

ORDINANCE NO. 075 - 2023

AN ORDINANCE CHANGING THE ZONE FROM A HIGHWAY SERVICE BUSINESS (B-3) ZONE TO A WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE, FOR 0.91 NET (1.16 GROSS) ACRES, FOR PROPERTY LOCATED AT 763 NEWTOWN PIKE. (763 NEWTOWN, LLC; COUNCIL DISTRICT 1).

WHEREAS, at a Public Hearing held on May 25, 2023, a petition for a zoning ordinance map amendment for property located at 763 Newtown Pike from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.91 net (1.16 gross) acres, 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 763 Newtown Pike from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.91 net (1.16 gross) acres, being more fully described in Exhibit “A” which is attached hereto and incorporated herein by reference.

Section 2 – That under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are imposed via conditional zoning:

a. Prohibited Uses:

- i. Ice Plants.
- ii. Tire re-treading and re-capping.
- iii. Outdoor storage and display of equipment and inventory associated with establishments and lots for rental, repair or sale of automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
- iv. Truck terminals and freight yards.
- v. Automobile and service stations.
- vi. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- vii. Circuses and carnivals.
- viii. Mining.
- ix. Kennels and animal hospitals.
- x. Major or minor automobile and truck repair, except for vehicles used accessory to the business.

- xi. Parking lots and structures as principal uses.
- xii. All above ground and underground storage tanks.

Landscaping and Buffering

1. A 50-foot building setback shall be established from any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures) located within the mobile home park to the north of the subject property.
2. A 10-foot land use buffer shall be provided along the property line adjoining the mobile home park, consisting of a 6-foot tall privacy fence, with one tree per 20 feet, planted on center.
3. There shall be no outside loudspeakers.
4. Exterior lighting shall be designed to prevent light shining directly from the source to the adjoining mobile home park to the north.

These restrictions are appropriate and necessary for the following reasons:

1. These restrictions help protect and buffer the adjoining residential and public uses from potentially incompatible land uses and development.
2. These restrictions help preserve the integrity of the Royal Springs Aquifer Recharge Area.
3. The modification of the permitted uses maintains consistency with existing conditional use restrictions in this area, and helps promote employment that is appropriate along Lexington's designated freight corridor.

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: July 11, 2023



MAYOR

ATTEST: 

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 20, 2023-1t

0641-23:TWJ:X:\Cases\PLANNING\23-LE0001\LEG\00784586.DOCX

Rec'd by _____

Date: _____

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

IN RE: PLN-MAR-23-00006: 763 NEWTOWN, LLC - a petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.91 net (1.16 gross) acres, for property located at 763 Newtown Pike (Council District 1)

Having considered the above matter on May 25, 2023, 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. A restricted Wholesale and Warehouse Business (B-4) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies for the following reasons:
 - a. The proposed project will support infill and redevelopment by intensifying a vacant and underutilized portion of the property within the Urban Service Boundary (Theme A, Goal #2).
 - b. The proposed facility strengthen job opportunities (Theme C, Goal #2) by providing additional warehouse space for small businesses and contractors to operate (Theme C, Goal #2.b), similar to the existing units on the site.
 - c. The proposal strengthens the Newtown corridor by redeveloping the vacant portion of the property closest to the roadway. (Theme E, Goal 1.c)(Theme D, Goal #2.c).
 - d. The proposal supports the redevelopment of underutilized property (Growth Policy #10).
 - e. The request creates a development that is sensitive to the surrounding context (Design Policy #4).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location, as the proposal expands employment opportunities for shops of special trade, minimizes the impact on environmentally sensitive areas, and avoids overparking.
 - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the proposal will provide pedestrian connectivity throughout the entire development, and will connect into the existing pedestrian networks along Newtown Pike.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will decrease the overall amount of impervious surface, increase tree canopy coverage, and protects the natural features on the site, including the Royal Springs Aquifer.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:

Prohibited Uses:

 - i. Ice Plants.
 - ii. Tire re-treading and re-capping.
 - iii. Outdoor storage and display of equipment and inventory associated with establishments and lots for rental, repair or sale of automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
 - iv. Truck terminals and freight yards.

- v. Automobile service stations.
- vi. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- vii. Circuses and carnivals.
- viii. Mining.
- ix. Kennels and animal hospitals.
- x. Major or minor automobile and truck repair, except for vehicles used accessory to the business.
- xi. Parking lots and structures as principal uses.
- xii. All above ground and underground storage tanks.

Landscaping and Buffering

- 1. A 50-foot building setback shall be established from any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures) located within the mobile home park to the north of the subject property.
- 2. A 10-foot land use buffer shall be provided along the property line adjoining the mobile home park, consisting of a 6-foot tall privacy fence, with one tree per 20 feet, planted on center.
- 3. There shall be no outside loudspeakers.
- 4. Exterior lighting shall be designed to prevent light shining directly from the source to the adjoining mobile home park to the north.

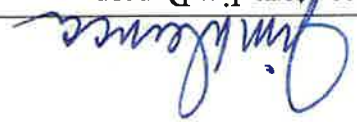
These restrictions are appropriate and necessary for the following reasons:

- 1. The restrictions help protect and buffer the adjoining residential and public uses from potentially incompatible land uses and development.
- 2. These restrictions help preserve the integrity of the Royal Springs Aquifer Recharge Area.
- 3. The modification of the permitted uses maintains consistency with existing conditional use restrictions in this area, and helps promote employment that is appropriate along Lexington's designated freight corridor.

4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00026: A-1 Service and Edster Property (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 9th day of June, 2023.

Secretary, Jim Duncan



CHAIR

LARRY FORESTER

K.R.S. 100.211(7) requires that the Council take action on this request by August 23, 2023.

Note: The corollary development plan, PLN-MJDP-23-00026: A-1 SERVICE AND EDSTER, was approved by the Planning Commission on May 25, 2023 and certified on June 8, 2023.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by Nick Nicolson, attorney.

OBJECTORS

OBJECTIONS

VOTES WERE AS FOLLOWS:

AYES: (9) Bell, Barksdale, Davis, de Movellan, Forester, Meyer, Michler, Penn,
and Worth
NAYS: (0)
ABSENT: (2) Nicol and Pohl
ABSTAINED: (0)
DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-23-00006** carried.

Enclosures: Application
Justification
Legal Description
Plat
Development Snapshot
Staff Reports
Applicable excerpts of minutes of above meeting

MAP AMENDMENT REQUEST (MAR) APPLICATION

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

Applicant: 763 NEWTOWN LLC, 680 TENNESSEE AVE, LEXINGTON, KY 40505
Owner(s): 763 NEWTOWN LLC 680 TENNESSEE AVE LEXINGTON KY 40505
Attorney: Nick Nicholson, 300 WEST VINE STREET, STE 2100, LEXINGTON, KY 40507

2. ADDRESS OF APPLICANT'S PROPERTY

763 NEWTOWN PIKE LEXINGTON KY 40511

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
B-3	Vacant	B-4	Flex Space	0.911	1.163

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





NICK NICHOLSON
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SUITE 2100
LEXINGTON, KY 40507-1801
MAIN: (859) 231-3000
FAX: (859) 253-1093

April 3, 2023

Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Zone Map Amendment Request for 763 Newtown Pike

Dear Members of the Planning Commission:

We represent 763 Newtown, LLC (“Newtown” or “Applicant”) and on its behalf have filed a zone change request for the property know as 763 Newtown Pike (the “Property”). The portion of the Property subject to the zone map amendment consists of 0.911 net (1.163 gross) acres. The Property itself is currently split-zoned between Highway Business (B-3) and Wholesale and Warehouse Business (B-4) zone. The Applicant’s request is to rezone the B-3 portion of the Property to Wholesale and Warehouse Business (B-4) zone to allow for the same type of flex space that occupies the B-4 potion of the site. This request will eliminate a split-zoned parcel and ensure that the same type of use occurs on the entirety of the parcel.

