

ORDINANCE NO. 070 - 2025

AN ORDINANCE CHANGING THE ZONE FROM A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE AND A NEIGHBORHOOD BUSINESS (B-1) ZONE TO A COMMERCIAL CENTER (B-6P) ZONE AND TO REMOVE EXISTING CONDITIONAL ZONING RESTRICTIONS WITHIN THE PROPERTY'S NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 32.30 NET (34.28 GROSS) ACRES, FOR PROPERTY LOCATED AT 1811 WINCHESTER ROAD (A PORTION OF). (RD PROPERTY GROUP, LLC; COUNCIL DISTRICT 6).

WHEREAS, at a Public Hearing held on July 10, 2025, a petition for a zoning ordinance map amendment for property located at 1811 Winchester Road from a Planned Neighborhood Residential (R-3) zone and a Neighborhood Business (B-1) zone to a Commercial Center (B-6P) zone and to remove existing conditional zoning restrictions within the property's Neighborhood Business (B-1) zone, for 32.30 net (34.28 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 9-0; and

WHEREAS, the Urban County 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 1811 Winchester Road from a Planned Neighborhood Residential (R-3) zone and a Neighborhood Business (B-1) zone to a Commercial Center (B-6P) zone and to remove existing conditional zoning restrictions within the property's Neighborhood Business (B-1) zone, for 32.30 net (34.28 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 to modify the conditional zoning restrictions on the B-1 portions of the property is made as follows:

These conditional zoning restrictions shall remain in place:

1. Signage shall be provided only as per the B-6P zone.
2. The sale of gasoline shall be restricted only to one business, only as an accessory use to a convenience store, with no more than eight gasoline

pumps.

3. No more than four drive-through facilities shall be provided on the subject property.

These conditional zoning restrictions shall be removed from portions of the property, with all other conditional zoning restrictions to remain in place:

1. There shall be a minimum of 125 residential units in the B-1 zone.
2. Sixty percent (60%) of all commercial square footage shall be in multi-story buildings with a mixture of residential units.
3. Existing trees within 30 feet of the Winchester Road right-of-way are to be preserved, except those trees that are diseased or dying, and those needed to be removed for right-of-way improvements.

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: September 11, 2025



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: September 19, 2025-1t

0788-25:TWJ:4907-1721-0721, v. 1

Rec'd by _____

Date: _____

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

IN RE: PLN-MAR-25-00008: RD PROPERTY GROUP, LLC – a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone and a Neighborhood Business (B-1) zone to a Commercial Center (B-6P) zone and to remove existing conditional zoning restrictions within the property's Neighborhood Business (B-1) zone, for 32.30 net (34.28 gross) acres for property located at 1811 Winchester Road (a portion of). (Council District 6)

Having considered the above matter on **July 10, 2025**, 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 **APPROVAL** of this matter for the following reasons:

1. The proposed Commercial Center (B-6P) zone is in agreement with the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The request allows for more flexibility to create higher density housing (Theme A, Goal #1.b)
 - b. The proposal utilizes an underdeveloped property along a corridor for a mixed-use development (Theme A, Goal #2.a; Theme E, Goal #1.d and #1.e)
 - c. The request will provide for neighborhood serving commercial uses (Theme A, Goal #3.d).
2. The proposal is in agreement with the Policies of the 2045 Comprehensive Plan for the following reasons:
 - a. The request will improve connectivity by extending existing stub streets, thereby increasing connectivity (Theme A, Design Policy #2 and #13)
 - b. The proposed apartment uses will increase the variety of housing choice available in the area (Theme A, Design Policy #8).
 - c. The request provides commercial uses that will provide for nearby residents' daily needs (Theme A, Design Policy #12).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Land Use, as the request provides neighborhood level commercial areas (A-DS12-1), incorporates residential uses into their commercial center (A-DN3-2), and provides a greater access to healthy and affordable food (C-PS15-2).
 - b. The proposed rezoning meets several criteria for Transportation, Connectivity, and Walkability, as the request makes vehicular connections to the existing commercial areas and allows for future connectivity with both Patchen Wilkes Farm and the existing Eastland Parkway neighborhood (A-DS4-1; A-DS13-1), and provides a starting point for future pedestrian facilities along the Winchester Road frontage (D-CO-2).
 - c. The request meets the criteria for Environmental Sustainability and Resiliency, as the request locates the structure outside of the floodplain setback (B-PR-2-1), provides for street trees (D-SP10-1), and will avoid overlighting B-PR10-1).
 - d. The proposal meets several criteria for Site Design, as the development introduces a pavilion and the potential for programmatic elements within their open space (D-PL4-1), provides for connections to existing stub streets (C-Li8-1), and meets the parking requirements of the B-6P zone (C-PS1-2).
 - e. The plan meets several of the criteria for Building Form, as the request intensifies a parcel that is located along a Corridor (A-DS4-2), and transitions its uses from the most auto-centric outlots along the corridor to grocery and multi-family residential further into the site (A-EQ5-1).

4. This recommendation is made subject to approval and certification of PLN-MJDP-25-00027: PATCHEN WILKES UNIT 2) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Additionally, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of the removal of conditional zoning restrictions for the following reasons:

1. The nearby increases in allowable land use intensity, expansion of the Urban Services Boundary, adoption of the Urban Growth Master Plan, and the construction of large regional scale institutions are changes that have occurred that have shifted the intensity of anticipated development along this portion of Winchester Road, and make the current conditions inappropriate.

The Urban County Planning Commission recommends the following conditional zoning restrictions in the Neighborhood Business (B-1) zone on the subject property:

1. Signage shall be provided only as per the B-6P zone.
2. The sale of gasoline shall be restricted only to one business, only as an accessory use to a convenience store, with no more than eight gasoline pumps
3. No more than four drive-through facilities shall be provided on the subject property.

ATTEST: This 15th day of August 2025.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

KRS 100.211(7) requires that the Council take action on this request by October 8, 2025.

Note: The corollary development plan, PLN-MJDP-25-00027: PATCHEN WILKES, UNIT 2 was approved by the Planning Commission on July 10, 2025, and certified on July 24, 2025.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Brenden Gross, attorney for the applicant.**

OBJECTORS

- Jennifer Bringardner

OBJECTIONS

Stated concerns were the safety of children crossing the street from the high school, and the potential light and noise pollution.

VOTES WERE AS FOLLOWS:

AYES:	(9)	J. Davis, M. Davis, Z. Davis, Michler, Nicol, Owens, Penn, Wilson, and Worth
NAYS:	(0)	
ABSENT:	(2)	Barksdale and Forester
ABSTAINED:	(0)	

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-25-00008** carried.

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

MAP AMENDMENT REQUEST (MAR) APPLICATION

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

Applicant:

Jamie Wittman, 343 Waller Aveue, Suite 100, Lexington, KY 40504

Owner(s):

PATCHEN WILKES REALTY LLC 1140 DELONG LN LEXINGTON KY 40515

Attorney:

Branden Gross, 300 West Vine Street, Suite 1200, Lexington, KY 40507

2. ADDRESS OF APPLICANT'S PROPERTY

1811 WINCHESTER RD LEXINGTON KY 40505

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

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross

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:	To Be Constructed
Storm Sewers:	To Be Constructed
Sanity Sewers:	To Be Constructed
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



June 17, 2025

Urban County Planning Commission
Division of Planning – Planning Services Section
101 E Vine Street, Floor 7
Lexington, KY 40507

Re: First Supplemental Justification Letter
PLN-MAR-25-00008: 1811 Winchester Road, Lexington, Kentucky

Dear Members of the Planning Commission:

We submit this first supplemental justification letter on behalf of RD Property Group, LLC (“Applicant”) for the above referenced matter to provide you additional information related to the applications and respond to the planning staff’s request for more detail on certain elements of the justification letter.

Applicant will submit a revised preliminary development plan that shows (1) a sidewalk along Winchester Road, along with a sidewalk on the eastern boundary of Lot 6 for an alternative route from Winchester Road to the development, (2) an east/west sidewalk on Lot 9 to provide an additional and shorter route to and from the grocery store and apartments—with additional ground-level entries—for the residents, and (3) even though Applicant has not identified end-users for Lots 2 through 6, conceptual buildings and layouts for various restaurants, retailers, and/or professional services on those lots (each of those lots would require a final development plan prior to any development on those lots).

GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN

In addition to the information and rationale previously supplied in the justification letter, we urge you to consider the following in support of the zone change request:

Theme A, Goal 1, Objective b.: Accommodate the demand for housing in Lexington responsibly, prioritizing high-density and mixture of housing types.

Recently, the property had one farm dwelling on it, and any new dwelling units will increase the density at this site. The proposal set forth in the expired development plan (from 2004) did not attract the development that it had intended. Over the last two decades, none of those proposed 225 apartment units were constructed. Applicant anticipates that there are additional opportunities for more density within the larger Patchen Wilkes development and the vicinity. The vacant land immediately to the west of the property across Charleston Drive was zoned to the R-3

Zone in 2006, and there is an opportunity to convert those proposed units from townhouses to apartments in the future. Likewise, in the future, there is the ability of more dwelling units to be built in the project. Further, a developer has already requested to increase the density of the single-family lots near Joan Road (from 69 houses to 115 houses). The Urban Growth Master Plan recommends that the area include 5,000 – 9,000 dwelling units. While on paper there are fewer dwellings between the two development plans, there are plenty of opportunities to increase density within the larger Patchen Wilkes development and the surrounding area.

Theme A, Goal 2, Objective 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.

Applicant did not address this item in its justification letter, but at the request of planning staff, it has evaluated this item. Planning staff states that it would prefer that Applicant re-orient the Kroger building to adjoin the rear areas of the existing commercial properties on Executive Drive and face Charleston Drive. Applicant evaluated several layouts for this site prior to filing its applications, and Applicant determined that its proposal was the most practical layout for its intended user—Kroger. Kroger's prototype-store design utilizes decades of refined space planning and lessons learned from developing and operating hundreds of stores. The size and layout of the store includes the positioning of the various service departments to promote efficient shopping, productive operations, energy conservation, and safe / secure human interaction. Kroger located its more intense vehicle uses (pharmacy, grocery pickup, and delivery trucks) to separate them from the main parking lot, which will be busy with pedestrians and other customer traffic, and to provide those vehicles with a convenient route closer to Charleston Drive and away from the main parking lot. Kroger chose this property to permit its store to orient toward a major corridor—Winchester Road. Retail visibility from the road increases how easily customers can see and notice Kroger from Winchester Road. This visibility is crucial for attracting passing traffic and potential customers and can significantly impact Kroger's success. Re-orientating the store and locating it closer to Executive Drive will also substantially increase the distance pedestrians must walk from Charleston Drive to the building and rear and side parking lots can increase the opportunities for criminal activity. Kroger prefers to locate its parking in front of its building to increase surveillance and activity. There is a significant grade change between Lot 8 (Kroger) and Lot 9 (apartments), with Lot 8 being located on a hill. Applicant has to construct a retaining wall along that boundary due to the grade change, and a re-orientation would have a sidewalk running between a tall retaining wall and the parking lot and/or drive aisle. Practically, there is not enough space to re-orient the building and adequately provide for out lots and an access easement along Charleston Drive. Various neighbors have expressed concern that re-orienting the building to Charleston Drive will direct light and noise pollution toward their existing residences rather than toward the corridor. Re-orienting the store will negatively affect Kroger's operations and success, and it would not create a more pedestrian-friendly outcome.

Theme A, Goal 3, Objective 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.

There is a significant grade change between Lot 8 (Kroger) and Lot 9 (apartments), with Lot 8 being located on a hill, and a direct ADA-compliant path between the lots is not practical. Applicant is proposing an east/west sidewalk on Lot 9 to provide an additional and shorter route to and from the grocery store and apartments, with additional ground-level entries to that sidewalk, for the residents.

Applicant is not required to install sidewalks along an arterial, but at the request of neighbors, Traffic Engineering, and the Pedestrian and Bicycle Planner, Applicant is proposing the installation of a sidewalk along Winchester Road and a sidewalk along the eastern boundary of Lot 6. This will provide an alternative and safer route (out of right-of-way and off of shoulder) from Winchester Road to the development.

POLICIES

Theme A, Pillar I, Design Policy #2: Patchen Wilkes Development will have connections to the existing road networks in the surrounding areas. Applicant is constructing two new public roads to connect to Winchester Road and Executive Drive. This will enhance service times and access in the surrounding area. Applicant will construct a new right-turn lane and relocate the shoulder for such portion of Winchester Road, onto Charleston Drive.

Theme A, Pillar I, Design Policy #4: The existing context of the surrounding area is suburban. Most of the existing structures were developed with low-density lotting patterns with one and two-stories. Applicant has proposed a medium density development on this site that is sensitive to that surrounding context.

Theme A, Pillar I, Design Policy #8: At this time, Applicant is showing one and two-bedroom units in eh apartment buildings, and this will bring additional housing choices to an area that is mostly single-family homes at this time.

Theme A, Pillar I, Design Policy #13: Applicant is building a new section of public road to connect to the stub at Thunderstick Drive and Executive Drive.

Theme B, Pillar II, Sustainability Policy #4: Each lot will manage its own stormwater quantity and quality, and it is anticipated that underground retention with pervious pavement will be utilized in the vehicle use areas to manage stormwater. In addition to stormwater management, pervious pavement permits water and evaporation pores to lower the temperature of parking lots. The vehicle use areas will have perimeter buffering, interior landscaping, and tree canopy of 30%. These design features will reduce and mitigate the negative effects of the vehicle use areas.

Theme C. Pillar II, Diversity Policy #2: Kroger offers its Lexington employees (i) affordable, comprehensive medical, dental, vision and prescription coverage, and union-scale wages through collective bargaining agreements, and (ii) industry-leading training programs and a college-tuition-assistance program, which provide opportunities for a living-wage and upward mobility.

DEVELOPMENT CRITERIA / PLACEBUILDER

Applicant has submitted this proposal as the Corridor Place-type, but planning staff opines that the Regional Center Place-type would more accurately portray the intended use. The Corridor Place-Type and the Regional Center Place-type have similar development criteria, with the Regional Center Place-type having only a few additional development criteria that were not addressed in the justification letter. Below includes a discussion of both the additional development criteria and those development criteria for which planning staff requested additional detail:

LAND USE

A-DN3-1 This commercial center will include an expansive supermarket that will attract customers from both the area and the wider community. A recent report by Drive Research states that approximately 75% of customers choose in-store shopping and 25% choose online shopping (split about evenly between delivery services and grocery pickup services), with online shopping seeing a significant increase from 2022 to 2024. On the other hand, most people will typically only walk 1/4 mile before opting for another form of transportations (the planning concept being aptly named “quarter-mile walkability”)—meaning Kroger’s pool of pedestrian customers will be small even after Patchen Wilkes is fully-built out. Kroger anticipates that it will have more grocery pickup customers using vehicles than pedestrian customers. Applicant has attempted to balance these differing users with its design, while still being able to have a successful operation that meets the expectations of its customers. Applicant has separated its more vehicle intensive uses (fuel station and grocery pickup and pharmacy areas) from its main parking lot and located them closer to Charleston Drive to reduce the likelihood of those vehicle users transversing the main parking lot and increasing pedestrian contacts with in-store shoppers. Applicant will provide sidewalks and cross-walks to meets the needs of pedestrians. The grocery building, fuel station, and grocery pickup and pharmacy areas will not dominate the streetscape along Charleston Drive. There are substantial vegetative areas that separate the 6’ sidewalks along Charleston Drive, and those areas will include landscape buffering and trees to reach the required tree canopy for the development. This commercial center is within a short walking distance of residential neighborhoods, and it will provide multi-modal infrastructure for new and future connections to those areas. Applicant is not required to install sidewalks along an arterial, but at the request of neighbors, Traffic Engineering, and the Pedestrian and Bicycle Planner, Applicant is proposing the installation of a sidewalk along Winchester Road and a sidewalk along the eastern boundary of Lot 6. This will provide an alternative route from Winchester Road to the development. Installing those sidewalks would necessitate additional grading along Winchester Road and Lots 2 through 6 and the removal of the trees within that area. There is a significant grade change between Lot 8 (Kroger) and Lot 9 (apartments), with Lot 8 being located on a hill. Applicant has

reviewed this area and determined that it could not practically construct a direct ADA-compliant path between the lots. Applicant will provide an east/west sidewalk on Lot 9 to provide an additional and shorter route to and from the grocery store and apartments for the residents.

TRANSPORTATION, CONNECTIVITY, AND WALKABILITY

A-DS5-2 Charleston Drive is a curvilinear road and will slow traffic. The roadway is not overly wide—Applicant is constructing it to the width required by the city’s regulations. Charleston Drive has a 10’ utility strip and 6’ sidewalk, and street trees along the west side, which will separate pedestrians from vehicles. There are substantial vegetative areas that abut the 6’ sidewalk, which will include landscaping and trees that will be used to create a vertical edge. The grocery building, fuel station, and grocery pickup and pharmacy areas will not dominate the streetscape along Charleston Drive. Applicant is proposing designated and visible cross-walks and ramps at appropriate locations to clarify uses.

C-PS10-1 Applicant is proposing the amount of parking that Kroger needs for its operations. While not all end-users are known, Applicant anticipates that all of the users within this project will have similar peak parking hours during the evenings and weekends. Applicant wants to limit parking to its users’ customers and employees to manage access, safety, and liability. Applicant is proposing less parking spaces for the out lots, apartments and Kroger site than what was proposed in the expired development plan (from 2004). That expired development plan shows 1,148 parking spaces.

D-CO4-2 The new public roads are pieces to the future roadway infrastructure of this area. This roadway infrastructure is not a radial street network.

D-CO4-3 The new public roads will connect to the existing roads at Winchester Road and Thunderstick Drive. The new public roads will be graded to align with those existing roads.

