

AN ORDINANCE CHANGING THE ZONE FROM A NEIGHBORHOOD BUSINESS (B-1), PROFESSIONAL OFFICE (P-1), SINGLE FAMILY RESIDENTIAL (R-1E) AND HIGH DENSITY APARTMENT (R-4) ZONE TO A PLANNED SHOPPING CENTER (B-6P) ZONE, FOR 3.1462 NET (3.6588 GROSS) ACRES, FOR PROPERTIES LOCATED AT 704 EUCLID AVENUE; AND 408, 412, 416 AND 420 MARQUIS AVENUE INCLUDING DIMENSIONAL VARIANCES; AND IMPOSING CONDITIONS UPON APPROVAL: THE HEIGHT OF THE BUILDING SHALL NOT EXCEED TWENTY-EIGHT (28) FEET ABOVE THE FINISHED FLOOR ELEVATION EXCEPT IN THOSE LIMITED AREAS (SPECIAL DESIGN FEATURES) REFLECTED ON THE PRELIMINARY DEVELOPMENT PLAN APPROVED BY THE PLANNING COMMISSION AND THE ARCHITECTURAL RENDERINGS TENDERED TO THE PLANNING COMMISSION; THE BUILDING SHALL BE BUILT IN SUBSTANTIAL CONFORMITY WITH THE ARCHITECTURAL RENDERINGS TENDERED TO THE PLANNING COMMISSION EXCEPT FOR COMPLEMENTARY AND NECESSARY ADJUSTMENTS THAT MIGHT BE NEEDED SHOULD THE FINAL DEVELOPMENT PLAN BE REVISED BY THE PLANNING COMMISSION, THE APPLICANT HAS VOLUNTARILY AGREED TO THIS CONDITION; THERE SHALL BE A SIX (6) FOOT LANDSCAPE AREA WITH A MINIMUM PLANTED TREE HEIGHT OF EIGHTEEN (18) FEET ALONG MARQUIS AVENUE BETWEEN THE BUILDING AND THE SIDEWALK IN WHICH APPROPRIATE LANDSCAPING SHALL BE INSTALLED TO COMPLEMENT AND ENHANCE THE ARCHITECTURE; THE PROPERTY SHALL NOT BE SUBDIVIDED INTO COMMERCIAL OUT LOTS; AN EIGHT (8) FOOT TALL PRIVACY FENCE SHALL BE INSTALLED ALONG THE REAR BOUNDARY LINE OF THE SUBJECT PROPERTY WITH SUPPLEMENTAL PLANTINGS; THERE SHALL BE NO USE OF LOUDSPEAKERS ON THE PROPERTY EXCEPT THAT A LOW LEVEL AMPLIFICATION SYSTEM MAY BE USED AT THE DRIVE-THROUGH PHARMACY, BUT NO SUCH AMPLIFICATION SHALL BE HEARD AT THE PROPERTY LINE OF THE SUBJECT PROPERTY; THE OWNER OF THE SUBJECT PROPERTY SHALL INFORM ALL DELIVERY TRUCKS TO CUT THEIR ENGINES ONCE THE TRUCK IS PARKED TO UNLOAD PRODUCT; THE TRASH COMPACTOR SHALL ONLY BE UTILIZED BETWEEN 8:00 AM AND 9:00 PM; AND THE FINAL DEVELOPMENT PLAN WILL INCLUDE THE LOCATION AND INSTALLATION OF A COVERED BUS STOP ON EUCLID AVENUE (KROGER LIMITED PARTNERSHIP I; COUNCIL DISTRICT 3).

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WHEREAS, at a Public Hearing held on May 23, 2013, a petition for a zoning ordinance map amendment for properties located at 704 Avenue; and 408, 412, 416 and 420 Marquis Avenue, from a Neighborhood Business (B-1), Professional Office (P-1), Single Family Residential (R-1E) and High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 3.1462 net (3.6588 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change including dimensional variances by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 704 Euclid Avenue; and 408, 412, 416 and 420 Marquis Avenue from a Neighborhood Business (B-1), Professional Office (P-1), Single Family Residential (R-1E) and High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone for 3.1462 net (3.6588 gross) acres; being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property via conditional zoning.