The Property is located on the western side of Newtown Pike across from Lexmark and the FedEx shipping facility, just south of the mobile home development on Earl Court. The proposed development consists of a single structure with 4 bays of flex space, each consisting of approximately 2,340 square feet. This size of bay is essentially the same as the existing bays in the rear flex space structure that is fully occupied. The surrounding area is overwhelmingly zoned either Industrial (I-1) or B-4, however the actual use makeup is varied. As referenced, the Property is adjacent to FedEx, Lexmark, and a mobile home development. Also, William Wells Brown Elementary is to the rear of the Property, with self-storage, gas supply facility, a gas station, and other industrial uses also in close proximity. The proposed development is consistent with existing flex space that already occurs on the Property and for which Lexington has seen a rise in demand in the past few years to allow for contractors, machinists, painters, or other type of local small businesses to thrive.

The B-4 zone map amendment application includes the following proposed conditional zoning restrictions: The following uses would be prohibited:

- a) Ice Plants.
- b) Tire re-treading and re-capping.
- c) Outdoor storage and display of equipment and inventory associated with establishments and lots for rental, repair or sale of automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
- d) Truck terminals and freight yards.

- e) Automobile service stations.
- f) Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- g) Circuses and carnivals.
- h) Pawn shops.
- i) Mining.
- j) Kennels and animal hospitals.
- k) The northernmost unit of Building B shall not have major or minor automobile and truck repair.
- l) Parking lots and structures as principal uses.

This request is in agreement with the Comprehensive Plan for the multitude of reasons outlined below. Primarily, the Zone Map Amendment Request offers a chance to develop existing vacant land inside the Urban Service Area for a use that focuses on small businesses and job creation along a major corridor in a manner that ensures it will assimilate into the surrounding structures. This is an ideal property for the proposed flex space as the use is in great demand in our market and already occurs on the Property today ensuring the location allows the use to thrive without altering the surrounding area. The development will not put undue strain on the surrounding infrastructure as it only represents a building square footage increase of the very use that is occurring today. We are not proposing to alter the existing access points on Newtown or change any of the existing landscape buffering that protects the Property's neighbors. This project upholds the Urban Service Area preservation strategy, is appropriate infill in an area that already has demonstrated the ability to host the very use requested, and, offers additional land to a use that truly generates jobs for our community as encouraged by our Comprehensive Plan. The site layout is designed to ensure that it is respectful of its neighbors with existing conditional zoning restrictions governing uses and landscape buffering.

In summary, this well-designed project upholds the Urban Service Area preservation strategy, is appropriate development of a vacant portion of a parcel, provides an in-demand jobs creating use, all while respecting its neighbors and protecting the environment with landscaping buffers and greenspace. As such, it is quite clear that the proposed zone change is in compliance with the 2018 Comprehensive Plan. As outlined above, the proposed project meets the following Goals and Objectives of the Comprehensive Plan:

Theme A - Growing Successful Neighborhoods

Goal 2: Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.

Objectives:

- a. Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development.
- b. Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form.
- c. Incorporate adequate greenspace and open space into all development projects, which serve the needs of the intended population.

Goal 3: Provide well-designed neighborhoods and communities.

Objectives:

- a. Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County
- b. Strive for positive and safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians and various modes of transportation.
- c. Minimize disruption of natural features when building new communities.
- d. Promote, maintain, and expand the urban forest throughout Lexington.

Theme C - Creating Jobs and Prosperity

Goal 1: Support and showcase local assets to further the creation of a variety of jobs.

Objectives:

- a. Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all.

Goal 2: Attract the world's finest jobs, encourage an 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.

Objectives:

- a. Prioritize the success and growth of strategically-targeted employment sectors (healthcare, education, high-tech, advanced manufacturing, agribusiness, agritourism, and the like), and enable infill and redevelopment that creates jobs where people live.
- b. Improve opportunities for small business development and workers who rely on personal technology.

Theme E - Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land

Goal 1: Uphold the Urban Service Area concept.

Objectives:

- b. Ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.
- c. Emphasize redevelopment of underutilized corridors.
- d. Maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.

Goal 3: Maintain the current boundaries of the Urban Service Area and Rural Activity Centers; and create no new Rural Activity Centers. To ensure Lexington is responsive to its future land use needs, this Goal shall be superseded and no longer in effect upon completion of Theme E, Goal 4, Objective D.

Placebuilder

The Property is located off Newtown Pike and in an industrial area. While it is located on an arterial, given the proposed use and surrounding zones, we believe the natural Place Type is Industry & Production Center and the Development Type is Industrial & Production Non-Residential. We submit that this classification is appropriate due to the location of the Property outside the downtown core and the surrounding 2nd tier urban neighborhoods, and the proposed use is adding a flex space structure to an existing flex space site surrounded by industrial zoned property. While the B-4 zone is not a suggesting zoning category in the Comprehensive Plan, the existing B-3 zone is not a suggested zoning category either. The Wholesale and Warehousing B-4 zone is a natural fit in the Industry & Production Center PlaceType as it allows for economic development, job creation, and the uses tend to be “located on major corridors to facilitate efficient and affordable shipping and transportation of goods throughout the region while minimizing the impact on the traffic infrastructure through the rest of the community” as Placebuilder describes this PlaceType. The proposed development certainly fits this description and meets all of the Site Priorities listed, except that we are not proposing intense industrial uses. Instead, we are simply adding more square footage to the exact type of use that is occurring today in a manner that allows it to be naturally assimilated into the site and surrounding area.

Also submitted with the Zone Map Amendment Request is the color-coded reflection of how the proposed project addresses the design criteria for the selected Development Types. Items highlighted in green are represented graphically on the submitted preliminary development plan; items in yellow are addressed in this letter, and items highlighted in red are not applicable to this development.

Standards That Are Applicable to Our Proposal

SITE DESIGN, BUILDING FORM, & LOCATION

- B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3)
This is being done already on the site with the existing detention basin.
- C-DI1-1 Consider flexible zoning options that will allow for a wide range of jobs. The purpose of this zone change is to allow for a structure to increase the wide range of jobs available on the site.
- C-PS8-1 Opportunities for industry and special trade employment should be increased. The purpose of this zone change is to allow for industry and special trade employment.
- C-PS10-3 Over-parking of new developments should be avoided. (B-SU5) This development is not overparked.
- D-PL7-1 Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application. A neighborhood zoom meeting has been scheduled.

TRANSPORTATION & PEDESTRIAN CONNECTIVITY

- D-CO2-1 Safe facilities for all users and modes of transportation should be provided. The Property has adequate multi-modal infrastructure that exists today.
- D-CO2-2 Development should create and/or expand a safe, connected multimodal

transportation network that satisfies all users' needs, including those with disabilities. The Property has adequate multi-modal infrastructure that exists today that satisfies all users' needs.

GREENSPACE & ENVIRONMENTAL HEALTH

- A-DS4-3 Development should work with the existing landscape to the greatest extent possible, preserving key natural features. The proposed development does not involve substantial earthwork as the site is ready to be developed.
- B-PR2-2 Dividing floodplains into privately owned parcels with flood insurance should be avoided. This is being done.
- B-PR7-2 Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability. We have existing conditional zoning restrictions protecting the tree lines.
- B-PR7-3 Developments should improve the tree canopy. We are improving tree canopy.
- B-RE1-1 Developments should incorporate street trees to create a walkable streetscape. There are street trees on Newtown.

Standards Not Applicable

SITE DESIGN, BUILDING FORM, & LOCATION

- B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible. There are no environmentally sensitive areas on the Property.
- C-DI5-1 In Opportunity Zones with a clearly defined local context, consider adaptive reuse to enhance the existing context. This is not located in an Opportunity Zone with a defined local context.
- C-PS3-1 Development potential in the Rural Activity Centers should be maximized. (E-ST5) This is not located in a RAC.
- C-PS10-2 Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots. There is no need for parking arrangements for this site or adjacent properties.
- D-PL9-1 Historically significant structures should be preserved. There are no existing structures.
- D-SP3-1 Adequate right-of-way, lease areas and easements for infrastructure, with emphasis on wireless communication networks should be provided to create reliable service throughout Lexington. This is not applicable.
- D-SP3-2 Cellular tower antennae should be located to minimize intrusion and negative aesthetic impacts, and stealth towers and landscaping should be used to improve the visual impact from the roadway and residential areas. This is not applicable.
- E-GR4-1 Developments should incorporate reuse of viable existing structures. There are

no existing structures.