ENVIRONMENTAL SUSTAINABILITY AND RESILIENCY

B-PR2-1 There is a small area of Zone AE on the property near the location of Thunderstick Drive. Thunderstick Drive will separate this small area from the larger greenway, and Applicant intends to relocate the entirety of the floodplain on the northside of Thunderstick Drive and seek a conditional letter of map revision (CLOMR). Applicant will work with the Division of Engineering and Division of Water Quality on that proposal.

B-PR2-2 There is a small area of Zone AE on the property near the location of Thunderstick Drive. Thunderstick Drive will separate this small area from the larger greenway, and Applicant intends to relocate the entirety of the floodplain on the northside of Thunderstick Drive and seek a conditional letter of map revision (CLOMR). Applicant will work with the Division of Engineering and Division of Water Quality on that proposal. Sidewalks will be installed along the new public roads to permit future connections to greenways located on adjacent properties.

B-PR3-1 Not Applicable. No conservation properties adjoin the property, and all greenways will be located on the other side of public roads.

B-RE5-2 There is a small area of Zone AE on the property near the location of Thunderstick Drive. Thunderstick Drive will separate this small area from the larger greenway, and Applicant intends to relocate the entirety of the floodplain on the northside of Thunderstick

Drive and seek a conditional letter of map revision (CLOMR). Applicant will work with the Division of Engineering and Division of Water Quality on that proposal.

B-PR7-1 There are no trees existing within the interior of the site. Applicant had intended to retain all perimeter trees other than damaged and dying trees and trees located within the proposed rights of way. Applicant is not required to install sidewalks along an arterial, but at the request of neighbors, Traffic Engineering, and the Pedestrian and Bicycle Planner, Applicant is proposing the installation of a sidewalk along Winchester Road and a sidewalk along the eastern boundary of Lot 6. This will provide an alternative route from Winchester Road to the development. Installing those sidewalks would necessitate additional grading along Winchester Road and Lots 2 through 6 and removal of the trees within that area. Those trees consist of pines and locusts.

B-RE1-1 Currently, the property has a tree canopy of 2.7%, and the proposed project will have a tree canopy of 20%. This includes a 30% tree canopy within the interior vehicle use area.

SITE DESIGN

A-DS5-4 Building orientation and site layout is not the only means of satisfying this development criteria. The development will provide various multi-modal facilities, with 6' sidewalks and bike lanes on Charleston Drive. Charleston Drive has a 10' utility strip and 6' sidewalk, and street trees along the west side, which will separate pedestrians from vehicles. There are substantial vegetative areas that abut the 6' sidewalk, which will include landscaping and trees to further activate the streetscape and buffer the grocery building, fuel station, and grocery pickup and pharmacy areas along Charleston Drive. This design will separate these more intense vehicle uses (pharmacy, grocery pickup, and delivery trucks) from the main parking lot, which will be busy with pedestrians and other customer traffic, reducing conflicts between vehicular traffic and pedestrians. Applicant will provide sidewalks and cross-walks to meet the needs of pedestrians. The spacing between Charleston Drive between Winchester Road and the roundabout at Thunderstick Drive is approximately 1,600' (or 1/3 mile), and there are only two access points to the commercial lots along that stretch of road. Applicant is proposing designated and visible cross-walks at appropriate locations to clarify uses. The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station. Based upon the neighborhood meeting, Kroger will install an equine-themed shelter (enclosed herein is a copy of Kroger's updated conceptual plan for the shelter). The apartment buildings are being proposed close to those roads, and the apartment community is proposed to have a large-park-like entry. As discussed above in the section for Theme A, Goal 2, Objective b., Applicant evaluated several layouts for this site prior to filing its applications, and Applicant determined that its proposal was the most practical layout for its intended user—Kroger. Rear and side parking lots can increase the opportunities for criminal activity. Kroger prefers to locate its parking in front of its building to increase surveillance and activity. Re-orientating the store and locating it closer to Executive Drive will also substantially increase the distance pedestrians must walk from Charleston Drive to the building.

A-DS7-1 Applicant is proposing the amount of parking that Kroger needs for its operations. It is the only user of the parking lot, and it is impractical to create a number of smaller

parking lots for one user. As discussed above in the section for Theme A, Goal 2, Objective b., Applicant evaluated several layouts for this site prior to filing its applications, and Applicant determined that its proposal was the most practical layout for its intended user—Kroger. Rear and side parking lots can increase the opportunities for criminal activity. Kroger prefers to locate its parking in front of its building to increase surveillance and activity. The parking lot is buffered from the public roadways with other structures and/or substantial vegetative areas that abut the 6' sidewalk, which will include landscaping and trees. Charleston Drive has a 10' utility strip and 6' sidewalk, and street trees along the west side, which will separate pedestrians from vehicles. The mass of the parking surface will be broken up with a substantial number of vegetated areas and trees. As discussed in the section for Theme B, Pillar II, Sustainability Policy #4, Applicant is proposing design features to reduce and mitigate the negative effects of the vehicle use areas.

BUILDING FORM

A-DS3-1 The Multi-Family Design Standards.

SITE PLANNING

SP.2 Applicant is proposing additional ground-level entries to the apartments, but Applicant has not started designing or engineering the apartment buildings. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process for the apartments.

SP.5 In addition to the new roads and sidewalks, Applicant will add an additional east/west sidewalk along the boundary with Kroger to increase the pedestrian network at the apartments for the residents.

ARCHITECTURAL DESIGN

AD.1 to AD.9 Applicant has not decided who will develop the apartments, and so, there are no typical design standards to share at this time. Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

A-DS5-3 As discussed above in the section for Theme A, Goal 2, Objective b., Applicant evaluated several layouts for this site prior to filing its applications, and Applicant determined that its proposal was the most practical layout for its intended user—Kroger. To increase activation of the streetscape, Charleston Drive will have a 10' utility strip and 6' sidewalk, substantial vegetative areas that abut the 6' sidewalk, which will include landscaping and trees. These items will further activate the streetscape and buffer the grocery building, fuel station, and grocery pickup and pharmacy areas along Charleston Drive. The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station. Based upon the neighborhood meeting, Kroger will install an equine-themed shelter (enclosed herein is a copy of Kroger's updated conceptual plan for the shelter). The grocery building, fuel station, and grocery pickup and pharmacy areas will not dominate the streetscape along Charleston Drive.

The rezoning request is in accord with many of the goals and objectives of the Comprehensive Plan.

VARIANCE REQUEST

In addition to the information and rationale previously supplied in the justification letter, we urge you to consider the following in support of the requested variance:

First, there is a significant grade change between Lot 8 (Kroger) and Lot 9 (apartments), with Lot 8 being located on a hill. Applicant has to construct a retaining wall along that boundary of the lots due to the grade change. A portion of that retaining wall will run along Charleston Drive and partially buffer this vehicle use area. This grade change (and necessary retaining wall) makes the locating structures between this vehicle use area and Charleston Drive difficult, which is one reason that the proposed shelter is located closer to the fuel station. This grade change also limits the ability of Applicant to construct a third access point on Charleston Drive to the rear of the building.

Second, as discussed above in the section for Theme A, Goal 2, Objective b., Applicant evaluated several layouts for this site prior to filing its applications, and Applicant determined that its proposal was the most practical layout for its intended user—Kroger. Practically, there is not enough space to re-orient the building and adequately provide for out lots and an access easement along Charleston Drive. Therefore, rather than requesting a 110' of vehicle use area, Applicant may need hundreds of feet of vehicle use area between the building and Charleston Drive if it re-oriented the building to adjoin the commercial properties along Executive Drive. Rear and side parking lots can increase the opportunities for criminal activity. Kroger prefers to locate its parking in front of its building to increase surveillance and activity. Various neighbors have expressed concern that re-orienting the building to Charleston Drive will increase light and noise pollution toward their existing residences rather than toward the corridor.

Third, one of the purposes of the 60' vehicular use area requirement is to mitigate the conflicts between pedestrian and vehicular traffic. The customer parking for the 122,000 SF Kroger Marketplace will be a very-busy pedestrian and vehicular traffic area with customers, children, and loaded grocery carts moving through that area as customers park their cars, walk into the store, return to their cars, and leave the shopping center. The pharmacy pickup window and the grocery pickup area, as well as the entrance for the large delivery trucks, are located on the west end of the building. This vehicular use area is planned and designed to isolate those activities and vehicular traffic from the main parking lot, resulting in the necessity of the requested variance. Likewise, relocating the wine and spirits grocery pickup window to this area would necessitate these more intensive vehicle uses to move through the main parking lot. Further, the design will discourage pedestrians from entering this vehicular use area and encourage the vehicular traffic entering and exiting that area avoid the main parking lot. The actual pedestrian path coming from Charleston Drive crosses the 30' driveway area and then crosses a raised area before it crosses the 12' drive aisle in front of the pharmacy pickup window. Thus, the actual pedestrian conflict crossings in this area are only 42'. Further, the actual lane widths within that vehicular use area are under 60'.

Lastly, Applicant is agreeable to provide enhanced landscaping along this vehicle use area to buffer the additional paved area and discourage pedestrians from entering that paved area. Applicant will already be providing a retaining wall which will partially buffer this paved area from Charleston Drive.

With these additional points of consideration, we respectfully request approval for the vehicle use area variance.

REMOVAL OF ZONING RESTRICTIONS

In addition to the information and rationale previously supplied in the justification letter, we urge you to consider the following in support of the requested removal of zoning restrictions:

In 2004, Urban County Council found the following to support adoption of the zoning restrictions: “These land use restrictions are appropriate and necessary at this location to ensure that the proposed development is appropriate for the nearby neighborhood and implements the residential land use recommendation of the Comprehensive Plan for the subject property.”

First, the 2001 Comprehensive Plan’s future land use map was partially used to justify the zoning restrictions to implement the recommended “residential land use” for the subject property. The 2001 Comprehensive Plan is no longer governing, and the 2013 Comprehensive Plan abandoned the future land use map for the subject property (and other properties). The 2024 Comprehensive Plan does not recommend that the subject property be a residential land use. Therefore, the partial justification for the zoning restrictions no longer exists. This is a major change of an economic, physical, or social nature on the subject property, and the zoning restrictions based on a residential land use recommendation that no longer exists is not appropriate.

Second, this area has changed over the last two decades, and further changes are proposed over the next decades. There will be more residents, employees, students, and visitors within a mile of this project than what was anticipated in 2004. In 2006, approximately 34 acres adjoining the subject property (east side of Charleston Drive within Patchen Wilkes) were up-zoned to the R-3 Zone from lower density zones (R-1D and R-1T Zones). The 2024 Urban Growth Master Plan expanded the Urban Service Area to include 1,017 acres within a mile of the subject property. The Urban Growth Master Plan recommends that the area include 5,000 – 9,000 dwelling units. This changes will increase density in the area that was not contemplated in 2004. In 2004, it was not contemplated that three of the city’s largest employers would come to this area with new campuses. Frederick Douglas High School was developed on a 65-acre campus on the other side of Winchester Road. Baptist Health Hamburg is developing a 129-acre medical campus that currently employs 300 at its 344,000 SF outpatient medical center, and it is expected that employment will expand to 700 employees upon full build-out. University of Kentucky Medical Center purchased 41 acres at the corner of Polo Club Boulevard and Winchester Road, and the medical center is currently planning to develop specialty clinics at the campus—similar to Turfand Mall. None of those three campuses were contemplated in 2004, and they will attract new employees, students, and visitors to this area on a daily basis. These are major changes of an economic, physical, or social nature within the area, which have changed the character of the area.

Third, in 2004, at the time of the restrictive zoning, the adjoining properties to the west of the subject property were zoned R-1D Zone and R-1T Zone, and the restrictive zoning was found to be “appropriate and necessary at this location to ensure that the proposed development is appropriate for the nearby neighborhood.” As mentioned above, in 2006, that land was up-zoned to the R-3 Zone, which changed the character of the proposed-adjoining neighborhood from detached and attached single family homes to potentially multi-family dwellings. The new zoning permits higher buildings to buffer between the commercial area and the lower-density neighborhood(s) to the west. The 80 acres on the other side of Winchester Road now contains Frederick Douglas High School and an apartment complex. No single family zoning is adjacent to the subject property. These are major changes of an economic, physical, or social nature within the area, which have changed the character of the area.

Lastly, the B-1 Zone is the least intensive business zone. The zoning ordinance has had significant modification since 2004, which mitigates many of the potential concerns related to the zoning restrictions: Landscaping and Tree Protection Standards ZOTA; the Urban Growth Management ZOTA (prohibits new fuel stations and requires a conditional use permit for any new drive-through); and updated sign regulations. These items are discussed in more detail in the justification letter.

As stated in the justification letter, as amended herein, based on major changes of an economic, physical or social nature on the subject property and/or within the area in which the subject property is located, which were not anticipated at the time the binding restrictions were imposed, and which have substantially altered the basic character of such area, the restrictions are no longer appropriate or proper.

I appreciate your consideration of these matters.

Sincerely,



P. Branden Gross











May 5, 2025

Urban County Planning Commission
Division of Planning – Planning Services Section
101 E Vine Street, Floor 7
Lexington, KY 40507

Re: Justification Letter
PLN-MAR-25-00008: 1811 Winchester Road, Lexington, Kentucky

- (1) Zone Change Request for Lots 8 and 9
From: Planned Neighborhood Residential (R-3) Zone; and
Neighborhood Business (B-1) Zone
To: Commercial Center (B-6P) Zone
- (2) Variance Request to increase the maximum vehicle use area between a building and a street from 60' feet to 110' on Lot 8
- (3) Removal of Conditional Zoning Restrictions from Neighborhood Business (B-1) Zone on Lots 2 through 6

Dear Members of the Planning Commission:

We submit this justification letter for RD Property Group, LLC's ("Applicant") applications related to a new development for a portion of 1811 Winchester Road. The zone change is a request to rezone a portion of the property from (i) Planned Neighborhood Residential (R-3) Zone (Net: 10.06 Acres, Gross: 10.06 Acres) and Neighborhood Business (B-1) Zone (Net: 14.19 Acres, Gross: 14.19 Acres) to (ii) a Commercial Center (B-6P) Zone for a community commercial center for Lots 8 and 9. The Applicant is proposing a preliminary development plan for a mixed-use development on Lots 8 and 9, consisting of a Kroger Marketplace ("Kroger") and an apartment community. In conjunction with the zone change request, as permitted under the Zoning Ordinance, Applicant is requesting a variance for Lot 8 to increase the maximum vehicle use area between a building and a street from 60' feet to 110' to permit the pharmacy drive-up window facilities and grocery pick-up facilities, and delivery truck access to the rear of the building.

Applicant is also requesting to remove zoning restrictions from Lots 2 through 6 but to retain the Neighborhood Business (B-1) Zone (Net: 8.05 Acres, Gross: 10.03 Acres) on that property. At this time, Applicant does not have end-users for Lots 2 through 6, but it anticipates that the property will have restaurants, retailers, and/or professional services.

INTRODUCTION

In 1981, Warren W. Rosenthal purchased what was then known as Patchen Wilkes Farm located along Winchester Road. Mr. Rosenthal was a renowned businessman and restaurateur. During Mr. Rosenthal's ownership, Patchen Wilkes Farm was notable for producing rare-pure-white thoroughbreds. In the mid-aughts, Mr. Rosenthal had Patchen Wilkes Farm rezoned to permit the development of Patchen Wilkes ("Patchen Wilkes Development")—a large mixed-use development. Over the next fifteen years, Mr. Rosenthal continued agricultural operations but developed small portions of the Patchen Wilkes Development with single-family homes and townhomes. In 2019, Mr. Rosenthal passed away, and his successors are ready to fully develop the property. Applicant is assisting the owner with developing the balance of the mixed-use development, which will consist of additional single-family homes and townhomes and new apartments and a commercial area. The current requests relate to the portion of Patchen Wilkes Development, focusing on new apartments and the commercial area.

The property is located across from Frederick Douglas High School. It is anticipated that the intersection of the high school's access road, Charleston Drive, and Winchester Road will be signalized with pedestrian facilities located on Charleston Drive and a connection to the existing 10' road trail connection along Winchester Road. The traffic count on Winchester Road is approximately 37,000 trips a day, but this proposal will not negatively affect the area. There are a number of existing traffic impact studies for this area that have contemplated the Patchen Wilkes Development. Lexington Area MPO has confirmed that this project does not require a new traffic impact study.

Although Patchen Wilkes Development is not fully developed, the properties around the site have undergone major development over the decades, consisting of a middle school, a high school, residential neighborhoods, and a commercial area. Winchester Road is along the southern boundary of the development. To the northern boundary, Crawford Middle School is located. Bluegrass Wilkes Neighborhood and businesses are located along Executive Drive to the east. Eastland Park and Dixie Plantation Neighborhoods and Patchen Wilkes single-family homes and townhomes are located to the west. Patchen Wilkes Development is proposed to connect to road networks for those existing areas, except that no direct access is proposed for Patchen Wilkes single-family homes and townhomes.

The context/character and urban form of the surrounding area is suburban and fully developed. This is not an urban core area with high-density residential and commercial developments. Most of the residential dwellings were developed with low-density lotting patterns, and the commercial buildings on Executive Drive are mostly one and two-stories.

GOALS AND OBJECTIVES OF THE COMPREHENSIVE PLAN

Applicant is proposing a Kroger Marketplace and an apartment community on the B-6P property. The B-1 Zone property area will have restaurants, retailers, and/or professional services. The B-6P Zone is intended to promote commerce and retail along major corridors and incorporate

new residential opportunities. The B-6P Zone will permit a mixture of commercial and residential uses, and as shown on the preliminary development plan, the full commercial area is located on Winchester Road—a major corridor. As discussed below, the rezoning request to the B-6P Zone agrees with the Comprehensive Plan.

