

2. J. ROGER JONES, III ZONING MAP AMENDMENT & JONES/COTTRELL PROPERTY ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00019: J. ROGER JONES, III (7/30/17)*- petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Highway Service Business (B-3) zone, for 4.66 net (6.29 gross) acres, for property located at 2300 Paris Pike.

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 subject property is also located within the jurisdiction of the Paris Pike Corridor Commission. That Commission and the Planning Commission formulated and adopted a Corridor Plan (aka: Small Area Plan) along Paris Pike more than two decades ago. The Corridor Commission is expected to make a recommendation to the Planning Commission regarding the proposed zone change and corollary development plan.

The petitioner proposes a Highway Service Business (B-3) zone in order to construct an automobile service station with convenience retail sales and restaurant, and two additional restaurants, for a total of 22,800 square feet of space and associated off-street parking on the subject property.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval, for the following reason:

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan's Goal and Objectives, as well as the recommendations of the Paris Pike Corridor Small Area Plan (adopted by the Paris Pike Corridor Commission and by the Planning Commission in 1995), for the following reasons:
 - a. The Goals and Objectives of the 2013 Comprehensive Plan encourages infill development of long-time vacant land within the Urban Service Area (Theme A, Goal #2) and development that will uphold the Urban Service Area concept (Theme E, Goal #1). This site has been within the Urban Service Boundary since its inception in 1958, the subject property is adjacent to existing commercial development, and infrastructure is available or can be extended to serve the subject property.
 - b. The Goals and Objectives also recommend creation of new jobs near residential neighborhoods to promote the "live where you work" concept (Theme C, Goal #1d.). The site is located very near neighborhoods in the Joyland neighborhood, as well as neighborhoods along the northern-most Old Paris Pike.
 - c. The Paris Pike Corridor Small Area Plan (PPCSAP) recommends that the essential character of the corridor be preserved due to its nationally recognized scenic and historic qualities. Further, the SAP recognizes that the corridor is broken into three distinct areas of land use, and within the Lexington "urban end," (where the subject property is located), the SAP recommends future land use consistent with the current Comprehensive Plan.
 - d. The proposed B-3 zone is in agreement with the prior 1988 Comprehensive Plan's land use recommendation of Highway Commercial future land use, which was in place at the time the SAP was adopted in 1995. In addition, the most recent land use recommendation for the subject property in 2007 continued to be for Highway Commercial, which is consistent with the Highway Service Business (B-3) zone.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00046: Jones/Cottrell Property, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:

Prohibited Uses

 - a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Cocktail lounges and nightclubs.
 - c. Car wash establishments.
 - d. Pawnshops.
 - e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property that could have a negative impact on adjacent agricultural and residential land uses and the aesthetic condition of the Paris Pike Corridor.

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

- b. PLN- MJDP-17-00046: JONES/COTTRELL PROPERTY (7/3017)* - located at 2300 Paris Pike
(Barrett Partners)

The Subdivision Committee Recommended: Postponement There is missing tree inventory information, the property may not have sanitary sewers & traffic impacts are based on a traffic signal which is not currently proposed.

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

1. Provided the Urban County Council rezones the property B-3; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote existing and proposed utility easements.
7. Adjust convenience store building to meet the minimum A-R setback (25' from a "more restrictive zone").
8. Discuss proposed access alignment with Rogers Road.
9. Discuss sanitary sewer access availability to this site.
10. Discuss Art. 18 buffer requirements adjacent to railroad and A-R zoned property.
11. Discuss anticipated subdivision of the property and compliance with the Land Subdivision Regulations access standards requirements.
12. Discuss right-in/right-out access proposed to Paris Pike and possible waiver.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She displayed several photographs of the subject property and the general area and said that the subject property is currently vacant. She distributed to the Planning Commission, the draft minutes from the June 5, 2017 Paris Pike Corridor Commission meeting, to be entered as part of the record. She said that the subject property is located within an area that is in the area of jurisdiction of the Paris Pike Corridor Commission. She displayed a map from the 1995 Paris Pike Corridor Small Area Plan that depicts the size of all of the properties between Paris and Lexington that is incorporated in the Paris Pike Corridor Small Area Plan. That plan is part of the jurisdiction of the Commission under the Interjurisdictional Agreement between LFUCG, the City of Paris, and Bourbon County. She said the subject property has been recommended for several land use categories. She referenced Comprehensive Plans from the past 45 years that have recommended Low Density Residential and then Highway Commercial land use at this location.

