

2. **JAMES CLAY WALLER ZONING MAP AMENDMENT & BOBBIE & SYLVIA WALLER PROPERTY (SHADOWLAWN SUB-DIVISION) ZONING DEVELOPMENT PLAN**

- a. MAR 2016-18: JAMES CLAY WALLER (9/4/16)* – petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Wholesale and Warehouse (B-4) zone, for 0.88 net (1.26 gross) acres, for property located at 1500 & 1502 N. Limestone and 101 Rosemary Avenue.

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 properties are located within the Central Sector Small Area Plan boundary, an adopted element of the Comprehensive Plan. More specifically, it is located within Sub-Area D, where the North Limestone corridor was designated a "focus area" and its intersection with New Circle Road was designated a major gateway into the Central Sector.

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

The Staff Recommends: **Approval of a B-4 zone for 1500 & 1502 N. Limestone**, for the following reasons:

1. The existing Single Family Residential (R-1C) zoning is inappropriate, and the proposed Warehouse and Wholesale Business (B-4) zoning is appropriate for the following reasons:
 - a. The property shares a boundary with the existing warehouse development to the immediate northeast, and the proposed rezoning will enable the façade improvements to continue along the North Limestone corridor to a more appropriate land use transition – the intersection of Rosemary Avenue.
 - b. The proposed warehouse structures with façade improvements will be compatible with the adjoining B-4 development, as well as the commercial development directly across North Limestone from the site. The existing single family residences are no longer as compatible along this portion of the North Limestone corridor.
 - c. The development of small warehouses with accessory offices will enhance the land use transition between the unrestricted B-3 properties to the north and the residential neighborhood to the south. The buffer will provide a less intensive land use in terms of uses, business hours, noise and traffic.
2. This recommendation is made subject to approval and certification of ZDP 2016-70: Bobbie & Sylvia Waller Property (Shadowlawn Subdivision) 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 use restriction(s) should be applied to the subject properties:

PRINCIPAL PERMITTED USES

- a. Wholesale establishments, wholesale establishments with warehouses, storage and warehousing.
- b. Shops of special trade and general contractors, such as plumbing; heating; carpentry; painting; plastering; printing; publishing; lithographing; engraving; electrical; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; and interior decorating.
- c. Parking lots and structures.
- d. Animal hospitals or clinics, provided that such structures or areas used, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
- e. Offices of purchasers, processors and handlers of agricultural products, limited to administrative uses only.
- f. Sales of feed, grain or other agricultural supplies.
- g. Garden centers.
- h. Establishments and lots for the sale of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles, such as mini-bikes, motorcycles, boats or supplies for such items.
- i. Establishments for the sale of precut, prefabricated, or shell homes.
- j. Retail sale of building materials and lumber.
- k. Mail order business.
- l. Office uses, limited to a maximum square footage of 60% of the floor area in the building in which the use is located.
- m. Office/warehouse mixed-use project, as further regulated by Article 8-21(o)(3).
- n. Adaptive Reuse Projects, as further regulated in Article 8-21(o)(4).

OTHER RESTRICTIONS

1. Outdoor music or sound systems and call boxes shall be prohibited.
2. Lighting shall be shielded and directed downward and away from residentially zoned properties.
3. The following landscape and buffering restrictions shall apply:

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

- a. There shall be a 20' open space and landscape buffer along property boundary where it adjoins any residential dwelling unit. An 8' tall solid wood fence shall be placed along the length of the open space/buffer area. Within this open space/buffer area, the developer shall plant and maintain 8' evergreen trees planted 15' on center.
- b. There shall be a 50' setback along the front of the property which shall contain a landscape/open space buffer. Within the landscape/open space buffer, the developer shall plant and maintain 8' tall deciduous trees planted 15' on center, and 3' shrubs interspersed with the trees.

These restrictions are necessary and appropriate to provide an aesthetically pleasing gateway feature to the North Limestone corridor, and to protect the adjoining residential neighborhood from the potential negative effects of more intensive uses that could occur in the B-4 zone without restriction.

