

Note: Ms. Mundy left the meeting at this time.

5. **JOURNEY'S END, LLC, ZONING MAP AMENDMENT & LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 ZONING DEVELOPMENT PLAN**

- a. MAR 2015-21: JOURNEY'S END, LLC (11/1/15)* - petition for a zone map amendment from a Single Family Residential (R-1E) zone to a Neighborhood Business (B-1) zone, for 0.6439 net (0.8714 gross) acre, for property located at 3092 & 3094 Leestown Road.

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 petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

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

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

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
- c. Repair of household appliances.
- d. Miniature golf or putting courses.
- e. Indoor theaters.
- f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
- g. Banquet facilities.
- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

- b. ZDP 2015-82: LEESTOWN HEIGHTS SUBDIVISION, LOTS 2-7 (11/1/15)* - located at 3092 and 3094 Leestown Road.
(Endris Engineering)

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, 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.

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

5. Correct notes #3 & #8.
6. Clarify use of "comm. boxes" indicated on plan.
7. Denote interior landscaping dimensions.
8. Denote construction access location on plan.
9. Denote floor area ratio and lot coverage per Article 21 requirements.
10. Denote adjoining property zoning on plan.
11. Resolve access to Town Branch Trail at time of the final development plan.

Zoning Presentation: Mr. Sallee presented the staff report on this rezoning request, noting that the staff had received two letters and four emails in opposition to this request. He circulated these to the Commission this time. He oriented the Commission to the location of the subject property, which is comprised of two lots at the corner of Bracktown Road and Leestown Road, across from Masterson Station Park. Most of the zoning in the vicinity of the subject property is R-1C and R-1E, with the Bracktown Baptist Church facility also in close proximity.

Mr. Sallee displayed the following photographs of the subject property: 1) an aerial view of the property from the east, noting that a gas station was formerly located there for about 80 years as a non-conforming use in the R-1D zone; 2) a view of the former gas station, which was most recently used for minor auto repair; 3) a closer view of the gas station; 4) Leestown Road, near the entrance to the Federal Medical Center prison facility, noting that Leestown is currently being upgraded to four lanes at this location; 5) a view of Leestown Road; 6) a vehicle exiting Long Branch Lane from Leestown Road, noting the visible houses in the McConnell's Trace subdivision, some of which front on the small portion of Long Branch Lane near the subject property; 7) a view of Bracktown Road, on which the rear of the subject property has frontage; 8) a view to the north and west into Bracktown, noting the entrance to the church; and 9) an exhibit from the Bracktown Small Area Plan, which was done in the 1990s.

Mr. Sallee said that the Bracktown Small Area Plan allowed this portion of Fayette County to be included in the Urban Service Area, and addressed the needs of the Bracktown neighborhood. No change to the zoning or land use of the subject property was recommended as part of that Small Area Plan, although the property had previously been proposed for rezoning in 1997. That rezoning proposal was withdrawn. In 2000, the subject property went before the Board of Adjustment, due to a request by the owner for alcohol sales and the sale of trees and shrubs at this location. That application, which was an administrative appeal, was denied, in order to avoid the expansion of an existing non-conforming use.

Mr. Sallee stated that the petitioner is proposing to rezone the subject property in order to convert the existing building into a restaurant with off-street parking. The staff noted in their report that the subject property is different from many others in the area, in that it effectively has frontage on three sides. Most of the other parcels in Bracktown are double-frontage lots, but they are much more rectangular in shape, as are the newer subdivision lots to the south, on the former Marshall property. The Leestown Road highway expansion seems like a logical time to allow the subject property to be rezoned in a manner that would allow its expansion. Mr. Sallee noted that the staff does believe it is necessary, if the subject property is rezoned, to limit a number of uses via conditional zoning. The staff and the Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, explaining that the petitioner is proposing to re-use the existing building on the subject property and incorporate it into the new restaurant. The restaurant is proposed to be 5,000 square feet in size, with 25 parking spaces. One access is proposed from Leestown Road, and one from Bracktown Road.

Mr. Martin stated that the petitioner presented a revised plan at the Subdivision Committee meeting; that revision proposed the closure of one of the existing accesses to Bracktown Road. However, the petitioner has not officially filed a revision, so the staff has not been able to review it or create revised conditions. Mr. Martin noted that the staff is recommending, at the time of a Final Development Plan for the property, the resolution of a connection to Town Branch Trail. He said that the Subdivision Committee recommended approval of this plan, subject to the conditions as listed on the agenda.

Petitioner Presentation: Kevin Phillips, Endris Engineering, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendation.

Mr. Phillips stated that the subject property has been used for a commercial business for 80+ years, and the petitioner would like to continue and expand that use as a new restaurant. The petitioner contends that the purpose of the B-1 zone is to provide neighborhoods with facilities and services in close proximity to where people live.

Mr. Phillips displayed several photographs for the Commission members, noting that there are only two business zones in the vicinity: the site of the future Citation Village shopping center along the Citation Boulevard corridor, and

the Frank Minnifield Enterprises historic business site. He displayed a map of other arterials in Lexington-Fayette County, noting the locations of other B-1 zones along those roadways.

Mr. Phillips stated that the B-1 zone does allow other uses besides restaurants, including banks, offices, beauty shops, daycares, and other neighborhood-oriented uses. Because of the proposed conditional zoning restrictions, particularly drive-through facilities, however, the petitioner contends that the proposed restaurant will not have a negative impact on the surrounding neighborhood. Fast-food restaurants and banks depend on drive-throughs for the majority of their business; and, without those facilities, the subject property should not generate a significant amount of traffic.

