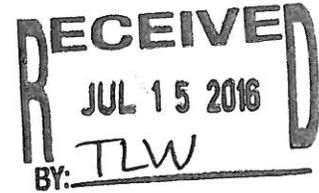


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Mr. Mike Owens, Chairman  
Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, Kentucky 40507

RE: Amended Zone Change Application from R-1C/R-3 to B-1  
2090, 2094, and 2098 Harrodsburg Road

Dear Chairman Owens:

Please be advised that we represent Atlas I, LLC, which has an option to purchase 2094 and 2098 Harrodsburg Road, and the permission of the owner of 2090 Harrodsburg Road to seek a zone change. My client desires to rezone the three above-mentioned parcels from their current residential zoning categories to the Neighborhood Business Zone (B-1). We believe these parcels can be redeveloped to more effectively serve the surrounding neighborhood in accord with the goals and objectives of the 2013 Comprehensive Plan. Please accept this letter as an amended request for rezoning for these properties.

This amended application is the result of feedback obtained during the preliminary discussions of a similar zone change, which also included 2100 and 2104 Harrodsburg Road. While we still believe that commercial zoning is appropriate for all the properties that were the subject of the original application, we have tried to thoroughly consider the concerns voiced my staff and the Planning Commission, and have resubmitted this application. Notably, the proposal no longer crosses Springhurst Drive, which we believe addresses one of the primary concerns voiced about the prior development proposal.

As noted in our prior justification, the character of this area has changed markedly over the last several years. The Turfland Mall property, first developed in 1966, has transitioned from an indoor shopping mall to a facility containing an 85,000 square foot health care facility, "big box" style retailers (Home Depot, Staples), and restaurants operating in "outlots." To the northwest, the Springs Motel has been demolished and replaced with a B-3 zoned development consisting of restaurants and a health care facility.

However, notwithstanding the substantial redevelopment of this area generally, over the last several years, there remains a general lack of B-1 parcels to support the large residential neighborhoods in the area. In fact, if you consider the area bounded by Harrodsburg Road, Clays Mill Road, and New Circle Drive, which consists of hundreds, if not thousands, of residential parcels, there are only six (6) B-1 zones parcels in the area, all of which clustered along the northern edge. The uses on these sites at present are: a dry cleaner, a mattress store,

a fast food restaurant (recently opened), and a gas station. Even if looking at a wider area, including the area across Harrodsburg Road, there are scant B-1 properties available, with many underutilized or with non-conforming uses. Too, the change in character of the Springs property has brought a decidedly more commercial character to the southeastern side of Harrodsburg Road in this area. In fact, in the nearly 3 ½ miles from High Street downtown to the New Circle interchange, there are only scattered single family residential properties. In fact, an analysis using the PVA website demonstrates that in these 3 ½ miles, single family residential properties with Harrodsburg addresses, on either side of the roadway, account for less than one mile, or about one-quarter of the entirety of the distance. In short, single family residential development on this corridor has all but ceased, as higher density residential and commercial properties now dominate this corridor.

This does not even consider the substantial change in character of Harrodsburg Road itself. Once a two lane highway, Harrodsburg Road is now one of the most significant arterial roads in all of Lexington. In fact, the subject parcels are less than one mile from the double-diamond crossover interchange at Harrodsburg and New Circle Roads. This interchange was installed to deal with “severe congestion” and “high accident rates” according to the Kentucky Transportation Cabinet. While once a desirable road for residential development, the change in character to Harrodsburg Road from a two lane “country” road to one of Lexington’s busiest thoroughfares makes this a much more appropriate corridor for commercial development. Though we are certainly cognizant that zoning lines have to be drawn somewhere, we believe the present zoning line is in an inappropriate location. It is in the middle of a block, across the street from the middle of the Turfland Mall development. We submit that a far more appropriate zoning line could be drawn at the intersection of Harrodsburg and Springhurst Drive. This is particularly true when you consider that the properties that are the subject of this request, while residentially zoned, have not been utilized for single family dwellings in some time. The current use for 2094 and 2098 is a child care facility, and 2090 has had multiple units, including an insurance agency.

In sum, we believe that this rezoning request is in accord with many of the goals and objectives of the Comprehensive Plan. We further submit that this rezoning will actually enhance the existing neighborhood by providing needed B-1 parcels, while limiting such rezoning to the Harrodsburg Road corridor, which is rapidly redeveloping and a poor location for single family residential development but a promising area for commercial development.

