

ORDINANCE NO. 49-2018

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1D) ZONE TO A WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE, FOR 0.20 NET (0.32 GROSS) ACRE, FOR PROPERTY LOCATED AT 2853 LIBERTY ROAD. (DR. MICHAEL GENTRY; COUNCIL DISTRICT 6).

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WHEREAS, at a Public Hearing held on June 28, 2018 a petition for a zoning ordinance map amendment for property located at 2853 Liberty Road from a Single Family Residential (R-1D) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.20 net (0.32 gross) acre, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 2853 Liberty Road from a Single Family Residential (R-1D) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.20 net (0.32 gross) acre, being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property via conditional zoning:

**PROHIBITED USES**

- a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstery; tile, mosaic and terrazzo work; electroplating; interior decorating.
- b. Laundry, clothes cleaning or dyeing shop.
- c. Ice plant.

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


These restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant and will be consistent with such zone; and since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 30, 2018

  
\_\_\_\_\_  
MAYOR

ATTEST:  
  
\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL  
Published: September 6, 2018-1t

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

**McGee Property  
Zone Change from R-1D to B-4  
2853 Liberty Road  
Lexington, KY 40509**

Beginning at a point on the existing B-4 zone delineation, said point being 51.81 feet from the centerline and on the northern Right-of-Way line of Liberty Road, said point being the southwest corner of Tract 1 as depicted on Final Record Plat of Cadentown Subdivision, Gentry Family Enterprises LLC Property of record at Plat Cabinet R, Slide 475 of the Fayette County Clerk's records; thence with the existing B-4 zone delineation and the line of said Tract 1 for two (2) calls:

1. North 59° 22' 01" East 95.20 feet;
2. South 27° 47' 25" East 57.52 feet to the northwest corner of the parcel conveyed to Omead Properties LLC in Deed Book 3308, Page 168; thence severing the existing R-1D zone and with the line of said Omead Properties LLC for one (1) call:
3. South 27° 47' 25" East 42.44 feet to the northeast corner of the parcel conveyed to the Commonwealth of Kentucky in Deed Book 2712, Page 588; thence continuing with the severance of the existing R-1D zone and with the line of said Commonwealth of Kentucky for one (1) call:
4. South 59° 22' 01" West 80.63 feet to a point on the northern Right-of-Way line of Liberty Road; thence continuing with the severance of the existing R-1D zone for one call (1):
5. South 53° 45' 34" West 51.95 feet to a point on the centerline of said Liberty Road; thence continuing with the severance of the existing R-1D zone and with said centerline for one (1) call:
6. North 36° 03' 15" West 100.31 feet to a point on the existing B-4 zone delineation; thence with said B-4 Zone delineation, leaving said centerline for one (1) call:
7. North 53° 46' 07" East 51.81 feet to the Point of Beginning containing 0.321 Acre Gross and 0.202 Acre Net.

Rec'd by AA

Date: 8/3/18

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

IN RE: **PLN-MAR-18-00008: DR. MICHAEL GENTRY** – a petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.20 net (0.32 gross) acre, for property located at 2853 Liberty Road. (Council District 6)

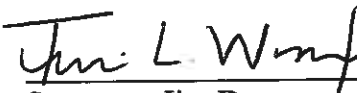
Having considered the above matter on **June 28, 2018**, at a Public Hearing, and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The requested Wholesale and Warehouse Business (B-4) zone is appropriate for the subject property, for the following reasons:
  - a. The property is adjoined by B-4 zoning on two sides, and by Liberty Road on a third side. Therefore, the subject property is mostly surrounded by non-residential uses or zones.
  - b. The property can be seamlessly integrated into the design of the adjacent animal hospital and kennel development, while also maintaining an adequate landscape buffer to the single-family residential properties.
  - c. The proposed business zone will allow for improved access to the planned animal hospital and kennel, because access to a business or industrial zone is not permitted through a residentially zoned site.
2. The existing Single Family Residential (R-1D) zone is inappropriate for the subject site, for the following reasons:
  - a. The single-family residence that previously occupied the subject property was removed as part of the widening of Liberty Road. A single-family residence would be inappropriate on this site, as the only access would be via a driveway from a five-lane roadway.
  - b. A single-family residence on this site would be inappropriate because it would be isolated, as it does not have access nor frontage on Campbell Lane, and would have no physical connection to the homes along Campbell Lane.
  - c. Article 8-8 of the Zoning Ordinance does not allow off-street parking lots and their associated vehicle use areas (driveways) in an R-1D zone as a principal use. In this manner, commercial and industrial zoned property cannot be accessed through a residentially zoned property.
3. This recommendation is made subject to the approval and certification of **PLN-MJDP-2018-00044: CADENTOWN SUBDIVISION**, prior to forwarding this recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property via conditional zoning:**
  - a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating.
  - b. Laundry, clothes cleaning or dyeing shop.
  - c. Ice plant.
  - d. Tire re-treading and recapping.
  - e. Machine shop.
  - f. Offices of purchases, processors and handlers of agricultural products.
  - g. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.

- h. Truck terminals and freight yards.
- i. Automobile service stations.
- j. Major or minor automobile and truck repair.
- k. Establishments for the display and sale of precut, prefabricated or shell homes.
- l. Circuses and carnivals.
- m. Retail sale of building materials and lumber.
- n. Pawnshops.

These use restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant and will be consistent with such zone; and since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

ATTEST: This 3<sup>rd</sup> day of August, 2018.

  
Secretary, Jim Duncan for Jim Duncan

WILLIAM WILSON  
CHAIR

Note: The corollary development plan, PLN-MJDP-18-00044: CADENTOWN SUBDIVISION was approved by the Planning Commission on June 28, 2018 and certified on July 12, 2018.

K.R.S. 100.211(7) requires that the Council take action on this request by September 26, 2018.

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

**OBJECTORS**

- None

**OBJECTIONS**

- None.

**VOTES WERE AS FOLLOWS:**

AYES: (9) Berkley, Brewer, Cravens, Mundy, Owens, Penn, Plumlee, Richardson, and Wilson

NAYS: (0)

ABSENT: (2) Bell and Forester

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-18-00008** carried.

