

3. CALLER PROPERTIES, LLC, ZONING MAP AMENDMENT & CHEVY CHASE SHOPPES ZONING DEVELOPMENT PLAN

- a. MAR 2014-16: CALLER PROPERTIES, LLC (10/5/14)* – petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 0.588 net (0.852 gross) acre, for property located at 626-634 Euclid 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 petitioner proposes removing the three structures and replacing them with a 20,000 square-foot mixed-use building. The petitioner proposes retail sales establishments on the first floor, and seven 2-bedroom dwelling units on the second floor of a new structure, with associated off-street parking.

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

The Staff Recommends: Postponement, for the following reason:

1. The proposed redevelopment of the subject property does not meet all the requirements of the Neighborhood Business (B-1) zone, and the proposed development would be out of character with the surrounding area. The petitioner should revise the corollary zoning development plan in order to meet the requirements of the proposed zone.

- b. ZDP 2014-65: CHEVY CHASE SHOPPES (10/5/14)* - located at 626, 630 and 634 Euclid Avenue.
(Barrett Partners)

The Subdivision Committee Recommended: Postponement. There are questions regarding the proposed access to the site and with the building's orientation to Euclid Avenue.

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Discuss proposed dumpster location.
8. Discuss proposed access to Marquis Avenue.
9. Discuss building fenestration along Euclid Avenue.
10. Discuss width of proposed drive-through lane.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property, which is comprised of three parcels. The property is located northwest of the intersection of Euclid and Marquis Avenues, just across Marquis Avenue from the recently rezoned Kroger. Across Euclid Avenue are two P-1 lots; and P-1 zoning continues along much of Euclid Avenue, with B-1 zoning located near the Euclid Avenue/Tates Creek Road intersection. The Columbia Heights and Hollywood subdivisions are located to the southwest of the subject property, with the Aylesford neighborhood, which has historic overlay zoning, across Euclid Avenue from the property. Ms. Wade stated that the petitioner is requesting a rezoning in order to redevelop the three lots, which are currently occupied by three single-family residential buildings. The structure on the corner parcel is home to an accounting firm, while the other two existing structures are non-conforming multi-family residential uses.

Ms. Wade displayed the following photographs of the subject property: 1) a view of the corner parcel, with the existing accounting firm; 2) the two existing residential structures; 3) offices located further down Euclid Avenue; 4) a view toward the northwest, noting the current setbacks of the residential structures; 5) a view of the parking lot across the street from the subject property, noting the location of an Art-in-Motion transit stop; 6) a view down Euclid Avenue toward the Kroger shopping center and Tates Creek Road; 7) a view looking down Marquis Avenue along the property frontage; 8) a professional office building on Marquis Avenue; and 9) a view down McCaws Alley, which runs along the rear of the subject property, noting that it is only approximately 12' in width.

Ms. Wade said that the petitioner originally proposed to construct a building that was not in keeping with the character of the existing Euclid Avenue corridor, so the staff recommended postponement of this change at the Zoning

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

Committee meeting three weeks ago. The petitioner revised their plan just prior to that meeting, and they are now proposing a 10,000 square-foot building, to include restaurant and retail uses, as well as an accessory drive-through and associated off-street parking.

Ms. Wade stated that the petitioner contended in their justification that the proposed zone change met at least one Goal & Objective of the 2013 Comprehensive Plan, related to "compact, contiguous, and sustainable development within the Urban Service Area, which would accommodate future growth needs in order to uphold the Urban Service Area concept." The petitioner also noted in their justification that the proposed zoning is compatible with the immediately adjoining zoning, and with the 1991 Aylesford East University Small Area Plan, as it related to non-residential development and providing accessible development in the university area. Ms. Wade said that, in reviewing the petitioner's justification, the staff did not use the Aylesford East University SAP as an applicable finding, since they believed that it was now somewhat dated. The staff does agree, however, that the redevelopment proposed is more in keeping with the character of the Euclid Avenue corridor, and it now meets the new B-1 zone requirements. The staff cites the 2013 Comprehensive Plan's support of Infill & Redevelopment, which, in some cases, might lead to an intensification of land uses. The Plan notes, however, that Infill & Redevelopment should be context-sensitive to the surrounding environment whenever possible.