Our conclusion that this rezoning request is in agreement with the 2013 Comprehensive Plan (hereinafter “Comp Plan”) is based on the following:

### Growing Successful Neighborhoods

Theme A of the Comp Plan embraces several goals regarding residential life in Fayette County. We believe this redevelopment proposal embraces Goals 2 and 3 articulated in Theme A of the Comp Plan.

*Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.* This goal is accomplished by identifying areas of opportunity for infill, redevelopment and adaptive reuse that respect the area's context and design features whenever possible. This project would add necessary commercial space to support the existing neighborhood. As you are no doubt aware, 95% of Fayette County's population resides within the Urban Services Area ("USA"), and this number is expected to rise by nearly 35,000 people by 2020 (Comp Plan, p. 13). It is anticipated that the USA will reach its capacity within the next 12 to 17 years. Thus, redevelopment is needed to provide services to the ever increasing population within the USA. The Comp Plan calls for quality connections with parks, schools, and stores, and pedestrian friendly streets and amenities (Comp Plan, p. 39). Not only does our project provide needed businesses to support the significant population located nearby, which can be accessed by car, foot, or bike, it also provides for a more efficient use of these properties and recognizes that notwithstanding their current designation, these properties have actually been more effectively utilized as commercial properties.

*Provide well designed neighborhoods and communities.* The Comp Plan calls not only for well-designed new developments, but to provide enhancements to existing neighborhoods to increase their desirability (Comp Plan, p. 38). Our proposed development will add needed commercial space that is convenient for residents of the neighborhood. By doing this, the safety of the area is enhanced, as the need for car trips can be limited and pedestrians and cyclists living in the area between Harrodsburg and Clays Mill can have access to businesses without having to cross busy streets, and those electing to use automobiles can do limit their travel. This is true for residents who might patronize commercial developments, but also for those who may elect to work at these new businesses.

### Creating Jobs and Prosperity

Theme C of the Comp Plan embraces goals related to continued economic prosperity in Fayette County. We believe this redevelopment proposal embraces elements of Theme C of the Comp Plan.

*Support and showcase local assets to further the creation of a variety of jobs.* The Comp Plan notes that a variety of employment is necessary to lead to prosperity for all Lexington residents. Further, the Comp Plan emphasizes the importance of living near your workplace (Comp Plan, p. 74). This proposal will allow new employment opportunities for neighborhood residents that will enable them to be located in close proximity to their workplace. In fact, the Comp Plan includes the following passage:

“Adaptive reuse, infill, and redevelopment are not only about preserving farms and important buildings and making better use of existing infrastructure. They are also about putting jobs where people live. Many of Lexington’s businesses – large and small – can thrive as *neighbors* in and near neighborhoods. Land use regulations should enable opportunities to live where you work” (Comp Plan, p. 74).

This proposal will embrace the idea that good businesses with employment opportunities can and will make good neighbors. While locating a significant industrial development near this neighborhood is not feasible given the pattern of development that has emerged in the area, smaller scale commercial employment is indeed feasible, and according to the Comp Plan, should be encouraged.

*Attract the world’s finest jobs, encourage entrepreneurial spirit, and enhance our ability to recruit and retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community.* One way to attract new jobs and young professionals to Lexington is by providing entertainment and other quality of life opportunities that will bring a workforce of all ages and talents to the city. The proposed development will allow members of the working community to patronize businesses and obtain needed products or services near their residences. This, in turn, will enhance the convenience of living in these neighborhoods, making Lexington a more desirable place to live. The Harrodsburg Road corridor, as discussed exhaustively above, is a very active corridor. Limiting the amount of time one needs to spend in traffic to be able to patronize businesses would surely not only be a benefit to the individual, but also to Lexington as a community, as it limits car trips and congestion.

#### Improving a Desirable Community

Theme D of the Comp Plan embraces goals related to improving the quality of life. As has been extensively discussed above, allowing small scale commercial development in and near residential neighborhoods reduces the necessity and/or length of car trips, allows people to work near their home, and enhances neighborhood desirability.

#### Maintaining a Balance Between Planning for Urban Uses and Safeguarding Rural Land

Theme E of the Comp Plan embraces goals related to preserving rural land while encouraging growth. We believe this redevelopment proposal embraces elements of Theme E of the Comp Plan.