The Staff Recommends: **Disapproval of a B-4 zone for 101 Rosemary Avenue**, for the following reasons:

1. The requested rezoning to a Wholesale and Warehouse Business (B-4) zone cannot be found to be in agreement with the 2013 Comprehensive Plan, or the Central Sector Small Area Plan (an adopted element of the 2013 Comprehensive Plan) for the following reasons:
 - a. The Goals and Objectives of the 2013 Comprehensive Plan recommend protection of existing neighborhoods (Theme D, Goal #3c.). The Plan also encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as protecting neighborhoods and residential areas from incompatible land uses. Policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, and compatibility of land uses. The proposed rezoning along Rosemary Avenue is not compatible with these specific recommendations, which are overarching ideas of the Plan.
 - b. The Central Sector Small Area Plan recommends as one of its four guiding principles to "provide adequate and equitable housing" for the area. The Rosemary Avenue neighborhood should continue to provide convenient and affordable housing for residents, as it has done for decades.
 2. The proposed Wholesale and Warehouse Business (B-4) zone is inappropriate for 101 Rosemary Avenue because:
 - a. The type of truck traffic associated with warehouses and shops of special trade (i.e. general contractors, plumbers, painters, major auto and truck repair) is too intense for a local residential street.
 - b. Encroachment of B-4 zoning along Rosemary Avenue is not compatible with the existing single-family residential character of the area and could negatively impact the residents that live in the area, both along Rosemary Avenue and other local streets within the neighborhood.
 3. The existing Single Family Residential (R-1C) zone remains appropriate at this location, as the existing residence is located at the entrance to an affordable neighborhood and should not be unduly impacted.
 4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support an argument for B-4 zoning for property along Rosemary Avenue.
- b. ZDP 2016-70: BOBBIE & SYLVIA WALLER PROPERTY (SHADOWLAWN SUBDIVISION) (9/4/16)* - located at 1500 and 1502 North Limestone and 101 Rosemary Avenue. **(Midwest Engineering)**

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the impact of the existing conditional zoning restrictions on the proposed plan.

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

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Denote construction entrance location on plan.
7. Denote building coverage and floor area ratio site statistics, per Art. 21-6(a)(13) requirements.
8. Correct owner's certification.
9. Denote building height on plan, per Art. 21-6(a)(7) requirements.
10. Relocate graphic scale on plan.
11. Denote that all approved and certified information for 1532 N. Limestone shall be added at the time of the Final Development Plan.
12. Depict existing tree locations on plan (for subject property).
13. Discuss building conflict with conditional zoning limitations.
14. Discuss timing of street improvements proposed to N. Limestone.
15. Discuss alteration of existing detention areas.
16. Discuss whether existing trees along N. Limestone will be retained/preserved.

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

17. Discuss whether sidewalk in front of adjacent buildings will extend to Rosemary Avenue.
18. Discuss need for front building restrictions, per those approved on adjacent buildings.
19. Discuss status of conditional zoning relative to this proposed plan.

Applicant – Steve Baker, engineer, stated that he would like to withdraw 101 Rosemary Avenue from the application, and continue consideration of rezoning the other two parcels.

Zoning Action – A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 9-0 (Penn and Richardson absent) to accept withdrawal of 101 Rosemary Avenue from the application.

Staff Zoning Presentation – Ms. Wade presented the staff report on this amended zone change for 1500 and 1502 N. Limestone and stated that this application is for a rezoning from R-1C to B-4 zone. The subject properties are located at the intersection of Rosemary Avenue and N. Limestone, which is approximately 1½ block from New Circle Road, which is to the north-east of the properties. Broadview Drive is across from the properties and Loneta Avenue has properties that border the warehouse area to the southeast of this location. The subject properties are currently single-family residential homes that are occupied. The area along N. Limestone is a mixture of commercial and residential uses. The business area is characterized by the warehouses that are located to the northeast of the subject property. Also nearby are a CVS Pharmacy, a daycare, a carwash, and restaurants at the corner of New Circle and N. Limestone.

Ms. Wade stated that the applicant is proposing the rezoning to the Wholesale and Warehouse Business zone for these two lots in order to expand the warehouse area along this frontage. Mr. Waller owns the warehouses to the northeast, which are currently occupied with shops of special trade and an indoor athletic facility. In 2010, he stated in their justification that they wanted to bring 50 jobs to this location and believe they have accomplished that goal.