Ms. Wade stated that the petitioner has indicated a desire for this request to go forward, rather than pursue another postponement in order to resolve more of the staff's concerns. Therefore, the staff is recommending approval of the zone change, for the following reasons:

1. The proposed Neighborhood Business (B-1) zone is in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Plan recommends compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs in order to uphold the Urban Service Area concept (Theme E, Goal #1, Obj. b.). The petitioner's development will be in keeping with the character of the Euclid Avenue corridor, which is a near-downtown commercial area that is pedestrian-friendly.
 - b. The Plan recommends identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible (Theme A, Goal #2, Obj. a.). The petitioner desires to redevelop the subject property, which is comprised of three parcels that are considered underutilized along this commercial corridor. The petitioner now proposes a redevelopment that is sensitive to the surrounding properties and will improve the commercial corridor.
 - c. The proposed B-1 zone is compatible with the immediately adjoining B-6P and P-1 zoning.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall be restricted with the following restrictions via conditional zoning:

Prohibited Uses

 - a. Schools for academic instruction.
 - b. Funeral parlors.
 - c. Medical and dental offices, clinics and laboratories.
 - d. Liquor stores.
 - e. Automobile services stations.
 - f. Banquet facilities.
 - g. Cocktail lounges, nightclubs or bars.
 - h. Live entertainment.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property. Such uses could have a negative impact on the nearby neighborhoods related to noise and/or traffic congestion.

Ms. Wade stated that the staff believes that the petitioner has addressed the major point of conflict as it relates to the zone change application, the petitioner's failure to meet all the B-1 requirements, and the proposal of a development that was out of character with the Euclid Avenue corridor.

Commission Question: Mr. Berkley asked why the staff was recommending live entertainment as a prohibited use. Ms. Wade answered that the "congregation" of people that goes along with live entertainment could have a negative impact on the surrounding neighborhood, especially with regard to noise.

Ms. Wade added that the staff had received several emails concerning the proposed rezoning, which she distributed to the Commission members at this time.

Development Plan Presentation: Mr. Martin presented the corollary zoning development plan, further orienting the Commission to the location of the subject property. He said that the petitioner proposes to construct a 10,000 square-foot building on the site, with 26 required and provided parking spaces and two-way access to the parking

area from Euclid Avenue. The petitioner is also proposing a drive-through facility, with access via McCaws Alley to Marquis Avenue.

Mr. Martin stated that this current version is the third iteration of this plan, which was submitted in response to concerns about the original orientation of the building toward Marquis Avenue, as well as the proposed access points. On one version of the plan, the drive-through was depicted side-by-side with Marquis Avenue, which was of particular concern to the staff and the Division of Traffic Engineering. In response to those concerns, the proposed drive-through access was relocated to McCaws Alley, which would be contingent upon the provision of improvements to the alley. The staff believes that there are still potential conflict points with the stacking for the drive-through, but the petitioner contends that they have addressed those concerns to the best of their ability.

Mr. Martin said that the staff had distributed revised conditions for approval to the Commission members. He stated that the staff is now recommending approval of this plan, subject to the following conditions:

The Staff Recommends Approval, subject to the following revised requirements:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. ~~Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.~~
7. ~~Discuss proposed dumpster location.~~
8. ~~Discuss proposed access to Marquis Avenue.~~
- 6.9. Discuss Denote: Building fenestration along Euclid Avenue will be resolved at the time of the Final Development Plan.
10. ~~Discuss width of proposed drive through lane.~~
7. Increase building setback to Euclid Avenue to 20'.

Mr. Martin said that condition #6 arose out of a series of design discussions between the staff and the petitioner, and the staff's concern about the provision of window openings to avoid a "typical suburban" glass and block building. The petitioner has indicated that they are willing to address that issue on the Final Development Plan for the property.