This project will provide new retail and food service to residents and additional housing options to the surrounding area. Kroger intends to construct a 122,000 SF building substantially similar to its Kroger Marketplace at Newtown Springs (enclosed herein is a copy of Kroger's conceptual elevations for that other store). The apartment community is proposed to have two buildings with 154 dwelling units (or ~ 53 dwelling units per acre), with a mix of one-bedroom and two-bedroom units. The apartment community will have typical amenities—community mailboxes, open spaces, bicycle parking, lounges, office space, and fitness area—that will be designed during the final development process.

Lexington is growing, but Lexington has chosen to control its outward growth. To accommodate this growth, development in Lexington will continue to require the identification of parcels of land that are available for infill and redevelopment. The Comprehensive Plan is clear that increased density and intensity are important considerations along our corridors to accommodate population growth and land use efficiency, but the Comprehensive Plan does not relegate context/character to a second-class consideration. Within the Comprehensive Plan, density/intensity and context/character are equally to be balanced for each development.

THEME A: GROWING & SUSTAINING SUCCESSFUL NEIGHBORHOODS.

This development will increase residential density within an area with new commercial activity and provide new businesses that serve the existing area. This land is currently vacant, and this is an opportunity for mixed-use development that is context sensitive to the suburban-scale of the area (Theme A, Goal 2, Objective a.) (“High density development is not appropriate in every context” (Comprehensive Plan at Page 70)). The apartment community will provide higher-density-apartment living and add to the mixture of housing types in the area (Theme A, Goal 1, Objective b.). This is a commercial center within a short walking distance of existing and proposed residential neighborhoods, and it will provide multi-modal infrastructure to integrate neighborhoods with the commercial center (Theme A, Goal 5, Objective a.). The apartment community will provide safe and accessible dwelling units for both disabled residents and our aging population (looking to down-size or age in Lexington) (Theme A, Goal 1, Objective c.). This project will expand housing options (new apartments) in a suburban area dominated with single family detached and attached homes (Theme A, Goal 3, Objective a.). The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry (Theme A, Goal 2, Objective c.). It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing neighborhoods to provide a strong road network and missing pedestrian facilities in this area (Theme A, Goal 3, Objective e.). At this time, Applicant is designing Charleston Drive

and Thunderstick Drive to the roundabout (as shown on the preliminary development plan), which will be built in conjunction with this project. The full sections of Charleston Drive and Thunderstick Drive will be completed during future phases of the development. These new road connections will reduce emergency service times for the area (Theme A, Goal 4, Objective c.). The development will increase connectivity in the surrounding areas, with new sidewalks and bike lanes provided within the rights-of-way (as shown on the preliminary development plan). Those improvements will connect to the existing 10' trail connection along Winchester Road and to the future shared-use trail to be constructed north of the property (Theme A, Goal 3, Objective b.). The vehicle use areas are designed to fulfill the anticipated needs of the development, and they comply with the zoning ordinance and other regulations applicable to preliminary development plans. Applicant has identified mitigation strategies for the vehicle use areas for this project (as discussed below) (Theme A, Design Policy #2; and Theme B, Sustainability Policy #4). Internal sidewalks will provide cross-access between the out-lots and the Kroger Marketplace—with an opportunity for future connections to Executive Drive and/or Winchester Road as the properties to the east are developed and/or redeveloped. This project will promote the growth and sustainability of the surrounding neighborhoods, while keeping within the context of those built areas.

THEME B: PROTECTING THE ENVIRONMENT.

The vehicle use areas are designed to fulfill the anticipated needs of the development, but the Zoning Ordinance requires certain strategies to mitigate the adverse effects of impervious areas in new development (as recommended in Theme B of the Comprehensive Plan). The commercial center will have a minimum of 20% tree canopy (or ~ 4.42 acres of tree canopy) and a minimum of 15% (or ~ 3.32 acres) of vegetated open space and additional common open space area—which is proposed to have a shelter, benches and a bike repair station. The vehicle use areas will have perimeter buffering, interior landscaping, and tree canopy. The project is retaining a 30' Tree Protection Area along Winchester Road, as shown on the preliminary development plan. As shown on the cross-sections on the preliminary development plan, the new public roads will also have street trees. Each lot will manage its own water stormwater quantity and quality management, and it is anticipated that underground retention with pervious pavement will be utilized in the vehicle use areas to manage stormwater. In addition to stormwater management, pervious pavement permits water and evaporation pores to lower the temperature of parking lots. These areas of landscaping, tree canopy, and pervious pavement will reduce the heat island effect of the development, manage water quality, and lead to a more environmentally sustainable development.

THEME C: CREATING JOBS AND PROSPERITY.

The project will create new employment opportunities and new healthy-fresh food options. The Kroger Marketplace and other businesses will create jobs within a short walk of where people live in the surrounding area (Theme C, Goal 2, Objective a.). Kroger offers its Lexington employees (i) affordable, comprehensive medical, dental, vision and prescription coverage, and union-scale wages through collective bargaining agreements, and (ii) industry-leading training programs and a college-tuition-assistance program, which provide opportunities for a living-wage

and upward mobility (Theme C, Goal 2, Objective f.). The nearest grocery store and pharmacy on this side of Winchester Road is the Kroger at Bryan Station Road. The Kroger Marketplace will provide new options for affordable and nutritious food in the area, eliminating a food desert (Theme C, Goal 3, Objective b.). This project will create jobs and prosperity for all with new employment opportunities and new healthy-fresh food options.

THEME D: IMPROVING A DESIRABLE COMMUNITY.

The project is expanding the transportation network for all users, with sidewalks and bike lanes provided within the new public roads (as shown on the preliminary development plan) and connections to the existing 10' trail connection along Winchester Road (Theme D, Goal 1, Objective b.). Internal sidewalks will provide cross-access within and from the commercial center to the surrounding neighborhoods. The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), for use as a transit shelter when a transit route is located in this area in the future (Theme D, Goal 1, Objective c.). These multi-modal improvements will provide a wide option of new-affordable transportation modes within the area (Theme D, Goal 1, Objective f.).

THEME E: MAINTAINING A BALANCE BETWEEN PLANNING FOR URBAN USES AND SAFEGUARDING RURAL LAND.

This property is currently vacant land, and this project will develop an underutilized area of a major corridor (Theme E, Goal 1, Objective d.). This project is activating a large tract within the Urban Service Boundary (Theme E, Goal 1, Objective f.). Kroger is a participant in the Kentucky Proud program, and sells products from Kentucky Proud producers, supporting the local-agricultural economy (Theme E, Goal 2).

PUBLIC ENGAGEMENT

Applicant has invited several neighborhood associations to an initial public meeting on May 14, 2025: Eastland Parkway Neighborhood Association, Liberty Area Neighborhood Association, East Pointe Homeowners Association, Inc., Patchen Wilkes Townhomes Owners Association and Patchen Wilkes single-family homes area. The meeting will be held in person at Frederick Douglass High School. Applicant emailed information related to the meeting to each association's registered contact with the city. Applicant has also sent information related to the public meeting to Councilmember Denise Gray to allow her the opportunity to share the meeting information with her constituents in District 6. Planning staff are invited to attend. Applicant intends to continue to promote that scheduled meeting, and it is willing to have additional meetings with interested stakeholders.

DEVELOPMENT CRITERIA / PLACEBUILDER

This proposal fits within the Corridor Place-type and within the Medium Density Non-Residential/Mixed-Use (MNR-MU) development type. The project is for the development of an underutilized property located on Winchester Road—a major corridor. This is a community-serving development with commercial uses, services, and employment opportunities and new dwelling units. The Comprehensive Plan recommends the B-6P Zone within the Corridor Place-type. This development will attract external users to the various commercial and employment opportunities and provide new multi-modal connections for the residents located within close proximity. As recommended by Corridor Place-type, the majority of the parking areas are located internally to the site, with large open spaces, street trees as shown on the preliminary development plan, and buildings separating external parking from the public roads. The project complies with all applicable zoning regulations related to mass and form.

Enclosed herein is a color-coded reflection of how we have addressed the design criteria listed in that Placebuilder category. Items highlighted in green are represented graphically on the preliminary development plan, items with no color are addressed in this letter, and items highlighted in orange are not applicable to our proposal and address in this letter.

LAND USE

A-DN3-1 This commercial center is within a short walking distance of residential neighborhoods, and it will provide multi-modal infrastructure for new and future connections to those areas.

C-LI7-1 LexTran does not fully serve this section of Winchester Road. This project will provide infrastructure that LexTran could use in the future, e.g., a proposed shelter in the Common Open Space. The development will provide multi-modal infrastructure for new and future connections to surrounding neighborhoods.

C-PS9-1 Not Applicable. There is no existing office space.

D-PL7-1 Applicant has a neighborhoods meeting scheduled for May 14, 2025.

E-ST8-2 Not applicable. No community services are offered for this project.

E-GR3-1 Not applicable. There are no planned parks.

E-GR10-1 This commercial center and its higher density housing is in close proximity to a partial transit route. It is anticipated that the increased residential density and the Kroger Marketplace will encourage Lextran to bring a full-service route to the development.

TRANSPORTATION, CONNECTIVITY, AND WALKABILITY

A-DS5-2 Street trees are proposed on Charleston Drive and Thunderstick Drive as shown on the preliminary development plan. The apartment buildings are being proposed close to those roads.

A-DS10-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry. The residential portions of the future phases of Patchen Wilkes

Development will include greenways and natural areas, which will have connections to the commercial center.

A-EQ5-2 The development will have direct bicycle and pedestrian access to Winchester Road and an opportunity for future connections to the adjacent neighborhoods. This project will provide infrastructure that LexTran could use in the future, e.g., a proposed shelter in the Common Open Space. It is anticipated that the increased residential density and the Kroger Marketplace will encourage Lextran to bring a full-service route to the development.

C-PS10-1 Not Applicable. Applicant is not proposing shared parking.

D-CO2-2 Not Applicable. Lexington has not adopted a Complete Streets Policy.

D-SP6-1 Not Applicable. No such facilities are proposed.

ENVIRONMENTAL SUSTAINABILITY AND RESILIENCY

B-PR2-1 Not Applicable. There are no environmentally sensitive areas.

B-PR2-2 Not Applicable. No greenways are on this property.

B-PR3-1 Not Applicable. No conservation properties adjoin the property.

B-PR9-1 Not Applicable. There are no key natural features on the property or high slopes being graded.

B-PR10-1 The development will avoid over-lighting and upward directed lighting.

B-SU4-1 It is anticipated that underground retention with pervious pavement will be utilized in the vehicle use area to manage stormwater during weather events.

B-SUB5-1 Not Applicable. Neither Kroger nor Applicant has designed or engineered the site at this time.

B-SUP-1 It is anticipated that underground retention with pervious pavement will be utilized in the vehicle use area to manage stormwater during weather events. In addition, the project will have new trees within the commercial center.

B-SU11-1 Not Applicable. Applicant has not planned the landscaping at this time, but its future plans will comply with the Planting Manual.

B-RE2-1 Not Applicable. There are no greenways on the property or proposed for the future.

B-RE5-1 Not Applicable. There are no floodplains on the property.

B-RE5-2 Not Applicable. There are no floodplains on the property.

B-RE5-3 Not Applicable. The property is not within that area.

D-SP10-1 Street trees are being planted in the planting strip as shown on the preliminary development plan.

SITE DESIGN

A-DS5-4 The development will provide various multi-modal facilities, with 6' sidewalks and bike lanes on Charleston Drive. Street trees are proposed on Charleston Drive and Thunderstick Drive as shown on the preliminary development plan. The apartment buildings are being proposed close to those roads. Internal sidewalks will provide cross-access between the outlots and the Kroger Marketplace—with an opportunity for sidewalk connections to Executive Drive and/or Winchester Road as the properties to the east are development and/or redeveloped.

A-DS9-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry.

A-DS9-2 The residential portions of the future phases of Patchen Wilkes Development will include greenways and natural areas, which will have connections to the commercial center. The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry.

A-EQ9-1 Not Applicable. No school is being proposed.

C-LI2-2 Not Applicable. There are no gateways at the property.

C-LI2-3 Not Applicable. There are no gateways at the property.

C-LI2-4 Not Applicable. None of those areas are present.

C-LI8-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs), and the apartment community is proposed to have a large-park-like entry. It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing adjacent neighborhoods to provide a strong road network and pedestrian facilities in this area.

C-PS10-2 Applicant is proposing parking that is necessary for the success of the project, and the proposed parking areas will comply with the parking maximum in the B-6P Zone.

D-PL4-1 The Kroger Marketplace will have a large common open space with a shelter that includes benches and a bike repair station (enclosed herein is a copy of Kroger's conceptual plan for the shelter at Newtown Springs).

D-PL10-1 Not Applicable. Applicant is not proposing public art at this time.

D-SP3-1 Adequate facilities are provided.

D-SP3-2 Not Applicable. There are no cellular towers.

BUILDING FORM

A-DS3-1 The Multi-Family Design Standards are addressed below.

A-DS4-2 This project is within scale of the existing neighborhoods.

A-DN2-2 This project is within scale of the existing neighborhoods. Charleston Drive and Thunderstick Drive will function as a transition between this project and future residential development. There are no historic areas or neighborhoods adjoined to the project.

D-PL2-1 All of the buildings will have active first floor uses.

A-EQ5-1 This project is within scale of the existing neighborhoods. Charleston Drive and Thunderstick Drive will function as a transition between this project and future residential development. More intensive uses are closer to the corridor.

D-PL2-1 The development will have active first floor uses.

E-GR4-1 Not Applicable. The agricultural structure is being removed for the property.

E-GR5-1 Not Applicable. There are no historically significant structures.

MULTI-FAMILY DESIGN STANDARDS

SITE PLANNING

- SP.1 Applicant is proposing buildings located along a new public road.
- SP.2 Applicant has not started designing or engineering for the apartment buildings. This will be done where feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.
- SP.3 Applicant has not started designing or engineering the apartment buildings. This will be done where feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.
- SP.4 Applicant is proposing buildings located along a new public road.
- SP.5 The development will have continuous multi-modal connections to the Kroger Marketplace and general vicinity.
- SP.6 Applicant has not started designing or engineering for the apartment buildings. This will be done where feasible. Applicant will continue to work with planning staff, and these items will be resolved at final development plan process.
- SP.7 The apartment community is proposed to have a large-park-like entry, and the buildings are close to the roads. This will be done where feasible.
- SP.8 The parking lots are being separated, and the apartment community is proposed to have a large-park-like entry. This will be done where feasible.
- SP.9 The apartment community is proposed to have a large-park-like entry. This will be done where feasible.
- SP.10 It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing adjacent neighborhoods to provide a strong road network and pedestrian facilities in this area. Charleston Drive and Thunderstick Drive will have multi-modal facilities.
- SP.11 It is anticipated that, in the future, the Patchen Wilkes Development will connect roads between the existing adjacent neighborhoods to provide a strong road network and pedestrian facilities in this area. Charleston Drive and Thunderstick Drive will have multi-modal facilities. Overly long blocks are not proposed.
- SP.12 The development includes a roundabout, medians, and street trees to function as traffic calming features as shown on the preliminary development plan. The roads narrow as they transition from the commercial area to the residential areas.
- SP.13 Charleston Drive and Thunderstick Drive will have multi-modal facilities, including 6' sidewalks and bike paths on the former.
- SP.14 The project includes sidewalks, planting strips, and street trees as shown on the preliminary development plan.
- SP.15 Applicant will provide well-lit parking lot but not negatively impact surrounding buildings.
- SP.16 The apartment community will provide safe and accessible dwelling units for disabled residents.
- SP.17 Applicant anticipates that both sides of the street will balance.

OPEN SPACE & LANDSCAPING

OS.1 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.2 Applicant has not fully designed the site, but it will provide such space as feasible. The apartment community is proposed to have a large-park-like entry. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.3 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.4 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.5 Applicant will provide buffering around and trees within the parking areas.

OS.6 There are no adjacent single-family properties.

OS.7 Applicant has not fully designed the site, but it will provide such space as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.8 Applicant has not fully designed the site, but it is anticipated that underground retention with pervious pavement will be utilized in the vehicle use area to manage stormwater during weather events.

OS.9 Applicant is proposing 6' sidewalks along the roads and internal paths.

OS.10 Not Applicable. Only two roads are proposed.

OS.11 The apartment community is proposed to have a large-park-like entry.

OS.12 Applicant has not fully designed the site, but it will provide such features as feasible. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

OS.13 Applicant has not fully designed the site, but it will avoid light spillage and glare. Applicant will continue to work with planning staff, and these items will be resolved at the final development plan process.

ARCHITECTURAL DESIGN

AD.1 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.2 The proposed buildings are within scale to the surrounding area.

AD.3 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.4 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.5 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.6 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.7 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.8 Applicant has not started designing or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

AD.9 Applicant has not started the design or engineering for the apartment buildings. The project complies with all applicable zoning regulations related to mass and form.

As discussed above, the rezoning request is in accord with many of the goals and objectives of the Comprehensive Plan. This rezoning will actually enhance the area with additional commercial uses and residential dwellings along a major corridor.

VARIANCE REQUEST

Applicant is requesting a variance to increase the maximum vehicle use area between a building and a street from 60' (Article 16-6(a)(2)) to 110' to permit the layout of the proposed Kroger Marketplace. The Kroger Marketplace will be similar in size and have similar amenities to the Kroger Marketplace located at Newtown Springs. A Kroger Marketplace is a complex operation, involving various other services and goods, to attract customers. A Kroger Marketplace relies upon pharmacies, fuel stations, health clinics, spirits stores, banks, and other services to diversify its revenue to increase its economic viability. Both the internal building and outdoor spaces of Kroger Marketplaces are designed to integrate these services within a larger development.