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

## MAP AMENDMENT REQUEST (MAR) APPLICATION

### 1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

**Applicant:**

Dr. Michael Gentry, 2568 Richmond Road, Lexington, KY 40509

**Owner(s):**

Christy McKee and Nancy McKee, 2072 Glade Lane, Lexington, KY 40513

**Attorney:**

Richard V Murphy, 250 West Main Street, Suite 2510, Lexington, KY 40507 Ph: 859-233-9811

### 2. ADDRESS OF APPLICANT'S PROPERTY

2853 LIBERTY RD, LEXINGTON, KY

### 3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1D	Vacant	B-4	Animal Hospital & Kennel	0.202	0.321

### 4. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

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

Roads:	LFUCG
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable



## Statement of Justification

The applicant, Dr. Michael Gentry, is requesting a zone change from the R-1D zone to the B-4 zone for approximately one quarter acre of land at 2853 Liberty Road.

In 2015, this Planning Commission recommended approval of a zone change for property next door at 2833 Liberty Road. The property is planned as the site for an animal hospital/kennel. The subject property, 2853 Liberty Road, occupies a “notch” into that property along the frontage along Liberty Road. Dr. Gentry is acquiring the property from the estates of the previous owners.

The subject property is a vacant lot with frontage only on Liberty Road. It was previously the site of a single-family dwelling, which appears to have been demolished as a portion of the Liberty Road widening a few years ago. Its only street access is to Liberty Road, which is now a four-lane highway with a continuous middle turn lane. Any single family residential development on this property would be isolated due to lack of street connections to other residential areas.

We plan to utilize this lot as part of the campus for the animal hospital/kennel. It will allow the proposed building to be constructed in a more regular shape. Due to the 100-foot building setback required for animal hospitals and kennels in the B-4 zone, the building proposed in 2015 had a notch in it, corresponding to the notch in the property boundary. Removing the notch will allow a more efficient building design, while maintaining the 100-foot building setback line.

This zone change is in agreement with the recently adopted Goals and Objectives of the 2018 Comprehensive Plan. Granting this zone change will allow the animal hospital/kennel to serve the community in a more efficient manner.

Goal A.2. is to “support infill and redevelopment throughout the Urban Service Area as a strategic component of growth”. Objective A.2.a. calls for identification of areas of opportunity for infill. This property is a vacant lot, bordered on two sides by the property which will be used for the animal hospital/kennel. It has no access to Campbell Lane. Because we will incorporate this lot into the overall development for the animal hospital/kennel, it will respect the context and design features of the area surrounding the development, as called for by Objective A.2.b. It will provide well-designed neighborhoods and communities as called for in Goal A.3. It will assist in providing community facilities for this neighborhood and portion of the community, as called for in Goal A.4. It will support the effort to create jobs and prosperity, as called for in Theme C. Sheabel Veterinary Hospital, which will move to this location, currently employs 35-40 people. This will allow a larger, more modern facility to support that employment and to expand, as called for in Objective C.1.a. As the animal hospital/kennel will have access to the Brighton Rails to Trails project, this development will support Goal D.2. to provide accessible community facilities to meet the quality of life needs of Lexington’s residents. By utilizing a vacant parcel, it will support Theme E, Goal 1 and Goal E.3 to uphold the Urban Service Area concept.

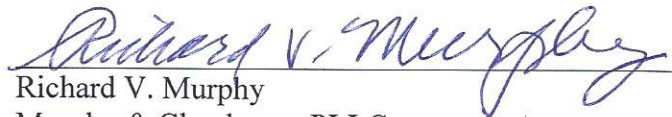
In addition, this zone change agrees with the land use section of the 2013 Comprehensive Plan. That plan calls for flexibility in planning for land use which creates jobs, with new options for neighborhood commercial developments (Page 74). Infill should be provided throughout the

Urban Service Area, not just downtown, and infill should stimulate investment in established communities (Pages 97-98).

In addition, the existing R-1D zoning is no longer appropriate for this one-quarter acre parcel, and the proposed B-4 zoning is appropriate. As mentioned above, the single-family house which formerly occupied the subject property was removed as part of the widening of Liberty Road. A single-family house or two on this tract, having a driveway on a five-lane highway is not a desirable use for this property. It is appropriate to utilize this property for B-4 uses, in conjunction with the animal hospital/kennel on the adjoining property. This property is adjoined by B-4 property on two sides, and by Liberty Road on one side. It does border existing R-1D land on one side and a portion of a second side, but it has no access or connection to that residential use. Granting the zone change to the B-4 zone will allow better design and will maintain adequate buffering for the veterinary clinic/kennel.

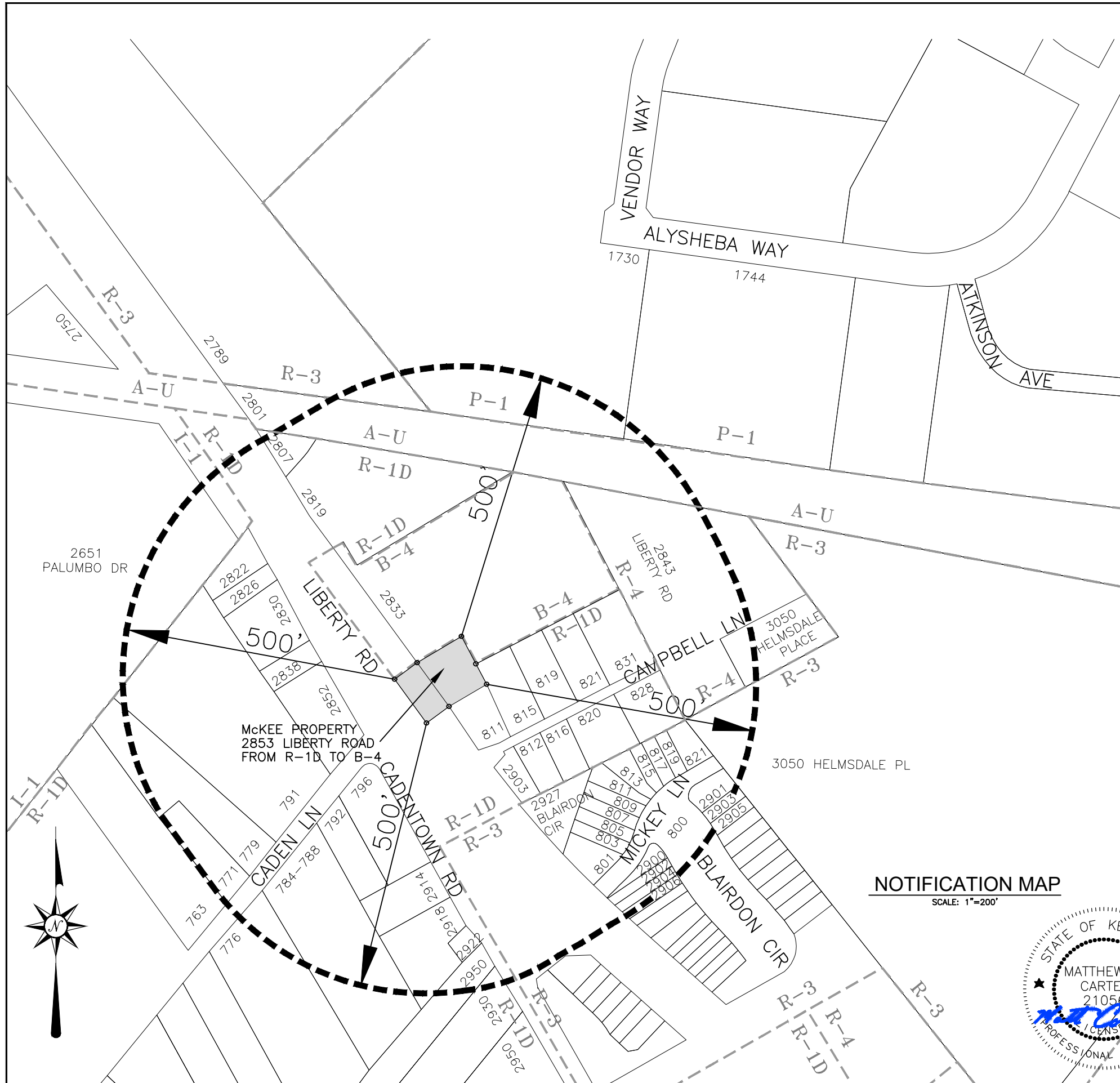
In addition, to the 2015 zone change to the B-4 zone constitutes a major change to the area since the adoption of the Comprehensive Plan in 2013.