Ms. Wade said that the applicant's justification states that this zone change is in agreement with the 2013 Comprehensive Plan and the Paris Pike Corridor Small Area Plan. She then summarized the Paris Pike Corridor Small Area Plan and its recommendations. She said the Paris Pike Corridor Commission met on June 5, 2017 and had a lengthy discussion about this zone change and about the development plan. She said that they did make a recommendation of approval of the zone change, to this Commission although they did have concerns about traffic impacts. She said the staff recommends approval of this request with six prohibited uses via conditional zoning restrictions.

Ms. Wade said the staff received one email, which was circulated to the Planning Commission at this time.

Development Plan Presentation – Mr. Martin presented the revised staff report on the Preliminary Development Plan associated with this zone change, which was displayed with a rendering, which he also handed it out to the Commission with revised conditions, as follows:

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

1. Provided the Urban County Council rezones the property B-3; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote existing and proposed utility easements.
7. Adjust convenience store building to meet the minimum A-R setback (25' from a "more restrictive zone").
8. ~~Discuss~~ Revise proposed access to alignment with Rogers Road.
9. ~~Discuss~~ Resolve sanitary sewer access availability to this site at time of the final development plan.
10. ~~Discuss~~ Resolve Art. 18 buffer requirements adjacent to railroad and A-R zoned property at time of the final development plan.
11. ~~Discuss~~ Resolve anticipated subdivision of the property and compliance with the Land Subdivision Regulations access standards requirements at time of the final development plan.
12. ~~Discuss~~ Remove right-in/right-out access proposed to Paris Pike and possible waiver.

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Mr. Martin identified the new access point proposed (which is to be aligned with Rogers Road), parking and the detention basin. He said that there are serious development challenges for this site, mostly with the sanitary sewer, access, and traffic. He said there was a handout distributed with a statement that needs to be on the plan addressing the traffic concern at this property. He said the staff didn't receive a revised plan, but has provided the Planning Commission with revised recommendations, which are mostly clean up items and sign-offs. He said that the access and alignment of Rogers Road can be revised; but the sanitary sewer, the buffering requirements along the railroad, and the subdivision of the property, can be resolved at the time of the Final Development Plan. He also said there was originally a waiver for the right-in/right-out access proposed to Paris Pike. The Division of Traffic Engineering, Transportation Planning, and the Division of Planning staff believe it's best to remove the right-in/right-out access from the plan, at this time.

Traffic Impact Study – Mr. Emmons presented the MPO staff report on the submitted Traffic Impact Study for this zone change. He said the traffic study showed that there will be a signalized intersection at Rogers Road and Paris Pike, where there is not one currently. He said that at the Zoning Committee meeting, the staff was very concerned with the timing of the signalization of Rogers Road and Paris Pike intersection. He said that both the staff and the applicant agree that if the property does develop as proposed, a signal will need to be installed at this location, as well as other transportation improvements. He also said that most of the staff's concern is with the "what-if" scenarios associated with this conceptual plan.

Mr. Emmons referenced the handout that was distributed the Planning Commission, as follows:

13. Denote on the Preliminary Development plan:
 - a. The applicant shall submit an updated Traffic Impact Study at the time of the final development plan, which will address the appropriate infrastructure improvements and timing thereof for the cumulative effect of the development of this entire property.