Mr. Martin stated that condition #7 was the result of a several weeks of staff review and discussions on the possible interpretation of the Zoning Ordinance. He noted that the staff had distributed an exhibit to help explain the issue. Initially, the plan depicted a building that was set back 20' from Euclid Avenue, and closer to Marquis Avenue. The staff was concerned about that building orientation and setback, since the B-1 zone requires a minimum building line of 10', with a maximum of 20'. In this instance, the petitioner also has to meet side street side yard setbacks, as well as Infill & Redevelopment requirements. Mr. Martin explained that the Zoning Ordinance allows a developer of a corner lot to select their front yard and side street side yard, and the property is regulated accordingly.

Mr. Martin presented the staff exhibit that includes Article 15-6, which addresses side street side yards, which in this case would affect Marquis Avenue. The staff met on several occasions, and met with the staff of the Law Department, to discuss this issue. It was determined through those meetings that the proposed building configuration meets all of the necessary setback requirements, and that the side orientation toward Marquis Avenue is appropriate. Mr. Martin said that the front yard setback along Euclid Avenue, however, was more problematic. The Zoning Ordinance states that, in this situation, determination of the setback must be based on averaging the setbacks of the two lots adjoining the property. Since the subject property is a corner lot, it has only one adjoining principal structure. Following a great deal of discussion among the staff, it was determined that the intent of the Infill & Redevelopment requirement was to ensure comparable and compatible setbacks; therefore, averaging for the front setback would be appropriate in this situation. Mr. Martin stated that the standard is within 5' of the average setback. The staff determined that the setback on the one lot adjoining the subject property is approximately 24', so they believed that a 20' setback would satisfy both the underlying B-1 zoning requirements, and the intent of Article 15-2(a)(6), which governs business zones in infill areas.

Mr. Martin said that the staff is recommending approval of this request, subject to the seven conditions as listed.

Commission Question: Ms. Mundy asked if the setback for the building on the adjoining property was 20'. Mr. Martin answered that the staff measured that building setback using GIS software and determined it to be approximately 23-24' from Euclid.

Petitioner Representation: John Talbott, attorney, was present representing the petitioner. He stated that the petitioner owns the nearby Chevy Chase Plaza, Saratoga Center, and Ashland Plaza developments, as well as the Main

& Rose condominium development. All of the petitioner's properties are attractive, successful, and at least 90% occupied, and they believe the subject property can be equally successful, particularly given its location near the new Kroger store. The petitioner believes that the subject property would be a good location for a fitness center, video game store, restaurant, or takeout pizza location. Their desire is to construct a walkable center that will help to serve the needs of the nearby residents.

Mr. Talbott said that the petitioner is in agreement with the staff's recommendations, with the exception of the prohibition of medical and dental offices, and liquor stores. The petitioner contends that there are several other liquor stores in the area, and they believe that "isolating one spot with no liquor" will serve no real purpose. Mr. Talbott said that the petitioner is in agreement with the other proposed prohibited uses. They would like to propose a compromise setback of 15', rather than the 10' as depicted on the plan, or the 20' recommended by staff.

Tony Barrett, landscape architect with Barrett Partners, stated, with regard to the recommended 20' setback, that the petitioner would prefer a 15' setback, since the Zoning Ordinance allows a 5' variance. The petitioner contends that a 15' setback would allow them to develop the building to go along with their leasing prospects.

With regard to the concerns of the Division of Traffic Engineering staff, Mr. Barrett stated that the petitioner had re-configured the drive-through lane to their satisfaction. The petitioner also agreed to eliminate two parking spaces in order to widen the visibility of the Euclid entrance to the parking lot, at the recommendation of Traffic Engineering.

Mr. Barrett stated that the revised development plan depicts a landscape buffer easement along the Ashland building. He said that the parking for that building is located to the rear, so the petitioner has agreed to shift the easement slightly in order to allow the entire landscape buffer to be on the subject property, which could affect approximately three parking spaces on that side of the property.