Thank you for your consideration of this zone change.

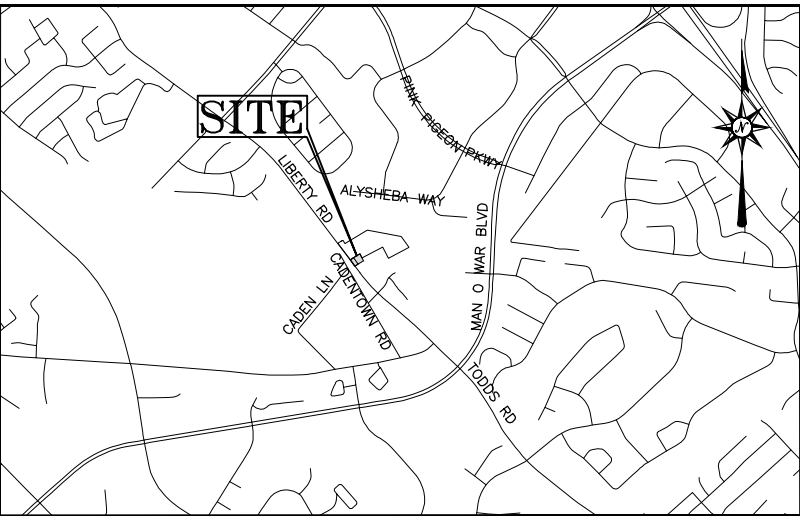
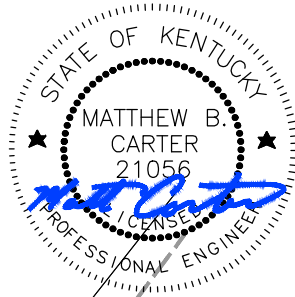


Richard V. Murphy  
Murphy & Clendenen, PLLC  
Attorneys for Applicant, Dr. Michael Gentry

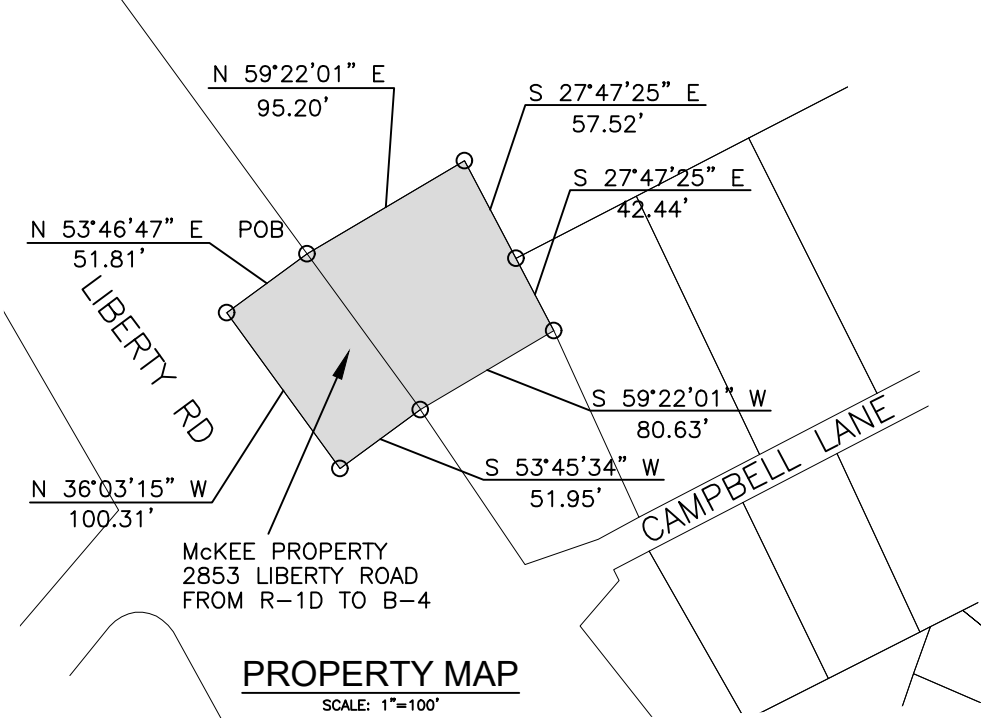




**NOTIFICATION MAP**  
SCALE: 1"=200'



**VICINITY MAP**  
NTS



**PROPERTY MAP**  
SCALE: 1"=100'

ZOMAR:	TITLE: MCGEE PROPERTY			
PROPERTY ADDRESS:	FROM	TO	GROSS	NET
2853 LIBERTY RD	R-1D	B-4	0.321	0.202
APPLICANT NAME / ADDRESS:				
DR. MICHAEL GENTRY				
2568 RICHMOND RD				
LEXINGTON, KY 40509				
OWNER NAME / ADDRESS:				
CHRISTY & NANCY MCKEE, 2072 GLADE LN, LEXINGTON KY 40513				
PREPARED BY: VISION ENGINEERING, LLC				
DATE FILED: MAY 7, 2018			AMENDED: 5/11/2018	TOTAL
			0.321	0.202