- E-GR5-1 Structures with demonstrated historic significance should be preserved or adapted. There are no existing structures.

TRANSPORTATION & PEDESTRIAN CONNECTIVITY

- C-PS10-1 Flexible parking and shared parking arrangements should be utilized. There is no need for parking arrangements for this site or adjacent properties.
- D-CO1-1 Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type. The development is not proposing any alterations to Newtown Pike
- D-CO4-1 Dead-end streets and Cul-de-sacs should be discouraged except where connections are not topographically or environmentally feasible. The development does not involve any new streets.
- D-CO4-2 Roadway capacity should be increased by providing multiple parallel streets, which alleviate traffic and provide multiple route options, in lieu of additional lanes. This is a small commercial tract of land without the need for multiple streets.
- D-CO4-3 Street pattern and design should consider site topography and minimize grading where possible. The development does not involve any new streets.
- D-CO5-1 Streets should be designed with shorter block lengths, narrower widths, and traffic calming features. The development does not involve any new streets.
- E-ST3-1 Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area. (E-GR10, E-GR7). This is a small commercial tract of land without the need for ride sharing options. There is sufficient room on site for any type of pick-up or drop-off.

GREENSPACE & ENVIRONMENTAL HEALTH

- A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces. There is no private or community open space as this is a small commercial tract.
- B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site. There are no environmentally sensitive areas on the Property.
- B-PR2-3 Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them. There is no floodplain on the Property
- B-PR7-1 Connections to greenways, tree stands, and stream corridors should be provided. There is no adjacent greenway, tree stand, or stream corridor adjacent to the Property.
- B-RE2-1 Green infrastructure should be used to connect the greenspace network. There isn't an adjacent greenspace network.

- E-ST5-1 Increased intensity in the Rural Activity Centers should not negatively impact surrounding rural areas. This is not in a RAC.
- E-GR3-1 Physical and visual connections should be provided to existing greenway networks. There isn't an adjacent greenspace network.
- E-GR3-2 New focal points should emphasize geographic features unique to the site. There isn't a proposed focal point.

It is also the Applicant's position that a split-zoned parcel that is B-3/B-4 is inappropriate and consolidating the entirety of the parcel to the occupied B-4 zone is appropriate. The site has clearly demonstrated that the B-4 zone is successful in this location and not a detriment to the surrounding properties. As Lexington maintains a policy that it will not approve any new split-zoned properties, the existing split-zoning is inappropriate for the site. Authorizing the entire site to be able to function as a single use with multiple structures is an appropriate remedy for the split-zoned status of the Property and the success B-4 zone is more appropriate to utilize considering the surrounding industrial zoning and users than the B-3 portion of the Property that has historically remaining frequently vacant.

We will be at the May public hearing in order to make a complete presentation of this application and request your favorable consideration.

Sincerely,

Stoll Keenon Ogden PLLC



Nick Nicholson

NN:NN

129156.177847/9034264.1

LEGAL DESCRIPTION

763 NEWTOWN, LLC PROPERTY
ZONE CHANGE FROM B-3 TO B-4
763 NEWTOWN PIKE
LEXINGTON, FAYETTE CO., KY

Beginning at a point in the right-of-way of Newtown Pike (P.O.B.), said point being the southeasternmost corner of the parcel, thence with Scott Interests, Ltd. for two calls; N 71° 18' 16" W for 54.00' to a point, thence N 71° 18' 16" W for 456.96' to a point, thence leaving Scott Interests, Ltd. and with the Fayette Co. School District for three calls; N 50° 03' 51" E for 165.28' to a point, N 50° 03' 51" E for 105.56' to a point, N 25° 38' 18" W for 21.80' to a point, thence leaving the Fayette Co. School District and with Newport Communities, LLC for six calls, N 85° 34' 28" E for 99.87' to a point, S 27° 42' 10" E for 42.89' to a point, S 22° 21' 46" W for 56.94' to a point, S 71° 18' 16" E for 35.10' to a point, S 71° 18' 16" E for 174.61' to a point, S 71° 18' 16" E for 56.30' to a point in the ROW of Newtown Pike, thence within the ROW at S 18° 42' 57" W for 199.66' to the point of beginning. This tract contains 1.163 acres GROSS and 0.911 acres NET.



04-03-23

763 NEWTOWN, LLC. (PLN-MAR-23-00006)

763 NEWTOWN PIKE (A PORTION OF)

Applicant/ Owner

763 NEWTOWN, LLC
680 TENNESSEE AVE, LEXINGTON, KY
LEXINGTON, KY 40505
Nick.Nicholson@skofirm.com (Attorney)

Application Details

Acreeage:
0.911 (1.163 gross) acres

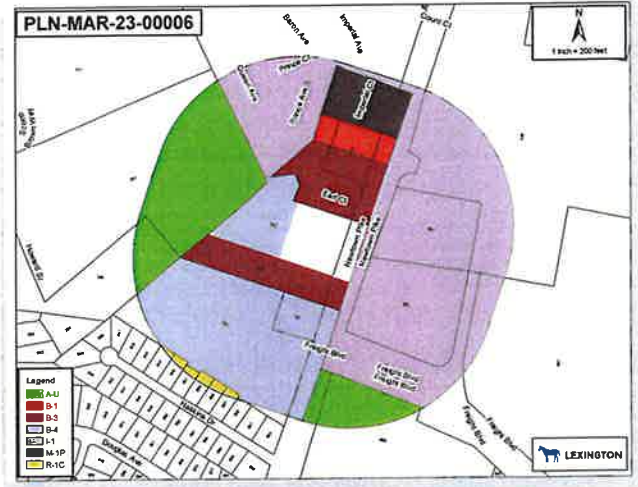
Current Zoning:
Highway Service Business (B-3)

Proposed Zoning:
Wholesale and Warehouse Business (B-4)

Place-type/Development Type
Industry & Production Center
Industrial & Production Non-Residential
For more information about the Industry & Production Center Place-Type see Imagine Lexington pages 337-338. For more information on Industrial & Production Non-Residential Development Type see page 272.

Description:
The applicant is seeking to rezone a portion of the subject property in order to construct an additional 10,080 square-feet of warehouse/ office flexible space.

Rezone a portion of the property in order to expand an existing flexible warehouse/ office space use.



Status

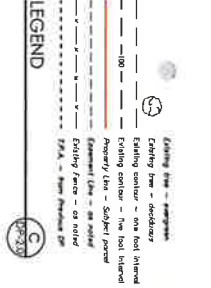
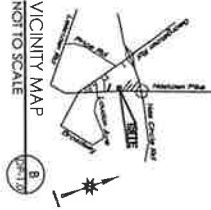
- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

Public Engagement

- The applicant has not indicated that any public outreach or engagement has occurred at this time.

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal (lexingtonky.gov/plans) or contact Planning for the latest information.

