

ORDINANCE NO. 002 - 2024

AN ORDINANCE CHANGING THE ZONE FROM A MIXED LOW DENSITY RESIDENTIAL (R-2) ZONE TO A NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR 0.15 NET (0.17 GROSS) ACRES, FOR PROPERTY LOCATED AT 760 AND 762 FLORENCE AVENUE. (BLACK SOIL: OUR BETTER NATURE, LLC; COUNCIL DISTRICT 2).

WHEREAS, at a Public Hearing held on November 16, 2023 and December 14, 2023, a petition for a zoning ordinance map amendment for property located at 760 and 762 Florence Avenue from a Mixed Low Density Residential (R-2) zone to a Neighborhood Business (B-1) zone, for 0.15 net (0.17 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 9-0; and

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

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

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

Section 1 – That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 760 and 762 Florence Avenue from a Mixed Low Density Residential (R-2) zone to a Neighborhood Business (B-1) zone, for 0.15 net (0.17 gross) acres, being more fully described in Exhibit “A” which is attached hereto and incorporated herein by reference.

Section 2 – That, under the provisions of Article 6-7 of the Zoning Ordinance, the following conditional zoning restrictions shall apply to the subject properties:

The following uses shall be prohibited:

1. Funeral Homes
2. Rehabilitation Homes
3. Retail Sale of Beer, Wine or Liquor
4. Automobile Service Stations
5. Pawnshops
6. Short-Term Rental, Either Hosted or Un-Hosted
7. Retail Sale of Liquid Propane

8. Indoor Live Entertainment/Dancing as Accessory to Restaurant

9. Drive-Through Facilities

10. Adult Entertainment Establishments

These restrictions are necessary for the betterment of the neighborhood.

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: January 23, 2024

Linda Gorton

MAYOR

ATTEST:

[Signature]

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED January 30, 2024- 1t

0030-24:TWJ:4893-2930-2427, v. 1

Rec'd by _____

Date: _____

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

IN RE: PLN-MAR-23-00019: BLACK SOIL: OUR BETTER NATURE, LLC - a petition for a zone map amendment from a Mixed Low Density Residential (R-2) zone to a Neighborhood Business (B-1) zone, for 0.15 net (0.17 gross) acres, for properties located at 760 and 762 Florence Avenue. (Council District 2)

Having considered the above matter on November 16, 2023 and December 14, 2023, at a Public Hearing, and having voted 9-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. 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 request will activate an underutilized parcel within the Infill and Redevelopment Area in order to provide a neighborhood-oriented use (Theme A, Goal #2). The proposed grocery store will supply daily necessities to the immediate area.
 - b. The request will prioritize multi-modal options and de-emphasize single occupancy vehicles with its proximity to transit service, pedestrian connections, and the installation of bicycle facilities (Theme B, Goal#2.d)
 - c. The proposal encourages safe interactions within the neighborhood by creating an accessible neighborhood commercial focal point and gathering space (Theme A, Goal #3). Retail sales of grocery and convenience items allows for residents to shop and interact on a routine basis.
2. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposal improves pedestrian safety and utilizes a people first design by removing the substandard parking areas in front of the structure, and providing for additional pedestrian connections. (Theme A, Policy #1)
 - b. At the proposed scale, the development provides an accessible, neighborhood level commercial area and gathering space (Theme A, Design Policy #12; Theme A, Policy #10).
 - c. The request introduces a neighborhood grocery use into an area that lacks walkable grocery options (Theme A, Density Policy #3).
 - d. The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).
3. The justification and corollary development plan are in agreement with the development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and as the request reuses the existing commercial structure that has occupied the site since 1969, creates a safer pedestrian environment by removing sub-standard parking areas along Florence Avenue, and creates neighborhood level commercial opportunities in a neighborhood that lacks an accessible grocery store.
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity development criteria, as the proposed development expands on the existing pedestrian system, has several close connections to transit, and provides a safer experience for pedestrians along Florence Avenue.

- c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as the proposal works with the existing landscape, will increase the overall tree canopy, and will not impact any environmentally sensitive areas.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited:
1. Funeral Homes
 2. Rehabilitation Homes
 3. Retail Sale of Beer, Wine, or Liquor
 4. Automobile Service Stations
 5. Pawnshops
 6. Short-Term Rental, Either Hosted or Un-Hosted
 7. Retail Sale of Liquid Propane
 8. Indoor Live Entertainment/Dancing as Accessory to Restaurant
 9. Drive-Through Facilities
 10. Adult Entertainment
- These restrictions are necessary for the betterment of the neighborhood.