*Uphold the Urban Services Area concept.* This goal requires close monitoring of the absorption of vacant or under-utilized land in the Urban Service Area as well as encouraging the compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area to accommodate future growth needs. This project will allow more support of an existing neighborhood, making it more desirable, and thus reducing the demand for new housing and an expansion of the USA.

The Comp Plan also encourages maintenance of this balance by encouraging infill, redevelopment, and adaptive reuse. The project discussed here would involve both infill and redevelopment concepts. The Comp Plan provides guidelines in what it calls “context-sensitive design.” This allows for a project to approach the development with an eye towards the exterior and architectural features that reflect, relate to, or are in proportion to the surrounding neighborhood (Comp Plan, p. 98). Context-sensitive design can quell many of the fears expressed by neighborhood residence when presented with an infill project (Comp Plan, p. 101). Infill and redevelopment are geared towards improvement, reinvigoration, and development of the quality neighborhoods that create compact development, livable neighborhoods, and viable neighborhood commercial centers (Comp Plan, p. 98). The Comp Plan admits that to successfully achieve infill and redevelopment, regulatory change to the Zoning Ordinance must be reviewed on a regular basis (Comp Plan, p. 99). Of course, we are committed to a context-sensitive commercial development. Furthermore, in light of the existing uses of the subject properties, which are already commercial in character, if not in zoning, the impact of the change of zoning categories should be mitigated. In short, neighbors are already used to these properties being utilized for non-residential purposes, so the proposed change should not substantially impact the neighborhood.

#### Conditional Zoning Restrictions

We recognize the unique nature of these sites as residing on a major commercial corridor immediately adjacent to residential areas. In order to protect the neighborhood from uses that are too intensive or out of character with the existing area, we propose the following conditional zoning restrictions:

##### Prohibited principal uses:

- Schools for academic instruction.
- Libraries, museums, art galleries, and reading rooms.
- Funeral parlors.
- Telephone exchanges, radio and television studios.
- Nursing home, rest homes and assisted living facilities.
- Business colleges, technical or trade schools or institutions.
- Rehabilitation homes.
- Carnivals.
- Arcades.

##### Conditional uses:

- Truck rental.
- Mining of non-metallic minerals.
- Circuses.

#### Variance Requested

We are also requesting a variance to the required landscape buffer between the B-1 zone and the R-1C zoned properties from 15 feet to 5 feet. This is necessitated by the shallow nature of the lots generally, and in order to be able to provide safe and effective vehicle movements on the site. This variance will not have a detrimental impact on the neighborhood, nor will it alter the general character of the vicinity. There are already commercial lots in the general area, and the subject properties have been functioning as non-conforming or conditional commercial uses in their current zone, where no screening is required. Further, we are committed to providing adequate screening for the protection of the neighborhood, and will commit to providing an eight foot tall privacy fence (which is two feet taller than otherwise required), and will provide trees every twenty feet, instead of every forty as required. This is not an unreasonable circumvention of the Zoning Ordinance, but rather, is needed in order to be able to effectively and safely develop the sites.

### Conclusion

As you can see, this proposal comports with many of the applicable goals and objectives of the Comp Plan. We believe this project will allow Lexingtonians to potentially live in closer proximity to their work, thus decreasing our community's reliance on personal automobiles, or at the minimum, limit their use. Further, it provides commercial services near an existing neighborhood without detrimentally impacting the neighbors. This will, in turn, make Lexington a more desirable location to live. This type of infill project is vitally important to preserving the USA boundary at its current location. In short, this project complies with the goals and objectives of the 2013 Comprehensive Plan.

This amended proposal has sought to be mindful of the criticism and concerns voiced regarding the original application. While we sincerely believe that the Harrodsburg Road corridor, as a whole, is no longer appropriate for single family housing, we are mindful of the concerns expressed about crossing Springhurst Drive. As a result, we have amended our proposal to remove the two properties, and allow the zoning line to be drawn at the intersection of Harrodsburg and Springhurst, as the above exhaustively demonstrates is an appropriate location.

[ MCBRAYER ]

Based on the foregoing, we respectfully request approval of our application as submitted. We look forward to presenting this application to you. If you have any questions, please do not hesitate to contact me.

Sincerely,



Jacob C. Walbourn

JCW/klm  
Enclosures