Mr. Barrett said that the petitioner is in agreement with the staff's recommendations, with the exception of condition #7. He stated that the petitioner contends that allowing a 15' setback would be consistent with the language in Article 15-2(a)(6).

Commission Question: Mr. Owens asked if the landscape area was a buffer or easement. Mr. Barrett answered that it is a landscape easement.

Ms. Plumlee asked if the petitioner had fulfilled the requirements of the Capacity Assurance Program for the subject site. Mr. Talbott answered that the petitioner had ascertained that sewer capacity was available and reserved to serve the subject property.

Citizen Opposition: Ethan Buell, co-owner of the 620 Ashland building, stated that he was concerned about the proposed drive-through on the subject property. He said that one of his employees was injured in an accident while exiting McCaws Alley, and he believes that the subject property should be developed in such a way so as to increase the safety of the alley area. Mr. Buell said that he believed that eliminating parking along the west side of Marquis Avenue could help to provide better visibility for cars exiting the alley.

Mr. Buell stated that he would prefer that the proposed building be set back as far as possible, since he believes that it will restrict his view if constructed closer to the street than 15' to Euclid Avenue.

Mark Barker, 439 Park Avenue, stated that he is the president of the Columbia Heights Neighborhood Association. He said that he believed that any proposed setback less than 18' on the subject property would require a variance, and the area residents had not been properly notified of a variance request.

Mr. Barker displayed the following photographs: 1) a view of a structure similar to those located on the subject property, noting that it had been renovated for use as a veterinarian's office, which would be a more desirable use than the proposed development; 2) a view of the corner of Marquis Avenue and Euclid Avenue, opining that the narrow width of Marquis and the on-street parking there could create a hazardous situation if the proposed development generates additional traffic; 3) a view of McCaws Alley, noting that there are existing residences located very nearby which could be disturbed by restaurant or live entertainment uses on the subject property; and 4) a view of the other side of the alley, opining that cars backing out into the alley, along with the proposed drive-through, would be a "disaster."

Mr. Barker stated that the area residents would like to propose a different set of restrictions from those set forth by the staff, adding extended-stay hotels and refueling stations to the list of prohibited uses, along with any use that would create activity late at night. He said that residents are also concerned about freestanding signs on the property, since they do not want a "fast-food looking development" in their neighborhood. Residents would also like consideration to be given to the Marquis Avenue façade of the proposed building, since it could negatively affect the streetscape.

Mr. Barker displayed a photograph of the apartment building located directly adjacent to the subject property, explaining that he was concerned that vehicle lights from cars in the proposed drive-through could shine directly into the windows of the residences.

Amy Clark, 628 Kastle Road, read the following letter into the record of the meeting:

"Dear Members of the Lexington-Fayette Planning Commission:

Please do not recommend approval for the zone change MAR 2014-16 (P-1 to B-1) requested for Chevy Chase Shoppes and for its accompanying ZDP 2014-65. It is not in accord with the 2013 Comprehensive Plan. The present zoning is not inappropriate, and the major changes taking place in the area are by no means unanticipated by the 2013 and prior Plans. To grant a zone change for this land at this location is to give incentive to exactly the kind of development our constrained growth environment can no longer afford: a single-story structure on an automobile-centric lot, without sensitivity to context and neighborhood needs, offering no housing density and little high-wage employment, without affordability, and lacking in every environmental benefit. Our land is precious, and our neighborhood uses and traditions deserve your support and protection here.

The proposed development is surrounded by P-1 zoning on three of its four sides, and would break up a solid block front of professional offices housing high-skilled, high-wage employment including engineering, design, veterinary medicine, finance, and our signature equine industry. This is "jobs land" well suited to the University and those who settle near it, and should be maintained. It sites work where people live, and fosters collaboration between the University and its hospitals, our entrepreneurs, and our highly-educated workforce. It builds the payroll tax base, some 80% of all our urban county revenue. It provides a buffer from the higher-intensity uses of a business zone, and contributes to the all-too-precarious stability of the surrounding neighborhoods.

