

ORDINANCE NO. 96-2017

AN ORDINANCE CHANGING THE ZONE FROM A PROFESSIONAL OFFICE (P-1) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 1.09 NET (1.41 GROSS) ACRES, FOR PROPERTY LOCATED AT 2301 HUGUENARD DRIVE. (JEFF & PEGGY PARR; COUNCIL DISTRICT 10).

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WHEREAS, at a Public Hearing held on April 27, 2017 a petition for a zoning ordinance map amendment for property located at 2301 Huguenard Drive from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone for 1.09 net (1.41 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 10-0; 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 2301 Huguenard Drive from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone for 1.09 net (1.41 gross) acres, 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 uses shall be prohibited for the subject property via conditional zoning:

- a. Drive-through windows when accessory to restaurants.
- b. Beer, liquor and wine stores (stores devoted primarily to the sales of beer, wine and distilled spirits for consumption off-premises).
- c. Automobile service stations; automobile and vehicle refueling stations; and gasoline pumps.
- d. Carnivals, festivals and concerts.

These restrictions are appropriate because they have been offered

by the applicant and will limit inappropriate uses within an established office park.

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: June 15, 2017

MAYOR



ATTEST:

  
CLERK OF URBAN COUNTY COUNCIL

Published: June 22, 2017-1t

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**Zone Change Legal Description  
2301 Huguenard Drive  
Lexington, Fayette County, Kentucky**

**Beginning at point, being the South West corner of 2301 Huguenard Drive, in the common line with 190 West Lowery Lane (MCNALLY FAMILY VENTURES LLC, D.B. 2776 pg. 472), and at a common corner with 2351 Huguenard Drive (HUGUENARD LLC , D.B. 2117 Pg. 365), thence along said common line with, MCNALLY FAMILY VENTURES LLC, N 07°56'53" E a distance of 307.42', to a point in the centerline of West Lowery Lane. Thence, along said centerline, with a curve turning to the right with an arc length of 189.83', with a radius of 500.00', with a chord bearing of N 87°01'50" E, with a chord length of 188.70', to a point at the intersection of the center lines of West Lowry Lane and Huguenard Lane. Thence, along the center line of Huguenard Lane, S 08°03'24" W a distance of 343.50', to a point. Thence, leaving said centerline and along the common line of 2301, and 2351 Huguenard Lane, N 81°56'36" W a distance of 184.63' to the point of beginning. Having an area of 61321.72 square feet, 1.408 gross acres, 1.09 net acres.**

Rec'd by Bm

Date: 5-12-17

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

IN RE: **PLN-MAR-17-00011: JEFF & PEGGY PARR** – a petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 1.09 net (1.41 gross) acres, for property located at 2301 Huguenard Drive. (Council District 10)

Having considered the above matter on **April 27, 2017**, at a Public Hearing, and having voted **10-0** 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. A restricted Neighborhood Business (B-1) zone is substantially in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The site has been an underutilized site after almost three decades with P-1 zoning. The property should be considered for a possible change to an alternative zone in order to permit a new use that will better serve the needs of the community within the Urban Service Area.
  - b. The proposed zoning and land use are generally compatible with the nearby businesses, including professional offices, retail sales establishments, banks, and restaurants that have developed along W. Lowry Lane and Pasadena Drive (and between). Conditional zoning restrictions to limit uses that may impact the adjoining offices uses or would be undesirable would be appropriate for the subject property to ensure future land use compatibility.
  - c. The proposed development will be able to use the existing infrastructure and transportation networks (which are adequate to serve the use). This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 6: "Improving a Desirable Community."
2. This recommendation is made subject to the approval and certification of **PLN-MJDP-17-00023: Webb Properties Office Park**, 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 restrictions shall apply to the property via conditional zoning:**

**PROHIBITED USES**

- a. Drive-through windows when accessory to restaurants.
- b. Beer, liquor and wine stores (stores devoted primarily to the sales of beer, wine and distilled spirits for consumption off-premises).
- c. Automobile service stations; automobile and vehicle refueling stations; and gasoline pumps.
- d. Carnivals, festivals and concerts.

**These restrictions are appropriate because they have been offered by the applicant and will limit inappropriate uses within an established office park.**

ATTEST: This 12<sup>th</sup> day of May, 2017.

