meets the criteria for Site Design, Building Form and Location as the site creates a development that supports pedestrian mobility. Additionally, the proposed rezoning seeks to increase the intensity of the use along a major arterial roadway, prioritizing an increase in land uses intensity and allowing for future mixed use. The proposed rezoning includes safe facilities for the potential users of the site by prioritizing multi-modal connections and increasing bike and pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity Development Criteria of the 2018 Comprehensive Plan. The proposed rezoning also meets the criteria for Greenspace and Environmental Health as it works with the current landscape, and limits the impacts on the surrounding environment.

Commission Questions – Mr. Owens said that in the narrative for the conditional zoning restrictions, it states prohibiting auto-oriented uses including drive-through facilities. However in the conditions and reasons only drive-through facilities. Mr. Baillie said that the stand alone parking areas are also listed in the findings. Mr. Owens then asked if drive-through facilities are the only auto-oriented uses that need to be considered. Mr. Baillie said that for this zone change, they are the only two uses.

Development Plan Presentation – Ms. Gallt presented a revised rendering of the preliminary development plan associated with this zone change. She indicated that revised conditions were distributed to the Planning Commission, as follows:

1. Provided the Urban County Council rezones the property P-1; 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. Urban Forester's approval of tree inventory map.
- ~~5. Correct number of stories on plan face to "2 story".~~
5. 6. Discuss Denote: Reservation for future bus rapid transit (BRT) on Nicholasville Road including new 30' building line at time of Final Development Plan consistent with "Imagine Nicholasville road Corridor study."
- ~~7. Discuss parking variance.~~
6. 8. Discuss compliance with Placebuilder criteria:
 - a. B-SU11-1: Green infrastructure should be implemented in new development.
 - b. A-DS1-1: Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes.
 - c. A-DS4-1: A plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided.
 - d. A-EQ3-2: Development on corridors should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities).
 - e. E-ST3-1: Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area.

Ms. Gallt displayed an aerial photograph of the subject property and said the current structure is in the rear of the property. She then displayed a rendering of the revised proposed development that depicts the structure being built on the front of the property with parking in the rear and on the side with access only on Edgemoor Drive. She said that the entrance on Nicholasville Road will be closed. She pointed out a drop-off and pick-up only area, bike racks and sidewalks. She said that there are some sign-offs from the Division of Engineering, Division of Traffic Engineering, and the Urban Forester. She said that the plan depicts a twenty (20) foot setback from the property line with a twelve (12) foot reservation for a future bus rapid transit lane. This is being considered as part of the Imagine Lexington Nicholasville Road Corridor Study. A BRT lane will require a thirty (30) foot building line, which is being reserved. She said that the parking variance planned for this was removed because the applicant reduced the structure to two (2) stories. In regards to condition #6, she said that Mr. Baillie mentioned that the applicant is currently meeting those

conditions and can now be removed. Mr. Baillie said that the Placebuilder Development Criteria had been left as discussion items because they were addressed with what the applicant has provided the staff as of today. He said that there will also be a connection to the street for safe pedestrian access. He said that in regards to condition #6, the items had been left as discussion items because they were modified on January 27, 2020 with a letter that the applicant had provided. He added that it would be appropriate for the applicant to further explain their modifications, if they wish to.

Applicant Presentation – Mr. Nathan Billings and Zach Cato, attorneys, Tony Barrett, Barrett Partners, and Julie Butcher, petitioner, were present. He distributed a copy of his PowerPoint presentation, a summary, and proposed findings of fact to the Planning Commission. He said that Ms. Butcher will present a brief overview of her acquisition of the property and the prior zone change attempt.

Ms. Julie Butcher said that when she first noticed this property, the house was in deplorable condition and in foreclosure. She did purchase the property and invested to save the existing structure, because the purpose was for her to grow her business and she believed that Nicholasville Road was a good location. She believed that the zone change would not be that complicated, because she was proposing to preserve the existing structure and had self-limited the uses to only three (3) uses that were available in the P-1 zone, at the time. She believed that the neighborhood would appreciate these restrictions. She said, she did not learn about the Small Area Plan kickoff until after she submitted her application, which consisted of the Nicholasville Road corridor and her property. The staff recommended disapproval of her request and she then withdrew her application because of the staff recommendation that it was premature. She became a member of the Small Area Plan, which eventually failed. She then continued to educate herself regarding the Comprehensive Plan and believes that this is the appropriate time to move forward with this P-1 zone.