This variance will permit the construction of a drive aisle for delivery trucks, drive-up window facilities for a pharmacy, and grocery pick-up facilities between the building and Charleston Drive. This design will separate these more intense vehicle uses (pharmacy, pick-up, and delivery trucks) from the parking lot, which will be busy with pedestrians and other customer traffic. Isolating these activities in this area will separate them from the area where pedestrians and other customer traffic are expected, reducing conflicts with between vehicular traffic and pedestrians. Applicant is agreeable to provide enhanced landscaping along the vehicle use area to buffer the additional paved areas and discourage pedestrians from entering that paved area. The separation of vehicle-only uses from the main parking lot will make the overall site safer for both pedestrians and motorists.

The requested variance will not cause an unreasonable circumvention of the requirements of the Zoning Ordinance in that Applicant is requesting this variance in conjunction with a zoning change request. None of the underlying circumstances of this request is the result of any actions taken by Applicant in that this is vacant land that Applicant is proposing to develop. This variance will not negatively affect the public health, safety, or welfare, nor alter the character of the general vicinity or cause a nuisance to the public.

REMOVAL OF ZONING RESTRICTIONS

In 2004, in conjunction with a zoning change request from an Agricultural Urban (A-U) Zone (21.21 net acres) and from a Planned Neighborhood Residential (R-3) Zone (1.38 net acres) to a Neighborhood Business (B-1) Zone the Urban County Council imposed the below zoning restrictions. Applicant is requesting that a portion of the property in the B-1 Zone be rezoned to the B-6P Zone, which will remove the zoning restrictions from that portion of the property. As to the balance of the property to be retained as the B-1 Zone (8.05 acres), Applicant is requesting that the zoning restrictions be removed as discussed below:

1. *There shall be a minimum of 125 residential dwelling units in the B-1 zone.*

The 2001 Comprehensive Plan recommended that the property have a medium-density development, meaning 5-10 dwelling units per acre, based upon the future land use map. The entire proposed project for the B-6P Zone and the B-1 Zone properties will have a density of over 7 dwelling unit per acre—within the recommended range when this zoning restriction was adopted. Further, one of the purposes of that Urban Growth Management ZOTA was to relocate drive-through facilities from our local roadway systems to the city's major corridors—such as Winchester Road, meaning that this is now one of the limited locations at which the community permits them. In conjunction with the B-6P Zone property, the property will be utilized as out-lots for restaurants, retailers, and/or professional services. Since COVID, consumer preferences for drive-through, pickup, and delivery services have substantially increased, and users have responded with smaller more efficient buildings. The new layout for these types of users is no longer conducive for dwelling units over the anticipated buildings in the B-1 Zone. As demonstrated with the Summit at Fritz Farm, residential over retail has struggled in Lexington outside of the urban core and campus area.

2. *Signage shall be provided only as per the B-6P zone.*

This restriction applied to a development with 22.59 acres—a large development. With approval of the zone change, the affected property will now only be 8.05 acres—a much smaller area. It would not make sense for the proposed out-lots to have a single-free standing sign. It makes more sense for the out-lots to have permitted signage in line with the B-1 Zone—signage that has been appropriate within our lowest intensity commercial zones and that is permitted in our neighborhoods.

3. *Sixty percent (60%) of all commercial square footage shall be in multi-story buildings with a mixture of residential units.*

The 2001 Comprehensive Plan recommended that the property have a medium-density development, meaning 5-10 dwelling units per acre, based upon the future land use map. The entire proposed project for the B-6P Zone and the B-1 Zone properties will have a density of over 7 dwelling unit per acre—within the

recommended range when this zoning restriction was adopted. In conjunction with the B-6P Zone property, the property will be utilized as out-lots for restaurants, retailers, and/or professional services. Since COVID, consumer preferences for drive-through, pickup, and delivery services have substantially increased, and users have responded with smaller more efficient buildings. The new layout for these types of users is no longer conducive for dwelling units over the anticipated buildings in the B-1 Zone. As demonstrated with the Summit at Fritz Farm, residential over commercial has struggled in Lexington outside of the urban core and campus area.

4. *Existing trees within 30 feet of Winchester Road right-of-way are to be preserved, except those trees that are diseased or dying, and those needed to be removed for right-of-way improvements.*

In 2024, Lexington revised its Zoning Ordinance with a significant amendment to Article 26 (Tree Protections Standards) with the Landscaping and Tree Protection Standards ZOTA. The Division of Planning summarized the amendment as follows: “The amendment consolidated enforcement and citation regulations (Zoning Ordinance Article 5), updated landscaping regulations (Zoning Ordinance Article 18), and provided clearer and modernized definitions for tree protection standards (Zoning Ordinance Article 26) — all incentivizing green infrastructure best management practices. Those amendments have strengthened the regulatory oversight and enhanced the process for tree protections.” Applicant has agreed to retain this area as a Tree Protection Area, as shown on the preliminary development plan, which protected area would be regulated under Article 26 and with oversight from the Urban Forester and Planning Commission. Given these significant changes to the Zoning Ordinance, and Applicant’s agreement, this zoning restriction is no longer needed.

5. *The sale of gasoline shall be restricted only to one business, only as an accessory use to a convenience store, with no more than eight gasoline pumps.*

In 2024, the Urban Growth Management ZOTA amended the B-1 Zone to prohibit new fuel stations in the B-1 Zone. Given this amendment, this zoning restriction is no longer needed.

6. *No more than four drive-through facilities shall be provided on the subject property.*

In 2004, when this zoning restriction was adopted, drive-through facilities were a by-right accessory use (meaning no additional review and approval was necessary) in the B-1 Zone. This restriction also applied to a development with 22.59 acres—a large development. With approval of the zone change, the affected property will now only be 8.05 acres—a much smaller area. In 2024, the Urban Growth Management ZOTA amended the B-1 Zone to make new drive-through facilities only permitted as conditional uses, with special restrictions, in the B-1 Zone, and

May 5, 2025

Page 14

new drive-through facilities are only permitted after review and approval of the Board of Adjustment. Further, one of the purposes of that ZOTA was to relocate drive-through facilities from our local roadway systems to the city's major corridors—such as Winchester Road, meaning that this is now one of the limited locations at which the community permits them. Given these developments, this zoning restriction is no longer needed.

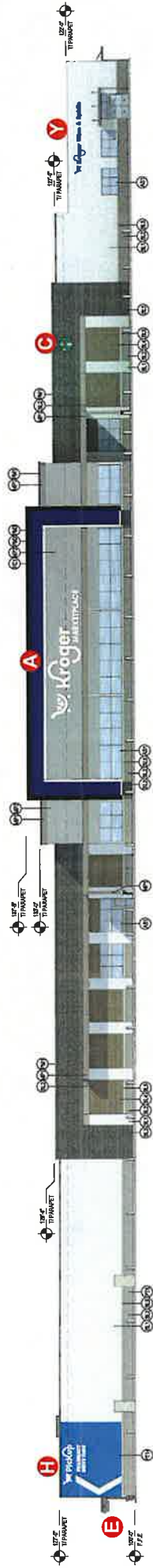
Based on the major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restrictions were imposed, and which has substantially altered the basic character of such area, the restrictions are no longer appropriate or proper.

I appreciate your consideration of these matters.

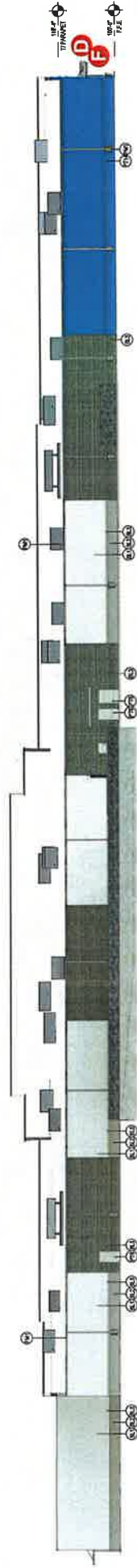
Sincerely,



P. Branden Gross



FRONT ELEVATION



REAR ELEVATION





SIDE ELEVATION

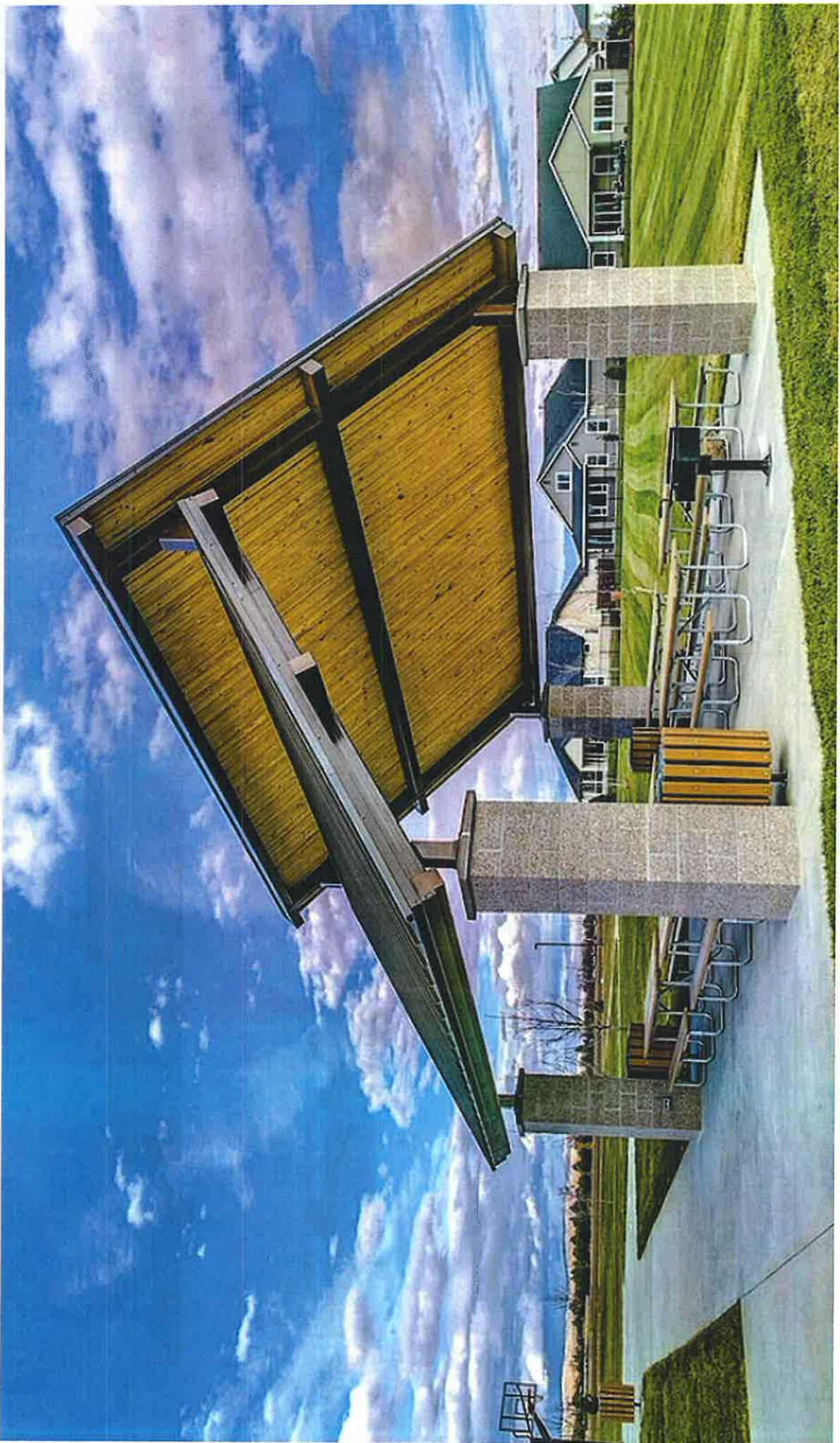


SIDE ELEVATION

SCALE: 1" = 35'

KROGER #797
 NEWTON PIKE & CITATION BLVD.
 LEXINGTON, KY

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	Rev. #1	Rev. #2	Rev. #3	Rev. #4		



CORRIDOR

CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

LAND USE

- A-DS12-1** Development should be located nearest to neighborhood serving commercial areas.
- A-DN2-1** Infill residential should aim to increase density.
- A-DN3-1** Pedestrian-oriented commercial opportunities and other services should be incorporated within residential neighborhoods.
- A-DN3-2** Development should incorporate residential units in commercial centers.
- C-LI7-1** Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.
- C-PS9-1** Where possible, developments should modify current office space to include complementary uses, with a specific focus on the inclusion of residential.
- C-PS15-2** Improve options for affordable and nutritious food where not currently available.
- D-CO3-1** Development should increase density and intensity adjacent to transit.
- D-PL7-1** Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
- E-ST8-2** Development should provide community oriented places and services.
- E-GR3-1** Development should meet recreational needs by following the recommendations of the Parks Master Plan.
- E-GR10-1** Transit oriented development (TOD) should be provided.
- TRANSPORTATION, CONNECTIVITY, AND WALKABILITY**
- A-DS1-1** Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes.
- A-DS1-2** Accessible pedestrian linkages to transit should be provided.
- A-DS4-1** A plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided.
- A-DS5-1** Safe multi-modal facilities should be provided to ensure vehicular separation from bicycles, pedestrians and other modes of transport.

CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

- A-DS5-2** Developments should incorporate vertical elements, such as street trees and buildings, to create a walkable streetscape.
- A-DS10-1** New developments should incorporate clear and dedicated connections to nearby community anchors.
- A-DS11-1** Street layouts should provide clear, visible access to neighborhood-focused open space and greenspaces.
- A-DS13-1** Stub streets should be connected.
- A-EQ5-2** Development should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities).
- C-PS10-1** Flexible parking and shared parking arrangements should be utilized.
- D-CO1-1** Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.
- D-CO2-1** Development should create and/or expand a connected multimodal transportation network that satisfies all users' needs.
- D-CO2-2** Development should comply with Lexington's Complete Streets Policy.
- D-CO5-1** Streets should be designed with shorter block lengths, narrower widths, and traffic calming features.
- D-SP6-1** Social services and community facilities should be accessible via mass transit, bicycle and pedestrian transportation modes.
- ENVIRONMENTAL SUSTAINABILITY AND RESILIENCY**
- B-PR2-1** Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
- B-PR2-2** Development should include regularly spaced access with an adequate width to the greenway network and conservation areas.
- B-PR3-1** Minimize impact of development adjacent to land conservation properties through buffering.
- B-PR7-1** Developments should be designed to minimize tree removal and to protect and preserve existing significant trees.
- B-PR9-1** Minimize grading and topsoil disturbance by utilizing the existing topography to the greatest extent possible and preserving key natural features.
- B-PR10-1** Development should avoid overlighting and upward directed lighting.
- B-SU4-1** Development should minimize and/or mitigate impervious surfaces.

CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

- B-SU5-1** Developments should incorporate energy efficient systems and renewable energy resources (i.e. wind, solar, etc.)
- B-SU9-1** Green Stormwater Infrastructure (GSI) should be implemented in new development.
- B-SU11-1** Development should incorporate low impact landscaping and native plant species.
- B-RE1-1** Developments should improve the tree canopy.
- B-RE2-1** Lexington's green infrastructure network, including parks, trails, greenways, or natural areas should be highly visible and accessible.
- B-RE5-1** Dividing floodplains into privately owned parcels with flood insurance should be avoided.
- B-RE5-2** Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.
- B-RE5-3** Developments within the Royal Springs Aquifer should consult with the Royal Springs Water Supply Protection Committee.
- D-SP10-1** Prioritize street trees in the planting strip.

SITE DESIGN

- A-DS5-4** Development should provide a pedestrian-oriented and activated streetscapes.
- A-DS7-1** Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
- A-DS9-1** Development should provide active and engaging amenities within neighborhood focused open spaces.
- A-DS9-2** Where neighborhood open space or parks are not located within walking distance of a new development, applicants should incorporate these facilities.
- A-EQ9-1** School sites should be appropriately sized.
- A-EQ9-2** Shared open spaces should be easily accessible and clearly delineated from private open spaces.
- C-LI2-2** Non-agricultural uses at or near potential and existing gateways, as mapped in the Rural Land Management Plan, should be buffered.
- C-LI2-3** Design should create a positive gateway character at existing and proposed gateways as identified in the Rural Land Management Plan.

CORRIDOR - MEDIUM DENSITY NON-RESIDENTIAL/MIXED USE

- C-LI2-4** Setbacks, signage, and screening should complement the iconic Bluegrass landscape along Historic Turnpikes, Scenic Byways, Turnpikes, and other scenic roads listed in the RLMP.
- C-LI8-1** Development should enhance a well-connected and activated public realm.
- C-PS10-2** Over-parking of new developments should be avoided.
- D-PL4-1** Enhance open space through the provision of programmatic elements and amenities.
- D-PL10-1** Activate the streetscape or publicly visible areas by designating public art easements in prominent locations.
- 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.
- D-SP3-2** Cellular tower antennae should be located to minimize intrusion and negative aesthetic impacts, and stealth towers and landscaping used to improve the visual impact from the roadway and residential areas.

BUILDING FORM

- A-DS3-1** Multi-family residential developments should comply with the Multi-family Design Standards in Appendix A.
- A-DS4-2** New construction should be at an appropriate scale to respect the context of neighboring structures; however, along major corridors, it should set the future context.
- A-DS5-3** Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.
- A-DN2-2** Development should minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods.
- A-EQ5-1** Development should create context sensitive transitions between intense corridor development and existing neighborhoods.
- D-PL2-1** Development should provide active first floor uses whenever adjacent to a street, pedestrian facility, or community focused open space.
- E-GR4-1** Developments should incorporate reuse of viable existing structures.
- E-GR5-1** Structures with demonstrated historic significance should be preserved or adapted.