  
Secretary, Jim Duncan

WILLIAM WILSON  
CHAIR

Note: The corollary development plan, PLN-MJDP-17-00023: Webb Properties Office Park was approved by the Planning Commission on April 27, 2017 and certified on May 11, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by July 26, 2017.

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: (10) Brewer, Berkley, Cravens, Mundy, Owens, Penn, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (1) Drake

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **CONDITIONAL APPROVAL** of **PLN-MAR-17-00011** 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.)**

<b>Applicant:</b> JEFF AND PEGGY PARR, 2988 FOUR PINES DR, LEXINGTON, KY 40502
<b>Owner(s):</b> PEGGY H PARR, 2988 FOUR PINES DR, LEXINGTON, KY 40502
<b>Attorney:</b> Richard Murphy, 250 West Main Street, Suite 2510, Lexington, KY 40507

**2. ADDRESS OF APPLICANT'S PROPERTY**

2301 HUGUENARD DR, LEXINGTON, KY
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**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY**

Zoning	Existing		Requested		Acreage	
	Zoning	Use	Zoning	Use	Net	Gross
P-1		Vacant	B-1	Retail	1.09	1.41

**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 checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable



### **Justification for requested zone change.**

The applicants, Jeff and Peggy Parr, are requesting your approval of a zone change from the Professional Office (P-1) zone to the Neighborhood Business (B-1) zone for approximately 1.1 acres, located at the corner of West Lowry Lane and Huguenard Drive. This property is located directly behind the Kroger grocery store.

The applicants purchased this property in 1997 with the intention that it would be used for the orthopedic surgery practice of Jeff Parr. However, shortly after the purchase, hospitals in Lexington adopted the philosophy that they wanted doctors to be located near the hospitals, especially in hospital-owned properties. That policy by hospitals resulted in the non-use or vacancy of a number of properties in Lexington, including this property and the Medical Heights property across Nicholasville Road. That trend, along with a general weakness in the office market, has resulted in this property remaining vacant. The Parrs have not had a serious offer on this property since they decided not to build in 2000.

While this P-1 lot has remained vacant, the retail property catty-corner across the intersection of West Lowry Lane on Huguenard Drive has thrived. The business properties on the north side of Lowry Lane consist of specialty food stores and restaurants, fitness studios, specialty clothing stores, cell phone stores, clothing alteration shops, along with a few medical offices, insurance offices and hair and nail salons. There are currently no vacancies along that portion of West Lowry Lane. Those properties fill a niche for specialty uses which could easily be utilized on this property. This is a level, open lot, which has access to an existing detention basin. Traffic circulation is excellent, as West Lowry Lane connects to Nicholasville Road and Regency Road, and Huguenard Drive connects to Pasadena Drive. We are proposing conditional zoning restrictions which would prohibit large traffic generators, such as restaurants with drive-through windows.

The proposed use is in agreement with the 2013 Comprehensive Plan. It agrees with Theme A, growing successful neighborhoods. Objective A.2.a. calls for identification of areas of opportunity for infill that respect the area's context and design features whenever possible. Our proposed buildings are consistent with the size and height of the buildings in the area. They are consistent with the specialty retail area along West Lowry Lane, and also the retail area in the Pasadena Plaza on Pasadena Drive. This proposal agrees with Goal A.3., which is to provide well-designed neighborhoods and communities. This proposal will not disrupt any natural features as mentioned in Objective A.3.c. The proposal supports Theme C, creating jobs and prosperity. Objective C.1.d. calls for infill and redevelopment that creates jobs where people live. The mixture of retail and office uses allowed in the B-1 zone agrees with Objectives C.1.b. and d. by providing opportunities for technology and other employment and providing for entertainment and other opportunities to attract young professionals and a workforce of all ages and talents to Lexington.

Providing lower intensity commercial uses will provide for accessible community facilities and services to meet the needs of Lexington's residents and visitors, as called for in Goal D.2. This proposal is compact, contiguous and guided by market demand, as called for in Objective E.1.b. It upholds the Urban Service Area concept as called for in Goal E.1. The proposal will allow space for new or existing business expansion, as called for on Page 62 of the Comprehensive Plan.


This proposal also complies with the guidelines regarding maintaining a balance between planning for urban uses and safeguarding rural land as set forth in Pages 97-99 of the Comprehensive Plan. It will result in utilization of this empty lot and the design is sensitive in size and lot coverage to the other buildings in the area. It will stimulate economic investment in established communities and it gives developers more options to make development more financially feasible, as called for in the Comprehensive Plan.