5. This recommendation is made subject to approval and certification of PLN-MJDP-23-00071: GALBRAITH SUBDIVISION, LOTS 19 & 20 prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 5th day of January, 2024.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

K.R.S. 100.211(7) requires that the Council take action on this request by March 13, 2024

Note: The corollary development plan, PLN-MJDP-23-00070: GALBRAITH SUBDIVISION, LOTS 19 & 20 was approved by the Planning Commission on December 14th, 2023 and certified on December 27th, 2023.

Note: A dimensional variance was approved by the Planning Commission on December 14th, 2023

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Chris Clendenen, attorney.**

OBJECTORS

- None.

OBJECTIONS

- None.

VOTES WERE AS FOLLOWS:

AYES: (9) Forester, Wilson, Barksdale, Michler, Meyer, Pohl, Worth, Owens and Nicol
NAYS: (0)
ABSENT: (1) Davis
ABSTAINED: (0)
DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-23-00019** carried.

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

MAP AMENDMENT REQUEST (MAR) APPLICATION

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

Applicant: BLACK SOIL: OUR BETTER NATURE, LLC, 107 W LOUDON AVE, STE 101, LEXINGTON, KY 40508
Owner(s): SASAFRAS OZ, LLC, 1904 DEAUVILLE DR, LEXINGTON KY 40504
Attorney: CHRIS CLENDENON, 3340 MALONE DR, LEXINGTON, KY 40513

2. ADDRESS OF APPLICANT'S PROPERTY

760 +762 FLORENCE AVE, LEXINGTON, KY 40509
--

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

Zoning	Existing Use	Zoning	Requested Use	Net Acreage	Gross Acreage
R-2	VACANT	B-1	GROCERY STORE	0.15	0.17

4. COMPREHENSIVE PLAN

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	ENHANCED NEIGHBORHOOD
b. Utilizing Placebuilder, what Development Type is proposed for the subject site? If residential, provide the proposed density	LOW DENSITY NON- RESIDENTIAL/ MIXED USE

5. EXISTING CONDITIONS

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input checked="" type="checkbox"/> YES <input 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

6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided)

Roads:	Private
Storm Sewers:	LFUCG
Sanity Sewers:	LFUCG
Refuse Collection:	LFUCG
Utilities:	<input checked="" type="checkbox"/> Electric <input checked="" type="checkbox"/> Gas <input checked="" type="checkbox"/> Water <input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable





MURPHY & CLENDENEN, PLLC

ATTORNEYS AT LAW

LEXINGTON FINANCIAL CENTER
250 West Main Street, Suite 2510
Lexington, Kentucky 40507

TEL: (859) 233-9811

FAX: (859) 233-0184

E-MAIL

Richard@MurphyClendenen.com

Chris@MurphyClendenen.com

RICHARD V. MURPHY
CHRISTOPHER M. CLENDENEN

Mr. Larry Forester, Chairman
Members of the LFUCG Planning Commission
200 E Main Street
Lexington, KY 40507

October 2, 2023

RE: Proposed Zone Change for 760 and 762 Florence Avenue

Dear Mr. Chairman and Members:

Our firm represents the Applicant, Black Soil: Our Better Nature, LLC (“Black Soil Kentucky”) in this matter before the Commission in which our client seeks a zone map amendment and approval of a final development plan for two lots known and designated as 760 and 762 Florence Avenue. The lots currently contain a vacant structure on 760, previously used as a grocery store, which encroaches approximately two feet onto 762. The property is situated in a residential neighborhood west of Georgetown Street and in between Price Road and Douglas Street.

Black Soil Kentucky is requesting a zone change from the current R-2 (Two Family Residential) to B-1 (Neighborhood Business). The proposed development plan calls for no new construction but does propose landscaping and multi modal improvements to the property.

Description of Project:

The two-lot site is comprised of .15 net acres along Florence Avenue situated in the Galbraith Subdivision Area of Lexington. It runs parallel with Georgetown Street and is situated northeast of the Cove Haven Cemetery. The zone change is requested to allow the remodeling and operation of a neighborhood grocery store/farmer’s market.