EA Partners, PLLC



CIVIL ENGINEERS • LAND SURVEYORS • LANDSCAPE ARCHITECTS

3111 WALL STREET
LEXINGTON, KENTUCKY 40513
PHONE (859) 296-9889
WWW.EAPARTNERS.COM

PATCHEN WILKES REALTY, LLC
B-1 to B-1 with Modified Restrictions
Lexington, Fayette County, Kentucky

BEING A CERTAIN TRACT OF LAND LYING ON THE NORTH SIDE OF WINCHESTER ROAD (U.S. 60) APPROXIMATELY 1000-FEET WEST OF THE WINCHESTER ROAD (U.S. 60) AND SIR BARTON WAY INTERSECTION IN LEXINGTON, KENTUCKY AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT at the point of intersection of the centerline of Winchester Road (U.S. 60) and the common line of 1811 and 2151 Winchester Road extended; thence North 84 Degrees 15 Minutes 39 Seconds West a distance of 327.40 feet to a point; thence North 89 Degrees 33 Minutes 56 Seconds West a distance of 225.47 feet to a point; thence South 83 Degrees 50 Minutes 09 Seconds West a distance of 246.20 feet to a point; thence South 80 Degrees 36 Minutes 57 Seconds West a distance of 374.95 feet to a point; thence South 81 Degrees 20 Minutes 18 Seconds West a distance of 35.00 feet to a point; thence North 00 Degrees 40 Minutes 40 Seconds East a distance of 100.00 feet to a point; thence with a curve to the right having an arc length of 275.08 feet, with a radius of 850.00 feet, having a chord bearing North 09 Degrees 56 Minutes 56 Seconds East, and a chord length of 273.88 feet to a point; thence North 28 Degrees 59 Minutes 23 Seconds East a distance of 152.73 feet to a point; thence North 41 Degrees 11 Minutes 39 Seconds East a distance of 30.87 feet to a point; thence South 45 Degrees 34 Minutes 31 Seconds East a distance of 59.84 feet to a point; thence with a curve to the left having an arc length of 402.01 feet, with a radius of 325.00 feet, having a chord bearing South 81 Degrees 00 Minutes 40 Seconds East, and a chord length of 376.87 feet to a point; thence with a curve to the right having an arc length of 214.56 feet, with a radius of 325.00 feet, having a chord bearing North 82 Degrees 27 Minutes 55 Seconds East, and a chord length of 210.68 feet to a point; thence South 78 Degrees 37 Minutes 20 Seconds East a distance of 516.38 feet to a point; thence South 13 Degrees 52 Minutes 10 Seconds West a distance of 301.98 feet to **THE POINT OF BEGINNING**, and containing 10.03 acres gross and 8.05 acres net.

EA Partners, PLLC



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3111 WALL STREET
LEXINGTON, KENTUCKY 40513
PHONE (859) 296-9889
WWW.EAPARTNERS.COM

PATCHEN WILKES REALTY, LLC
B-1 to B-6P
Lexington, Fayette County, Kentucky

BEING A CERTAIN TRACT OF LAND LYING ON THE NORTH SIDE OF WINCHESTER ROAD (U.S. 60) APPROXIMATELY 1000-FEET WEST OF THE WINCHESTER ROAD (U.S. 60) AND SIR BARTON WAY INTERSECTION IN LEXINGTON, KENTUCKY AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT at the point of intersection of the centerline of Winchester Road (U.S. 60) and the common line of 1811 and 2151 Winchester Road extended thence North 13 Degrees 52 Minutes 10 Seconds East a distance of 302.00 feet to the **TRUE POINT OF BEGINNING**; thence North 78 Degrees 37 Minutes 20 Seconds West a distance of 516.38 feet to a point; thence with a curve to the left having an arc length of 214.56 feet, with a radius of 325.00 feet, having a chord bearing South 82 Degrees 27 Minutes 55 Seconds West, and a chord length of 210.68 feet to a point; thence with a curve to the right having an arc length of 402.01 feet, with a radius of 325.00 feet, having a chord bearing North 81 Degrees 00 Minutes 40 Seconds West, and a chord length of 376.87 feet to a point; thence North 45 Degrees 34 Minutes 31 Seconds West a distance of 59.84 feet to a point; thence North 41 Degrees 11 Minutes 39 Seconds East a distance of 485.70 feet to a point; thence North 29 Degrees 28 Minutes 35 Seconds East a distance of 265.26 feet to a point; thence with a curve to the left having an arc length of 88.28 feet, with a radius of 750.00 feet, having a chord bearing North 25 Degrees 22 Minutes 46 Seconds East, and a chord length of 88.23 feet to a point; thence South 72 Degrees 56 Minutes 21 Seconds East a distance of 261.28 feet to a point; thence with a curve to the right having an arc length of 109.10 feet, with a radius of 250.00 feet, having a chord bearing South 58 Degrees 25 Minutes 30 Seconds East, and a chord length of 108.24 feet to a point; thence South 45 Degrees 55 Minutes 24 Seconds East a distance of 330.23 feet to a point; thence South 50 Degrees 10 Minutes 08 Seconds East a distance of 197.73 feet to a point; thence South 13 Degrees 52 Minutes 10 Seconds West a distance of 372.29 feet to a point; to the **POINT OF BEGINNING** and containing 14.19 acres gross and net.

EA Partners. PLLC



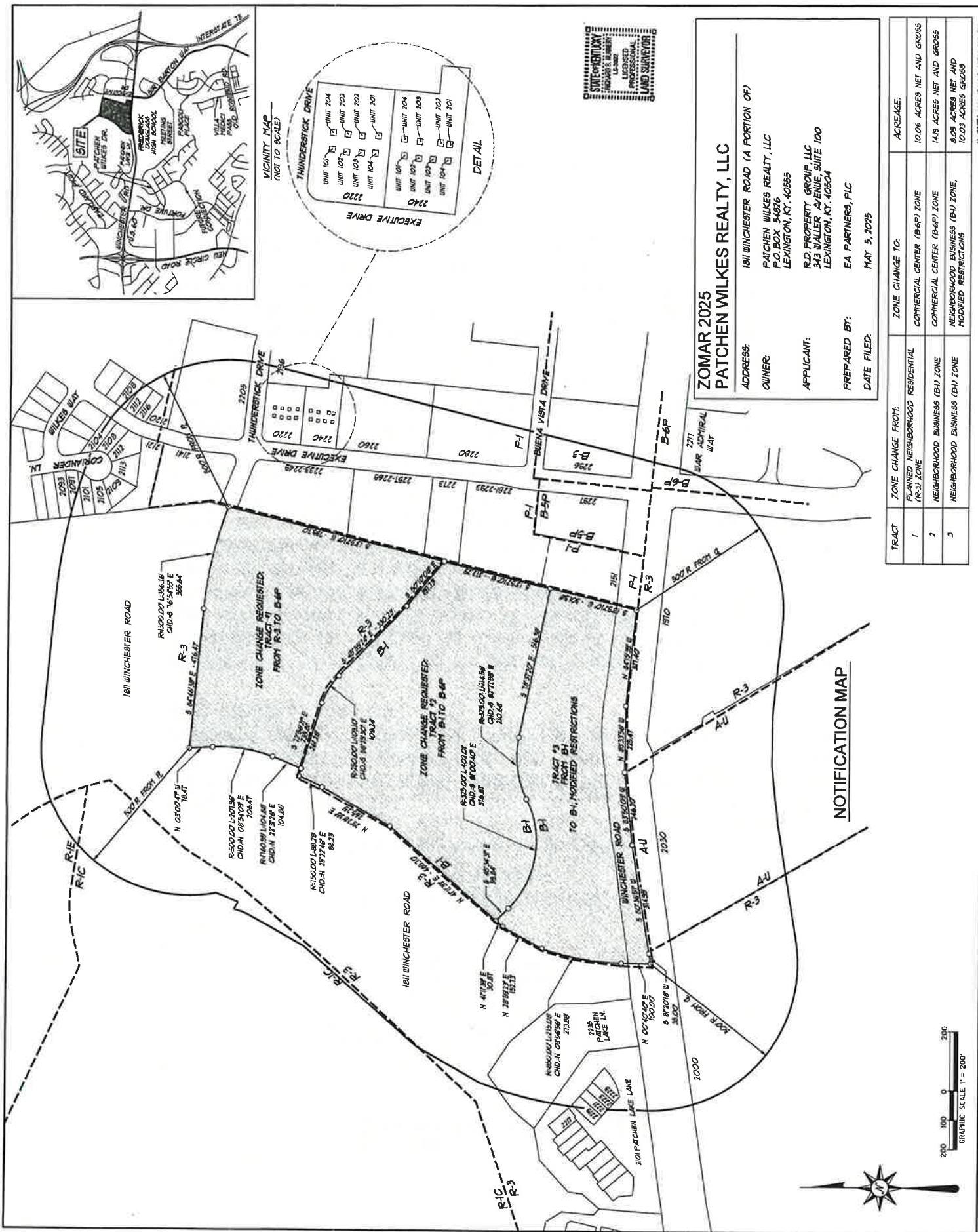
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LEXINGTON, KENTUCKY 40513
PHONE (859) 296-9889
WWW.EAPARTNERS.COM

PATCHEN WILKES REALTY, LLC
R-3 to B-6P
Lexington, Fayette County, Kentucky

BEING A CERTAIN TRACT OF LAND LYING ON THE NORTH SIDE OF WINCHESTER ROAD (U.S. 60) APPROXIMATELY 1000-FEET WEST OF THE WINCHESTER ROAD (U.S. 60) AND SIR BARTON WAY INTERSECTION IN LEXINGTON, KENTUCKY AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT at the point of intersection of the centerline of Winchester Road (U.S. 60) and the common line of 1811 and 2151 Winchester Road extended thence North 13 Degrees 52 Minutes 10 Seconds East a distance of 674.30 feet to the **TRUE POINT OF BEGINNING**; thence North 50 Degrees 10 Minutes 08 Seconds West a distance of 197.73 feet to a point; thence North 45 Degrees 55 Minutes 24 Seconds West a distance of 330.23 feet to a point; thence with a curve to the left having an arc length of 109.10 feet, with a radius of 250.00 feet, having a chord bearing North 58 Degrees 25 Minutes 30 Seconds West , and a chord length of 108.24 feet to a point; thence North 72 Degrees 56 Minutes 21 Seconds West a distance of 235.81 feet to a point; thence with a curve to the left having an arc length of 104.88 feet, with a radius of 1760.94 feet, having a chord bearing North 22 Degrees 31 Minutes 26 Seconds East , and a chord length of 104.86 feet to a point; thence with a curve to the left having an arc length of 207.96 feet, with a radius of 500.00 feet, having a chord bearing North 08 Degrees 54 Minutes 09 Seconds East , and a chord length of 206.47 feet to a point; thence North 03 Degrees 00 Minutes 47 Seconds West a distance of 78.47 feet to a point; thence South 84 Degrees 46 Minutes 38 Seconds East a distance of 476.42 feet to a point; thence with a curve to the right having an arc length of 356.76 feet, with a radius of 1300.00 feet, having a chord bearing South 76 Degrees 54 Minutes 55 Seconds East , and a chord length of 355.64 feet to a point; thence South 13 Degrees 52 Minutes 10 Seconds West a distance of 759.70 feet to a point to the **POINT OF BEGINNING**, and containing 10.06 acres gross and net.



SURVEYED
 BY
 JAMES E. BURNETT
 LICENSED
 PROFESSIONAL
 LAND SURVEYOR

ZOMAR 2025 PATCHEN WILKES REALTY, LLC

ADDRESS: 1811 WINCHESTER ROAD (A PORTION OF)
 OWNER: PATCHEN WILKES REALTY, LLC
 P.O. BOX 54826
 LEXINGTON, KY 40555
 APPLICANT: R.D. PROPERTY GROUP, LLC
 343 WALLER AVENUE, SUITE 100
 LEXINGTON, KY 40504
 PREPARED BY: EA PARTNERS, PLLC
 DATE FILED: MAY 5, 2025

TRACT	ZONE CHANGE FROM:	ZONE CHANGE TO:	ACREAGE:
1	PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE	COMMERCIAL CENTER (B-4P) ZONE	10.06 ACRES NET AND GROSS
2	NEIGHBORHOOD BUSINESS (B-1) ZONE	COMMERCIAL CENTER (B-4P) ZONE	14.19 ACRES NET AND GROSS
3	NEIGHBORHOOD BUSINESS (B-1) ZONE	NEIGHBORHOOD BUSINESS (B-1) ZONE, MODIFIED RESTRICTIONS	8.08 ACRES NET AND GROSS 10.03 ACRES GROSS

J. 03071 zone change notice map.dwg
 5/1/2025

RD PROPERTY GROUP, LLC (PLN-MAR-25-00008)

1811 WINCHESTER ROAD (A PORTION OF)

Rezone the property for a mixed use development, and remove existing conditional zoning restrictions.

Applicant

RD PROPERTY GROUP, LLC
343 WALLER AVENUE, STE 100
LEXINGTON, KY 40504
branden.gross@dentons.com (Attorney)

Owner

PATCHEN WILKES REALTY, LLC
1140 DELONG LANE
LEXINGTON, KY 40515

Application Details

Acreage:

32.30 net (34.28 gross) acres

Current Zoning:

Planned Neighborhood Residential (R-3) Zone,
Neighborhood Business (B-1) Zone with
restrictions

Proposed Zoning:

Commercial Center (B-6P) Zone, B-1 without
restrictions

Place-type/Development Type

Corridor

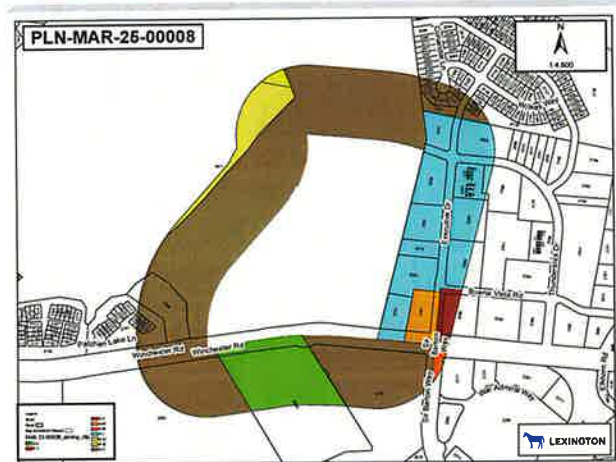
Medium Density Non Residential/Mixed Use

For more information about the Corridor place type see Imagine Lexington pages 320-329. For more information on the Medium Density Non Residential Mixed Use Type see page 271.

Description:

The applicant is seeking to construct a 127,000 square-foot grocery store with a fuel station, as well as two three-story multi-family residential buildings. Multi-family buildings include a total of 154 dwelling units, for a residential density of approximately 27 units per net acre. Additionally, the applicant is seeking to remove conditional zoning restrictions present on five proposed. B-1 zoned lots along Winchester Road

In association with this request, the applicant is seeking a variance to increase the maximum distance of vehicular use area between a building and the street from 60 feet to 110 feet.



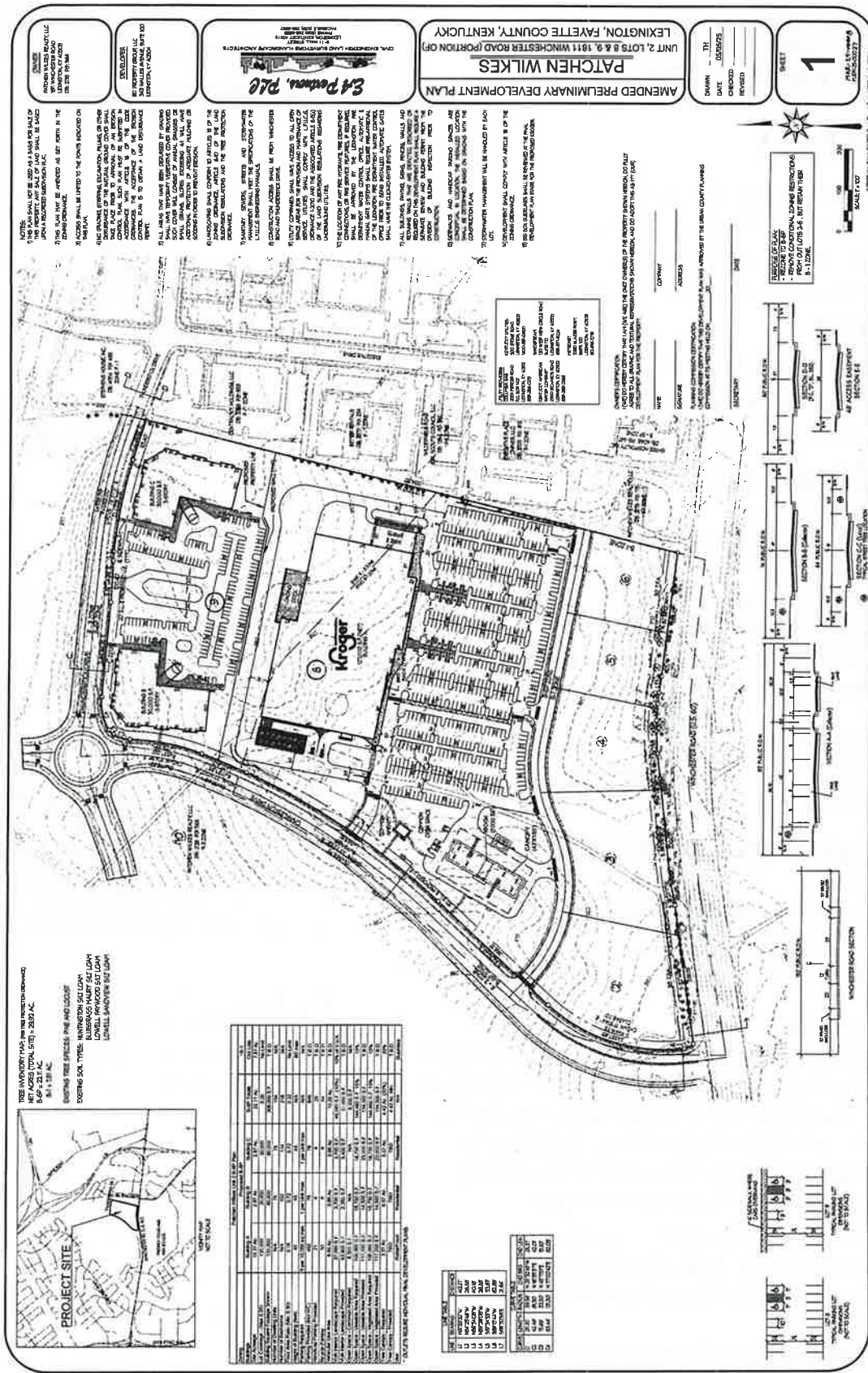
Public Engagement

- The applicant conducted a public meeting to discuss the proposal on May 15th, 2025.