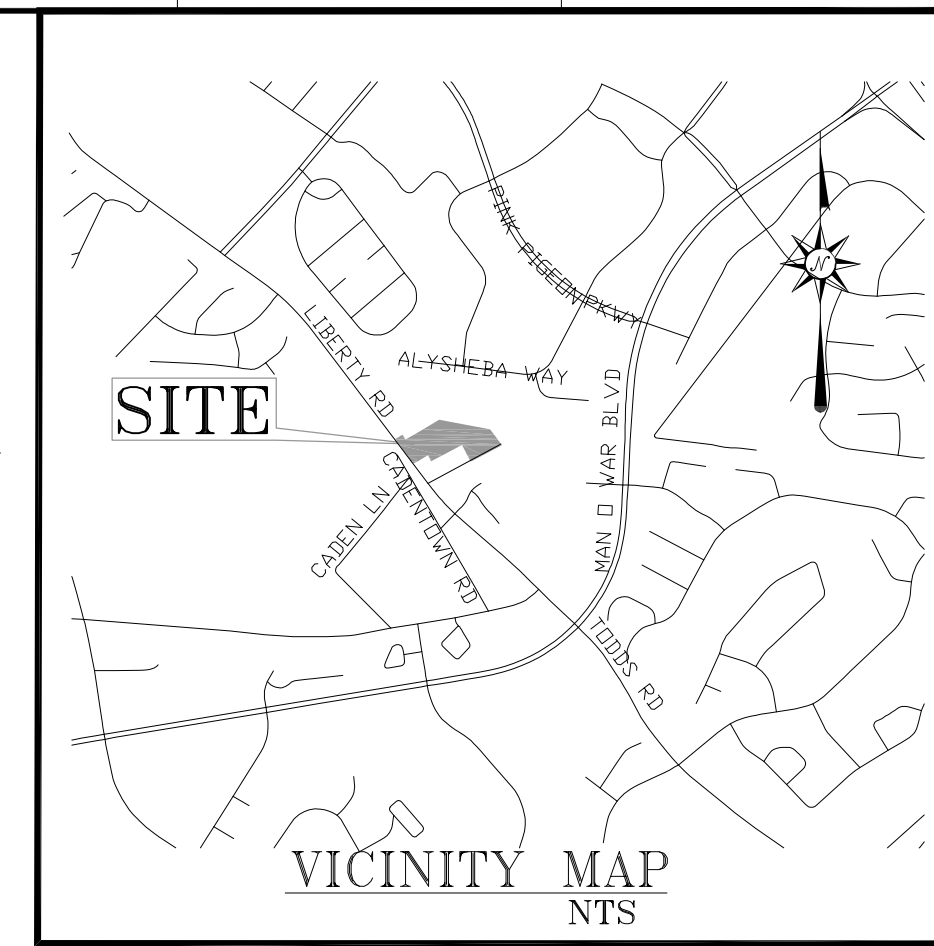
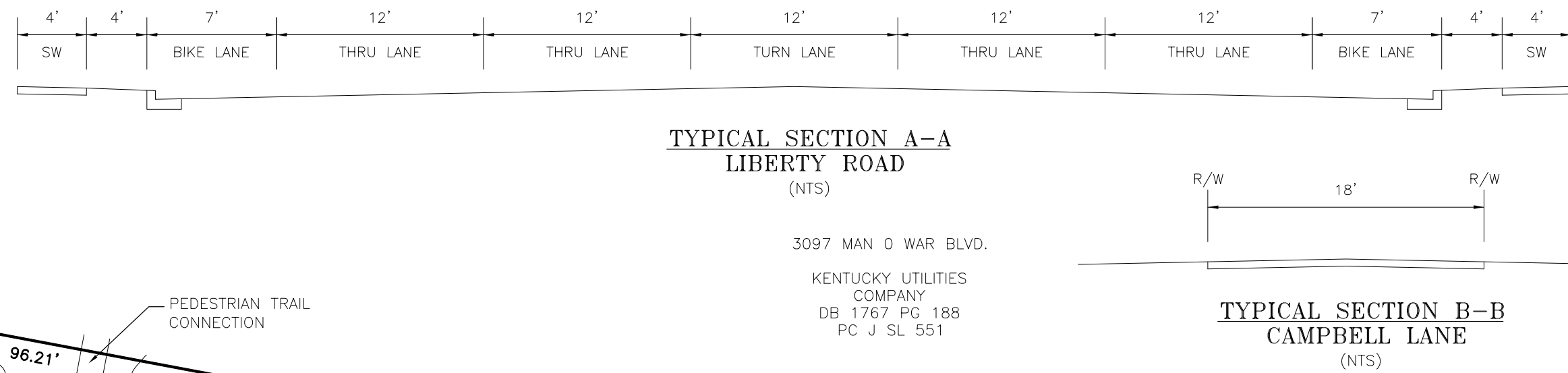
**TREE INVENTORY MAP LIST**

THE EXISTING SITE IS LANDSCAPED WITH VARIOUS NATIVE TREES CONSISTING OF WILD CHERRY, MAPLES, HACKBERRY, WHITE PINE, LOCUST AND HONEY SUCKLE.  
NOTE: TREE INVENTORY IS BASED ON FIELD IDENTIFICATION AND COUNTING. TREE CANOPY IS BASED ON TRACING AREA FROM AERIAL PHOTOGRAPH OVERLAIN ON PRELIMINARY DEVELOPMENT PLAN.

**PURPOSE NOTE:**

THE PURPOSE OF THIS PLAN IS TO ADD 2833 LIBERTY ROAD TO THE DEVELOPMENT AND TO REVISE PARKING, CIRCULATION AND BUILDABLE AREA AS SHOWN HEREON.