Mr. Emmons said this note should be added the Development Plan as the 13th condition. He said the staff has four recommendations for this plan: 1) the addition of a signalized intersection; 2) the removal of the right-in/right-out; 3) the addition of a right turn lane at the Rogers Road intersection; and 4) the addition of sidewalks and crosswalks for the subject property.

Petitioner Presentation – Dick Murphy, attorney, was present representing the petitioner. He gave a brief history of the property; stating the difficulties of selling the property before it is zoned for commercial development. He displayed slides from the 1988, 1996, 2001, and 2007 Comprehensive Plans depicting the recommended land use as Highway Commercial, which was designated by the Paris Pike Corridor Commission. He said this application is also in agreement with the 2013 Comprehensive Plan.

Mr. Murphy said the applicant did present this to the Paris Pike Corridor Commission meeting on June 5, 2017, and after discussion, they voted to approve this zone change and the development plan.

Mr. Murphy requested a modification to the conditional zoning restriction 3.a., was presented by staff as follows:

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited on the subject property:

Prohibited Uses

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.

He said that the applicant is seeking a NAPA auto parts store in the proposed B-3 zone, and with this conditional zoning restriction including "supplies for such items," it would not be allowed. He asked the Planning Commission if that phrase could be deleted so that the applicant could sell auto part supplies on the subject property.

Mr. Murphy said that the development plan has been maximized because they don't have a set end user for the subject property yet. He said they wanted to show the maximum this property would support and when the applicant returns to the Planning Commission to have the Final Development Plan approved, with the end user, it will most likely be with a lower traffic generating use that may not require all traffic improvements.

Mr. Murphy said that the applicant is agreeable with the proposed note for the Development Plan by Mr. Emmons. He said that the applicant will conduct a Traffic Impact Study to show if they meet the level or not to get a traffic signal installed, by the Kentucky Department of Highways, at the intersection. He said that he would like this note to apply to the right-in/right-out also.

Mr. Murphy said the sanitary sewer is in a pipe, under the railroad, and the landscaping buffer will be resolved at the Final Development stage. He said the service road issue will be resolved after the final user is known.

Mr. Murphy said that he has been communicating with a resident who is concerned about headlight screening; the applicant has agreed to install a 6-foot solid wood privacy fence along the subject property boundary and along the railroad track with landscaping barrier. He said this will be added to the plan before it will be certified.

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Diane Zimmerman, Traffic Engineer, said that right-in/right-outs generally lessen the traffic load at the traffic signal. She said that eliminating it will place more traffic load on the side roads. She said that she would evaluate this at the time of the Final Development Plan.

The following citizens were present in opposition to this application:

Josie Giurgevich Jones, 689 Kingston Rd., representing the Joyland Neighborhood Association, said that this is the gateway to the historic and famous Paris Pike Corridor and she is concerned that this will be the beginning of a new business area, which will affect the current farm owners. She said that traffic is a major concern and there are currently five gas/convenient stores, three restaurants, and three hotels within an eight block area. She is also concern with the light pollution from automobiles and the parking lot. She also said the neighborhood currently has major flooding issues, even with detention basins.

William Woodward, 282 Swigert Avenue, displayed a photo of the posted notice sign that was attached to a pole and couldn't be seen clearly. He stated the past Paris Pike Commission promised that there will never be any commercial development on this corridor. He is concerned why the zone change is happening before the development plan is complete and/or ready; that once the zone change is in place, anything could be developed on that property. He is also concerned about more commercial development being built on an historic area and increased traffic.

Amy Clark, representing the Fayette County Neighborhood Council, referenced the Paris Pike Corridor Small Area Plan and the 2013 Comprehensive Plan and whether this zone change is in agreement with those documents or not. She asked the Planning Commission how they distinguish this zone change and project from any other that is not protected by the Paris Pike Corridor Small Area Plan and is this zone change being treated any differently than others. She displayed a photo of this property for sale and said that the sign was asking for a very high price. She also displayed the Paris Pike Corridor Commission's Primary Goal, and considerable information and references to the transition zone.