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

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



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-25-00008: RD PROPERTY GROUP, LLC

DESCRIPTION OF ZONE CHANGE

Zone Change: From: Neighborhood Business (B-1) with Conditional Zoning Restrictions and Planned Neighborhood Residential (R-3) zones
To: Commercial Center (B-6P) and Neighborhood Business (B-1) zones without Conditional Zoning Restrictions

Acreage: 32.30 net (34.28 gross) acres

Location: 1811 Winchester Road (a portion of)

EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	B-1, R-3	Agricultural
To North	R-3	Agricultural
To East	P-1, B-5P	Professional Offices/ Hotel
To South	R-3, A-U	Frederick Douglass High School and Ag.
To West	R-3	Agricultural



URBAN SERVICE REPORT

Roads - Winchester Road (US 60) is a major arterial road that carries more than 30,000 vehicles on a daily basis. It is a five-lane highway (the middle lane is used as a divider and left turn lane) in the vicinity of the subject property. The development includes the extension of two collector streets, Charleston Drive and Thunderstick Drive, through this development. These roads intersect at a traffic circle at the northeastern portion of the development.

Curb/Gutter/Sidewalks - Curb, gutter and sidewalks are proposed along the extensions of Thunderstick Drive and Charleston Drive. No curb, gutter, or sidewalk facilities are currently present along Winchester Road.

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

Storm Sewers - The subject property is located within the North Elkhorn watershed. The portion of the subject property that is included in this request has a small FEMA Special Flood Hazard Area (100-year floodplain) associated with the confluence of the Eastland Park tributary and the I-75 tributary both of North Elkhorn Creek. Development on this parcel will require compliance with Article 19 of the Zoning Ordinance; and stormwater management will need to be addressed by the developer in accordance with the adopted Engineering Stormwater Manual.

Sanitary Sewers - The property is located within the North Elkhorn sewershed, which is served by the West Hickman Wastewater Treatment Plant in northern Jessamine County.

Refuse - The Urban County Government serves this portion of the Urban Service Area with refuse collection on Tuesdays. Commercial and multi-family development often supplement this service with additional private collection.

Police - The nearest police station is located near Eastland Shopping Center at the Central Sector Roll Call Center, approximately two miles west of the subject property, just off Winchester Road.

Fire/Ambulance - Fire Station #2 is located approximately 1.3 miles to the west of the site, along Eastland Parkway.

Transit - This area is served by Lextran Route #10, which has a stop on Buena Vista Drive, approximately 0.15 miles east of this portion of the subject property.

Parks - Dixie Park is located approximately half a mile northwest of the subject property, along Eastland Parkway.

SUMMARY OF REQUEST

The applicant is seeking to rezone the subject property from a Restricted Neighborhood Business (B-1) and Planned Neighborhood Residential (R-3) zones to a Commercial Center (B-6P) and unrestricted Neighborhood Business (B-1) zones. Additionally, the applicant is seeking a variance in order to increase the maximum amount of vehicular use area between a structure and the street from 60 feet to 110 feet.

PLACE-TYPE

CORRIDOR

Corridors are Lexington's major roadways focused on commerce and transportation. The overriding emphasis of Imagine Lexington 2045 is significantly overhauling the intensity of the major corridors. The future of Lexington's corridors lies in accommodating the shifting retail economic model by incorporating high density residential and offering substantial flexibility to available land uses.

DEVELOPMENT TYPES

MEDIUM DENSITY NON-RESIDENTIAL / MIXED USE

Primary Land Use, Building Form, & Design

Primarily community-serving commercial uses, services, places of employment, and/ or a mix of uses within mid-rise structures with a higher Floor Area Ratio. Mixed-use structures typically include more multi-family residential units and places of employment, and retail and commercial options generally draw from a larger geographic area. An activated and pedestrian-scale ground level should be provided. These developments may include more employment space for professional office and can include some larger entertainment spaces.

Transit Infrastructure & Connectivity

Though they draw more external users, they should still include multi-modal connections allowing for easy neighborhood access. Mass transit infrastructure is to be provided on par with that of other modes, and the higher-density housing types should be located in close proximity.

Parking

The buildings should be oriented to the street, and developments should avoid over-parking, with provided parking located internally.

PROPOSED ZONING

B-1

The intent of this zone is to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. This zone should be located in areas of the community where services and facilities are/will be adequate to serve the anticipated population. This zone should be oriented to support and enhance a residential neighborhood. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

B-6P

The intent of the Commercial Center (B-6P) zone is to create centers of activity that promote commerce and retail along major corridors within the community, while supporting existing residential neighborhoods and incorporating new residential opportunities in accordance with the Comprehensive Plan.

PROPOSED USE



The applicant is proposing the rezoning of a portion of the subject property to construct a mixed-use development that consists of a grocery store, a gas station, commercial outlots, as well as a multi-family residential component.

The grocery store is proposed to be a total of 127,000 square feet, and includes an attached pharmacy and liquor store, and a total of 492 parking spaces. The store is oriented towards an internal access drive that runs parallel to Winchester Road. A gas station is proposed along Charleston Drive, west of the proposed grocery. The proposal includes five outlots along Winchester Road, which will be accessed through internal access driveways.

The multi-family residential component consists of two multi-family residential buildings, with a total of 154 units. These buildings are proposed to be accessed from Thunderstick Drive, and feature 154 parking spaces.

At this time, the Development Plan associated with the request does not show any development of the proposed outparcels along Winchester Road. This development will need to be detailed in order for the corresponding development plan to be approved.

APPLICANT & COMMUNITY ENGAGEMENT



The applicant conducted a neighborhood meeting on May 14th, 2025 to discuss the request at Frederick Douglass High School. Comments from the community at that time included questions about future development on the remaining portion of the farm, improvements to Winchester Road, multi-modal facilities present for the development, and connectivity. Staff answered questions related to the zone change and preliminary development plan processes.

PROPERTY & ZONING HISTORY

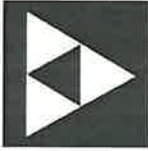


The subject property was the historic location of the Patchen Wilkes horse farm, and was zoned Agricultural Urban (A-U) at the time of the 1969 comprehensive rezoning of the City and County. In 1994, the farm was rezoned to several different zones including: R-1C, R-1D, R-1E, R-1T, and R-3 (MAR 94-27). At that time, the owner also sought approximately 30 acres of B-1 zoning; however, the B-1 component of the zone change was not approved at that time.

In 2004, the property owner brought a revised commercial zone change back to the Planning Commission, seeking to once again rezone a portion of the site to B-1 (MAR 2004-39). The request was recommended for disapproval by the Planning Commission, and the application was withdrawn by the applicant prior to the Council's review. The applicant filed for an early rehearing later that year, which was granted based on an updated plan, depicting a new mixed-use development that the applicant opined was in keeping with New Urbanist principles and design. The applicant at the time proposed a number of Conditional Zoning Restrictions that included limits on the number of drive-through uses and gas stations, a requirement of a minimum of 125 dwelling units within the B-1 zoned area, requirements for mixed-use buildings, and protection of an existing tree-line along Winchester Road. This zone change was ultimately recommended for approval with the proposed restrictions by the Planning Commission, and adopted by the Urban County Council.

Finally, in 2005 the property owner rezoned approximately 50 acres of the Patchen Wilkes farm from various single-family residential zones to the R-3 zone in order to establish a townhouse development (MAR 2005-47). Today, only a portion of the residential development anticipated the parcel has taken place, featuring townhomes and single-family residential units in the areas closest to the intersection of Patchen Wilkes Drive and Winchester Road.

COMPREHENSIVE PLAN COMPLIANCE



The 2045 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 AND OBJECTIVES

The applicant opines in their letter of justification that they are in agreement with the adopted Goals, Objectives, and Policies of the Comprehensive Plan. The applicant states that their proposal will increase the utilization of a large undeveloped parcel within the Urban Services Boundary (Theme A, Goal #2. a; Theme E. Goal#1.e) They state that by providing apartment units in an area primarily consisting of single-family attached and detached uses that they are increasing housing choice (Theme A, Goal #3.a), and that the request will create employment opportunities within a primarily residential area (Theme C, Goal #2.a).

While agrees that these Goals and Objectives, can be met with this request; however, there are several other elements that the applicant should address in greater detail:

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 (Theme A, Goal #3.b);

As a part of this proposal, the applicant is proposing both a grocery store, as well as an adjoining residential multi-family residential use. Despite being included within the same project, these uses do not have any direct connectivity. While a sidewalk network is proposed along the roadway, these uses have the potential for more direct connectivity.

Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form (Theme A, Goal #2.b).

Similarly, the orientation of the grocery store places the rear service and delivery areas to the areas closest to the proposed residential use, rather than towards the eastern portion of the site, where it would adjoin the rear areas of the existing commercial development. The applicant should explore opportunities to re-orient the structure, or more effectively integrate the residential uses.

Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types. (Theme A, Goal #1.b).

The applicant states that the request will provide for increased residential density; however, the request appears to be a decrease in residential density relative to the previously approved zone change and development scenario (Theme A, Goal #1.b).

POLICIES

The letter of justification provided by the applicant only mentions two Comprehensive Plan Policies: Design Policy #2, and Sustainability Policy #4, but does not provide an explanation as to how they are being met. The applicant should provide a more in-depth review of the relevant Comprehensive Plan policies.

PLACE-TYPE, DEVELOPMENT TYPE, AND ZONE

The applicant has indicated that the site is located within the Corridor Place-Type and is seeking to utilize the property as a Medium Density Non-Residential/ Mixed-use Development Type. While Winchester Road is a major corridor, the layout and utilization of the property appears to be inconsistent with this designation. The bulk of the development being proposed is not located along the corridor, but rather, deeper within the site. The applicant has not depicted any development in the lots that directly adjoin Winchester Road. In staff's opinion, a regional center development would more accurately portray the applicant's intended use, where a large commercial anchor tenant serving a larger region is present, and is anchored by multi-family development and smaller commercial outlots. The applicant should provide greater information on

the consideration of the appropriate place-type.

Staff agrees with the applicant's choice of the Medium-Density Non-Residential/ Mixed-use Development Type; however, Staff does not agree with the choice of one of the proposed zones. The B-6P zone which comprises the majority of the applicant's request is recommended for both Corridor and Regional Center Place-Types; however, the B-1 zone is not recommended as a zone within the Regional Center, and is only recommended on a corridor as a dense Form-based Project. The result of the applicant's request to remove all conditional zoning restrictions for the eight acres adjoining Winchester Road would be the creation of an unrestricted B-1 zone along a corridor, which is not in line with the recommendations of the Comprehensive Plan. The applicant has provided some detail on the intentions behind the lot, stating that the parcels would be out-lots for restaurants, retailers, and/or professional services. Extending the B-6P zone to this area or rezoning the area to the Corridor Business (B-3) zone would allow the same types of development, while being in agreement with the Comprehensive Plan's recommended zones. The applicant should provide greater information on their choice in zones and their agreement with the Comprehensive Plan.

PLACEBUILDER CRITERIA

While staff does not agree that the applicant's development would be best categorized as a Corridor Place-Type, there are significant areas of overlap in applicable Development Criteria between the Corridor and Regional Center Place-Type. Below, staff have identified several criteria shared between both Place-Types that the applicant should address in greater detail:

1. LAND USE

A-DN3-1: Pedestrian-oriented commercial opportunities and other services should be incorporated within residential neighborhoods;

The applicant opines that their proposed development is pedestrian-oriented; however, the commercial component is almost entirely oriented towards the Winchester Road corridor, which is devoid of sidewalks. The applicant's proposed grocery store is oriented so that the rear service areas adjoin the residential use, with no direct connection proposed to the development's residential portion. As the rest of the Patchen Wilkes tract develops, there will be an increasingly large number of pedestrians accessing the site from Charleston Drive. Under the proposed design, the pedestrians from Charleston Drive will encounter the side of the building, drive through uses, and a gas station. Additionally, the applicant is seeking a variance in order to almost double the amount of vehicular use area that can be present between the structure and the street. The applicant should address these criteria and explore opportunities to better orient the site towards pedestrians.

2. TRANSPORTATION, CONNECTIVITY, AND WALKABILITY

A-DS5-2: Developments should incorporate vertical elements, such as street trees and buildings, to create a walkable streetscape.

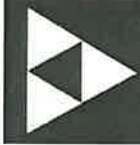
As noted within the Land Use criteria, the proposal currently is vehicular-oriented, and does not attempt to meaningfully activate the streetscape along Charleston Drive, which features a gas station, drive through, and the side of the grocery store building.

C-PS10-1: Flexible parking and shared parking arrangements should be utilized.

The arrangement of the proposed parking areas is situated so that each user has separate and distinct parking areas, rather than a design that encourages shared parking.

3. ENVIRONMENTAL SUSTAINABILITY AND RESILIENCY

B-PR2-1: Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site; Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them (B-RE5-2)



The letter of justification states that there are no floodplain areas located on the property; however, according to 2014 FEMA flood map data, portions of 100-year floodplain are present in the northeastern portion of the project area, near the stub street connection for Thunderstick Drive. While not shown on the development plan, this area appears to be located approximately 25 feet from the proposed second apartment building, and appears to be impacted with the extension of Thunderstick Drive. This area should be detailed on the plan, and the applicant should detail how the area will be protected.

B-PR7-1: Developments should be designed to minimize tree removal and to protect and preserve existing significant trees; B-RE1-1: Developments should improve the tree canopy.

The development plan notes the trees present along Winchester Road, but does not appear to provide information relative to the existing trees present interior to the site. Additionally, the applicant indicates that they will improve the tree canopy present on-site, but do not provide statistics for the current coverage to demonstrate the claim.

4. SITE DESIGN

A-DS5-4: Development should provide a pedestrian-oriented and activated streetscapes; A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.

The multi-family residential component of the request are located along the streetscape, and serve to reinforce the roadways. However, the current configuration of the grocery store is not in agreement with these criteria as they locate parking, truck access, drive-through lanes, and a gas station between their use and the roadway. The applicant should explore opportunities to create an activated and pedestrian-friendly streetscape.

A-DS7-1: Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.

While the multi-family residential component of the request locates parking internal to the site, the vast majority of the parking for the grocery store use is located at the front of the structure.

5. BUILDING FORM

A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix A

The applicant addresses the criteria for the Multi-family Design Standards within their letter of justification, but does not adequately address the following criteria:

- i. *SP.2: Provide as many private ground level entries as possible.*
- ii. *SP.5: Encourage access to surrounding uses through a continuous pedestrian network*
- iii. *All Architectural Design criteria.*

In order to evaluate compliance with this element, further information is needed.

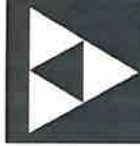
A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.

As stated earlier, the commercial portion of the proposal does not address Charleston Drive, and results in approximately 1,000 feet of roadway without building interaction. The commercial structures are oriented internally, towards the vehicular use areas.

STAFF RECOMMENDS: POSTPONEMENT FOR THE FOLLOWING REASONS:

1. The applicant should provide greater information regarding the choice in Place-Type and Zones.
2. The applicant should provide greater information regarding the following Goals and Objectives of the Comprehensive Plan:
 - a. Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types. (Theme A, Goal #1.b).
 - 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 (Theme A, Goal #3.b);
 - c. Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form (Theme A, Goal #2.b).
3. The applicant should include a discussion of the relevant Comprehensive Plan Policies.
4. The applicant should address the following development criteria within the Placebuilder Element of the Comprehensive Plan
 - a. A-DN3-1: Pedestrian-oriented commercial opportunities and other services should be incorporated within residential neighborhoods;
 - b. A-DS5-2: Developments should incorporate vertical elements, such as street trees and buildings, to create a walkable streetscape.
 - c. C-PS10-1: Flexible parking and shared parking arrangements should be utilized.
 - d. B-PR2-1: Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
 - e. B-RE5-2: Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.
 - f. B-PR7-1: Developments should be designed to minimize tree removal and to protect and preserve existing significant trees.
 - g. B-RE1-1: Developments should improve the tree canopy.
 - h. A-DS5-4: Development should provide a pedestrian-oriented and activated streetscapes;
 - i. A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.
 - j. A-DS7-1: Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
 - k. A-DS3-1: Multi-family residential developments should comply with the Multifamily Design Standards in Appendix A.
 - l. A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.

STAFF REPORT ON CONDITIONAL ZONING REMOVAL



CONDITIONAL ZONING RESTRICTION REQUEST

As part of their overall zone change application, the petitioner is also seeking to modify the existing Conditional Zoning Restrictions that were placed on the B-1 zoned portions of the property as a part of the 2004 zone change. These restrictions are as follows:

1. *There shall be a minimum of 125 residential dwelling units in the B-1 zone.*
2. *Signage shall be provided only as per the B-6P zone.*
3. *Sixty percent (60%) of all commercial square footage shall be in multi-story buildings with a mixture of residential units.*
4. *Existing trees within 30 feet of the Winchester Road right-of-way are to be preserved, except those trees that are diseased or dying, and those needed to be removed for right-of-way improvements.*
5. *The sale of gasoline shall be restricted only to one business, only as an accessory use to a convenience store, with no more than eight gasoline pumps.*
6. *No more than four drive-through facilities shall be provided on the subject property.*

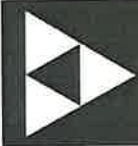
These land use restrictions are appropriate and necessary at this location to ensure that the proposed development is appropriate for the nearby neighborhood, and implements the residential land use recommendation of the Comprehensive Plan for the subject property.