Development Plan



SITE STATISTICS

Site Area	1.87 Acres (81,300 sq ft)
Proposed Building Footprint	21,700 sq ft
Proposed Parking Spaces	44 Spaces (111.00 sq ft)
Proposed Total Area	103,000 sq ft
Proposed Density	11.62 units/acre
Proposed Parking Ratio	2.35 spaces/unit
Proposed Building Height	3 Stories
Proposed Building Footprint	21,700 sq ft
Proposed Parking Spaces	44 Spaces (111.00 sq ft)
Proposed Total Area	103,000 sq ft
Proposed Density	11.62 units/acre
Proposed Parking Ratio	2.35 spaces/unit

- GENERAL NOTES**
- 1) This development plan is a preliminary plan and is subject to change without notice.
 - 2) The owner shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities.
 - 3) The owner shall be responsible for obtaining all necessary easements and rights-of-way from the appropriate authorities.
 - 4) The owner shall be responsible for obtaining all necessary utility easements and rights-of-way from the appropriate authorities.
 - 5) The owner shall be responsible for obtaining all necessary zoning and land use approvals from the appropriate authorities.
 - 6) The owner shall be responsible for obtaining all necessary environmental approvals from the appropriate authorities.
 - 7) The owner shall be responsible for obtaining all necessary fire department approvals from the appropriate authorities.
 - 8) The owner shall be responsible for obtaining all necessary health department approvals from the appropriate authorities.
 - 9) The owner shall be responsible for obtaining all necessary police department approvals from the appropriate authorities.
 - 10) The owner shall be responsible for obtaining all necessary other approvals from the appropriate authorities.

CERTIFICATIONS

I, the undersigned, certify that I am the owner of the property shown on this plan and that the information provided herein is true and correct to the best of my knowledge and belief.

Signature: _____ Date: _____

LANDSCAPE / SURROUNDING RESTRICTIONS

1. The owner shall be responsible for obtaining all necessary landscape and site plan approvals from the appropriate authorities.

2. The owner shall be responsible for obtaining all necessary utility easements and rights-of-way from the appropriate authorities.

3. The owner shall be responsible for obtaining all necessary zoning and land use approvals from the appropriate authorities.

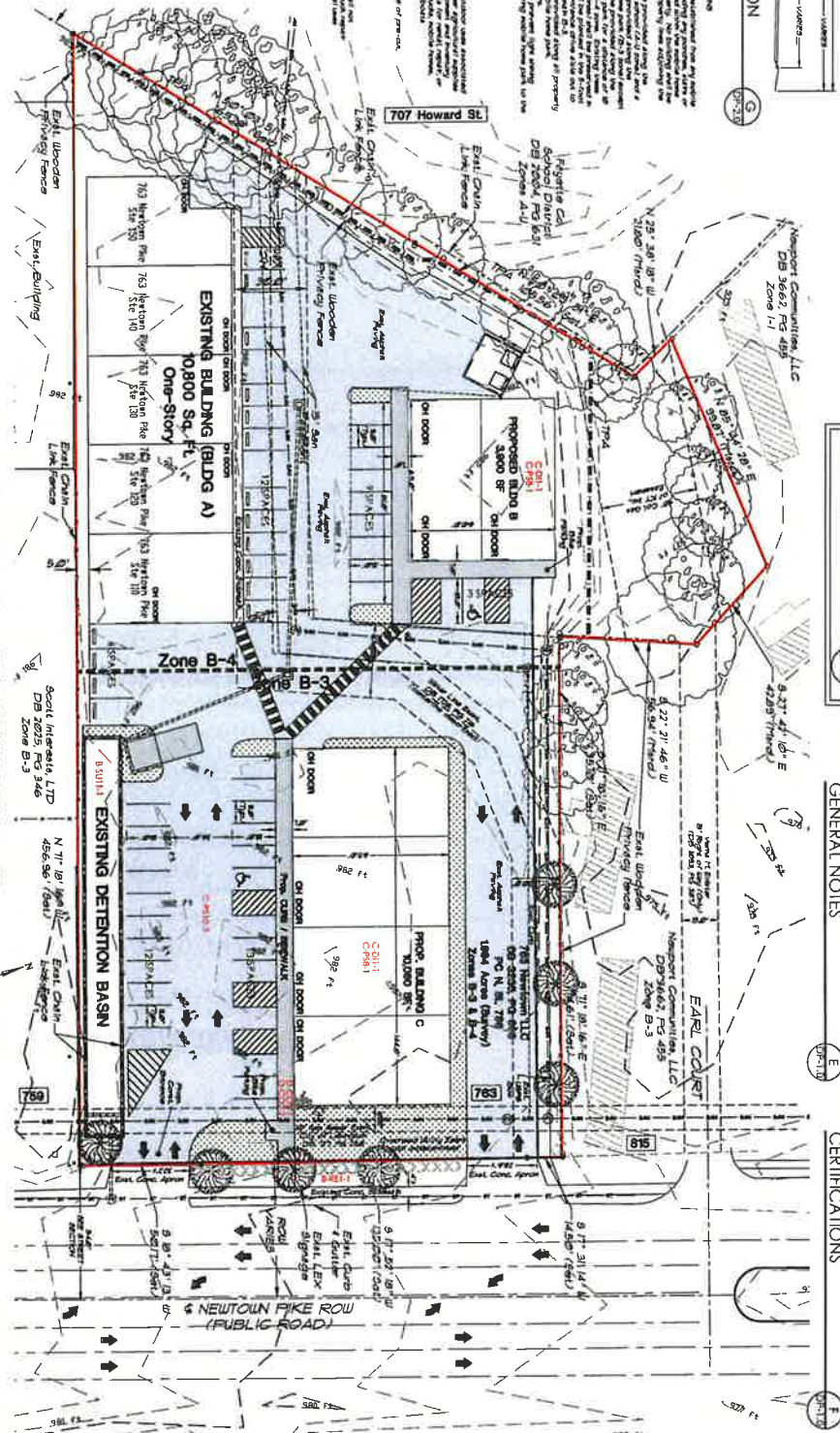
4. The owner shall be responsible for obtaining all necessary environmental approvals from the appropriate authorities.

5. The owner shall be responsible for obtaining all necessary fire department approvals from the appropriate authorities.

6. The owner shall be responsible for obtaining all necessary health department approvals from the appropriate authorities.

7. The owner shall be responsible for obtaining all necessary police department approvals from the appropriate authorities.

8. The owner shall be responsible for obtaining all necessary other approvals from the appropriate authorities.



DRAWING
DP-10
1 OF 1

PRELIMINARY DEVELOPMENT PLAN
763 NEWTOWN PIKE
763 NEWTOWN, LLC
680 TENNESSEE AVE.
LEXINGTON, KY 40505

DRAFT



MLH CIVIL ENGINEERS, PLLC
3320 CLAYS MILL #208
PO BOX 910379
LEXINGTON KY 40591
john@mlhcivil.com
PH/FAX 558-219-0068
CELL 558-552-4103

Property
763 Newtown Pike

Total
1,994 ac.

From
B-3

To
B-4

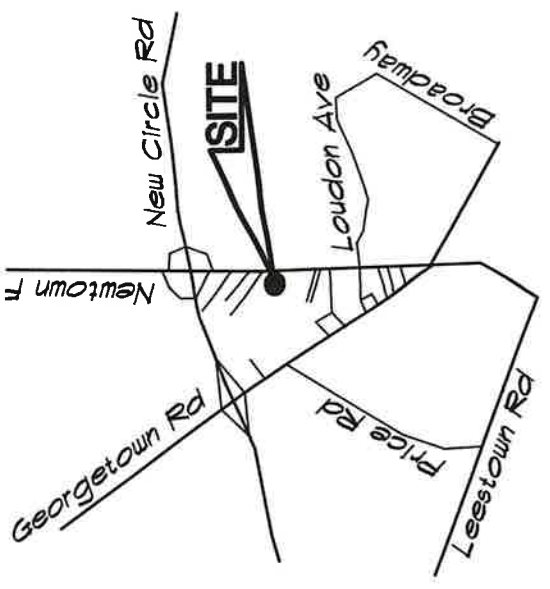
Gross
1,163 ac.

Net
0,911 ac.