2819 LIBERTY ROAD  
ROSE H. BRIDGEN AND  
DOROTHY MCCLURE  
DB 2798 PG 358



**VISION ENGINEERING**  
 Vision Resources, Environmental, Civil & GIS Consultant  
 1399 Tates Creek Road Ste 130 Lexington, KY 40502  
 PH: (859) 595-0416 Fax: (859) 595-0453  
 www.visioneng.com

OWNER:  
 1015 HOFFMAN RD.  
 HARRISBURG, KY 40330

APPLICANT:  
 2833 LIBERTY RD.  
 LEXINGTON, KY 40509

CADENTOWN SUBDIVISION  
 2833 LIBERTY ROAD  
 LEXINGTON, FAYETTE COUNTY, KENTUCKY

PRELIMINARY DEVELOPMENT PLAN

DATE FILED: May, 2018  
 REVISED:

PRELIMINARY DEVELOPMENT PLAN  
**ZDP**

**SITE STATISTICS - B-4 ZONE**

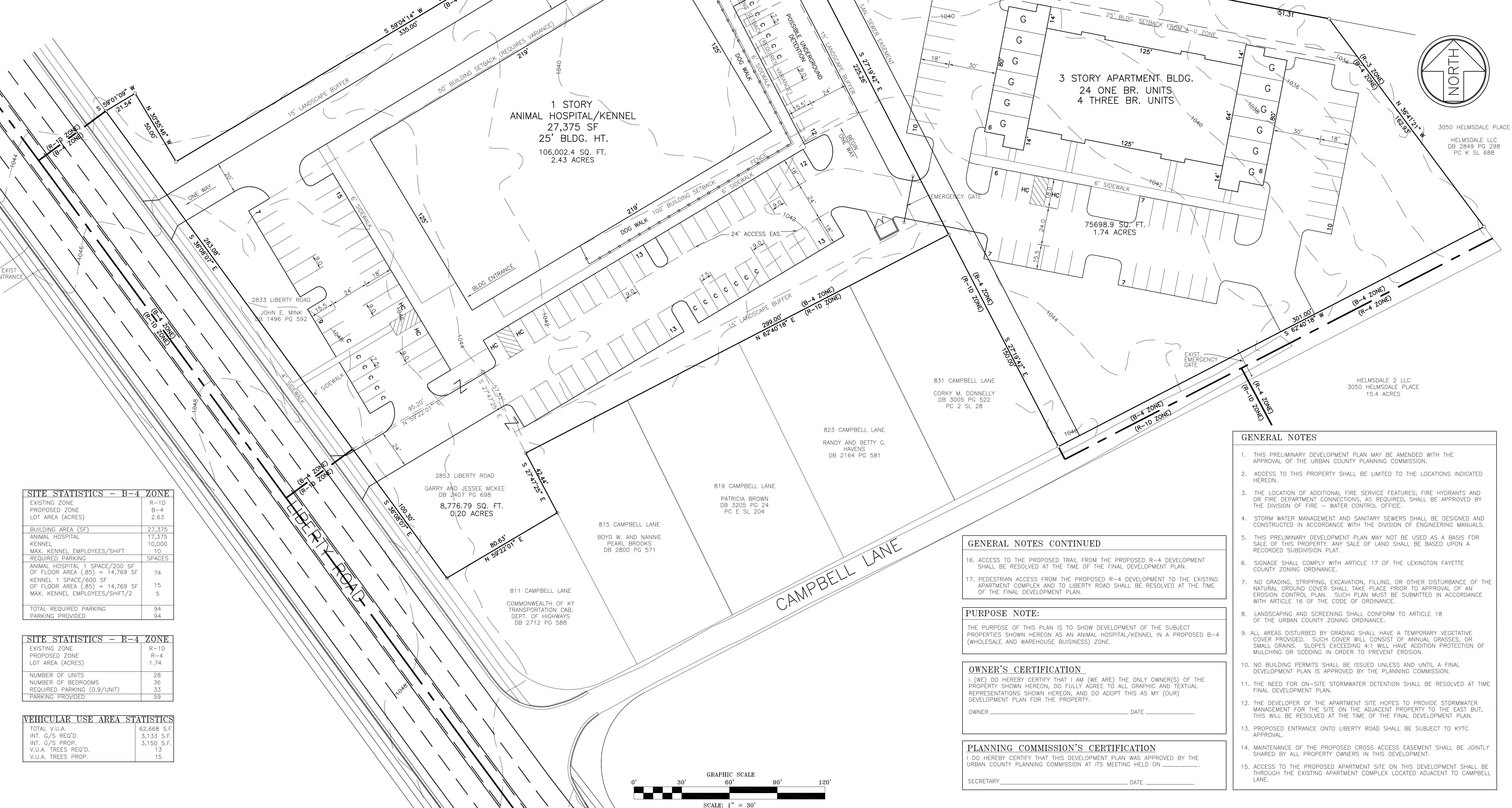
EXISTING ZONE	R-1D
PROPOSED ZONE	B-4
LOT AREA (ACRES)	2.63
BUILDING AREA (SF)	27,375
ANIMAL HOSPITAL	17,375
KENNEL	10,000
MAX. KENNEL EMPLOYEES/SHIFT	10
REQUIRED PARKING SPACES	
ANIMAL HOSPITAL 1 SPACE/200 SF OF FLOOR AREA (.85) = 14,769 SF	74
KENNEL 1 SPACE/600 SF OF FLOOR AREA (.85) = 14,769 SF	15
MAX. KENNEL EMPLOYEES/SHIFT/2	5
TOTAL REQUIRED PARKING	94
PARKING PROVIDED	94

**SITE STATISTICS - R-4 ZONE**

EXISTING ZONE	R-1D
PROPOSED ZONE	R-4
LOT AREA (ACRES)	1.74
NUMBER OF UNITS	28
NUMBER OF BEDROOMS	36
REQUIRED PARKING (0.9/UNIT)	3.3
PARKING PROVIDED	59

**VEHICULAR USE AREA STATISTICS**

TOTAL V.U.A.	62,668 S.F.
INT. G/S REQ'D.	3,133 S.F.
INT. G/S PROP.	3,150 S.F.
V.U.A. TREES REQ'D.	13
V.U.A. TREES PROP.	15