These Conditional Zoning Restrictions were volunteered by the applicant at the time of the 2005 change in order to address concerns that had led to the failure of the two previous attempts to zone the property for commercial use. At the time, the proposed commercial use conflicted with the land-use element of 2001 Comprehensive Plan, which recommended medium density residential land uses units at this location. The applicant's conditions ensured that the development would contain a minimum level of residential development, would create a commercial development that was compatible with the planned future residential development in the area, and preserving the tree line along Winchester Road.

CONDITIONAL ZONING RESTRICTION PROCESS

Per Article 6-7(c): Amendment. Modification, removal or amendment of conditions or restrictions shall be as follows:

1. Restrictions or Conditions Designated by the Urban County Council. The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.
 - a. Findings Required. The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.
 - b. Procedure. The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment, except that a full public hearing by the Urban County Council shall be required in all cases. The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.



APPLICANT'S JUSTIFICATION

In their letter of justification, the applicant addresses each Conditional Zoning Restriction individually, and opines as to why each respective condition is no longer appropriate.

1. *There shall be a minimum of 125 residential dwelling units within the B-1 zone.*

The applicant states that the dwelling unit requirement arose from the 2001 Comprehensive Plan, which recommended the area for Medium Density Land Uses of 5-10 units per net acre. Based on the size of the parcel, the 125 dwelling unit requirement was instituted in order to ensure that the area was still receiving the level of residential development that was called for in the plan. The applicant opines that the shift away from a map-based Future Land Use plan to the current Placebuilder based plan is a social change that would result in the residential density requirement being no longer appropriate.

2. *Signage shall be provided as per the B-6P zone*

The applicant opines that because they are seeking to rezone the majority of the parcel to the B-6P zone, leaving this condition in place for the remaining eight acres would be inappropriate. The applicant argues that these lots will no longer function as a part of a cohesive development, and should be allowed to have individual signage. The applicant did not cite any economic, social, or physical changes that have already occurred that would make this condition inappropriate.

3. *Sixty percent of all commercial square footage shall be in multi-story buildings with a mix of residential uses*

Here, the applicant opines that the market for mixed-use buildings is no longer economically feasible, and that the requirement to utilize mixed-use buildings is therefore no longer appropriate. The applicant did not provide any evidence to back up the proposed economic change claim.

4. *Existing trees within 30 feet of Winchester Road right-of-way are to be preserved, except those trees that are diseased or dying, and those needed to be removed for right-of-way improvements.*

The applicant opines that with the update to the tree preservation standards within the 2024 Landscaping and Tree Preservation Zoning Ordinance Text Amendment (ZOTA-24-00005), the tree preservation requirement is no longer necessary.

5. *The sale of gasoline shall be restricted only to one business, only as an accessory use to a convenience store, with no more than eight gasoline pumps.*

The applicant notes that the Urban Growth Management ZOTA (ZOTA-23-00006) now prohibits new gas stations within the B-1 zone. The applicant opines that change makes the site's current prohibition duplicative and inappropriate.

6. *No more than four drive-through facilities shall be provided on the subject property.*

The applicant once again claims that the changes instituted as a result of the 2024 Urban Growth Management ZOTA make the drive-through condition inappropriate. When the zone change was approved in 2004, drive-through uses were accessory uses when approved by the Planning Commission on a development plan. Under the revised regulations, drive through uses in the B-1 zone require Conditional Use Permits to operate, and must meet locational requirements. The applicant opines that because the regulations regarding where drive-through uses are permitted changed, that the condition limiting the proliferation of the uses on the development is inappropriate. Additionally, the applicant states that with the proposed zone change on the remainder of the parcel, the condition would apply to a smaller area than initially anticipated.

STAFF REVIEW

In review of the applicant's justification, Staff has concerns with several of the arguments put forth by the applicant.

First, in several instances the applicant uses their own proposed zone change as a justification for removing several of the conditional zoning restrictions. However, in order to remove or amend Conditional Zoning Restrictions, the applicant must demonstrate an economic, social, or physical change that has already occurred in the area. Citing a zone change that has not yet been approved is not grounds for amending a condition.

Second, the applicant makes several economic arguments as to why certain conditions should be removed, but does not provide any evidence or information to back up their claims. The ordinance requires that the decision to amend or remove the restrictions be based on a preponderance of evidence. The applicant should provide sufficient evidence to support their claims.

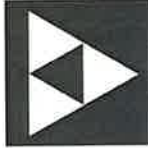
Third, the applicant makes the argument that changes to the Zoning Ordinance and a new Comprehensive Plan somehow invalidates conditional zoning restrictions that relate to the same topic. However, changes to how the ordinance generally deals with a land use or development criteria differ from a specific determination regarding those aspects for a parcel. In this example, the site's current landscaping condition offers greater protections than afforded by the updated Zoning Ordinance, and this condition was determined by the Planning Commission and Urban County Council to be necessary in order to properly screen the commercial development. Similarly, the site's restriction on drive-through uses was a site-specific determination that was aimed at not adversely impacting the existing and upcoming residential development. Changes to the process of review for the drive-through uses in general do not change the Planning Commission and Council's desire to avoid proliferating the use at this location.

Lastly, changes to planning policies or adopting a new Comprehensive Plan are not social changes, and cannot be cited as reasons for the removal of conditional zoning restrictions. These changes impact the entire community and are not site-specific or unique for the subject property.

STAFF RECOMMENDS: **POSTPONEMENT** FOR THE FOLLOWING REASONS:

1. The applicant should provide further information regarding the social, economic, or physical changes that have occurred on or near the property that make the respective conditions inappropriate.

STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also seeking a dimensional variance to increase the allowable width of Vehicular Use Area in front of the building from 60 feet to 110 feet.

Before any variance is granted, the Planning Commission must find the following:

- a. The granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Planning Commission shall consider whether:
 1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or in the same zone.
 2. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 3. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- b. The Planning Commission shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

ZONING ORDINANCE

Article 6-4(c) states that the Planning Commission may hear and act upon requested variances associated with a zone change. In such cases, they may assume all of the powers and responsibilities of the Board of Adjustment, as defined in Article 7-6(b) of the Zoning Ordinance.

Article 16-6(a)(2) states that a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to sixty (60) feet in depth as measured perpendicular to the street, whichever is greater, shall be permitted between the building and the street, except otherwise prohibited by a maximum setback.

CASE REVIEW

The applicant is seeking a dimensional variance for the western portion of the B-6P lot in order to increase the maximum amount of allowable pavement from 60 feet to 110 feet.

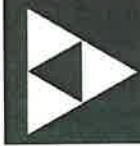
The applicant's proposed design features a 127,000 square-foot grocery store use, with an attached pharmacy drive-through, an attached liquor store drive-through, a service drive that circles the building, and grocery pick-up areas. Under this proposal, there is a 110-foot wide vehicular use area that extends between the building and Charleston Drive. The applicant opines that the operational needs of their grocery store use dictate that a greater amount of paving is needed within this area to support the store, and that the pick-up, drive-through, and truck access facilities are safer when they are separated from the standard parking areas.

There are several aspects of the request that require further explanation by the applicant. The applicant should provide further information regarding the special circumstances unique to the subject property that would necessitate the requested variance, as the site is a large greenfield development. The applicant should also provide information as to why the design of the structure could not be altered to meet the requirement, as it appears that the vehicular use areas serving the liquor store drive through and service drive along the eastern portion of the structure would meet the requirement if the locations of the facilities were switched. Finally, the applicant should discuss the impact of the proposed variance on the pedestrian circulation and experience within the area.

STAFF RECOMMENDS: POSTPONEMENT FOR THE FOLLOWING REASONS:

1. The applicant should provide further information regarding the special circumstances of the property that justify the need for the variance.
2. The applicant should provide greater information on as to how redesigning the site or its layout to meet the regulation is depriving the applicant of use of the property.
3. The applicant should provide greater information discussing the impact of the proposed variance on the pedestrian experience within the area.

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-25-00008: RD PROPERTY GROUP, LLC



STAFF REVIEW

In the period following the June Subdivision and Zoning Committee meetings, the applicant met with staff to discuss the concerns described within the initial staff report and the comments received during the committee meetings. Since that time, the applicant has submitted updated application materials, including a revised development plan, and a supplemental letter of justification that discussed the zone change, removal of conditional zoning restrictions, as well as the requested variance.

The revisions to the proposed development plan include the depiction of development on the proposed B-1 zoned lots along Winchester Road, as well as the incorporation of an expanded pedestrian system. This system now provides a sidewalk along Winchester Road, as well as additional connectivity between the proposed apartment uses and Charleston Drive.

COMPREHENSIVE PLAN GOALS AND OBJECTIVES

In the initial staff report, staff requested that the applicant demonstrate how they were in agreement with the following Goals, Objectives, and Policies of the Comprehensive Plan:

Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types. (Theme A, Goal #1.b)

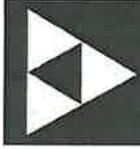
Staff noted in the initial staff report that the proposal currently results in fewer housing units being provided than the initial plan approved with the 2004 rezoning. In their letter of justification, the applicant notes that the initial rezoning's requirements for vertical mixed-use buildings have complicated the ability to develop the site with the residential density originally anticipated. The applicant states that while the current iteration of the plan provides for fewer overall units, the requested zoning does allow for the potential to add additional units in the future, in a new zone that could potentially allow for higher levels of density than the B-1 zone, with more flexibility than the conditionally restricted B-1 zone allows.

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 (Theme A, Goal #3.b);

In the initial report, Staff asked the applicant to discuss opportunities to more meaningfully connect the proposed apartment uses with the proposed Kroger Marketplace. The applicant responded that the topography of the apartment areas limits the ability to construct an ADA accessible direct connection running from north to south. Instead, the applicant reduced some of the walking distance by incorporating a greater number of horizontal (east to west) sidewalk connections to Charleston Drive to cut down on the walking distance to the grocery store. The applicant also notes that the revised plan provides for a new sidewalk section near Winchester Road, which could tie into any future pedestrian improvements along Winchester Road.

Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form (Theme A, Goal #2.b).

In the initial staff report, Staff asked the applicant to explore the orientation of the grocery store structure, which is oriented towards their internal access easement and Winchester Road, rather than Charleston Drive, their public road frontage. The applicant indicated that they oriented the grocery store this way because they wished to maintain visibility from Winchester Road, and that a reorientation of the structure would impact their preferred parking configuration. The applicant opines that providing parking on the side or rear of the anchor tenant would result in a less safe environment.



Staff notes that the proposed development orientation differs significantly from the abutting commercial development to the east, which also contains Winchester Road frontage, but has its structures oriented towards the internal streets. While the majority of the residential component of the Patchen Wilkes farm has yet to materialize, when that development occurs, it will result in the neighborhood interfacing with the drive-thru, gas station, and service areas for the structure, rather than the grocery's front. A structure oriented towards Charleston Drive, with parking primarily being located to the side of the structure would be more consistent with both the current and future development patterns for the area, and would better align with the Comprehensive Plan.

While the orientation of the structure is not supported by the Comprehensive Plan, the overall proposal does meet a number of other Goals and Objectives of the Comprehensive Plan. Staff finds that the request allows for more flexibility to create higher density housing (Theme A, Goal #1.b), utilizes an underdeveloped property along a corridor for a mixed use development (Theme A, Goal #2.a; Theme E, Goal #1.d and #1.e), and will provide for neighborhood serving commercial uses (Theme A, Goal #3.d).

COMPREHENSIVE PLAN POLICIES

The applicant has provided greater information relating to the Policies of the Comprehensive Plan that they opine are being met with this request. The applicant states that the request will connect to existing stub streets, thereby increasing connectivity (Theme A, Design Policy #2 and #13). The applicant states that the proposed apartment uses will increase the variety of housing choice available in the area (Theme A, Design Policy #8). The applicant states that the request will be sensitive to the surrounding context (Theme A, Design Policy #4), and will result in a pedestrian-friendly environment (Theme A, Design Policy #5).

While Staff agrees that the request does increase connectivity and provides for additional higher density housing, Staff also finds that there are aspects of the plan that are not sensitive to the surrounding context, and do not result in a pedestrian friendly environment. The orientation of the structure and the decision to locate drive-thru and truck circulation uses between the grocery store and Charleston Drive ignore the context of future residential development in the area, and prioritize visibility from Winchester Road instead. While the applicant does provide sidewalk networks to carry pedestrians through the site, the site is not designed to interface or interact with pedestrians. For pedestrians along Charleston Drive, the frontage is primarily defined by drive-through uses, a gas station, and vehicular circulation for the grocery store.

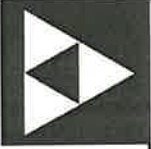
DEVELOPMENT CRITERIA

The revised justification also addresses several of the Development Criteria previously identified by staff as requiring further clarification, and have revised their choice in Place-Type to reflect the staff's recommendation of Regional Center.

1. Land Use

A-DN3-1: Pedestrian-oriented commercial opportunities and other services should be incorporated within residential neighborhoods;

The applicant's response in the letter of justification indicates that they believe the majority of the users of the Kroger use will drive to the site, and have designed the site to cater to those users. The applicant states that they are attempting to incorporate landscaping and additional sidewalk facilities to improve the pedestrian experience for their auto-centric use. Staff disagrees that pedestrian-supportive design cannot coexist with a heavily auto-centric use, especially on a large greenfield site. Reorienting the structure, locating buildings closer to roadways, utilizing side or rear parking, and other design measures could be implemented in order to better incorporate the use into the area while still providing the necessary parking and drive-thru uses to support the customer base that relies on single-user automobiles to access the site.



While the orientation of the structure and the activation of the roadway are not in agreement with the Land Use Criteria, the request does meet other applicable criteria by providing neighborhood serving commercial areas (A-DS12-1), incorporating residential uses into their commercial center (A-DN3-2), and providing access to healthy and affordable food (C-PS15-2).

2. Transportation Connectivity and Walkability

A-DS5-2: Developments should incorporate vertical elements, such as street trees and buildings, to create a walkable streetscape.

The applicant states that street trees and plantings will be provided along the streetscape to help provide a vertical edge, but does not acknowledge that the significant distance of the uses from the roadway negatively impacts the walkability of the streetscape.

C-PS10-1: Flexible parking and shared parking arrangements should be utilized.

The applicant indicates that this is the sufficient parking they need, and that it is anticipated that the similarities in hours of operation for the anticipated operators will make flexible parking arrangements unfeasible.

While the request is not in agreement with the street activation criteria, the proposed rezoning meets several other criteria for Transportation Connectivity, and Walkability, as the request makes vehicular connections to Thunderstick Drive and allows for connectivity with future development of the Patchen Wilkes Farm and the existing Eastland Parkway neighborhood to the north and west (A-DS4-1; A-DS13-1), and provides a starting point for potential future pedestrian facilities along the Winchester Road frontage (D-CO-2).

3. Environmental Sustainability and Resiliency

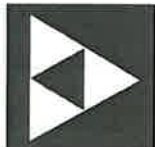
B-PR7-1: Developments should be designed to minimize tree removal and to protect and preserve existing significant trees; B-RE1-1: Developments should improve the tree canopy.

Within the letter of justification, the applicant notes that the trees visible on the site in the 2024 Aerial GIS Imagery were removed prior to the submission of this application, as they prepared for the construction of Charleston Drive. The applicant notes that the request will provide for street trees as well as any required screening or canopy coverage.

B-PR2-1: Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site; B-RE5-2: Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.

Under the revised plan, the applicant notes the location of the floodplain on site, and provides the required buffer on the plan. As a part of the construction of Thunderstick Drive, the floodplain will need to be altered, and the applicant would be required to obtain all necessary approvals in order to do so.

With the provided information, staff now find that the request meets other applicable Environmental Sustainability and Resiliency, as the request locates the structure outside of the floodplain setback (B-PR-2-1), provides for street trees (D-SP10-1), and will avoid overlighting (B-PR10-1).



4. Site Design

A-DS5-4: Development should provide a pedestrian-oriented and activated streetscapes; A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.

As stated earlier, Staff continues to have concerns with the streetscape that would result from this development, particularly along Charleston Drive. The applicant's proposal generally locates the most auto-centric uses closest to the roadway, and requires the pedestrians to cross several drive aisles and a distance of over a hundred feet before they can enter the anchor tenant for the development.

The request does meet several other Site Design Criteria, as the development introduces a pavilion and the potential for programmatic elements within their open space (D-PL4-1), provides for connections to existing stub streets (C-Li8-1), and meets the parking requirements of the B-6P zone (C-PS1-2).

5. Building form

A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.

In response to staff's request for more information regarding the Architectural Design components, the applicant stated that they do not have an end user or developer for this portion of the design, and that. Staff has recommended that the applicable design criteria be incorporated as requirements within a development plan note to ensure these criteria are being applied.

A-DS5-3: Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.

The revised development plan does provide for improvements within the pedestrian system by expanding the site's internal pedestrian network, and providing for sidewalk facilities near Winchester Road. However, the applicant did not make any changes to the orientation of the structure, or the structure's relationship to its road frontage and the anticipated future residential development within the Patchen Wilkes neighborhood.

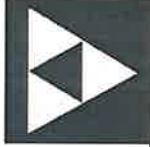
Despite the issue with the orientation of the structure and the lack of detail for the Multi-Family Design Standards, staff finds that there are several aspects in which the request meets the criteria for Building Form, as the request intensifies a development that is located along a corridor (A-DS4-2), and transitions from the most auto-centric outlots along the corridor to grocery and multi-family residential uses as the development moves away from the corridor (A-EQ5-1).