In addition to this proposal's agreement with the Comprehensive Plan, the existing P-1 zoning is no longer appropriate for the property because it is too great a limitation on the uses allowed, whereas the B-1 zoning is appropriate because it allows for a variety of commercial uses which have proven to be successful in the immediate area.

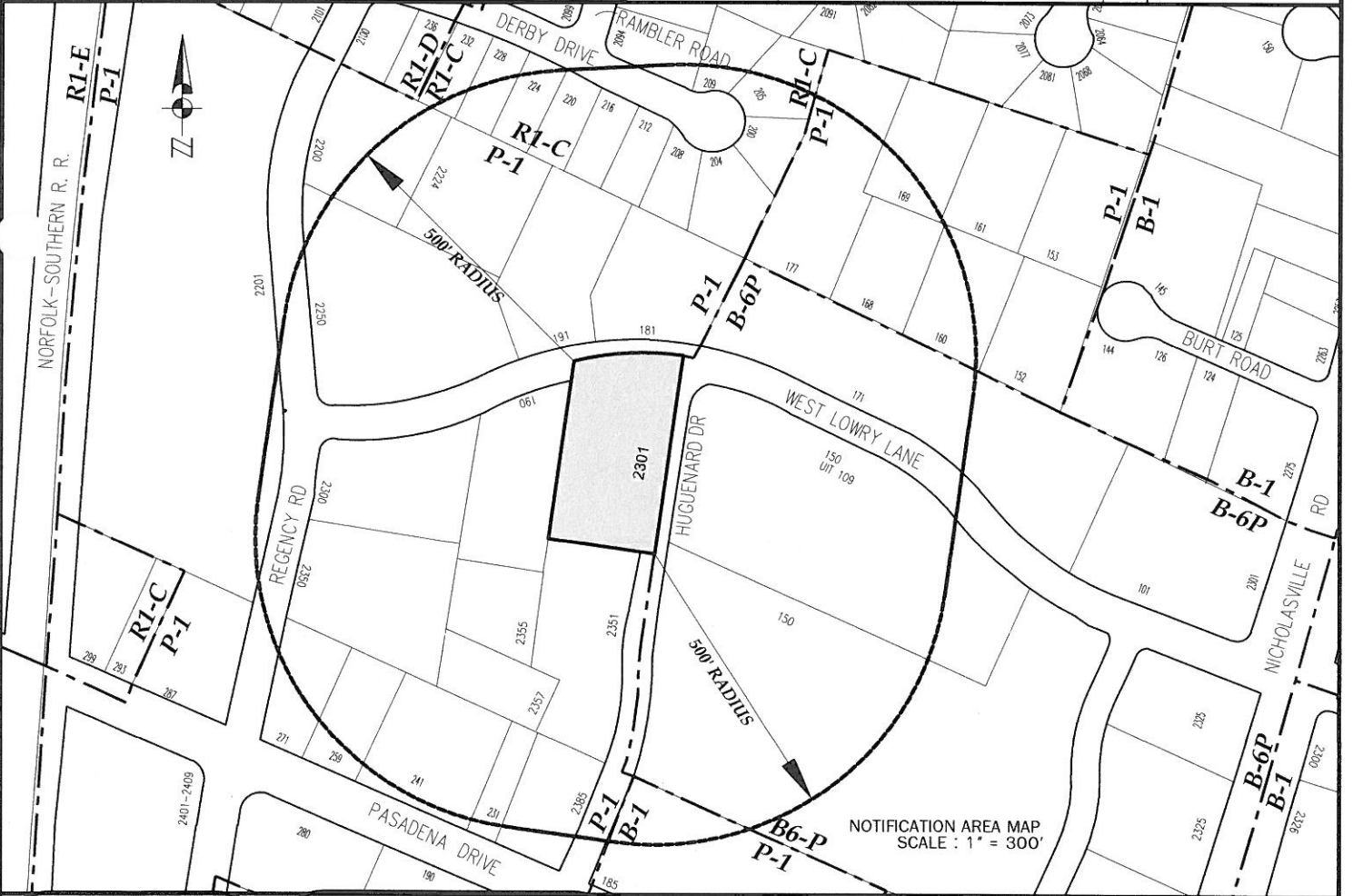
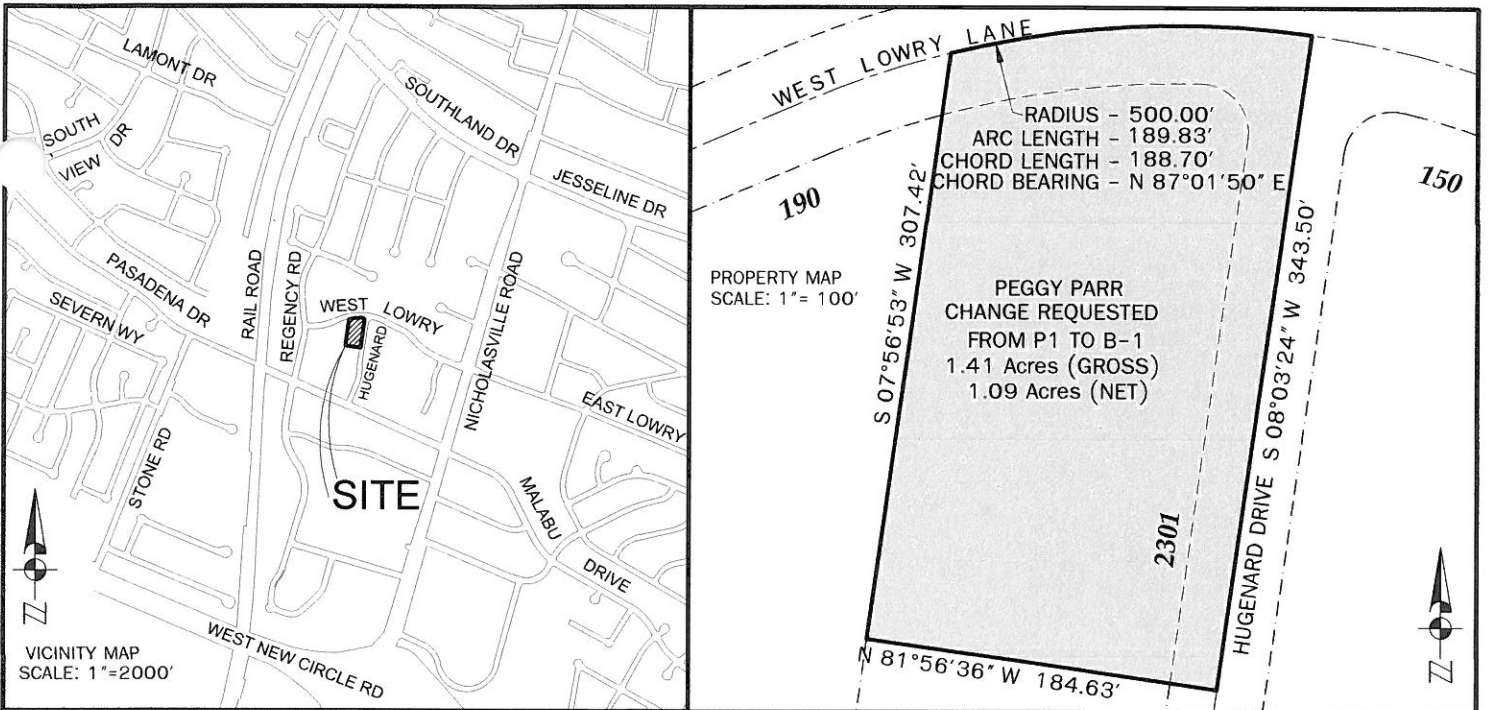
We understand that not all B-1 uses may be appropriate for this property. Thus, we propose the following conditional zoning restrictions:

1. No drive-through windows for restaurants.
2. No liquor stores, that is, stores which are devoted exclusively to sales of beer, wine and distilled spirits for consumption off-premises.
3. No automobile service stations or sale of gasoline.
4. No carnivals on a temporary or permanent basis.

Thank you for your consideration of this zone change request.

  
RICHARD V. MURPHY  
MURPHY & CLENDENEN, PLLC  
Attorneys for Applicants





STATE of KENTUCKY  
 JUSTIN D. DRURY  
 3843  
 LICENSED PROFESSIONAL LAND SURVEYOR

2216 YOUNG DRIVE  
 SUITE 7B  
 LEXINGTON KY, 40505  
 PHONE 859-268-1044  
 FAX 859-268-1049  
 MOBILE 229-2278

**ZONE CHANGE PROPERTY INFORMATION MAP**

PROPERTY ADDRESS: 2301 HUGUENARD DRIVE	FROM	TO	GROSS	NET
APPLICANT : JEFF AND PEGGY PARR	P-1	B-1	1.41 AC.	1.09 AC.
APPLICANT ADDRESS : 2988 FOUR PINES DRIVE LEXINGTON KY 40502				
OWNER: PEGGY PARR				
OWNER ADDRESS: 2988 FOUR PINES DR LEXINGTON KY 40502				
DATE FILED: 3-6-17				

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

**PLN-MAR-17-00011: JEFF & PEGGY PARR**

**DESCRIPTION**

**Zone Change:** From a Professional Office (P-1) Zone  
To a Neighborhood Business (B-1) Zone

**Acreage:** 1.09 net (1.41 gross) acres

**Location:** 2301 Huguenard Drive

**EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Property	P-1	Vacant
To North	B-6P	Shopping Center
To East	R-1C	Vacant and Accessory Parking Lot
To South	R-1C & P-1	Single Family Residence and Offices
To West	B-1	Shopping Center

**URBAN SERVICES REPORT**

**Roads** – The subject property is located in the southwest corner of the intersection of West Lowry Lane and Huguenard Drive. West Lowry Lane is a collector street that connects Nicholasville Road (US 27) to Regency Road, a collector street paralleling Nicholasville Road from Southland Drive to Moore Drive. Huguenard Drive is a local street that connects two collector streets - West Lowry Lane and Pasadena Drive to the south. Nicholasville Road is a major arterial road, consisting of 7 reversible lanes, which change to accommodate both morning and evening rush hour traffic. Access to the site is proposed from Huguenard Drive.

**Curb/Gutter/Sidewalks** – Curbs, gutters, and sidewalks exist along both W. Lowry Lane and Huguenard Drive.

**Storm Sewers** – The subject property is located within the upper reaches of the Wolf Run watershed. Stormwater improvements do not exist on the subject property, although the existing office park to the south and west was developed with a stormwater basin along Huguenard Drive which was sized to accommodate the previously planned office development. The Division of Engineering will need to verify that the existing stormwater facilities comply with the Engineering Manual. No FEMA floodplain or major flooding problems exist on the site or in the immediate area.

**Sanitary Sewers** – The subject property is located in the Wolf Run sewershed, which is served by the Town Branch Wastewater Treatment Plant, located on Lisle Industrial Avenue. The treatment plant is located four miles to the northwest. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed change of land use at this location.

**Refuse** – The Urban County Government serves this portion of the Urban Service Area with refuse collection on Mondays. Frequently, commercial developments contract for additional service.

**Police** – The nearest police station is located at the East Sector Roll Call Center on Centre Parkway, about 3 miles to the southeast of the subject property.

**Fire/Ambulance** – The nearest fire station (#12) is located approximately ¾ mile northwest of the subject property, at the intersection of Southland Drive and Cherrybark Drive.

**Utilities** – Utilities, including natural gas; electric; water; cable television; and telephone service all served this property previously and are readily available in the area.

## **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 Plan's 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. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes a rezoning to a Neighborhood Business (B-1) zone in order to construct two buildings with a total of 16,270 square feet for retail sales establishments and associated off-street parking.

## **CASE REVIEW**

The petitioner has requested a zone change from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone for approximately one acre of property, located at the intersection of West Lowry Lane and Huguenard Drive.

The subject property is located in the southwest corner of the intersection of W. Lowry Lane and Huguenard Drive, within the Webb Properties Office Park. West Lowry Lane is a collector street that was built to serve the Regency Shopping Center and the Webb Properties Office Park. Huguenard Drive is a local street that connects W. Lowry Lane to Pasadena Drive, which is south of the subject property.

The subject property is bounded to the north, west and south by professional office land use and zoning and to the east by Kroger, the major anchor in the Regency Shopping Center, which is zoned B-6P. The adjacent shopping center and the nearby Pasadena Plaza shopping center are occupied by a mix of retail establishments, restaurants, banks and professional offices.