SITE STATISTICS

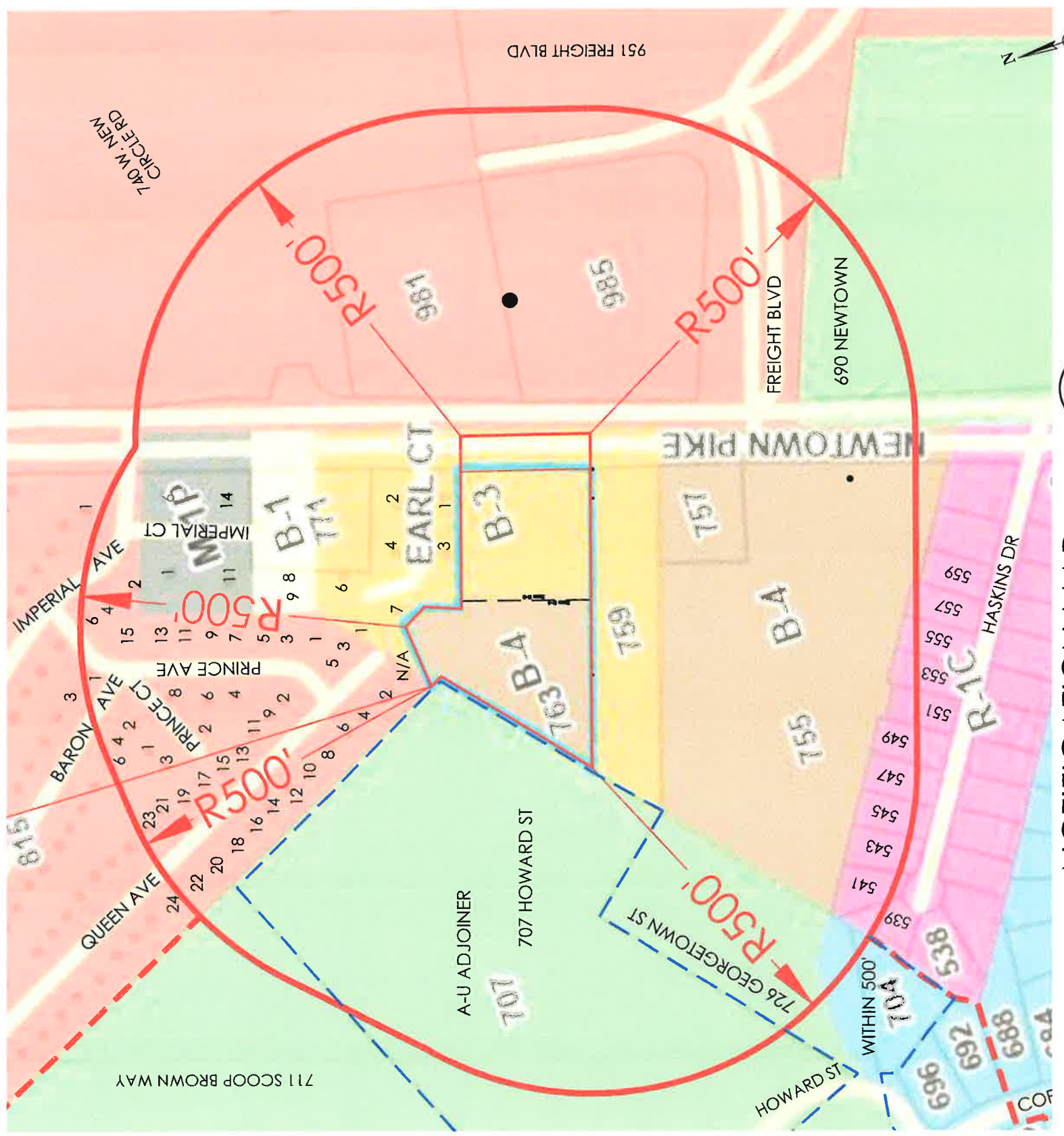
A
SP-1.0

Property Owner & Client: 763
Newtown, LLC, 680 Tennessee
Ave., Lexington, KY 40505
DATE FILED: 03 April 2023



VICINITY MAP
NOT TO SCALE

C
SP-1.0



NOTIFICATION MAP
SCALE 1" = 200'

B
SP-1.0

Approx.



John W. Hunt
Newport
Communities, LLC
DB 3662, PG 455
Zone B-3

PROPERTY INFORMATION MAP
763 NEWTOWN PIKE
680 TENNESSEE AVE
LEXINGTON, KY 40505

MLH CIVIL ENGINEERS, PLLC
PO BOX 910379
LEXINGTON KY 40591
john@mlhcivil.com
PH/FAX 859-219-1066
CELL 859-552-4103



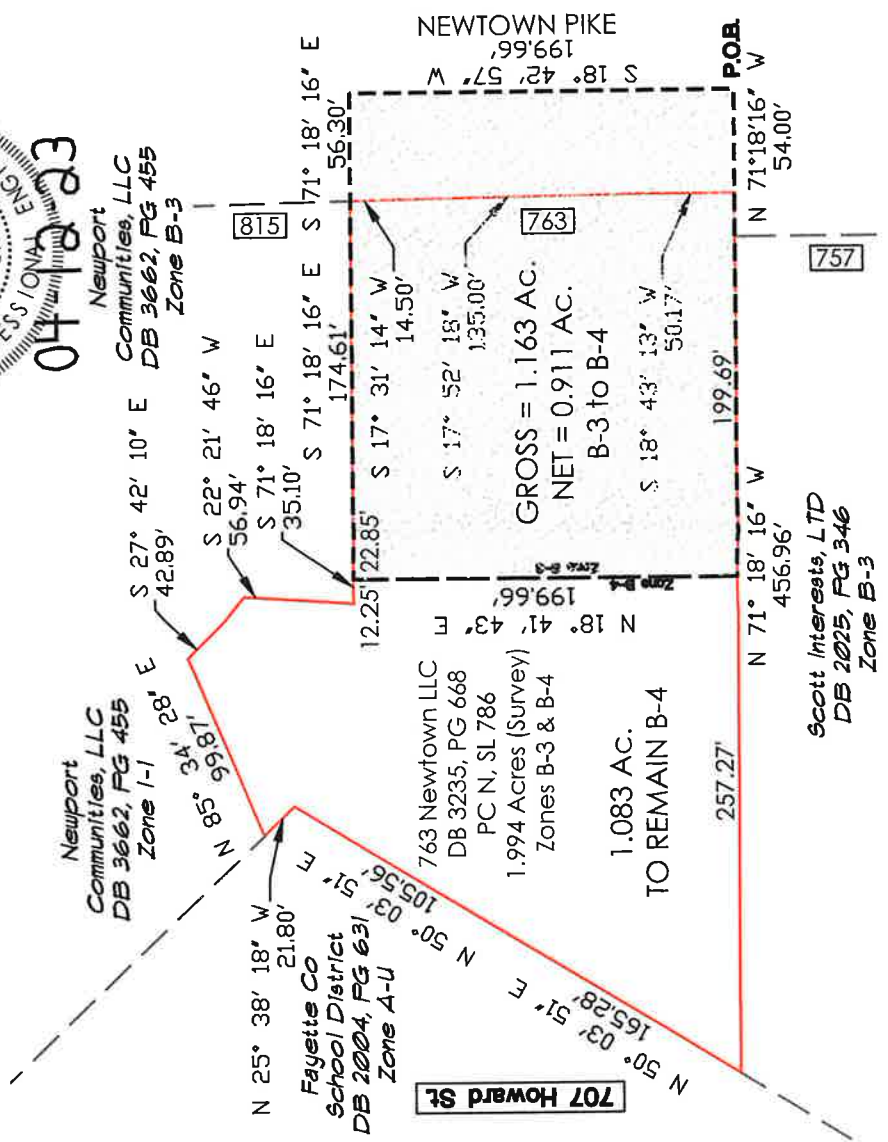
DATE
12 APR 2023

FILE
SCW1301AB3

DRAWING
SP-1.0
1 OF 2
DRAWN
JMH

D
SP-1.0

PROPERTY MAP
SCALE 1" = 100'



SCALE 1" = 100'

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-23-00006: 763 NEWTOWN, LLC

DESCRIPTION OF ZONE CHANGE

Zone	From a Highway Service Business (B-3) zone
Change:	To a Wholesale and Warehouse Business (B-4) zone
Acreage:	0.911 net (1.163 gross) acres
Location:	763 Newtown Pike (a portion of)

EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	B-3/ B-4	Warehouse/Office Space
To North	I-1/B-1/B-3/M-1P	Mobile Home Park
To East	I-1	Lexmark Campus
To South	B-3	Shop of Special Trade
To West	A-U	Elementary School



URBAN SERVICE REPORT

Roads - The subject property is located on the west side of Newtown Pike (KY 922). Newtown Pike is a six-lane major arterial road that serves as Lexington's freight route, providing connections to Interstate-64/75. New Circle Road (KY 4), a six-lane major arterial roadway, is located about ½ of a mile to the north. Several local streets intersect Newtown Pike near the property, the closest being Earl Court.