Mr. Billings said there is a significant portion of the 2018 Comprehensive Plan called PlaceBuilder, which has a significant emphasis on public engagement. He said that he designed their own guidelines, since there were not any recommendation that point regarding public engagement. He submitted a public engagement binder, which included letters of support from adjacent owners and stakeholders, written correspondence, emails, and meeting documents from four (4) public meetings that were held with stakeholders. He said that it includes affidavits from his staff showing that they posted signs in the neighborhoods, of the meetings. He added that there is a public google drive that will continue to be live as long as necessary.

Note: Ms. Plumlee left the meeting at 2:25 p.m

Mr. Billings said that this process had begun in June 2019, when he met with the neighbors, stakeholders, tenants, LexTran, schools, and staff, to discern what would be the best zone for this property. He then had a preliminary meeting with the staff in August 2019, to discuss the concept. On August 27, 2019, they held a neighborhood meeting with Southern Heights, who had already begun the process to explore an ND-1 or H-1 Overlay zone for their area. He said that they notified the property addresses, and owners so that the tenants were notified. They also notified the homeowners associations in the area. In September 2019, they met with all the immediate stakeholders regarding the process. They also had a meeting on October 10, 2019 to learn the neighbors' concerns to figure out what needs to be addressed before filing a zone change. They also had a meeting on November 4, 2019, which they had sent out notification for in October, not realizing that the President was holding a rally that same night. They had to reschedule to another location closer to the neighborhood. He said that at this meeting, they heard from the neighbors that they were unaware of the Placebuilder and asked for more information, which they set up another meeting for that information. Leading up to that meeting, the Southern Heights Neighborhood Board notified them and said that they didn't want to meet with them until they file their application. He added that from all the meetings, he gathered that about half the attendees would prefer to have this property be zoned for residential and the other half would prefer a business zone. He said that they determined that the P-1 zone would be appropriate. He said that at a previous meeting it was mentioned that those who live closer to the subject property might have a more important voice than those who live further away. Therefore, a meeting was scheduled on November 25, 2019 with those who live closest to the subject property and other neighbors attended anyway.

Mr. Zach Cato said that zones for this Place Type are not limited to the listed zones; other zones can be considered with proper justification, which Mr. Baillie also discussed. He said that the legal standard to be reviewed for this request is KRS 100.213(1), which states that the Planning Commission must find the map amendment is in agreement with the adopted Comprehensive Plan, that the existing zoning classification is inappropriate and the proposed zoning is appropriate, or that there has been significant changes in the area since the last Comprehensive Plan. He said that their proposal is agreement with the current 2018 Comprehensive Plan's Goals & Objectives. He said that they have tried to develop a plan and a use for this property that will not be significantly disruptive. He said that they are asking for an extension of the existing P-1 zoning that is directly across the street, as opposed to a whole sale change. He said that they have taken significant steps to make the development plan sensitive to the neighborhood. He said that currently, there are no sidewalks along Edgemoor Drive and they will be constructing sidewalks to the end of their property. In regards to the conditional zoning restrictions recommended by the staff, he said that they are in agreement with those conclusions, recommendations and conditions.

Mr. Cato said that they had looked at locating the structure on different parts of the subject property to deter the light pollution into the neighboring residents. He said that the entrance onto Nicholasville Road will be closed, per the Department of Transportation.

He said that they have included pedestrian access on three (3) sides of the building, and they are preserving many of the trees, as well as adding a landscape buffer along the rear of the property to give the adjacent property owners protection. He added that they have withdrawn their parking variance. He said that they have received many letters of support, which have been submitted to the record.

Mr. Billings said that they have submitted a proposed motion that mostly follows the staff's recommendations, including those for the conditional zoning restrictions. He said that the only difference on the development plan, is finding #5, concerning the bus rapid transit, states the following:

5. Denote: Reservation for future bus rapid transit (BRT) on Nicholasville Road including proposed 30' building line at time of the Final Development Plan consistent with "Imagine Nicholasville Road Corridor Study."