The subject property, as part of a larger tract of land, was originally rezoned in 1984 to an R-3 zone in agreement with a medium density land use recommendation of the 1980 Comprehensive Plan. In 1986, the Webb Properties Company requested the same large tract (21.6 acres) be rezoned to the P-1 zone. The staff recommended disapproval because the request was not in agreement with the Comprehensive Plan, but following a public hearing, the Planning Commission recommended approval to the Urban County Council. The subject property has remained vacant since the infrastructure was built for the office park in the late 1980s. The petitioner wishes to rezone the property so that it can be developed with a higher intensity of use than currently permitted by the P-1 zoning. Their corollary development plan proposes two buildings with a total of 16,270 square feet for retail sales establishments and associated off-street parking. Restaurant and offices would also be allowable at this location, should it be rezoned as requested by the applicant.

The 2013 Comprehensive Plan no longer includes a parcel-based land use element; rather it encourages land use decisions to be made based upon small area plan recommendations, policy statements and the Goals and Objectives of the Plan. The petitioner contends that the request is in agreement with the Plan, but also that the existing zoning is no longer appropriate and the proposed zoning is appropriate.

The petitioner also opines that the request is compatible with adjoining land uses, the planned development respects the area's context and design features, will develop underutilized land for a greater utility or function, will utilize the existing infrastructure and transportation networks (which are adequate to serve the use), will create jobs near where people live, will allow space for existing business expansion, and will provide greater opportunities entertainment to attract young professionals and others to Lexington.

The 2013 Comprehensive Plan does not specifically address modest or minor changes in commercial land use that have a negligible impact on job creation or tourism. However, the general concepts, policies and guiding principles of the Plan should always be considered. As referenced in the petitioner's justification, the staff can agree that the request, if restricted, is in substantial compliance with the 2013 Comprehensive Plan. The location of this site is within an area of mixed zoning and land use, including P-1, B-1 and B-6P, and the applicant has agreed to restrict several uses that would not be compatible with the adjoining office land use, therefore a restricted B-1 zone can be considered compatible with the immediate area. The staff would note that there appears to be a higher vacancy rate of professional office space and available P-1 zoned land in this general area, when compared to nearby business sites.

The site remains an underutilized site after several decades, and should now be considered for a possible change to an alternative land use in order to better serve the needs of the community and permit this underutilized site to be developed within the Urban Service Area. In addition, the proposed development will be able to use the existing infrastructure and transportation networks, which are adequate to serve both the traveling public and the proposed use. Given the lack of information about the style of building or planned materials for the exterior of these buildings, it is difficult for the staff to determine that the development "respect's the area's context and design features." In a similar fashion, the staff cannot determine from the site plan that any entertainment or other use will help attract young professional to the community. Still, while the staff can agree that the B-1 zone (in general) permits more entertainment options than the existing P-1 zone, which is not a finding specific to this subject property.

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

1. A restricted Neighborhood Business (B-1) zone is substantially in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The site has been an underutilized site after almost three decades with P-1 zoning. The property should be considered for a possible change to an alternative zone in order to permit a new use that will better serve the needs of the community within the Urban Service Area.
  - b. The proposed zoning and land use are generally compatible with the nearby businesses, including professional offices, retail sales establishments, banks, and restaurants that have developed along W. Lowry Lane and Pasadena Drive (and between). Conditional zoning restrictions to limit uses that may impact the adjoining offices uses or would be undesirable would be appropriate for the subject property to ensure future land use compatibility.
  - c. The proposed development will be able to use the existing infrastructure and transportation networks (which are adequate to serve the use). This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 6: "Improving a Desirable Community."
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00023: Webb Properties Office Park, 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 restrictions shall apply to the property via conditional zoning:

**Prohibited Uses**

- a. Drive-through windows when accessory to restaurants.
- b. Beer, liquor and wine stores (stores devoted primarily to the sales of beer, wine and distilled spirits for consumption off-premises).
- c. Automobile service stations; automobile and vehicle refueling stations; and gasoline pumps.
- d. Carnivals, festivals and concerts.

These restrictions are appropriate because they have been offered by the applicant and will limit inappropriate uses within an established office park.

3. JEFF & PEGGY PARR ZONING MAP AMENDMENT & WEBB PROPERTIES OFFICE PARK SUBDIVISION ZONING DEVELOPMENT PLAN

- a. PLN-MAR-17-00011: JEFF & PEGGY PARR (6/4/17)\*- petition for a zone map amendment from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for 1.09 net (1.41 gross) acres, for property located at 2301 Huguenard Drive.