Petitioner Rebuttal – Mr. Murphy said this application is based upon the 2013 Comprehensive Plan of the community, which includes the Paris Pike Corridor Small Area Plan. He said that the staff report states the uses that were proposed in the Paris Pike Corridor Small Area Plan for this property along the Lexington "urban end." He said the Comprehensive Plan's designation for this property has been for Highway Commercial since 1995, because it is located inside of the Urban Service Boundary.

Mr. Murphy displayed photos of adjacent properties, which have been designated Highway Commercial since the 1988 Comprehensive Plan; including a Speedway gas station, Whitaker Bank, and a second convenient store.

Mr. Murphy replied to the light pollution comment that the applicant will have downward directed lights, to limit the direct light onto neighboring properties, in addition to the six-foot tall fence and landscaping along the railroad tracks.

Mr. Murphy said that the applicant is before the Planning Commission to "plan" the uses of the property, to be specific of what can be done to the property when developing.

Citizen Rebuttal – Ms. Clark stated that the staff's passage it stating to "respect the existing use designation" and the citizen's passage, from the Paris Pike Corridor Small Area Plan, states "respect existing uses." She said that the passage that the staff is referring is from the 1988 Goals and Objectives, which is outdated. She displayed maps from the Paris Pike Corridor Small Area Plan. She cited the 2013 Comprehensive Plan, (C.1.b.), "Strengthen regulations and policies that propel the agricultural economy, including but not limited to, local food productions and distribution, agri-tourism, and the equine industry that showcase Lexington-Fayette Count as the horse-capital of the world."

Staff Rebuttal – Ms. Wade displayed pages 29 and 30 from the Paris Pike Corridor Small Area Plan that was adopted in 1995. She said that the Lexington end has a transition zone of approximately a 1½ mile, which the subject property is located within. She said that Ms. Clark was speaking of the transition area from the Fayette County Urban Service Boundary to where the Paris Pike Overlay was put in place, at Johnson Road. She said the staff cited the Goals and Objectives from the 2013 Comprehensive Plan, not from the 1988 Comprehensive Plan.

Mr. Martin said that the applicant requested the right-in/right-out remain on the plan, however, Traffic Engineering, Transportation Planning, and the Planning staff have all recommended removing it. If it is proven to be needed by the applicant's traffic impact study, they can prove it then, at the final development plan stage.

Commission Question – Mr. Cravens asked about the staff's recommendation for prohibited uses 3.a. to remove "or supplies for such items". Mr. Sallee said that the staff didn't review that and the Planning Commission could remove it.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Cravens, and carried 7-1 (Plumlee opposed; Brewer and Drake absent) to approve PLN-MAR-17-00019: J. ROGER JONES, III, for the reasons provided by the staff, with the prohibited uses via conditional zoning, as follows:

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- b. Cocktail lounges and nightclubs.
- c. Car wash establishments.
- d. Pawnshops.
- e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

Discussion of Motion - Ms. Plumlee commended the neighbors for their effort in this decision.
Mr. Penn commended the staff for their hard work.

Development Plan Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 7-1 (Plumlee opposed; Brewer and Drake absent) to approve PLN- MJDP-17-00046: JONES/COTTRELL PROPERTY, for the revised conditions provided by the staff with the addition of condition #13, as follows:

1. Provided the Urban County Council rezones the property B-3; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
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7. Adjust convenience store building to meet the minimum A-R setback (25' from a "more restrictive zone").
8. ~~Discuss~~ Revise proposed access to alignment with Rogers Road.
9. ~~Discuss~~ Resolve sanitary sewer access availability to this site at time of the final development plan.
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13. Denote on the Preliminary Development plan:
 - a. The applicant shall submit an updated Traffic Impact Study at the time of the final development plan, which will address the appropriate infrastructure improvements and timing thereof for the cumulative effect of the development of this entire property.