Opposition - Jessica Winters, attorney representing Southern Heights Neighborhood Association (SHNA), presented a PowerPoint presentation and distributed a packet containing the opposition statement, 40 letters from area residents, and proposed findings to the Planning Commission. She gave a brief history of the SHNA and said that it is 100% residential and that every property that touches this neighborhood is zoned residential. She said the building at 1922 Nicholasville Road is a well-preserved and architecturally significant example of the Dutch colonial revival style. She said that the value of the property has increased by 2/3 since the applicant purchased and the owner can make a significant profit. She said that the subject properties were once part of a larger lot that included two parcels to the rear. She said that the 1918 Nicholasville Road parcel has potential for residential infill development in accordance with the 2018 Comprehensive Plan's recommendation for increased housing opportunities and densification.

Ms. Winters said the applicant had previously sought a zone change to the P-1 zone for this property in 2008. At that time, the applicant intended to preserve the existing historic structure, which the planning staff recommended disapproval of this zone change. She said the staff report from 2008 was included in her packet, and said that the same four (4) reasons for disapproval from 2008 are still applicable for denial at this time, particularly since now it plans to destroy a historically significant and viable residential structure. She said that the first basis was that the 2007 Comprehensive Plan recommended low density residential land use for the subject property. The second basis is that the property was within the study area for the Nicholasville Road Corridor North Small Area Plan, and the staff stated that it was to "address current land use along this corridor and suggest future land use recommendations. Rezoning the subject property ahead of this detailed study is therefore premature." The subject properties are within the Nicholasville Road Corridor Study that is currently underway. The third basis was that Edgemoor Drive was then considered to be a land use boundary between residential and office land uses at this location. The fourth basis was the planning staff's conclusion that there had not been no unanticipated change in this area.

Ms. Winters said that this corridor was most recently studied in 2014 and that study didn't recommend increasing density or intensifying the use of these properties. She displayed slides from this study and said that this study stated that the characteristics of the corridor greatly differ from end to end with varying high-intensity land uses.

She quoted the Zoning Ordinance that "this zone is primarily for offices and relates uses. Retail sales are prohibited, except where directly related to office functions. This zone should be located as recommended in the Comprehensive Plan." She then said that the 2018 Comprehensive Plan does not discuss the proposed P-1 zone. She said that Theme C states that there is an abundance of vacant office space within the Urban Service Area. She said that the Comprehensive Plan discusses the need to evaluate the future of P-1 zoning and does not recommend this zone for any Place Type. She said that the first goal in the Comprehensive Plan, in Theme A is to expand housing choices, and the proposed rezoning and demolition of this historic structure will actually remove housing choices from the marketplace. She said that Goal #2.b. is to "respect the context and design features of area surround development projects and develop design standards and guidelines to ensure compatibility with existing urban form," which she said that this proposed project does not embody this objective. She said that this request is again premature and inappropriate at this time because the ongoing Nicholasville Road study will directly inform future land uses for the area. She added that the 2018 Comprehensive Plan recommends that underutilized properties should first be analyzed through corridor and land use and transportation studies.

Ms. Winters said that the Comprehensive Plan encourages public engagement and stated that the applicant did not engage in a meaningful dialogue with the neighborhood association. She said that the neighborhood association facilitated communication between the applicant and the neighborhood residents by advertising the meetings through distribution of flyers and posting large signs. She displayed photos of these signs and stated that website links to the application information are included on the signs. She said that the proposed development site doesn't meet any of the site priorities listed under the Corridor Place Type. She displayed photos of residential homes in the area and said that the streetscape is exclusively residential. She then said that if Place Type is a context based determination, and a property is part of two distinct place types, then there must be some recognition of this overlap. She said that this neighborhood is most accurately described as an Enhanced Neighborhood Place Type and this proposed development is not listed as a recommended zone.