Curb/Gutter/Sidewalks - The western side of Newtown Pike is equipped with, curb, gutter, and sidewalks.

Utilities - All utilities, including natural gas, electric, water, phone, cable television, and internet are available in the area, and are able to serve the proposed development.

Storm Sewers - The property is located within the Cane Run watershed. Storm sewers exist in this portion of the Urban Service Area. No FEMA Special Flood Hazard Area exists on the property, but the subject property is located within the Royal Spring Aquifer Recharge Area, where special care is needed in order to better protect the aquifer.

Sanitary Sewers - The subject property is located within the Cane Run sewershed, which is served by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue, inside of New Circle Road. A sanitary sewer collection line currently runs parallel to Newtown Pike, although capacity will need to be evaluated at the time of a final development plan by the Capacity Assurance Program (CAP).

Refuse - The Urban County Government serves this area with refuse collection on Thursdays. Supplemental service may be desired to serve the needs of the use, which can be accomplished by contracting with private refuse haulers.

Police - The subject property is located within the Central Sector and is served by the Central Sector Roll Call Center, located on Industry Road. However, the subject property is located in closer proximity to the Police Headquarters, which is located on East Main Street, about 1½ mile to the southeast.

Fire/Ambulance - The nearest fire station (#10) is located less than ½ mile to the northwest on Finney Drive, at the southeast quadrant of the New Circle Road and Georgetown Road interchange.

Transit - This area is served by the Newtown and Mercer Road routes (#4 and #22), with a stop near the intersection of Utility Drive and Newtown Pike.

Parks - Douglass Park is located less than 150 feet west of the subject property.

SUMMARY OF REQUEST

The applicant is seeking a zone change from the Highway Service Business (B-3) zone to a restricted Wholesale and Warehouse Business (B-4) zone in order to expand an existing warehouse use.

PLACE-TYPE

INDUSTRY &
PRODUCTION CENTER

The Industry and Production Center Place-Type is where Lexington's most intense types of economic development and job creation occur. These places should be located near major corridors to facilitate efficient and affordable shipping and transportation of goods throughout the region while minimizing the impact on the traffic infrastructure throughout the rest of the community. Special care should be taken to address the environmental impact of these places as well as their impact on residents.

DEVELOPMENT TYPE

INDUSTRIAL & PRODUCTION
NON-RESIDENTIAL

Primary Land Use, Building Form, & Design

Primarily employment land dedicated to the most intense types of employment-centric development. This is the only category where uses are inherently incompatible and are best separated from adjacent uses.

These uses are best suited in areas where they already exist, collocating to utilize industrial-scale infrastructure to serve the needs of the users. Environmental protection measures should be taken to minimize impacts.

Transit Infrastructure & Connectivity

These uses are also heavy employers and should incorporate mass transit infrastructure, on par with that of other modes, to connect residents to their jobs.

PROPOSED ZONING



The intent of this zone is to provide for wholesaling, warehousing, storage operations and establishments whose activity is of the same general character as the above. Establishments within this zone should focus on supportive uses to both industrial and residential needs and should act as a buffer between more intense and less intense land uses. To a lesser extent and where applicable, this zone is also intended to provide for the mixture of uses that promotes the adaptive reuse and redevelopment of older structures. The reuse of older structures is intended to allow for a more sustainable option for the revitalization of applicable properties, while providing employment, residential, and/or entertainment opportunities for the surrounding neighborhoods. Consideration should be given to the relationship of this zone to the surrounding land uses and the adequacy of the street system to serve the anticipated traffic needs. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

PROPOSED USE



This petitioner is proposing a restricted Wholesale and Warehouse Business (B-4) zone in order to construct an additional structure within an existing warehousing project. As proposed, this portion of the development will consist of a new 10,080 square-foot building, divided into four (4) separate bays, along with corresponding parking areas and landscaping.

APPLICANT & COMMUNITY ENGAGEMENT



The letter of justification submitted by the applicant does not indicate whether any public engagement has taken place. The applicant should provide greater information on their community outreach efforts.

PROPERTY & ZONING HISTORY

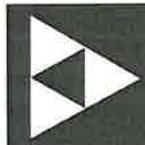


The subject property has been zoned Highway Service Business (B-3) since before the 1969 comprehensive rezoning of the city and county. Historically, the subject property was utilized for an automobile service station and storage uses, with a single family residence located to the rear of the property. Both structures were demolished at some point between 2002 and 2007.

In 2009, the subject property was included in the study area for the adopted Central Sector Small Area Plan. The property is specifically located in Subarea A, which generally includes the areas north of downtown, and west of Newtown Pike. The plan's approach to this subarea emphasized neighborhood compatible growth, and encouraged utilizing opportunities for redevelopment and reinvestment.

In 2011, the rear portion of the subject property was rezoned from B-3 to a restricted B-4 zone in order to accommodate the site's current warehouse space (2011-1cz). At that time, specific conditional zoning restrictions were implemented to limit certain uses that could negatively impact the surrounding residential and public uses, as well as establish landscaping and screening buffers. The front portion of the property remained Highway Service Business (B-3) zone, and was utilized as a contractor equipment sales use from 2015 to 2018. This portion of the subject property has remained vacant since the contractor equipment sales use was abandoned around 2019.

COMPREHENSIVE PLAN COMPLIANCE



The 2018 Comprehensive Plan, Imagine Lexington, seeks 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. 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.

GOALS, OBJECTIVES, & POLICIES

The applicant opines that the proposed rezoning is in agreement with the adopted Goals, Objectives, and Policies of the 2018 Comprehensive Plan. By redeveloping an underutilized and vacant portion of the property, the applicant indicates that the proposal meets goals relating to supporting infill and redevelopment (Theme A, Goal #2). The applicant further contends that the proposed warehouse space will strengthen job opportunities (Theme C, Goal #2) by providing space for small businesses and contractors to operate (Theme C, Goal #2.b). Finally, the applicant opines that by redeveloping and intensifying the front portion of the site, the proposal contributes to strengthening of the Newtown Pike corridor (Theme E, Goal 1.c).

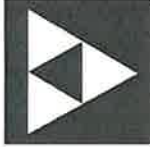
While not specifically described by the applicant, the proposal meets several Comprehensive Plan policies, including supporting the enhancement, reuse, and/or redevelopment of underutilized property (Growth Policy #10), and creating development that is sensitive to the surrounding context (Design Policy #4).

The staff agrees with these aspects of the applicant's proposal and that these Goals, Objectives, and Policies of the 2018 Comprehensive can be met with the proposed development.

PLACE-TYPE, DEVELOPMENT TYPE, AND ZONE

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, a Place-Type based on the location of the subject property is identified. Within each Place-Type there are recommended Development Types based on the form and function of the proposed development. Based on the Place-Type and Development Type there are also several recommended zones that are most appropriate based on the Goals, Objectives, and Policies of the 2018 Comprehensive Plan. While these zones are the ideal zoning categories to develop within a specified area, other zones may be considered, provided there is an appropriate justification addressing the unique situation and provided the development is able to adequately meet the associated Development Criteria.