Ms. Wade displayed an aerial view of the subject properties, the two residential structures. She displayed a photo of the properties showing two large pin oak trees in the front yards. Tim Queary, Urban Forester, did visit the site and determined that the tree on the left in the exhibit is not in good condition, but the tree on the right, (nearest the intersection) is still fairly healthy. She also displayed a photo of the existing warehouses to the northeast of the subject properties and said that they are setback about 50 feet from N. Limestone, which is what the applicant had agreed to in the 2010 zone change, and there is landscaping along the frontage, which is in agreement with the Central Sector Small Area Plan for this area.

Ms. Wade said that the 2007 Comprehensive Plan made a recommendation for residential land use at this location, but it was also marked for “special consideration” through the Small Area Plan for the Central Sector. N. Limestone was designated as a primary commercial corridor in this area, and the intersection of New Circle and N. Limestone was identified as the major entrance into this central sector. Through the Small Area Plan process, several principles were identified for redevelopment and investment within the area and the applicant believes that their project will encourage re-use of the property and additional jobs for the area.

Ms. Wade said that the applicant believes that they are in compliance with the 2013 Comprehensive Plan. They mentioned in their justification agreement with three goals; the first being to encourage small businesses; the second being complete streets (to complete sidewalk connectivity for one of the properties on N. Limestone); and the third goal was to complete façade improvements along the frontage of N. Limestone. The staff does not believe that their request agrees with the Comprehensive Plan, but they did find that the B-4 zone would be appropriate along N. Limestone and the R-1C would be inappropriate at this location. When the B-4 zone was requested in 2010, on the adjacent property, the developer proposed enhancements to the N. Limestone corridor, which included a 50-foot setback for their frontage and landscape improvements and a conditional zoning restriction around the exterior perimeter of the property (a 50-foot landscape buffer that is along any residential property that fronted onto Rosemary Avenue or Loneta Avenue). The 50-foot buffer does not impact the two residential properties that front onto N. Limestone.

Ms. Wade reported that the staff believes that the rezoning is appropriate because it continues the B-4 zone to a better land use transition at Rosemary Avenue rather than midblock. When considering this zone change, the staff believes that the building façade should be continued along N. Limestone, which is also supported by the Small Area Plan. Staff also believes that the 50-foot setbacks should be continued.

Ms. Wade said there was a lengthy discussion at the Zoning Committee meeting regarding the property on Rosemary Avenue, and the staff's recommendation of disapproval for that parcel and the possibility of re-working the two lots on N. Limestone so that they don't encroach into the residential area that is Rosemary Avenue. The applicant revisited that and withdrew the Rosemary Avenue parcel. The staff's recommendation for the conditional zoning restrictions remained the same, but the staff would like to suggest to the Planning Commission a revision based on the applicant's revised plan. Staff originally proposed a 50-foot setback along the frontage and a 20-foot landscape buffer along any residential boundary.

Ms. Wade said that at this time staff is willing to make an adjustment to the conditional zoning restrictions so that there is a 30-foot setback along N. Limestone and at least a 10-foot landscape buffer along the adjoining residential property on Rosemary

Avenue. More specifically, to change number 3.a. to a 10-foot landscape buffer along a boundary that adjoins any residential dwelling unit and an 8-foot fence, and a 30-foot setback along N. Limestone.

3. The following landscape and buffering restrictions shall apply:
 - a. There shall be a ~~20'~~ 10' open space and landscape buffer along property boundary where it adjoins any residential dwelling unit. An 8' tall solid wood fence shall be placed along the length of the open space/buffer area. Within this open space/buffer area, the developer shall plant and maintain 8' evergreen trees planted 15' on center.
 - b. There shall be a ~~50'~~ 30' setback along the front of the property which shall contain a landscape/open space buffer. Within the landscape/open space buffer, the developer shall plant and maintain 8' tall deciduous trees planted 15' on center, and 3' shrubs interspersed with the trees.

The staff is recommending approval of the two properties along N. Limestone to be rezoned because the B-4 zone is more appropriate and the R-1C is no longer appropriate at this location. The property already shares a boundary with a B-4 development to the northeast. These improvements are supported by the Small Area Plan and are similar to the adjoining property and a development with warehouse and office uses will enhance the land use transition between the unrestricted B-3, which is at New Circle Road and the residential neighborhood to the south.