Both the immediate vicinity and the larger business and residential districts are characterized by a balanced mix of use: high and low-density residential, office, shopping, restaurant and entertainment. It is critical that Planning protect the professional land on Euclid from the commercial pressures of the immediately adjoining Urban Activity Center at the intersections of Euclid with South Ashland and with High. As long ago as 1991, the Aylesford Small Area Plan adopted by this Commission--and followed closely in the subsequent "right-zoning" of the surrounding residential neighborhoods, and in historic designation and zoning overlays for several districts over the following two decades--advised drawing the line for business development exactly along Marquis. It advised intensifying the use to Professional zoning for the properties fronting Euclid, but containing Business and Professional uses within those established boundaries with the greatest possible vigilance. Today's 2013 Comprehensive Plan for the entire urban county seconds and supports those clear-sighted and practical goals established a generation ago: foster density, intensity and a judicious mix of uses along the corridors, but promote development that is sensitive to context, preserving and enhancing neighborhood character.

With the proposed B-1 use, the applicant would seek to assimilate the site to a shopping center to which it does not belong: it cannot share parking, traffic circulation or landscape buffering with the B-6P grocery store across the street. Nor is the proposed development filling an unmet need for the neighborhood here: about half its floorspace is dedicated to a restaurant with drive-through window and seating for 72, and the applicant has mentioned Raisin' Cane's chicken to the neighbors as a possible tenant. But the grocery store just opposite already incorporates a deli/food court offering sandwiches, soups, salads, pizza, chicken and the like with seating for 77. Fast-food is abundant in the area, much of it offered by well-loved local businesses existing on B-1 sites. Retail locations along the intersections of Euclid with South Ashland and High--an area long designated an Urban Activity Center--support a great variety of restaurants, shopping, and personal services with properties in a range of sizes, designs and rents.

It cannot be denied that these properties have been in some degree neglected and underutilized for a number of years. By contrast, a row of properties zoned P-1 along Walton where it intersects with Main are well-tended and thriving. They provide a range of needed professional services, mostly during daytime hours, without offering noise and nuisance to the adjoining neighborhood. Their architecture and front landscaping--identical in places to our early 20th-century row along Euclid--preserve the context of the adjoining Bell Court National Register historic district even though they do not share in its H-1 overlay. Likewise the veterinarian on the Euclid block front at the Oldham end made a substantial investment in preserving the historic character of his property while adapting it for modern use, and this property has at present among the highest assessments per square foot of any in the row. The deplorable practice of hoarding and degrading land for even-

tual up-zoning can only be stimulated by an ill-considered zone change on Euclid that neither respects the immediate context nor furthers the planning goals of the larger community.

The proposed development replaces structures extending to two stories with a box of one story, eliminating at least four dwelling units and a professional office. The enormous elimination of greenspace—building out not up—gives pause. In the recent citywide Canopy study/survey, this site is given the highest priority (code red) for tree planting—both because a shade canopy is badly needed along the streets here and because the present site is almost uniquely hospitable to trees. But the proposed development removes all 22 trees, half of them large, several significant and all of mature growth. It reduces the present greenspace comprising some of that 83% of the lot to minimal strips along the perimeter on three sides, the remainder impervious surface.

The structure and design lack all sensitivity to the immediate context, both professional and residential. The building setbacks and drive-through window are particularly hostile to neighborhood safety and character. The planned building extends far beyond the traditional setbacks on Euclid (20'-29') and on Marquis (30'), marring the prospect for all the homes along Marquis and leaving little margin for sidewalk (4') and shade trees along these heavy pedestrian and cyclist corridors. The saplings to be planted back for "large" perimeter trees are crowded behind the sidewalk against the building wall. Site circulation is very constrained; cars waiting to turn in from Euclid cannot but block cyclists in the bike lane, especially as cars pulling out of parking spaces on the lot obstruct access. Vehicles stacking behind the drive-through window and menu board threaten to bottle up site ingress and egress for all vehicles. The confusing rear access and drive-through usurps the public right-of-way for circulation, widening the alley to two lanes exclusively for the use and convenience of its own patrons.