Ms. Winters said that the planning staff characterized the adjacent property as a bank, which it is not and does have the increased intensity of the use that is being associated as such. She said that it is zoned as P-1 and being used by a bank for administrative offices. She said that this would create an isolated island of P-1 zoning with an office building in the middle of an entirely residential

block. This proposed development at this location would be detrimental to the character of this neighborhood. She added that should this proposal be approved, the neighborhood is in agreement that multiple conditional zoning restrictions should be utilized and would support the same restrictions that are included in the staff's recommendations.

Ms. Winters said that the proposed design is also not consistent with the 2018 Comprehensive Plan's Development Criteria, because there is no identified end user and no tenants have been identified. This proposal will result in a significant loss of tree canopy and green space. She said the green space will be replaced by impervious parking and there isn't any replacement of canopy provided on the development plan and very little buffer vegetation. She said that the proposed plan doesn't include a thirty-foot setback, as proposed by the staff to accommodate a possible future widening of Nicholasville Road. She added that there is currently no plan for mass transit infrastructure, pedestrian linkages, and that the demolition of the existing structure at 1922 Nicholasville Road does not constitute adaptive reuse of this property. She said that the proposed rezoning and development does not provide a well-designed neighborhood and does not provide a neighborhood serving use that does not already exist in the vicinity. This proposed development doesn't minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods. She said that pedestrian and bicycle mobility and safety would not be enhanced, nor does it create context-sensitive transitions between intense corridor development and existing neighborhoods. It doesn't grow a successful community through well-designed neighborhoods by encouraging existing neighborhoods to flourish through the use of neighborhood character preservation. It doesn't aim to increase density while enhancing existing neighborhoods through context-sensitive design, and it doesn't honor Lexington's history by requiring new development and redevelopments to enhance the cultural, physical, and natural resources that have shaped the community. She said that the Southern Heights Neighborhood Association requests that the Planning Commission oppose this proposed zone change and development, as it does not represent the intent of the 2018 Comprehensive Plan. The neighborhood also challenges the Planning Commission to encourage smart infill, including adaptive reuse of historic structures with a pedestrian and bicycle usage at the forefront of the design, so as to maintain the character of these communities.

Citizens in Opposition:

Andy Mead, 121 Edgemoor Drive, displayed a photo of the street and said he is concerned with the increase of traffic, speeding cars, lack of sidewalks and safety. He said that if this request is granted to require the developer to install speed tables or other traffic calming devices along Edgemoor Drive.

Brittany Sams, Blue Grass Trust for Historic Preservation, opposes this zone change and the demolition of the current structure on the subject property. A commercial building at this location will disrupt the design and historic nature of the neighborhood.

Joseph Van Sickels, 105 Edgemoor Drive, is concerned with the traffic, as Edgemoor Drive has become a cut-through street. He is also concerned with safety and increased stormwater runoff.

Wayne Collier on behalf of Eleanor Collier, 163 Edgemoor Drive, said that this will be setting a precedence, and this zone is not recommended in the Comprehensive Plan. He said that this is contradictory to a city policy, which has recognized that there is an abundance of P-1 zoning and that there is a great need for more residential units. He is also concerned with safety, as Nicholasville Road traffic patterns change near this intersection.

Ann de Castro, 254 Tahoma Road, thanked the Southern Heights Neighborhood Association members for their work on this zone change. She said that she believes that the updated Comprehensive Plan has given this property owner a reason to rezone, but the plan also states many exceptions for infill because of their status of being an established and successful neighborhood. She is also concerned with the increased traffic and the stacking of cars at peak hours.

Jerry Nichols, 1833 McDonald Avenue, read excerpts from Brian Lee's letter, and submitted it into the record. He displayed a PowerPoint presentation and said that this property was intended to be part of a neighborhood. The Comprehensive Plan designated this section of Nicholasville Road as a residential area and this request is counter-productive to that. The demolition of the current structure will be removing a housing choice from the marketplace.

Wade Maguire, 1864 Wildwood Avenue, concerned with the traffic and safety in this area.

Scott Dreyer, 117 Edgemoor Drive, displayed a photo of the roadway. He is concerned with the potential increase of traffic, delivery vehicles, and stacking of turning vehicles. He is also concerned with the increase of stormwater runoff and waste. Believes that this will be setting a precedence.