**GENERAL NOTES**

- THIS PRELIMINARY DEVELOPMENT PLAN MAY BE AMENDED WITH THE APPROVAL OF THE URBAN COUNTY PLANNING COMMISSION.
- ACCESS TO THIS PROPERTY SHALL BE LIMITED TO THE LOCATIONS INDICATED HEREON.
- THE LOCATION OF ADDITIONAL FIRE SERVICE FEATURES; FIRE HYDRANTS AND OR FIRE DEPARTMENT CONNECTIONS, AS REQUIRED, SHALL BE APPROVED BY THE DIVISION OF FIRE - WATER CONTROL OFFICE.
- STORM WATER MANAGEMENT AND SANITARY SEWERS SHALL BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH THE DIVISION OF ENGINEERING MANUALS.
- THIS PRELIMINARY DEVELOPMENT PLAN MAY NOT BE USED AS A BASIS FOR SALE OF THIS PROPERTY, ANY SALE OF LAND SHALL BE BASED UPON A RECORDED SUBDIVISION PLAT.
- SIGNAGE SHALL COMPLY WITH ARTICLE 17 OF THE LEXINGTON FAYETTE COUNTY ZONING ORDINANCE.
- NO GRADING, STRIPPING, EXCAVATION, FILLING, OR OTHER DISTURBANCE OF THE NATURAL GROUND COVER SHALL TAKE PLACE PRIOR TO APPROVAL OF AN EROSION CONTROL PLAN. SUCH PLAN MUST BE SUBMITTED IN ACCORDANCE WITH ARTICLE 16 OF THE CODE OF ORDINANCE.
- LANDSCAPING AND SCREENING SHALL CONFORM TO ARTICLE 18 OF THE URBAN COUNTY ZONING ORDINANCE.
- ALL AREAS DISTURBED BY GRADING SHALL HAVE A TEMPORARY VEGETATIVE COVER PROVIDED. SUCH COVER WILL CONSIST OF ANNUAL GRASSES, OR SMALL GRAINS. SLOPES EXCEEDING 4:1 WILL HAVE ADDITIONAL PROTECTION OF MULCHING OR SODDING IN ORDER TO PREVENT EROSION.
- NO BUILDING PERMITS SHALL BE ISSUED UNLESS AND UNTIL A FINAL DEVELOPMENT PLAN IS APPROVED BY THE PLANNING COMMISSION.
- THE NEED FOR ON-SITE STORMWATER DETENTION SHALL BE RESOLVED AT TIME FINAL DEVELOPMENT PLAN.
- THE DEVELOPER OF THE APARTMENT SITE HOPES TO PROVIDE STORMWATER MANAGEMENT FOR THE SITE ON THE ADJACENT PROPERTY TO THE EAST BUT, THIS WILL BE RESOLVED AT THE TIME OF THE FINAL DEVELOPMENT PLAN.
- PROPOSED ENTRANCE ONTO LIBERTY ROAD SHALL BE SUBJECT TO KYTC APPROVAL.
- MAINTENANCE OF THE PROPOSED CROSS ACCESS EASEMENT SHALL BE JOINTLY SHARED BY ALL PROPERTY OWNERS IN THIS DEVELOPMENT.
- ACCESS TO THE PROPOSED APARTMENT SITE ON THIS DEVELOPMENT SHALL BE THROUGH THE EXISTING APARTMENT COMPLEX LOCATED ADJACENT TO CAMPBELL LANE.

**GENERAL NOTES CONTINUED**

- ACCESS TO THE PROPOSED TRAIL FROM THE PROPOSED R-4 DEVELOPMENT SHALL BE RESOLVED AT THE TIME OF THE FINAL DEVELOPMENT PLAN.
- PEDESTRIAN ACCESS FROM THE PROPOSED R-4 DEVELOPMENT TO THE EXISTING APARTMENT COMPLEX AND TO LIBERTY ROAD SHALL BE RESOLVED AT THE TIME OF THE FINAL DEVELOPMENT PLAN.

**PURPOSE NOTE:**

THE PURPOSE OF THIS PLAN IS TO SHOW DEVELOPMENT OF THE SUBJECT PROPERTIES SHOWN HEREON AS AN ANIMAL HOSPITAL/KENNEL IN A PROPOSED B-4 (WHOLESALE AND WAREHOUSE BUSINESS) ZONE.

**OWNER'S CERTIFICATION**

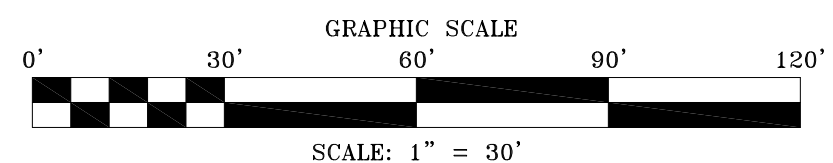
I (WE) DO HEREBY CERTIFY THAT I AM (WE ARE) THE ONLY OWNER(S) OF THE PROPERTY SHOWN HEREON, DO FULLY AGREE TO ALL GRAPHIC AND TEXTUAL REPRESENTATIONS SHOWN HEREON, AND DO ADOPT THIS AS MY (OUR) DEVELOPMENT PLAN FOR THE PROPERTY.

OWNER \_\_\_\_\_ DATE \_\_\_\_\_

**PLANNING COMMISSION'S CERTIFICATION**

I DO HEREBY CERTIFY THAT THIS DEVELOPMENT PLAN WAS APPROVED BY THE URBAN COUNTY PLANNING COMMISSION AT ITS MEETING HELD ON \_\_\_\_\_

SECRETARY \_\_\_\_\_ DATE \_\_\_\_\_



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

**PLN-MAR-18-00008: DR. MICHAEL GENTRY**

**DESCRIPTION**

**Zone Change:** From a Single Family Residential (R-1D) zone  
To a Wholesale and Warehouse Business (B-4) zone

**Acreeage:** 0.20 net (0.32 gross) acre

**Location:** 2853 Liberty Road

**EXISTING ZONING & LAND USE**

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1D	Vacant
To North	B-4	Planned Animal Hospital & Kennel
To East	B-4 & R-1D	Planned Animal Hospital & Kennel, & Single-Family Residential
To South	R-1D	Single-Family Residential
To West	R-1D	Single-Family Residential

**URBAN SERVICES REPORT**

Roads – Liberty Road (KY 1927) was significantly improved in 2008, including a re-alignment and widening of the roadway, along with intersection improvements at Old Todds Road (formerly Todds Road) near Man o’ War Boulevard. Liberty Road is a minor arterial roadway that has a signalized intersection at Man o’ War Boulevard. The re-configured intersection of Liberty Road and Old Todds Road, just north of Man o’ War Boulevard, has improved traffic flow and roadway capacity in this portion of the Urban Service Area. The subject property fronts on Liberty Road, and an additional curb cut with an access easement/drive aisle is proposed along the western property line. This access point will be an “exit only” point, as a one-way “entry only” point is planned on the adjacent parcel. The added access point will allow better site distance for drivers leaving the site, because it is at a topographic high point along Liberty Road.

Curb/Gutter/Sidewalks – Within the past decade, the re-alignment and widening of Liberty Road included typical urban improvements (curb, gutter, and sidewalks) on both sides of the roadway.

Storm Sewers – The subject property is located in the upper reaches of the East Hickman watershed. There is no FEMA special flood hazard area designated for the property, and there are no known flooding problems within the immediate area. Currently, there are no storm sewers or other stormwater improvements on the subject property. The developer will need to accommodate stormwater for the subject property in coordination with the development of the adjacent site. All plans shall meet the Division of Engineering Stormwater Manual.