The council finds that the following conditional zoning provisions are reasonable and necessary to protect the health, safety and welfare of adjoining property owners, and are reasonable and necessary to further the purpose of the Zoning Ordinance and therefore makes approval of this zone change subject to the following conditions:

1. The height of the building shall not exceed twenty-eight (28) feet above the finished floor elevation except in those limited areas (special design features) reflected on the preliminary development plan approved by the Planning Commission and the architectural renderings tendered to the Planning Commission;
2. The building shall be built in substantial conformity with the architectural renderings tendered to the Planning Commission except for complementary and necessary adjustments that might be needed should the final development plan be revised by the Planning Commission; the applicant has voluntarily agreed to this condition;
3. There shall be a six (6) foot landscape area with a minimum planted tree height of eighteen (18) feet along Marquis Avenue between the building and the sidewalk in which appropriate landscaping shall be installed to complement and enhance the architecture;
4. The property shall not be subdivided into commercial out lots;
5. An eight (8) foot tall privacy fence shall be installed along the rear boundary line of the subject property with supplemental plantings;
6. There shall be no use of loudspeakers on the property except that a low level amplification system may be used at the drive-through pharmacy, but no such amplification shall be heard at the property line of the subject property;
7. The owner of the subject property shall inform all delivery trucks to cut their engines once the truck is parked to unload product;
8. The trash compactor shall only be utilized between 8:00 am and 9:00 pm;

9. The final development plan will include the location and installation of a covered bus stop on Euclid Avenue.


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: August 14, 2013

MAYOR 

ATTEST:

  
CLERK OF URBAN COUNTY COUNCIL  
Published: August 22, 2013-1t  
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**Legal Description**  
**Kroger L-784 Property**  
Zone Change from B-1 to B-6P  
704 Euclid Avenue  
Lexington, Fayette County, Kentucky

Beginning at the point of intersection of the Centerline of Euclid Avenue and Marquis Avenue, then with the centerline of Euclid Avenue South  $41^{\circ}28'08''$  East a distance of 360.49 feet; thence South  $48^{\circ}35'16''$  West a distance of 33.00 feet to a point on the right-of-way line of Euclid Avenue, said point being the Northwest corner of Bank of Commerce; thence with the line of the Bank of Commerce South  $48^{\circ}35'16''$  West a distance of 149.18 feet; continuing with the line of the Bank of Commerce South  $41^{\circ}28'08''$  East a distance of 68.87 feet to the Northwest corner of John & Cathy Clay; thence with the line of Clay South  $47^{\circ}23'18''$  West a distance of 164.95 feet to a point on the line of Jenny Talbott; thence with the lines of Talbott, Moss, Grimes, Helmoth & Clay North  $55^{\circ}19'31''$  West a distance of 231.19 feet to a point on the line of Clay; thence leaving the line of Clay North  $49^{\circ}04'11''$  East a distance of 83.22 feet; thence North  $42^{\circ}33'36''$  West a distance of 50.53 feet; thence North  $49^{\circ}02'39''$  East a distance of 24.93 feet; thence North  $42^{\circ}34'30''$  West a distance of 157.35 feet to a point on the centerline of Marquis Avenue; thence with the centerline of Marquis Avenue North  $48^{\circ}17'57''$  East a distance of 298.31 feet to the Point of Beginning and containing a gross area of 3.0623 acres and a net area of 2.6371 acres.

**Legal Description**  
**Kroger L-784 Property**  
Zone Change from P-1 to B-6P  
412-416 Marquis Avenue  
Lexington, Fayette County, Kentucky

Beginning at a point on the Centerline of Marquis Avenue, said point being approximately 398 feet Southwest of the centerline of Euclid Avenue, thence with the centerline of Marquis Avenue North  $48^{\circ}17'57''$  East a distance of 74.65 feet, thence leaving the centerline of Marquis Avenue South  $42^{\circ}33'36''$  East a distance of 25.0 feet to a point on the South right-of-way of Marquis Avenue, said point being the Northeast corner of 412 Marquis Avenue, thence with the line of 412 Marquis South  $42^{\circ}33'36''$  East a distance of 132.02 feet to the Southeast corner of 412 Marquis, thence South  $49^{\circ}02'39''$  West a distance of 74.79 feet to the Southwest corner of 416-418 Marquis, thence North  $42^{\circ}30'51''$  West a distance of 156.05 feet to the centerline of Marquis Avenue and the Point of Beginning and containing a gross area of 0.2685 acre and a net area of 0.2256 acre.