Amy Clark, 628 Kastle Road, distributed documents to the Planning Commission and said that this request could constrain the impact of the corridor study that has just commenced. She said that many Comprehensive Plan policies have stated that housing is the city's most critical need and this proposed zone doesn't require any residential density. She said that office space is over abundant and submitted into the record a copy of the Isaac Report. She added that the Corridor Study may add more road width for a bus lane and this development plan reserves the twelve feet for this improvement, but doesn't dedicate it as right-of-way for this possibility.

Mike Brower, 114 Shady Lane, displayed photos of the subject property and thanked the staff and the Planning Commission on the Comprehensive Plan and believes that it can be interpreted to allow zone changes along sections of corridors without destroying the irreplaceable structures like this house.

Kim Combs Gersony, 205 Tahoma Road, displayed a video of Nicholasville traffic during peak hours. She is concerned with increased traffic, congestion, and safety of school-aged children.

Katherine Adams, 202 Tahoma Road, asked the Planning Commission to honor the language in the Comprehensive Plan regarding respecting established neighborhoods.

Mary Duncan, 148 Edgemoor Drive, is concerned with increased traffic in the area.

Note: Planning Commission took a recess at 3:40 p.m. until 3:50 p.m.

Note: Mr. Brewer left the meeting at 3:40 p.m.

Note: Ms. Plumlee returned to the meeting at 3:50 p.m.

Applicant Rebuttal - Mr. Billings relayed to the Planning Commission the legal approach to all things: 1) what is the issue, 2) what is the rule of law, 3) what is the analysis, and 4) what is the conclusion (IRAC). He said the issue is if the rezoning of this property appropriate under the current Comprehensive Plan. The current Comprehensive Plan states that Place Type is to be reviewed, which this location is a Corridor Place Type. There may be other appropriate Place Types, but this one is a Corridor Place Type. As a corridor, he then asked what the appropriate Development Types are. One type would be residential uses, which include medium and high density and would have been even more greatly opposed. The second type would be mixed-use, which was not selected because of the high intense use of this property. He then asked what the appropriate zoning of the property is. He said that statement that the P-1 zone is not written anywhere in the Comprehensive Plan is a misstatement of the law of Lexington, the Comprehensive Plan, and of the Zoning Ordinance. He said that Placebuilder states that there are several recommended non-residential commercial uses, which include B-1, B-5P, and B-6P zoning. However, the P-1 zone is a lower intensity use than those recommended.

Mr. Billings said that in regards to the existing house being historic, that the Comprehensive Plan doesn't state anywhere that because a house is historic, that the property can't be rezoned, or a structure demolished, or reused. He said in regards to a moratorium being placed on development along Nicholasville Road until the corridor study is completed, that approach would halt any development along this corridor for the next two years. He said that the average daily traffic count for Nicholasville Road is 33,000 per day and even if this office building generated 100-150 new traffic trips per day, it would only be 0.003%.

Opposition Rebuttal - Ms. Winters said that the applicant is not entitled to a zone change unless the Planning Commission finds that it is appropriate under the current Comprehensive Plan. She said that this request would be detrimental to the fabric of the neighborhood and set a precedence. She said that the 2018 Comprehensive Plan does not recommend a P-1 zone for this corridor. She said that there hasn't been any discussion of how this proposed development will bring anything of value to the area, or if it will be of use or used by area residents. She said that there is an excess of vacant office space and that the Comprehensive Plan states the need for increased density for residential uses and this proposal is removing housing. She said that there wasn't a traffic impact study submitted with this proposal. Traffic issues and impacts of infill in this area are currently being studied, in which the findings will include recommendations for how to address these issues, as well as recommending specific sites for infill and redevelopment.

Staff Rebuttal - Mr. Baillie said that the land use maps that were displayed by the opposition are descriptive in nature. He confirmed that these maps are not future land use maps, as the Comprehensive Plan no longer uses future land use maps. He said in regards to the state controlling access to Edgemoor Drive, it is a local street and is controlled by the local government.