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

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

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

Fire/Ambulance – The nearest fire station to the property is Station #21, located approximately ¾ mile southwest of the subject property at the intersection of Mapleleaf Drive and Dabney Drive, south of Man o' War Boulevard.

Utilities – Natural gas, telephone service, electric, water, streetlights, and cable television are all available to the areas surrounding the subject property, and can easily be extended to serve the property.

### **COMPREHENSIVE PLAN AND PROPOSED USE**

The 2018 Comprehensive Plan's mission statement is 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." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape.

The applicant proposes to rezone the subject site in order to consolidate the property with the adjacent 2.43 acre site to the north, in order to construct a second access point to the development, which is planned to contain an animal hospital and kennel, and associated off-street parking.

### **CASE REVIEW**

#### **Request:**

The applicant requests a zone change from a Single Family Residential (R-1D) zone to a Wholesale and Warehouse Business (B-4) zone for a vacant parcel that is slightly less than one quarter of an acre, located at 2853 Liberty Road. A second access point to Liberty Road, along with a drive aisle, is proposed to be constructed along the western property line, leading into the adjacent parcel. The subject site is proposed to be consolidated with the adjacent B-4 zoned property, which now proposes a 27,375 square foot animal hospital and kennel.

In 2015, the adjacent site at 2833 Liberty Road, which borders the subject site to the north and east, was rezoned from R-1D to B-4, with conditional zoning restrictions. A 20,000 square foot animal hospital and kennel were approved for the site, along with a variance to reduce the 100-foot setback to 50-feet along the northwest property line. Consolidating this parcel with the subject property will allow the proposed building footprint to increase by almost 3,000 square feet.

#### **Site Location and Surrounding Area:**

The subject property is located on the east side of Liberty Road, between the signalized intersections of Star Shoot Parkway to the north and Old Todds Road to the south. The site is north of Campbell Lane and east of Cadentown, a local historic district. Both are single family developments in the R-1D zone. Link Belt, an I-1 zoned construction equipment manufacturing company is located north of the Cadentown settlement. There is a LFUCG greenway with a shared-use trail north of the site (A-U zone) which was formerly a railroad right-of-way. The Pink Pigeon Professional Office Park, which is part of the Hamburg Farm Development, is located north of the shared-use trail (P-1 zone). Brighton 3050 apartment complex and Kennedy Landing townhouse developments are located south and east (R-3 & R-4 zones).

#### **Justification for the Rezoning:**

The applicant opines that this zone change request from R-1D to B-4 is in agreement with the recently adopted Goals and Objectives of the 2018 Comprehensive Plan. Staff does not agree with that assessment, as the rezoning cannot be directly supported by the Comprehensive Plan, because the Plan does not specifically comment on zone change requests such as this one. Although the rezoning would allow infill of a vacant site, the rezoning of this parcel will not create jobs, enhance mobility, nor complement the design of the surrounding neighborhoods. However, staff does agree with the applicant's additional justification, which examines the appropriateness of the proposed zone compared to the inappropriateness of the existing zone.

The applicant contends that the R-1D zone is inappropriate for several reasons. First, the single-family house that had occupied the subject property was removed as part of the widening of Liberty Road. A

single-family residence would be inappropriate on this site, as the only access would be via a driveway from a five-lane roadway. Second, a single-family residence on this site would be inappropriate because it would be isolated from the existing single-family development in the area. The subject property does not have a physical connection to the homes along Campbell Lane, as it does not have access nor frontage on Campbell Lane.

The applicant also states in their justification that the proposed B-4 zone is appropriate for the subject property. The site is adjoined by existing B-4 zoning on two sides, and by Liberty Road on a third side. Therefore, the subject site is mostly surrounded by non-residential uses or zones. The site can be seamlessly integrated into the design of the adjoining B-4 zoned parcel, which is planned for an animal hospital and kennel. The inclusion of the subject property will have no impact on the single-family residential properties in the area. Additionally, rezoning the site to a B-4 zone would allow improved access to the planned animal hospital. Lastly, access to a business or industrial zone is not permitted through a residentially zoned site. Article 8-8 of the Zoning Ordinance does not include off-street parking lots and their associated vehicle use areas (driveways) in an R-1D zone as a principle use. In this manner, business and industrial zoned property cannot be accessed through a residentially zoned property.

**Conditional Zoning Restrictions:**

The staff recommends that the conditional zoning restrictions that are presently in place for the adjacent B-4 zoned site apply to the subject site for continuity. The subject site is proposed to be absorbed by, and consolidated with, the adjacent site, so both parcels should have the same restrictions.

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

1. The requested Wholesale and Warehouse Business (B-4) zone is appropriate for the subject property, for the following reasons:
  - a. The property is adjoined by B-4 zoning on two sides, and by Liberty Road on a third side. Therefore, the subject property is mostly surrounded by non-residential uses or zones.
  - b. The property can be seamlessly integrated into the design of the adjacent animal hospital and kennel development, while also maintaining an adequate landscape buffer to the single-family residential properties.
  - c. The proposed business zone will allow for improved access to the planned animal hospital and kennel, because access to a business or industrial zone is not permitted through a residentially zoned site.
2. The existing Single Family Residential (R-1D) zone is inappropriate for the subject site, for the following reasons:
  - a. The single-family residence that previously occupied the subject property was removed as part of the widening of Liberty Road. A single-family residence would be inappropriate on this site, as the only access would be via a driveway from a five-lane roadway.
  - b. A single-family residence on this site would be inappropriate because it would be isolated, as it does not have access nor frontage on Campbell Lane, and would have no physical connection to the homes along Campbell Lane.
  - c. Article 8-8 of the Zoning Ordinance does not allow off-street parking lots and their associated vehicle use areas (driveways) in an R-1D zone as a principle use. In this manner, commercial and industrial zoned property cannot be accessed through a residentially zoned property.
3. This recommendation is made subject to the approval and certification of PLN-MJDP-2018-44: CADENTOWN SUBDIVISION, prior to forwarding this recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property via conditional zoning:

PROHIBITED USES

- a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstering; tile, mosaic and terrazzo work; electroplating; interior decorating.
- b. Cocktail lounges and nightclubs, or the serving of alcoholic beverages.
- c. Laundry, clothes cleaning or dyeing shop.
- d. Ice plant.
- e. Tire re-treading and recapping.
- f. Machine shop.
- g. Offices of purchases, processors and handlers of agricultural products.
- h. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
- i. Truck terminals and freight yards.
- j. Automobile service stations.
- k. Major or minor automobile and truck repair.
- l. Establishments for the display and sale of precut, prefabricated or shell homes.
- m. Circuses and carnivals.
- n. Retail sale of building materials and lumber.
- o. Pawnshops.