The applicant indicates that the proposed development is located within the Industry and Production Place-Type and an Industry and Production Non-Residential Development Type. Within this Place-Type and Development Type, the Comprehensive Plan states that special care should be taken to address the



environmental impact of these places, as well as their impact on residents. Typically, the appropriateness of the Industry and Production Place-Type is heavily reliant, not only on the surrounding land use, but the infrastructure that is available to support such a development. The subject property is already zoned B-4 to the rear of the site, and is located along Newtown Pike, the identified freight route for the county. The location of the site is advantageous for the warehousing of goods and their distribution. Based on the location and historical context of this area, Staff agrees that the Industry and Production Place-Type can be appropriate for the subject property and, with appropriate consideration given to the adjacent residential uses and environmentally sensitive areas, the proposed Industry and Production Non-Residential Development Type can be appropriate for the subject property.

Finally, the applicant has requested the rezoning of the property to a restricted Wholesale and Warehouse Business (B-4) zone, which is a not recommended zone for the Industry and Production Place-Type and Industry and Production Non-Residential Development Type. While the B-4 zone is not a recommended zone, an applicant can seek any zone, providing the applicant's justification addresses the criteria of the Place-Type and Development Type, while also addressing the intent of the Place-Type and Development Type. The applicant argues that B-4 is appropriate in this instance, as the proposed zoning is similar to the recommended Light Industrial (I-1) and Heavy Industrial (I-2) zones in that it facilitates economic development, job creation, and benefits from being located along arterial roadways. Staff agrees that a restricted B-4 zone can be appropriate at this location, especially given the fact that the rear portion of the lot is already located in a B-4 zone.

DEVELOPMENT CRITERIA

The development criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2018 Comprehensive Plan. The development criteria represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed Industry and Production Place-Type and is seeking to create an Industry and Production Non-Residential Development Type.

1. Site Design, Building Form and Location

The proposed rezoning meets many of the criteria for Site Design, Building Form and Location, as the proposal expands employment opportunities for shops of special trade, minimizes the impact on environmentally sensitive areas, and avoids over parking.

2. Transportation and Pedestrian Connectivity

As a whole, the proposed rezoning meets many of the criteria for Transportation and Pedestrian Connectivity, as the development will provide pedestrian connectivity throughout the entire development, and will connect into the existing pedestrian networks along Newtown Pike. Pedestrian connectivity in this area could be enhanced by upgrading the existing sub-standard sidewalk along Newtown Pike.

3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it reduces the amount of impervious surface on-site, increases tree canopy coverage, and protects the natural features on the site, including the Royal Springs Aquifer Recharge Area.



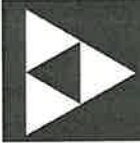
PARKING DEMAND MITIGATION STUDY

Under the requirements of the newly adopted Parking and Landscaping Zoning Ordinance Text Amendment, all "Significant Developments," or developments with over 5,000 square-feet of building coverage that require a Zoning Map Amendment, shall provide a Parking Demand Mitigation Study for the project that details the following information:

1. Review of national best practices for parking calculations for the project, including the current ITE Manual Parking ranges or the ranges produced by the ITEParkGen Report;
2. The anticipated parking demand for the project;
3. How the anticipated parking demand will be satisfied on-site or off-site;
4. The methods and strategies to be implemented in order to reduce vehicle trips by site users;

5. The methods and strategies to be implemented in order to promote transportation options by site users;
6. The projected mode share by site users from the utilization of the study's strategies.

Within the applicant's most recent review of the parking demand, they have provided specific numbers regarding the ITE manual for a warehouse use. Based on the provided square footage, the ITE manuals indicate that the development as a whole would require 44 spaces. The applicant's plan shows a total of 49 spaces, spread between the existing and proposed development. The applicant further notes that existing pedestrian facilities along Newtown Pike and the two nearby transit routes would further reduce vehicular trips to the site.



CONDITIONAL ZONING RESTRICTIONS

In an effort to alleviate some of the potential adverse impacts on the adjoining residential uses, while also preserving the integrity of the Royal Springs Aquifer Recharge Area, the following uses are proposed by the applicant to be prohibited via conditional zoning:

Prohibited Uses:

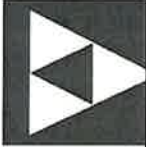
- i. *Ice Plants.*
- ii. *Tire re-treading and re-capping.*
- iii. *Outdoor storage and display of equipment and inventory associated with establishments and lots for rental, repair or sale of automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.*
- iv. *Truck terminals and freight yards.*
- v. *Automobile service stations.*
- vi. *Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.*
- vii. *Circuses and carnivals.*
- viii. *Pawn shops.*
- ix. *Mining.*
- x. *Kennels and animal hospitals.*
- xi. *The northernmost unit of Building B shall not have major or minor automobile and truck repair.*
- xii. *Parking lots and structures as principal uses.*

The restricted uses proposed by the applicant are identical to the existing conditional zoning use restrictions that were established when the rear portion of the property was rezoned in 2011. Staff does recommend making several modifications to the proposed use list. As pawn shops are already prohibited by the zone, use #8 can be removed. Additionally, due to the closer proximity of the proposed structure to the mobile home park, staff recommends amending use #11 to prohibit minor or major automobile and truck repair on the entirety of this portion of the site. Finally, due to the location of the property within the Royal Springs Aquifer Recharge Area, staff recommends prohibiting all above ground and underground storage tanks.

The applicant's current proposal does not include the additional landscaping and buffering restrictions that were also implemented during the 2011 rezoning in order to protect the adjoining mobile home park and school properties. Some of these buffering and landscaping requirements were specifically tailored to particular areas of the site that would not apply to the portion of the property being rezoned with this request, thus are unnecessary. The following is a revised list of buffering and landscaping requirements that are consistent with the earlier requirements placed on the rear of the property in 2011, but adapted to this portion of the site:

Landscaping and Buffering

1. *A 50-foot building setback shall be established from any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures) located within the mobile home park to the north of the subject property.*
2. *A 10-foot land use buffer shall be provided along the property line adjoining the mobile home park, consisting of a 6-foot tall privacy fence, with one tree per 20 feet, planted on center.*
3. *There shall be no outside loudspeakers.*
4. *Exterior lighting shall be designed to prevent light shining directly from the source to the adjoining mobile home park to the north.*



Staff finds that these restrictions are appropriate and necessary to protect the adjoining residential uses, to preserve the Royal Springs Aquifer Recharge Area, to maintain consistency with other conditional zoning restrictions in this area, and to promote employment that is appropriate along Lexington's designated freight corridor.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. A restricted Wholesale and Warehouse Business (B-4) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies for the following reasons:
 - a. The proposed project will support infill and redevelopment by intensifying a vacant and underutilized portion of the property within the Urban Service Boundary (Theme A, Goal #2).
 - b. The proposed facility strengthen job opportunities (Theme C, Goal #2) by providing additional warehouse space for small businesses and contractors to operate (Theme C, Goal #2.b), similar to the existing units on the site.
 - c. The proposal strengthens the Newtown corridor by redeveloping the vacant portion of the property closest to the roadway. (Theme E, Goal 1.c).(Theme D, Goal #2.c).
 - d. The proposal supports the redevelopment of underutilized property (Growth Policy #10).
 - e. The request creates a development that is sensitive to the surrounding context (Design Policy #4).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location, as the proposal expands employment opportunities for shops of special trade, minimizes the impact on environmentally sensitive areas, and avoids overparking.
 - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the proposal will provide pedestrian connectivity throughout the entire development, and will connect into the existing pedestrian networks along Newtown Pike.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will decrease the overall amount of impervious surface, increase tree canopy coverage, and protects the natural features on the site, including the Royal Springs Aquifer.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:

Prohibited Uses:

 - i. Ice Plants.
 - ii. Tire re-treading and re-capping.
 - iii. Outdoor storage and display of equipment and inventory associated with establishments and lots for rental, repair or sale of automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
 - iv. Truck terminals and freight yards.
 - v. Automobile service stations.
 - vi. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
 - vii. Circuses and carnivals.
 - viii. Mining.
 - ix. Kennels and animal hospitals.
 - x. Major or minor automobile and truck repair.
 - xi. Parking lots and structures as principal uses.
 - xii. All above ground and underground storage tanks.