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

Commission Questions - Mr. Wilson asked the staff for more information regarding the Nicholasville Road Corridor study. Mr. Baillie said that the new study it meant to identify opportunities for intensifying residential and mixed-use land uses along the whole of Nicholasville Road. It will also identify potential impacts and solutions for transit, non-motorized, and vehicular traffic that will result from more intensive land uses. It will also estimate the costs and recommend phasing of needed transportation improvements, their relationship to identification thresholds and preparing a detailed regulatory framework for implementing the plan, including site specific land use recommendations and corridor based design guidelines and or standards. He said that this increases the opportunity for transit-oriented development, while also increasing the opportunity for new transit solutions, which would involve mass transit solutions. He added that this study is looking to increase the opportunity for residential and mixed-use, like the P-1 zone, along corridors for a greater transit ridership.

Mr. Duncan said that this is a six (6) mile corridor, from the transit center in downtown to Brannon Crossing to downtown, which is the whole Nicholasville Road Corridor. It is looking at what will make this corridor more operationally efficient, safer and viable for other transportation options, including mass transit and non-vehicular transportation. Mr. Wilson asked when will the study begin and will continue throughout the year. Mr. Duncan said that a consultant has been selected and there will likely be a public kick-off meeting in early March. Mr. Wilson then asked if the result of the study will impact the results of this zone change. Mr. Duncan said that the study will have a variety of outcomes. He said that there isn't any moratorium on development along the corridor.

Mr. Nicol asked the staff to clarify the Place Types in the Comprehensive Plan, whereas the P-1 and R-1 zones are missing. Mr. Baillie said that those two zones are built upon by other zones. The P-1 and R-1 zones are the least intensive to the business and residential zones. He said that the Comprehensive Plan states that an applicant can seek other zone types so long as they are addressed within their letter of justification. He added that all of the P-1 zone uses are covered within the B-1 zone, therefore it is a more restrictive zone.

Mr. de Movellan asked about the P-1 zone property located to the south of the subject property and if there are any restrictions to them demolishing the current structure and building a suitable structure. Mr. Baillie said that only a Historic District Overlay (H-1) zone can prevent demolition of a structure. There isn't an H-1 overlay located at that property nor on the subject property.

Mr. Bell asked for clarification of the requested fifty (50) parking spaces. Mr. Baillie said that Nicholasville Road is a corridor which experiences the greatest amount of traffic during the peak hours. He said that at that time there are traffic solutions that are meant to lessen that impact, but there will be high amounts of congestion. He said that with this type of use, the hours of operation will typically be 9:00 a.m. – 5:00 p.m., with much of the traffic into that office occurring during those hours. The amount of traffic during the peak periods will usually only be the employees. He said that the Comprehensive Plan does emphasize development on the corridors to reduce some of the impact on the neighborhoods, meaning the P-1 zone will not be located in the middle of the neighborhood. The proposed development is located on the periphery of the neighborhood and does not directly access a major corridor.

Ms. Mundy asked the applicant about the height of the lighting adjacent to the neighborhood. Mr. Billings said the neighbors expressed their concern regarding the light pollution from a multi-story building. He said that they have limited the height of light poles and that the lighting be directed away from the houses and into the parking lot and also there is a landscape buffer.

Mr. Pohl asked the staff for clarification of the Comprehensive Plan's goal for intensification along transit corridors and the relationship between P-1 zones and mixed-use zones. Mr. Baillie said that the P-1 zone was modified to allow for more mixed-use context, which includes all of the P-1 uses, as well as residential uses. Those residential uses must be located on a separate floor than the P-1 use. Mr. Pohl clarified that a mixed-use project could be done within a P-1 zoning. Mr. Baillie agreed and stated that the applicant has not indicated that they would be seeking to build residential on the second level.

Mr. Nicol asked the applicant if they originally submitted a development plan with a three (3) story building and the revised plan is now a two (2) story building. Mr. Billings agreed.

Mr. Wilson said that most of the letters submitted in opposition were in regards to a three (3) story building, and since that time, the applicant has revised their development plan to a two (2) story building. He asked the community if it is now an acceptable project. Mr. Billings said that through the public engagement process, they presented multiple building designs, heights, and layouts to the neighbors. They then evaluated potential variances based on the comments. From additional meetings with stakeholders and staff, they believed that a two (2) story building would be the best fit on the development plan, because it will most likely be below the roof line of most of the residences in the area. He added that there may have been a miscommunication with the notation on the revised development plan.