These use restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant and will be consistent with such zone; and since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

AT/TW

6/5/2018

Planning Services/Staff Reports/MAR/2018/PLN-MAR-18-00008

**3. DR. MICHAEL GENTRY ZONING MAP AMENDMENT & CADENTOWN SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-18-00008: DR. MICHAEL GENTRY (8/5/18)\*- petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.20 net (0.32 gross) acre, for property located at 2853 Liberty Road.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2018 Comprehensive Plan's mission statement is 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." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape.

The applicant proposes to rezone the subject site in order to consolidate the property with the adjacent 2.43 acre site to the north, in order to construct a second access point to the development, which is planned to contain an animal hospital and kennel, and associated off-street parking.

The Zoning Committee Recommended: Approval to the full Commission.

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

1. The requested Wholesale and Warehouse Business (B-4) zone is appropriate for the subject property, for the following reasons:
  - a. The property is adjoined by B-4 zoning on two sides, and by Liberty Road on a third side. Therefore, the subject property is mostly surrounded by non-residential uses or zones.
  - b. The property can be seamlessly integrated into the design of the adjacent animal hospital and kennel development, while also maintaining an adequate landscape buffer to the single-family residential properties.
  - c. The proposed business zone will allow for improved access to the planned animal hospital and kennel, because access to a business or industrial zone is not permitted through a residentially zoned site.
2. The existing Single Family Residential (R-1D) zone is inappropriate for the subject site, for the following reasons:
  - a. The single-family residence that previously occupied the subject property was removed as part of the widening of Liberty Road. A single-family residence would be inappropriate on this site, as the only access would be via a driveway from a five-lane roadway.
  - b. A single-family residence on this site would be inappropriate because it would be isolated, as it does not have access nor frontage on Campbell Lane, and would have no physical connection to the homes along Campbell Lane.
  - c. Article 8-8 of the Zoning Ordinance does not allow off-street parking lots and their associated vehicle use areas (driveways) in an R-1D zone as a principle use. In this manner, commercial and industrial zoned property cannot be accessed through a residentially zoned property.
3. This recommendation is made subject to the approval and certification of PLN-MJDP-2018-00044: CADENTOWN SUB-DIVISION, prior to forwarding this recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property via conditional zoning:

**PROHIBITED USES**

  - a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstery; tile, mosaic and terrazzo work; electroplating; interior decorating.
  - b. Cocktail lounges and nightclubs, or the serving of alcoholic beverages.
  - c. Laundry, clothes cleaning or dyeing shop.
  - d. Ice plant.
  - e. Tire re-treading and recapping.
  - f. Machine shop.
  - g. Offices of purchases, processors and handlers of agricultural products.
  - h. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
  - i. Truck terminals and freight yards.
  - j. Automobile service stations.
  - k. Major or minor automobile and truck repair.
  - l. Establishments for the display and sale of pre-cut, prefabricated or shell homes.
  - m. Circuses and carnivals.
  - n. Retail sale of building materials and lumber.
  - o. Pawnshops.

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

These use restrictions are appropriate and necessary for the subject property since they were volunteered by the original zone change applicant and will be consistent with such zone; and since they will provide greater protection for the adjacent residences and Local Historic District surrounding this location.

- b. PLN-MJDP-18-00044: CADENTOWN SUBDIVISION (8/5/18)\* - located at 2853 LIBERTY ROAD, LEXINGTON, KY (Vision Engineering)

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

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.

Staff Zoning Presentation – Ms. Wade presented the staff report and recommendations for the zone change. She displayed photographs of the subject property and aerial photographs of the general area. She said the applicant is proposing this zone change to incorporate this small parcel into a larger property that was rezoned several years ago. She gave a brief history of the property and said that this parcel was left by the realignment of Liberty Road. She said the applicant opined that this application is in agreement with the 2013 Comprehensive Plan; however the staff doesn't agree. She said that the staff does agree that the R-1D zone isn't appropriate at this location because it is an isolated tract, has no connectivity to Campbell Lane, and the surrounding property is currently a B-4 zone.

Ms. Wade said this requested zone change will allow the animal hospital and kennel to be enlarged, as well as, create better access onto Liberty Road. She said that the staff and the Zoning Committee are recommending approval of this zone change with conditional zoning restrictions, the same restrictions that were put in place with the larger B-4 zone change. She did say that there is an error on the list of restrictions. She said that condition b. should be stricken from the list, because cocktail lounges and nightclubs, or alcoholic beverage services are not a principal permitted use in the B-4 zone.

Commission Question – Mr. Owens asked if the animal hospital was already approved in this zone. Ms. Wade said that the B-4 zone allows an animal hospital and kennel as a principal use. Mr. Owens asked if the kennels would be indoor or outdoor. Ms. Wade said that the only time the animals will be outdoors will be for walks and bathroom breaks.

Development Plan Presentation – Mr. Martin presented a rendering of the development plan associated with the zone change. He said that the property being incorporated into this zone change will be open space, there will not be any use. He said this space will be part of the required setback for this zone. He said that the access point is relocated from the previous approved location, which has allowed the applicant to modify their parking, and that the access drive on the north side of the property will only be an exit.

Mr. Martin said there are four standard sign-off conditions for this development plan and the staff and Subdivision Committee are both recommending approval.

Applicant Presentation – Mr. Murphy, attorney representing the petitioner, stated that the applicant is in agreement with the staff's recommendations and is available for questions.

Citizen Comment – There were no citizens present to speak to this application.

Zoning Action – A motion was made by Ms. Richardson, seconded by Ms. Mundy, and carried 9-0 (Bell and Forester absent) to approve PLN-MAR-18-00008: DR. MICHAEL GENTRY, for the reasons provided by the staff, with the removal of b. from the prohibited uses, as follow:

**PROHIBITED USES**

- a. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; painting; publishing; lithographing; engraving; electrical; major automobile and truck repairing; sign painting; upholstery; tile, mosaic and terrazzo work; electroplating; interior decorating.
- ~~b. Cocktail lounges and nightclubs, or the serving of alcoholic beverages.~~
- c. Laundry, clothes cleaning or dyeing shop.
- d. Ice plant.
- e. Tire re-treading and recapping.
- f. Machine shop.
- g. Offices of purchasers, processors and handlers of agricultural products.

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



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

Development Plan Action – A motion was made by Ms. Richardson, seconded by Ms. Mundy, and carried 9-0 (Bell and Forester absent) to approve PLN-MJDP-18-00044: CADENTOWN SUBDIVISION, for the reasons provided by the staff.