**Legal Description**  
**Kroger L-784 Property**  
Zone Change from R-1E to B-6P  
416-420 Marquis Avenue  
Lexington, Fayette County, Kentucky

Beginning at a point on the centerline of Marquis Avenue, said point being approximately 453 feet Southwest of the centerline of Euclid Avenue, thence with the centerline of Marquis Avenue North  $48^{\circ}17'57''$  East a distance of 55.48 feet to a point on the centerline, thence South  $42^{\circ}30'51''$  East a distance of 25 feet to a point on the South Right-of-way line to Marquis Avenue, said point being the Northeast corner of 420 Marquis, thence along the line of 420 Marquis South  $42^{\circ}30'51''$  East a distance of 131.05 feet to a point, thence North  $49^{\circ}02'39''$  East a distance of 74.79 feet to a point, thence South  $42^{\circ}33'36''$  East a distance of 50.53 feet to a point, thence South  $49^{\circ}04'11''$  West a distance of 83.22 feet to a point on the line of Clay; thence with the line of Clay, Black and Thompson North  $55^{\circ}19'31''$  West a distance of 186.66 feet to the Northeast corner of Linda Thompson and a point on the South right-of-way line to Marquis; thence North  $55^{\circ}19'31''$  West a distance of 25.72 feet to the Point of Beginning and containing a gross area of 0.2381 acres and a net area of 0.2079 acre.

**Legal Description**  
**Kroger L-784 Property**  
Zone Change from R-4 to B-6P  
408 Marquis Avenue  
Lexington, Fayette County, Kentucky

Beginning at a point on the Centerline of Marquis Avenue, said point being approximately 323 feet Southwest of the centerline of Euclid Avenue, thence with the centerline of Marquis Avenue North  $48^{\circ}17'57''$  East a distance of 24.88 feet to a point on the centerline, thence leaving the centerline of Marquis Avenue South  $42^{\circ}34'30''$  East a distance of 25.0 feet to a point on the South right-of-way of Marquis Avenue, thence South  $42^{\circ}34'30''$  East a distance of 132.35 feet to a point, thence South  $49^{\circ}02'39''$  West a distance of 24.93 feet to the Southeast corner of 412 Marquis, thence North  $42^{\circ}33'36''$  West a distance of 157.02 feet to the centerline of Marquis Avenue and the Point of Beginning and containing a gross area of 0.0899 acre and a net area of 0.0756 acre.

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

**IN RE: MARV 2013-10: KROGER LIMITED PARTNERSHIP 1** – petition for a zone map amendment from a Neighborhood Business (B-1), Professional Office (P-1), Single Family Residential (R-1E), and High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 3.1462 net (3.6588 gross) acres, for properties located at 704 Euclid Avenue; and 408, 412, 416, and 420 Marquis Avenue. Dimensional variances were also requested. (Council District 3)

Having considered the above matter on **May 23, 2013**, at a Public Hearing, and having voted **8-0** 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 reason:

1. The requested Planned Shopping Center (B-6P) zone is in agreement with the 2007 Comprehensive Plan recommended land use of Retail Trade and Personal Services (RT) for the property located at 704 Euclid Avenue (existing Kroger site). The B-6P zone is one of several commercial zones that can implement this land use recommendation, and, in this case, will allow a grocery store to expand, and continue to serve an area of the community with limited access to food options.
2. The existing High Density Apartment (R-4), Professional Office (P-1), and Single Family Residential (R-1E) zones are collectively inappropriate; and the proposed B-6P zone is appropriate for the four parcels located at 408, 412, 416-418, and 420 Marquis Avenue, for the following reasons:
  - a. Each of the four lots is less than ¼ of an acre in size, and is currently vacant.
  - b. Including these properties as part of the Kroger site will allow for a more efficient use of the entire property, which will be controlled by a development plan as approved by the Planning Commission. Without these four parcels, the Kroger site would continue to have a stair-step configuration along the rear of the development. By incorporating these vacant parcels, the rear property line becomes uniform.
  - c. The existing zoning configuration of the four parcels is out of the ordinary in that each has a different zoning designation and, except for the property at 420 Marquis Avenue, would be difficult to develop collectively or independently due to the physical space necessary to fulfill parking requirements and zone-to-zone landscaping requirements of the Zoning Ordinance.
  - d. The business zone and proposed redevelopment of these lots with the rest of the Kroger site will result in a streetscape that is more consistent with the existing commercial area along Euclid Avenue. Currently, the Kroger store is developed in a suburban, automobile-oriented manner with parking between the street and the building along both frontages. The proposed development moves the structure to the street and parking internal to the site, similar to the character of the surrounding area.
3. The requested B-6P zone is supported by the Goals and Objectives of the 2012 Comprehensive Plan, which were adopted by the Urban County Council in May 2012. Specifically, the proposed zone change supports infill and redevelopment in a context-sensitive way and will provide improved design features that are consistent with the rest of the Chevy Chase commercial area (Goal A.2.a.). This