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The proposed Commercial Center (B-6P) zone is in agreement with the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The request allows for more flexibility to create higher density housing (Theme A, Goal #1.b)
 - b. The proposal utilizes an underdeveloped property along a corridor for a mixed use development (Theme A, Goal #2.a; Theme E, Goal #1.d and #1.e)
 - c. The request will provide for neighborhood serving commercial uses (Theme A, Goal #3.d).
2. The proposal is in agreement with the Policies of the 2045 Comprehensive Plan for the following reasons:
 - a. The request will improve connectivity by extending existing stub streets, thereby increasing connectivity (Theme A, Design Policy #2 and #13)
 - b. The proposed apartment uses will increase the variety of housing choice available in the area (Theme A, Design Policy #8).
 - c. The request provides commercial uses that will provide for nearby residents' daily needs (Theme A, Design Policy #12).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Land Use, as the request provides neighborhood level commercial areas (A-DS12-1), incorporates residential uses into their commercial center (A-DN3-2), and provides a greater access to healthy and affordable food (C-PS15-2).
 - b. The proposed rezoning meets several criteria for Transportation, Connectivity, and Walkability, as the request makes vehicular connections to the existing commercial areas and allows for future connectivity with both Patchen Wilkes Farm and the existing Eastland Parkway neighborhood (A-DS4-1; A-DS13-1), and provides a starting point for future pedestrian facilities along the Winchester Road frontage (D-CO-2).
 - c. The request meets the criteria for Environmental Sustainability and Resiliency, as the request locates the structure outside of the floodplain setback (B-PR-2-1), provides for street trees (D-SP10-1), and will avoid overlighting B-PR10-1).
 - d. The proposal meets several criteria for Site Design, as the development introduces a pavilion and the potential for programmatic elements within their open space (D-PL4-1), provides for connections to existing stub streets (C-Li8-1), and meets the parking requirements of the B-6P zone (C-PS1-2).
 - e. The plan meets several of the criteria for Building Form, as the request intensifies a parcel that is located along a Corridor (A-DS4-2), and transitions its uses from the most auto-centric outlots along the corridor to grocery and multi-family residential further into the site (A-EQ5-1).
5. This recommendation is made subject to approval and certification of PLN-MIDP-25-00027: PATCHEN WILKES UNIT 2) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

SUPPLEMENTAL STAFF REPORT ON CONDITIONAL ZONING REMOVAL



CONDITIONAL ZONING RESTRICTION REQUEST

Within the original staff report, staff requested further information relating to changes that have occurred in the area that would make the site's conditional zoning restrictions inappropriate today.

The applicant states that part of the justification of the conditional zoning restriction was to protect the adjoining neighborhood. The applicant notes that at the time of the 2005 zone change, the zoning of the area was predominately single-family residential, with an existing professional office development to the east. The development that was approved in conjunction with the original B-1 zone change was a smaller scale, mixed-use development that was anticipated to connect and serve the low density residential uses around it. The conditions placed on the plan at that time were primarily oriented towards ensuring the developer followed through with the specific neighborhood scale mixed-use development that was used to justify the zone change. The applicant argues that part of the character of the neighborhood that the plan was intended to incorporate with changed when further portions of Patchen Wilkes farm was rezoned from an R-1C zone to an R-3 zone (MAR 2005-47). This area included the Patchen Wilkes Townhomes, and set the stage for more intense and dense residential land uses in the area.

The applicant further opines that the Urban Services Area expansion and the adoption of the Urban Growth Master Plan was another change that impacted this portion of the Winchester Road Corridor. The 2024 boundary expansion added approximately 1,000 acres to the Urban Services Area within one mile east of the subject property. The applicant notes that this expansion is anticipated to be developed with a range of 5,000 to 9,000 new dwelling units. Instead of being one of the last low density developments before reaching the Rural Service Area, the property is now located between the more dense area of the urban core, and Expansion Area #2, which is anticipated to be developed more densely than the subject property.

Finally, the applicant notes that the construction of several new regional-scale facilities has altered the character of development in the area. The applicant cites the construction of Frederick Douglass High School and the Baptist Healthcare use as examples of changes the character of the area. These facilities serve not just the surrounding neighborhoods, but also the larger region. The applicant opines that the area now serves as more of a regional center, where higher concentrations of residential development converge for commercial, educational, medical, and residential uses. The applicant argues that in order to respond to this new context, the original restrictions should be lifted.

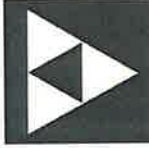
Staff agrees with the applicant's assertion that there has been significant changes that have occurred in the area that make the current conditions inappropriate. Staff finds that the restrictions enacted in order to limit the site to a particular neighborhood-level mixed-use development are now inappropriate, as the intensification of the Winchester Road corridor now lend the site to applications as a larger, regional center.



STAFF RECOMMENDS: APPROVAL FOR THE FOLLOWING REASONS:

1. The nearby increases in allowable land use intensity, expansion of the Urban Services Boundary, adoption of the Urban Growth Master Plan, and the construction of large regional scale institutions are changes that have occurred that have shifted the intensity of anticipated development along this portion of Winchester Road, and make the current conditions inappropriate.

I SUPPLEMENTAL STAFF REPORT ON VARIANCE REQUEST



CASE REVIEW

In the initial variance staff report, Staff asked the applicant to expand on several aspects of their justification letter in order to address the criteria needed in order to grant a variance. First, Staff asked the applicant to provide information as to what special circumstances apply to the property that would necessitate the variance. In response, the applicant opined that the topography of the property was a unique limitation that would preclude them from creating additional access points to separate the truck traffic and the drive-through/pick-up circulation. In staff's review, staff did not find that the topographical features of the property to be a unique feature that would justify the need for the variance. The applicant's proposal would already necessitate extensive grading in order to construct the Kroger, parking lot, and surrounding uses. The applicant has the ability to adjust the grading and the location of retention walls in order to facilitate an access pattern that meets ordinance requirements.

Secondly, staff asked the applicant to provide information relating to the hardship that would result from meeting the 60-foot VUA requirement. The applicant stated that this design was Kroger's preferred layout for operational reasons, and that they desired to maintain visibility and quick access for the pick-up locations. Staff does not find that the Zoning Ordinance requirement is creating an unnecessary hardship in this situation. The regulation is not depriving the applicant of the ability to operate their proposed drive-through pharmacy, drive-through liquor store, or grocery pick up uses, or to provide for adequate delivery circulation. The regulation does not even prohibit the applicant from locating some of these functions in the front yard area; it simply provides a maximum distance that these facilities can extend between the building and the street. The applicant's contention that an alternative design is not feasible is inconsistent with the pattern of development seen in other similar Kroger Marketplace uses within Fayette County, which developed their pharmacies, liquor stores, and delivery areas in a variety of configurations. On a large greenfield site, the applicant has significant flexibility in their ability to design a use that meets ordinance requirements.

Overall, staff cannot support the requested variance. There are no special circumstances that are unique to the property, and staff finds that the application of the standard would not be an unnecessary hardship for the applicant. Staff finds that the increase in intense VUA between the structure and the road would be detrimental to the public health, safety and welfare.

STAFF RECOMMENDS: **DISAPPROVAL** FOR THE FOLLOWING REASONS:



1. The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance.
2. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land
3. Approval of the requested variance would negatively impact the pedestrian experience in the area, and is not consistent with the character of development in the area.

2. ON THE BLOCK, LLC ZONING MAP AMENDMENT AND ON THE BLOCK, LLC PROPERTY DEVELOPMENT PLAN

Note: The Planning Commission postponed this item at the June 26, 2025 meeting.

- a. PLN-MAR-25-00009: ON THE BLOCK, LLC (8/3/25)* – a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone to for 0.0402 net (0.0993 gross) acres for the property located at 400 Chestnut Street. The applicant is also requesting a variance to reduce the required property perimeter landscaping from 15' to 0'.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 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.

The petitioner is proposing the Neighborhood Business (B-1) zone in order to lease to prospective commercial tenants. The applicant intends to utilize the property for potential retail, restaurants, professional offices, restaurants, or personal service uses. No parking for the use will be provided on-site; although, on-street parking is available in the general vicinity.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval for the following reasons:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed project is in a location that promotes infill, redevelopment, adaptive reuse, and mixed-use developments (Theme A, Goal #2.a).
 - b. The proposed rezoning will allow for a commercial development with the potential for a neighborhood-serving business (Theme A, Goal 3.d).
 - c. The proposed project will remain in scale with the surrounding context through the reuse of an existing, non-conforming structure (Theme A, Goal #2.b) while prioritizing multi-modal facilities promoting safer connectivity (Theme A, Goal #3.b).
2. The requested Neighborhood Business (B-1) zone is in agreement with the 2045 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed rezoning will allow the applicant to reuse an existing structure for a commercial use in scale with the surrounding context (Theme A, Design Policy #4).
 - b. The proposal will not have any on-site parking, prioritizing multi-modal connectivity (Theme A, Design Policy #7).
 - c. The proposal intends to prioritize multi-modal connections for the potential commercial user (Theme A, Design Policy #10).
 - d. The proposal seeks to add neighborhood-level commercial opportunities through re-zoning the property (Theme A, Design Policy #12).
3. The justification and corollary development plan are in agreement with the policies and development criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the recommendations for Land Use, as the proposed development will re-establish a commercial use within a neighborhood context (A-DS10-1), which will provide a pedestrian-oriented commercial opportunity (A-DN3-1).
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity Development Criteria, as the proposal will provide safe multi-modal facilities (A-DS5-1) that incorporates dedicated connections to neighborhood anchors (C-PS10-1) promoting pedestrian, bike, and transit users to the property (A-DS1-2).

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

- c. The request meets the criteria for Environmental Sustainability and Resiliency, as the applicant proposes to use native, low-impact landscaping (B-PR2-1), while not adding any impervious surface to the site (B-SU4-1).
 - d. The request meets the requirements for Site Design, as the proposed development will activate the streetscape by promoting a pedestrian-oriented site (A-DS5-4) with no on-site parking (C-PS10-2) that will enhance the public realm by activating the street corner (C-LI8-1).
 - e. The request meets the criteria for Building Form, as the proposal maintains appropriate scale to the surrounding neighborhood (A-DS4-2) through the reuse of a viable existing structure (E-GR4-1) while creating a pedestrian-oriented atmosphere (A-DS5-3) through the activation of the street corner (D-PL2-1).
4. This recommendation is made subject to approval and certification of PLN-MJDP-25-00028: ON THE BLOCK, LLC PROPERTY 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. **VARIANCE** – As part of their application, the petitioner is also seeking two variances to reduce the required perimeter buffer for a business zone adjacent to a residential zone from fifteen (15) feet to zero (0) feet.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval** of the requested variance for the following reasons:

1. Approval of the requested variances should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public, as the site has always operated commercially.
2. Strict application of the Zoning Ordinance would adversely impact the applicant's ability to utilize the parcel, as the existing structure is built to commercial building code, not residential building code.
3. The circumstances of this variance are not a result of actions taken by the applicant subsequent to the adoption of the Zoning Ordinance.

This recommendation of Approval is made subject to the following conditions:

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the B-1 zone, otherwise the requested variances shall be null and void.
 - b. The development shall be constructed in accordance with the approved development plan and supplemental documents, or as amended by the Planning Commission.
 - c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
 - d. Action of the Planning Commission shall be noted on the Development Plan and future plats for the subject property.
- c. **PLN-MJDP-25-00028: ON THE BLOCK, LLC PROPERTY** (8/3/25)* – located at 400 CHESTNUT STREET, LEXINGTON, KY
Council District: 1
Project Contact: Mizu Engineering

Note: The purpose of this plan is to depict an existing structure and lot, in support of the requested zone change from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Residential (B-1) zone.

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

1. Provided the Urban County Council approves the zone change to B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Landscape Examiner's approval of landscaping and landscaping buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.

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9. Greenspace planner's approval of the treatment of greenways and greenspace.
10. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
11. Division of Waste Management's approval of refuse collection locations.
12. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
13. United States Postal Service Office's approval of kiosk locations or easement.
14. Denote: All buildings, paving, signs, fences, walls, and retaining walls that are depicted, described, or required on this development plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
15. Denote written scale in addition to graphic scale.
16. Orient design scheme and vicinity map with north to the top of page.
17. Correct plan title to match staff report.
18. Depict contour lines at 2' intervals.
19. Depict all doors on existing structure.
20. Provided a variance is approved for zone-to-zone screening per Article 18 of the Zoning Ordinance.
21. Denote height of building in feet.
22. Provide Tree Inventory Map and Tree Protection Plan per Article 26 of the Zoning Ordinance.
23. Discuss Placebuilder criteria.

Staff Presentation - Mr. Mills oriented the Commission to the zone change application. He explained that there had been a deed issue that prompted a postponement, but it had been resolved. He told the Commission that in addition to the zone change, the applicant was requesting a variance. Mr. Mills said that the R-3 zoned property had been used commercially since 1932. He explained that the Staff agreed with the applicant's request for the Enhanced Neighborhood Place Type, Low Density Non-Residential Development Type, as well as the requested B-1 zone. The applicant had also met with some neighbors. He listed the proposed conditional zoning restrictions that were recommended by staff and discussed by the Zoning Committee. The Staff recommends that the following uses shall be prohibited:

1. Retail or package sale of beer, wine, or liquor
2. Bars
3. Private clubs
4. Cocktail lounges
5. Nightclubs
6. Pool Halls
7. Parking structures

Mr. Mills continued and said that the zone change met the Goals & Objectives of the Comprehensive Plan, and Staff was recommending approval.

Mr. Chaney oriented the Planning commission to the corresponding preliminary development plan, and the conditions of approval. He explained that there were no proposed structure changes.

Commission Questions - Ms. M. Davis asked about public engagement, and Mr. Mills replied that the applicant did not have a formal meeting, but could comment about the conversations that they had with neighbors. Mr. Mills stated that most of the citizen comments were referring to uses that they did not want at the location.

Ms. M. Davis asked about parking availability. Mr. Mills replied that there was on-street parking in the area.

Staff Presentation Continued - Mr. Mills explained the accompanying variance request for zone-to zone screening, and the reasons why the Staff was recommending approval.

Applicant Representation - Attorney Lexi Holland, and Kyle Hogue, Mizu Engineering, were present to represent the applicant. Ms. Holland explained that the area needed commercial/retail support. She requested approval of the zone change because the property had a long history as a business. She explained that there had been a deed issue and dispute regarding a property line and fence, but said that

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they had recorded a corrected deed and submitted a copy to the Staff. She asked for no further delay in a vote of approval, because the Planning Commission could not act on the dispute. She also described the conversations that the owner had with surrounding neighbors.

Opposition Representation - Attorney Jessica Winters was present to represent a neighboring property owner, Samuel Hicks. She explained why Mr. Hicks was in opposition to the development plan and the variance request. She also briefly described the ongoing property line dispute. She displayed several photographs depicting the issues.

Citizen Comments - Robert Hodge, president of the William Wells Brown Neighborhood Association, stated that he owned 9 properties in the area, but the applicant had never reached out to discuss their plans. He requested that there be some extra conditions regarding hours of service, parking, and allowable uses.

Vivian Hodge, vice-president of the William Wells Brown Neighborhood Association, told the Commission that she had spoken to the owner the day before. She expressed concerns over some potential uses of the property to him.

Andrew Mueller, owner of subject property, gave some background of the property since he purchased it. He wanted to bring business to the neighborhood and make it better. He said that the previous owner and real estate agent are to blame for the property line dispute.

Applicant Rebuttal - Mr. Hogue stated that he had tried to reach out to the citizens who had made comments. He added that that he was unable to reach some of them though. He told the Planning Commission that they had done everything they could to correct the deed and dispute. Mr. Hogue said that the purpose of zone change was to make it possible to have business there without going to the Board of Adjustment every time the business changed hands.

Ms. Holland reiterated that the development plan said that there were no plans to do any work behind the disputed fence. They had no intention to tear down the fence at this time. She also restated the need for the landscape variance.

Staff Rebuttal - Mr. Mills stated that if the variance was not granted, part of the existing structure would have to be removed because of the zero-foot lot line. Ms. Wade also clarified that the list of suggested conditional zoning restrictions was from the Staff.

Mr. Owens asked Ms. Jones to clarify if the Planning Commission could weigh in on the property line dispute. Ms. Jones confirmed that the dispute over the property line was out of the purview of the Commission.

Ms. Worth asked the applicant if they were aware of the existing neighborhood association. Mr. Mueller replied that he was not aware of the neighborhood association, but he spoke to everyone that he met when at the property. He reiterated that had attempted to reach out to everyone who had concerns, but not everyone replied. He reminded the Commission that he had purchased the property to better the neighborhood.

Ms. Worth asked if the owner planned to lease it, and if they planned to limit the types of businesses that are allowed there. Ms. Holland replied that he did plan to lease it, and was amenable to the conditional zoning restrictions.

Commission Discussion - Mr. Penn reiterated that the Planning Commission would not be involved in the property dispute, and there was nothing preventing them from approving the zone change. Mr. Wilson agreed.

Action - Mr. Wilson made a motion, seconded by Mr. Owens, and carried 7-0 (Forester, Barksdale, Nicol and J. Davis absent), to approve PLN-MAR-25-00009: ON THE BLOCK, LLC, as recommended by staff, with the 7 conditional zoning restrictions.

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Mr. Wilson made a motion, seconded by Mr. Owens, and carried 7-0 (Forester, Barksdale, Nicol and J. Davis absent), to approve PLN-MJDP-25-00028: ON THE BLOCK, LLC PROPERTY, as presented by Staff, but removing Condition #23.

Mr. Wilson made a motion, seconded by Mr. Owens, and carried 7-0 (Forester, Barksdale, Nicol and J. Davis absent), to approve the variance request, with the conditions provided by Staff.

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