It is hard to see progress here. It is hard to see elements that accord with our 2013 Comprehensive Plan, and merit a zone change. We have hard choices to make in the constrained growth environment today. We have chosen to protect that endangered and vanishing resource, our bluegrass landscape. Equally endangered is our historic streetscape at the city center, and equally deserving of protection. Our bluegrass, our turn-of-the-century streets and neighborhoods, are more than physical resources: they are a way of life uniquely our own. These Eastlake Victorians on Euclid and Walton, the gardens and walking neighborhoods they surround and support, have the print of Lexington. Zoned and adapted for modern professional use, they are exactly the sort of valuable land we can least afford to cheapen and degrade with careless planning.

Please do not recommend approval of the proposed zone change. I thank you for your consideration for my concerns and those of my fellow citizens and neighbors.

Amy Clark
628 Kastle Road, Lexington"

Sally Warfield, legislative aide for Councilmember Diane Lawless, stated that they believed that the staff's recommendation was an "eleventh hour update," and they would have appreciated more time to notify their constituents of the situation. She said that she believed that more residents would have attended this meeting if they had been informed of the most recent revisions to the development plan.

Ms. Warfield stated that the Division of Planning is currently conducting a commercial corridor study of the Limestone Street/Euclid Avenue corridors to consider the use of the corridors and how best to connect the university to the rest of the city. She opined that it would be premature to approve a rezoning before that study is complete.

Ms. Warfield added, with regard to Ms. Plumlee's question about sewer capacity, that she is aware of at least one property on Marquis Avenue that suffers damage on a yearly basis from overflows, and she believes that the proposed development could exacerbate the situation.

Graham Pohl, 977 Fincastle, stated that he was the managing partner of the Ashland building. He stated that he did not believe that the proposed plan was "sprung on" anyone at the last minute, since it has been through at least eight revisions. He opined that the current version of the plan is the best that has been presented, although he shares some of Mr. Barker's concerns about the safety of ingress and egress to McCaws Alley. Mr. Pohl said that he believed that, in order to develop the subject property safely, parking on Marquis Avenue must be restricted in order to provide better visibility for drivers leaving the alley.

Mr. Pohl said that the front setback of the building could be resolved easily by requiring that it be within five feet of the setback of the Ashland building. He stated that there was some confusion between his estimates and the staff's about the setback of that building, but he believed that it could be resolved.

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

Commission Questions: Mr. Owens asked his opinion of the setback of the Ashland building. Mr. Pohl replied that he believed that it was 20', but the staff estimated it at 23-24'. He added that, either way, the setbacks of all the buildings along that portion of Euclid Avenue are very consistent, so setting the proposed structure back within five feet should be more than adequate.

Mr. Brewer asked if it would be possible to restrict parking on Marquis Avenue. Mr. King answered that restricting parking is not part of the Commission's purview, but it could be addressed by the Division of Traffic Engineering. Ms. Kaucher stated that Marquis Avenue is a public street, and parking on it cannot be restricted with this development plan. Mr. Barrett added that the petitioner would agree to facilitate the restriction of parking on their side of Marquis Avenue between Euclid Avenue and the alley.

Capt. Lengal stated that the Division of Fire and Emergency Services could work with the Division of Traffic Engineering to restrict parking in that location based on public safety issues.

Mr. King clarified that the Division of Planning is not conducting the study of Euclid Avenue to which Ms. Warfield referred. He explained that such a study is being done by Commissioner Paulsen's office, in conjunction with the Downtown Development Authority, but it pertains to economic development, rather than land use.

Discussion: Ms. Plumlee stated that she was opposed to this plan because it does not support the Comprehensive Plan's Goals & Objectives to reinforce the fabric of the neighborhood or meet neighborhood need, and it is not consistent with the character of the neighborhood. She said that she believed that the area was too congested to allow a drive-through on the subject property, and that it "just would not fit."