Development Plan Presentation - Mr. Martin presented the staff report on this development plan. He said that this plan is a revised plan based on the withdrawal of the property on Rosemary Avenue. On the plan, he displayed the area for development, the trees that will remain and the location of the parking access off of Rosemary Avenue into the parking area. He said that there was a staff exhibit handout with the revised conditions showing that many are standard conditions for a preliminary plan. One important condition is that some verbiage had been added to the conditional zoning that is not included in the zone change, which will need to be removed.

Mr. Martin said that the condition of the 50-foot setback along N. Limestone frontage is extremely important from a practical aspect to the development of this property. On the original plan, the applicant could meet that setback, but it pushed the parking back on the site. In order for their parking to function properly, they needed to adjust the setback closer to N. Limestone and the staff supported this shift. This becomes even more important with the existing conditional zoning restriction, because the paved area in the middle of the plan will need to be removed because it cannot meet the requirement for a landscape buffer in this area. The parking area will have to function on its own to serve this building, which will be even more carefully reviewed at the Final Development Plan stage.

Mr. Martin said that there are also some clean up items listed in the staff handout; the improvements to N. Limestone, the alteration of the existing detention area, extension of a sidewalk, preserving trees in the front, which are design elements that will be determined through improvement plans at the time of the Final Development Plan. In the past, there had been some stormwater problems in this area that have been identified. There is a lot of detention provided on the property, which will need to be addressed to make sure that it continues to function properly and is adequate. The applicant is also claiming a reduction in their parking, which is important to them, with the loss of some spaces; they are claiming the benefit of being located within 300 feet of a transit stop which needs to be identified on the plan to claim that credit. (He said that the handout states "shot" should be "stop".)

10. 44. ~~Denote that all approved and certified information for 1532 N. Limestone shall be added at the time of the Final Development Plan. Denote location of transit stop on the plan.~~

Mr. Martin said the Small Area Plan and the Gateway concept that Ms. Wade had mentioned; the applicant also agreed to architectural detail. There is a building design note on the plan, the staff wants to be sure and have it denoted that the architectural details will match the neighboring building.

Commission Comments – Mr. Wilson commented that condition number 16 should be deleted.

Mr. Owens would like to have condition number 15 removed. Mr. Martin said that staff will agree to keep "Denote" in place of "Discuss", that the applicant will meet the architectural details as previously approved. Mr. Wilson said that it would remain with "Denote" and be referred to the Final Development Plan. Mr. Martin said that will be appropriate, when the applicant gets the final permit.

15. 48. ~~Discuss~~ Resolve the need for front building restrictions, per those approved on adjacent buildings.

Mr. Drake asked for clarification that the two parking lots could not be linked. Mr. Martin replied that due to the conditional zoning restrictions that were placed on the adjoining property; the center connection can't be made, so the lot for the subject property will need to function independently. Mr. Drake asked what the conditional zoning restrictions were. Mr. Martin said that it was a 50-foot landscape buffer that was imposed to protect the adjacent residential neighborhood from the warehouse development.

Mr. Owens clarified that in order to make vehicular traffic connection between the two lots,, the applicant would have to amend the conditional zoning restrictions. Mr. Martin confirmed that the applicant would need to request a zone change to modify the conditional zoning restrictions.

Petitioner Presentation - Steve Baker, Midwest Engineering, said that they agree with all of the staff's conditions as well as the revised zoning restrictions. He said that the applicant would like to connect the two parking lots but they feel that they can make them work independently as needed.

Mr. Clay Waller, developer, said that he was available for any questions that the Planning Commission may have.

Citizen Comments – There were no citizens present wishing to comments on the proposal.

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

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Smith, and carried 9-0 (Penn and Richardson absent) to approve MAR 2016-18: JAMES CLAY WALLER., for the reasons provided by the staff with the amendments to the restrictions.

Development Plan Action – A motion was made by Mr. Cravens, seconded by Mr. Smith, and carried 9-0 (Penn and Richardson absent) to approve ZDP 2016-70: BOBBIE & SYLVIA WALLER PROPERTY, for the reasons provided by the staff with the revised staff recommendations.