Mr. Owens asked Ms. Winters if she would to respond to Mr. Wilson's question.

Ms. Winters agreed with Mr. Billings and added that the miscommunication may have been because of the request for the parking variance. She said that the main concern for the neighborhood is the zone change.

Mr. Wilson asked what would require a traffic study in an area. Ms. Wade said that adding at least 100 new trips in one direction, either entering the property or exiting the property during peak hours, which along Nicholasville Road, the peak time extends from 4:00-6:00 p.m. She said that the proposed building did not meet that threshold, therefore the Zoning Ordinance does not require a traffic study.

Commission Comments – Mr. Owens thanked citizens for attending today's hearing and recognized the number of hours spent on this case on both sides. He said that as a body, they are making a recommendation to the Council and the decisions are in a serious manner.

Ms. Plumlee stated she will abstain from voting because she was not present for the presentations.

Mr. Pohl said that he is opposed to this development because this is a single property on the corner of an intact neighborhood. He doesn't see the opportunity to increase density on this property is an adequate argument. He is also concerned about the lack of sidewalks along Edgemoor Drive and this will force pedestrians to walk in the street. He agrees that the P-1 zone is already over supplied and that this type of intensity doesn't serve the City of Lexington.

Zoning Action – A motion was made by Mr. Nicol, seconded by Mr. Wilson, to approve PLN-MAR-19-00016: JULIE BUTCHER, for the reasons provided by the staff.

Discussion – Mr. Pohl said that the Comprehensive Plan specifically states that the Planning Commission should be protecting and enhancing existing neighborhoods and that there have been several instances presented before them in which there is a tendency to ignore that, both from the staff and the Planning Commission.

Mr. Bell agrees with Mr. Pohl and said that the location of this site has raised great concern.

Action – Motion fails with vote of 4-4 (Plumlee abstained; Bell, de Movellan, Mundy, and Pohl opposed; Brewer and Penn absent).

Ms. Wade said that the case will be held for one month and have another vote in thirty (30) days. Ms. Jones said that the bylaws state that an abstention does go with the majority of the vote; however, there isn't a majority vote. She said that according to KRS100, a tie vote requires the Planning Commission to reconsider the vote in thirty (30) days.

Mr. Owens asked Ms. Jones to verify that the Planning Commission will be returning to this for a second vote and not opening it for further discussion. Ms. Jones said that the hearing had been closed, so that there will be no further discussion.

Mr. Wilson said that holding a second vote will be because of additional information being provided to the Planning Commission, and asked what would be the value of holding another vote, unless there is new information provided.

Mr. Bell said that other members, who are absent today, may be present at that meeting.

Ms. Jones said that if any member that isn't present today, will not be able to vote on this subject, unless they have watched the video and have reviewed all of the documents, and verify it with a statement.

Mr. Wilson asked if new information will be accepted at this second vote.

Mr. Duncan said that some of the members present today, may not be on February 27, 2020. He said that the addition of new information can be verified at a later time.

Mr. Owens said that this will be considered a tie with the understanding that they will be returning in thirty (30) days to reconsider the vote.

Development Plan Action – A motion was made by Ms. Mundy, seconded by Mr. Forester, and carried 8-1 (Plumlee abstained; Brewer and Penn absent) to postpone PLN-MJDP-19-00075: EDGEMORE SUBDIVISION, LOT 3, to February 27, 2020.

Ms. Jones said the statutes state that the case will return to the Planning Commission in thirty days for further consideration, which could potentially allow for a limited amount of information, as the Chair determines. If any new information is to be presented, the hearing would need to be reopened.

Mr. Wilson said that he didn't want to deny the applicant and the community to work together to provide the Planning Commission with new information.

Ms. Jones said that if the tie can't be resolved at a second vote, then it moved forward to the legislative body without a recommendation.

Mr. Billings said that he hasn't reviewed the statute and will not comment at this time.

Ms. Winters said that her concern is the increase of legal fees and she believes that the record on the matter has been made clear with today's hearing.