Brandon Green, petitioner, stated, with regard to the opposition letters received, that the Facebook account for the proposed restaurant was generating support and excitement online. He said that the subject property has been used as a business for 80+ years. Due to the subject property's frontage on Leestown Road, Mr. Green does not believe it is conducive to residential use, and he would request approval in order to move forward with the proposed restaurant.

Citizen Support: There were no citizens present in support of this request.

Citizen Opposition: Barb Stucker, president of the McConnell's Trace Neighborhood Association, stated that the rear of her property faces the subject property. She said that there are two homes in McConnell's Trace that face the subject property, and four homes at the end of the Long Branch Lane cul-de-sac, that currently have a view of the trail and adjoining open space. The residents' main concern is the possible loss of property value, since homes located as little as 40' from a busy restaurant are unlikely to sell.

Ms. Stucker said that residents are also concerned about possible noise from the proposed restaurant, including indoor entertainment. Residents are also concerned about lighting on the property, security and crime issues, and the possible issuance of a liquor license to the proposed restaurant. Since the rear of the restaurant will face the neighborhood, residents believe that the dumpster location could also become an issue, since it could attract vermin and generate unpleasant odors.

Ms. Stucker stated that residents believe that the proposed restaurant will generate a significant amount of additional traffic in the area, particularly on Bracktown Road. They are concerned that the proposed access to Leestown Road will be located at the point where the roadway widens to four lanes, which could increase the number of accidents and cause widespread traffic problems in the vicinity. Residents have also indicated that they would feel unsafe on the Town Branch Trail once the proposed restaurant opens, due to increased activity in the area. There have been problems in the past with drivers parking on Long Branch Lane to access the trail, or driving across the trail to reach the cul-de-sac, and residents believe the issue could be exacerbated by parking for the proposed restaurant. Should the restaurant be unsuccessful, residents are concerned about what type of business could locate on the subject property.

Ms. Stucker asked that the Planning Commission members consider how close the proposed restaurant will be to existing homes, and the effect that it could have on the peace and quiet in the neighborhood.

Olivia Escodero, 112 Long Branch Lane, stated that her home directly faces the subject property. She stated that she is concerned about overflow parking for the proposed restaurant, since drivers have used Long Branch Lane to provide access to the Bracktown Baptist Church child care center in the past.

Petitioner Rebuttal: Mr. Phillips stated, with regard to parking in the cul-de-sac and drivers crossing the trail, that those activities are not currently caused by the use of the subject property, since it is vacant; so, they should not be worsened by the location of a restaurant there. He noted that it is not illegal to park on a public street, and no parking has been provided for the Town Branch Trail, so it makes sense that some drivers might park on Long Branch Lane to access the trail. That activity, however, is also unrelated to the current use of the subject property.

With regard to the concerns about odors, lighting, and noise from the subject property, Mr. Phillips said that the proposed restaurant will be a small, family operation, and a much less intense use than typical fast-food businesses with drive-throughs. Any lighting on the property will be directed inward and downward, as required by the Zoning Ordinance, which requires lighting for safety in the parking lot. The petitioner does not propose to have live entertainment on the property, so the amount of noise generated should be minimal. Mr. Phillips stated that, should the restaurant no longer be in operation on the subject property, the proposed conditional zoning restrictions will limit the number of allowable uses, particularly since drive-through facilities will be prohibited.

Mr. Phillips said, in response to concerns about the view from the houses near the subject property, that, due to the existing pine trees on an adjoining parcel, those residents would be unlikely to see the proposed restaurant at all. He displayed several photographs taken from the driveways of those homes located on the cul-de-sac, noting that the existing building on the property was not visible. Mr. Phillips stated that it would be unreasonable to think that the subject property will never be redeveloped, so the cul-de-sac residents will not have always have an open view of the

park. The existing building on the property has been in place for over 80 years, long before the adjoining neighborhood was developed, and the petitioner contends that allowing the property to remain vacant would not be its highest and best use.

Mr. Phillips added, with regard to concerns about the safety of the proposed access to Leestown Road, that the Kentucky Transportation Cabinet (KYTC) provided infrastructure for two accesses to the subject property, but the petitioner is requesting only one narrower entrance, further from the nearest intersection. KYTC has approved the one proposed access.

Citizen Rebuttal: Ms. Stucker agreed that there was an existing business on the subject property when the neighborhood was constructed, but noted that it was a very quiet, low-impact operation. She added that Mr. Phillips did not address the question of loss of property value as a result of the proposed restaurant.

Staff Rebuttal: Mr. Sallee indicated that the staff had no rebuttal comments.

Commission Discussion: Mr. Owens stated that the hearing was now closed, and he opened the floor for Commission questions and/or comments.

Ms. Plumlee thanked the neighbors for their participation. She noted that the LFUCG Zoning Ordinance does an excellent job of regulating planning and zoning issues in the community, but it does not guarantee peace and quiet for any property owner. Ms. Plumlee stated that, as the proposed restaurant moves forward, the residents' concerns about lighting, noise, and the dumpster location should be addressed, and that the conditional zoning restrictions should help to mitigate the impact on the adjoining neighborhood.

Mr. Owens echoed Ms. Plumlee's statements, thanking the citizens for their participation. He noted that this is a preliminary zoning development plan, and that the Commission will have the opportunity to review a Final Development Plan for the property if the proposed restaurant goes forward. He added that the subject property has been used for many years, and he believes that redevelopment there is inevitable.

Zoning Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve MAR 2015-21, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 8-0 (Mundy, Penn, and Smith absent) to approve ZDP 2015-82, subject to the conditions as listed on the agenda.