Mr. Berkley stated that he does not believe that rezoning the subject property would eliminate typical P-1 uses, since many of those are also allowed in the B-1 zone. He said that the property could be used for office space if a tenant so desired.

With regard to the issue of the front setback, Mr. Berkley said that the building directly across the street is oriented toward Lafayette Park, with the side of the building facing Euclid Avenue at little or no setback. Mr. Berkley said that he lives in the neighborhood, and he believes that the proposed development would be a good addition.

Mr. Brewer agreed with the petitioner's contention that liquor stores and medical and dental offices should not be prohibited via conditional zoning on the subject property, since many other examples of those types of uses are located nearby. He added that he would not support the drive-through, however, since he does not believe that it would be a good addition to the neighborhood.

Mr. Owens agreed with Mr. Brewer's opinion that the proposed drive-through could create problems for the neighborhood.

Staff Rebuttal: With regard to the proposed conditional zoning restrictions, Ms. Wade stated that the Planning Commission could restrict the drive-through as a use, if they so chose.

Mr. Sallee stated that the staff would like to offer a revision to the last recommended development plan condition. It would eliminate the 20' dimension listed in condition #7, and replace it with the language that was suggested by Mr. Pohl during his comments. It would require the front setback to be within 5' of that of the Ashland building. He placed this draft on the overhead for all to see.

Ms. Plumlee stated that the Commission should add a conditional zoning restriction for drive-throughs, but added that she was not prepared to make a motion.

Zoning Motion: A motion was made by Mr. Berkley and seconded by Mr. Drake to approve MAR 2014-16, for the reasons provided by staff, eliminating items "c" and "d" from the list of proposed conditional zoning restrictions.

Discussion of Motion: Mr. Brewer stated that, if Mr. Berkley's motion passed, it would not prohibit drive-throughs.

Mr. Penn stated that he could not vote for the drive-through.

Action: Mr. Berkley's motion failed, 4-5 (Cravens and Wilson absent; Brewer, Mundy, Owens, Penn and Plumlee opposed).

Motion: A motion was made by Mr. Brewer to approve MAR 2014-16, for the reasons provided by staff, eliminating items "c" and "d" from the list of prohibited uses, and adding a drive-through as a prohibited use.

Discussion of Motion: Mr. Talbott stated that the petitioner had worked with the Division of Traffic Engineering to address many of the concerns about the proposed drive-through, and the petitioner believed that it would be an asset to the neighborhood.

Mr. Brewer withdrew his motion.

Mr. Barrett stated that the petitioner's solution for the concerns about the drive-through includes a proposal to widen McCaws Alley from 12' to 18' across the length of the drive-through, in order to mitigate the congestion from the drive-through. He said that the alley would taper back to 12' near the petitioner's rear property line. The widened area will be designed such that traffic will be encouraged out onto Marquis Avenue, instead of into the adjacent residential area. Mr. Barrett said that the petitioner has also agreed to eliminate parking on Marquis Avenue, in order to improve the sight lines for drivers exiting the alley. The new Kroger access point will be located much further from the alley than the former Kroger access, which should also help to improve the traffic situation over its past configuration.

Ms. Plumlee stated that "a drive-through is still a drive-through," and she did not believe it would be appropriate for the neighborhood, no matter how it is configured. She added that she would not be comfortable taking part in any decision that approved a drive-through on the subject property.

Mr. Berkley stated that the Planning Commission did approve a drive-through for the new Kroger store.

Motion: A motion was made by Mr. Penn and seconded by Ms. Plumlee to approve MAR 2014-16, for the reasons provided by staff, with the conditional zoning restrictions as recommended by staff, adding drive-throughs to the list of uses prohibited via conditional zoning. Mr. Penn's motion failed, 4-5 (Cravens and Wilson absent; Berkley, Brewer, Drake, Richardson, and Smith opposed.)

Action: A motion was made by Ms. Mundy, seconded by Ms. Plumlee, and carried 9-0 (Cravens and Wilson absent) to continue MAR 2014-16 to the September 11, 2014, Planning Commission meeting, in order to allow some of the outstanding issues to be resolved.