Landscaping and Buffering

1. A 50-foot building setback shall be established from any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures) located within the mobile home park to the north of the subject property.
2. A 10-foot land use buffer shall be provided along the property line adjoining the mobile home park, consisting of a 6-foot tall privacy fence, with one tree per 20 feet, planted on center.
3. There shall be no outside loudspeakers.
4. Exterior lighting shall be designed to prevent light shining directly from the source to the adjoining mobile home park to the north.

These restrictions are appropriate and necessary for the following reasons:

1. The restrictions help protect and buffer the adjoining residential and public uses from potentially incompatible land uses and development.
 2. These restrictions help preserve the integrity of the Royal Springs Aquifer Recharge Area,
 3. The modification of the permitted uses maintains consistency with existing conditional use restrictions in this area, and helps promote employment that is appropriate along Lexington's designated freight corridor.
4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00026: A-1 Service and Edster Property (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

1. 763 NEWTOWN, LLC AND A-1 SANITATION SERVICE & EDSTER PROPERTY DEVELOPMENT PLAN

- a. PLN-MAR-23-00006: 763 NEWTOWN, LLC – a petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.91 net (1.16 gross) acres, for property located at 763 Newtown Pike (a portion of).

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks 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. 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.

This petitioner is proposing a restricted Wholesale and Warehouse Business (B-4) zone in order to construct an additional structure within an existing warehousing project. As proposed, this portion of the development will consist of a new 10,080 square-foot building, divided into four (4) separate bays, along with corresponding parking areas and landscaping.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. A restricted Wholesale and Warehouse Business (B-4) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies for the following reasons:
 - a. The proposed project will support infill and redevelopment by intensifying a vacant and underutilized portion of the property within the Urban Service Boundary (Theme A, Goal #2).
 - b. The proposed facility strengthen job opportunities (Theme C, Goal #2) by providing additional warehouse space for small businesses and contractors to operate (Theme C, Goal #2.b), similar to the existing units on the site.
 - c. The proposal strengthens the Newtown corridor by redeveloping the vacant portion of the property closest to the roadway. (Theme E, Goal 1.c)(Theme D, Goal #2.c).
 - d. The proposal supports the redevelopment of underutilized property (Growth Policy #10).
 - e. The request creates a development that is sensitive to the surrounding context (Design Policy #4).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location, as the proposal expands employment opportunities for shops of special trade, minimizes the impact on environmentally sensitive areas, and avoids overparking.
 - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the proposal will provide pedestrian connectivity throughout the entire development, and will connect into the existing pedestrian networks along Newtown Pike.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will decrease the overall amount of impervious surface, increase tree canopy coverage, and protects the natural features on the site, including the Royal Springs Aquifer.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:

Prohibited Uses:

- i. Ice Plants.
- ii. Tire re-treading and re-capping.
- iii. Outdoor storage and display of equipment and inventory associated with establishments and lots for rental, repair or sale of automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
- iv. Truck terminals and freight yards.
- v. Automobile service stations.
- vi. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- vii. Circuses and carnivals.
- viii. Mining.
- ix. Kennels and animal hospitals.

- x. Major or minor automobile and truck repair.
- xi. Parking lots and structures as principal uses.
- xii. All above ground and underground storage tanks.

Landscaping and Buffering

- 1. A 50-foot building setback shall be established from any mobile home (at their present locations; excluding any porches, stairs or attached accessory structures) located within the mobile home park to the north of the subject property.
- 2. A 10-foot land use buffer shall be provided along the property line adjoining the mobile home park, consisting of a 6-foot tall privacy fence, with one tree per 20 feet, planted on center.
- 3. There shall be no outside loudspeakers.
- 4. Exterior lighting shall be designed to prevent light shining directly from the source to the adjoining mobile home park to the north.

These restrictions are appropriate and necessary for the following reasons:

- 1. The restrictions help protect and buffer the adjoining residential and public uses from potentially incompatible land uses and development.
 - 2. These restrictions help preserve the integrity of the Royal Springs Aquifer Recharge Area,
 - 3. The modification of the permitted uses maintains consistency with existing conditional use restrictions in this area, and helps promote employment that is appropriate along Lexington's designated freight corridor.
4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00026: A-1 Service and Edster Property (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. PLN-MJDP-23-00026: A-1 SERVICE AND EDSTER PROPERTY (AMD) (7/29/2023)* - located at 763 NEWTOWN PIKE, LEXINGTON, KY
Council District: 1
Project Contact: MHL Civil

Note: The purpose of this amendment is to depict development of the site, in support of the requested zone change from a Highway Service (B-3) zone, to a Wholesale and Warehouse Business (B-4) zone.

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

- 1. Provided the Urban County Council approves the zone change to B-4; otherwise, any Commission action of approval is null and void.
- 2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
- 3. Urban County Traffic Engineer's approval of street cross-sections and access.
- 4. Urban Forester's approval of tree preservation plan.
- 5. Greenspace planner's approval of the treatment of greenways and greenspace.
- 6. Department of Environmental Quality's approval if environmentally sensitive areas.
- 7. United States Postal Service Office's approval of kiosk locations or easement.
- 8. Denote required canopy coverage in site statistics.
- 9. Complete all required tree inventory information per Article 26.
- 10. Denote compliance with Article 20 open space requirements.
- 11. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale and Warehouse Business (B-4) zone, for 0.91 net (1.16 gross) acres, for property located at 763 Newtown Pike. Mr. Crum indicated that the applicant's proposed zone, as well as the Industry & Production Center Place-Type, and the Industrial & Production Non-Residential Development Type would be appropriate and are in line with the Comprehensive Plan.

Mr. Crum highlighted the conditional zoning restrictions placed on the property in the preceding zone change in order to protect the residential properties near the site and indicated that the pawn shops, aboveground storage tanks, conditions would not be restricted for the front portion of the site.

Additionally, Mr. Crum indicated that the language on condition 11 would be changed to all major and minor automobile and truck repair uses. Mr. Crum also stated that the applicant asked the language on condition 11 also include, "except for vehicles used accessory to the business", and indicated that Staff was agreeable to this modification.

Mr. Crum concluded his presentation by stating that Staff is recommending approval and could answer any questions from the Planning Commission.

Staff Development Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin stated that the proposed project is development of specialty shops of trade and that the parking would be oriented towards the front of the building. Mr. Martin also identified the open space and detention on site.

Mr. Martin concluded his presentation stating that the Subdivision Committee had recommended approval, and that Staff is recommending approval as well.

Commission Questions – Mr. Penn asked if access was limited to right-in, right out for the gasoline storage property, if the tanks that were previously on the site were removed, and if the soil was tested at this property. Mr. Martin indicated that the property has full access to Newtown Pike and that the gasoline storage tanks were removed some time ago when the previous use closed.

Applicant Presentation – Nick Nicholson, attorney for the applicant, stated that the language on the conditional zoning restrictions is from the same restrictions on the rear of the property and they wanted the conditions to match for the entire property.

Mr. Nicholson ended his remarks by stating that the applicant agrees with Staff's recommendations and could answer any questions from the Planning Commission.

Action – A motion was made by Mr. Michler, seconded by Mr. Bell and carried 9-0 (Nicol and Pohl absent) to approve PLN-MAR-23-00006: 763 NEWTOWN, LLC with the Zoning Committee's recommendation for the conditional zoning restrictions as the applicant has requested.

Action – A motion was made by Mr. Michler, seconded by Mr. Bell and carried 9-0 (Nicol and Pohl absent) to approve PLN-MJDP-23-00026: A-1 SERVICE AND EDSTER PROPERTY with 10 conditions, deleting #11 since it had been discussed.