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 Plan's 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. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes a rezoning to a Neighborhood Business (B-1) zone in order to construct two buildings with a total of 16,270 square feet for retail sales establishments and associated off-street parking.

The Zoning Committee made no recommendation, due to lack of a quorum.

The Staff Recommends: Approval, for the following reason:

- 1. A restricted Neighborhood Business (B-1) zone is substantially in agreement with the 2013 Comprehensive Plan, for the following reasons:
  - a. The site has been an underutilized site after almost three decades with P-1 zoning. The property should be considered for a possible change to an alternative zone in order to permit a new use that will better serve the needs of the community within the Urban Service Area.
  - b. The proposed zoning and land use are generally compatible with the nearby businesses, including professional offices, retail sales establishments, banks, and restaurants that have developed along W. Lowry Lane and Pasadena Drive (and between). Conditional zoning restrictions to limit uses that may impact the adjoining offices uses or would be undesirable would be appropriate for the subject property to ensure future land use compatibility.
  - c. The proposed development will be able to use the existing infrastructure and transportation networks (which are adequate to serve the use). This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 6: "Improving a Desirable Community."
- 2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00023: Webb Properties Office Park, 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 restrictions shall apply to the property via conditional zoning:

Prohibited Uses

  - a. Drive-through windows when accessory to restaurants.
  - b. Beer, liquor and wine stores (stores devoted primarily to the sales of beer, wine and distilled spirits for consumption off-premises).
  - c. Automobile service stations; automobile and vehicle refueling stations; and gasoline pumps.
  - d. Carnivals, festivals and concerts.

These restrictions are appropriate because they have been offered by the applicant and will limit inappropriate uses within an established office park.

- b. PLN- MJDP-17-00023: WEBB PROPERTIES OFFICE PARK (6/4/17)\* - located at 2301 Huguenard Drive.  
(Barrett Partners)

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

- 1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
- 2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
- 3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
- 4. Urban Forester's approval of tree inventory map information.
- 5. Denote that the timing of adjacent access and access drive provided by DP 98-68 shall be resolved at the time of Final Development Plan.
- 6. Denote that the construction of a dumpster enclosure per DP 98-68 shall be resolved at the time of Final Development Plan.

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

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She displayed several photographs of the subject property and of the general area. She said the subject property is part of the Webb Properties Office Park and she gave a brief history of the property.

Ms. Wade said that the applicant contends that request is in agreement with the 2013 Comprehensive Plan. She said that the staff also believes that a restricted B-1 zone would be in agreement with the 2013 Comprehensive Plan. She said that staff also recommends four prohibited uses at this location, which were generally submitted by the applicant.

Development Plan Presentation – Mr. Martin presented the staff report on the Preliminary Development Plan associated with this zone change. Mr. Martin identified the property's location, and described the location of the proposed buildings. He also identified the access off of Huguenard Drive, the parking area, and a large detention basin that serves this property and others in the office park. He said that there is an issue that needs to be addressed at the time of the Final Development Plan; the adjacent access easement isn't built and will need to be constructed. He said that the Subdivision Committee did recommend approval of this plan.

Petitioner Presentation – Dick Murphy, attorney, was present representing the petitioner. He said the applicant is in agreement with the staff's recommendations. He clarified that the prohibited use (item b) from the staff report related to alcohol sales was to prevent a store which primarily sells wine, beer, or liquor but would allow a retail establishment to sell these items as long as it wasn't strictly a wine, beer, or liquor store.

Commission Question – Mr. Wilson asked to clarify the prohibited uses under section 3.b. Mr. Murphy replied that is correct and that this is an interpretation of the language present. The staff agreed with the stated interpretation

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

Zoning Action – A motion was made by Ms. Plumlee, seconded by Ms. Richardson, and carried 10-0 (Drake absent) to approve PLN-MAR-17-00011: JEFF & PEGGY PARR, for the reasons provided by the staff.

Development Plan Action – A motion was made by Ms. Plumlee, seconded by Ms. Richardson, carried 10-0 (Drake absent) to approve PLN- MJDP-17-00023: WEBB PROPERTIES OFFICE PARK, for the reasons provided by the staff.