Goals and Objectives of the 2045 Comprehensive Plan:

The proposed zone change to B-1 agrees with the Goals and Objectives of the 2018 Comprehensive Plan. This application overwhelmingly meets the criteria of the Themes and Goals as follows:

- Theme A Goal 2(a) Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development.

This property is currently zoned for two-family residential and is comprised of .15 net acres. This project takes this land and repurposes it from residential to provide a much-needed resource for quality food in the neighborhood.

- Theme A Goal 3(b) Strive for positive and safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians & various modes of transportation.

The proposal creates a neighborhood grocery store/farmer's market for a meeting and gathering place for the community. It promotes pedestrian access and bike transportation and is located near Lex Tran stops in either direction.

- Theme B Goal 2(d) Prioritize multi-modal options to de-emphasize single occupancy vehicle dependence.

This proposal incorporates bicycle rack spaces as well as connection with Lex Tran to de-emphasize dependency on single occupancy vehicle use for travel. Further, it facilitates a walkable resource deemphasizing the need for vehicular transportation.

- Theme D Goal 1(a) Support the Complete Streets concept, prioritizing a pedestrian first design that also accommodates the needs of bicycle, mass transit, and other vehicles.

Situated along Florence Avenue, this proposed project will also incorporate and provide a priority connection with bikers and walkers from the Georgetown Street neighborhood area. It is within walking distance and biking distance to the heart of downtown.

- Theme E Goal 1(e) Maximize development on vacant land and unimproved lots within the Urban Service Boundary and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.

This project takes and repurposes, through adaptive reuse, vacant land while maintaining the current land boundary.

The Policies of the 2018 Comprehensive Plan

This project successfully addresses the policies of the 2018 Comprehensive Plan.

With respect to Theme A, Growing Successful Neighborhoods, this project adopts and incorporates the 2018 Comprehensive Plan as follows:

Policy 1: Utilize a people first design, ensuring that roadways are moving people efficiently and providing pedestrian infrastructure that is context sensitive to the vehicle environment and land uses.

By incorporating a pedestrian friendly sidewalk into the design, we are facilitating connectivity between the streetscape, community garden and the grocery store.

Policy 10 Provide neighborhood focal points accessible to all residents.

The grocery store/farmer's market will serve as a gathering place for all residents and a focal point for the community.

Policy 12 Support Neighborhood level commercial levels

The grocery store/farmer's market will provide a source of activity within the context of the neighborhood.

Engagement:

Applicant and property owner met with President of Georgetown Street Neighborhood Association along with interested community members to discuss project and map out site plan. Additional meetings are planned.

Place Type/Development Type/Requested Zone Change:

The proposed development fits within the Enhanced Neighborhood category and the LNRMU (Low Density Non-Residential Mixed Use) under the Placebuilder criteria of the Comprehensive Plan. Enhanced Neighborhood is the most appropriate type, because at its core, the project involves adding a much-needed amenity to an existing neighborhood and provides for pedestrian access and biking. The applicant is seeking a zone change to B-1 which is a recommended zone for this place type.

Development Criteria: Enhanced Neighborhood/Low Density Non-Residential Mixed Use

The following are some of the criteria which are either not included on the development plan or warrant further discussion:

Site Design Building Form & Location:

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

This project will utilize on-street parking oriented toward the streetscape fronting the building. The project is designed to have no off-street parking and to emphasize multi-modal access through existing transit, biking, and walking.

A-DS10-1 Residential units should be within reasonable walking distance to a focal point.

The project will be centrally located within the residential neighborhood and will itself become a focal point of the community by design for positive interaction.

A-DN2-2 Development should minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods.

The height and mass of the proposed structure fits well within the existing neighborhood. No changes to size are proposed. It is already an existing part of the fabric of the neighborhood and only changes to the interior of building and exterior landscaping are proposed.

B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.

The project does not provide for any new paving of land. Farmer's market stands, and equipment will be incorporated into the existing landscape.

C-LI7-1 Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping and entertainment.

The project will provide access to a much-needed community grocery store/farmer's market in a safe environment.

C-PS10-3 Over Parking of new developments should be avoided.

There will be no off-street parking created with this development. Pedestrian, and other forms of multi-modal transportation will be emphasized.

D-PL2-1 Developments should aim to provide a neighborhood serving use that does not already exist in the vicinity, or that fills a specific need.

This project provides a service that is not readily available to the neighborhood. The nearest food store in either direction is many miles away. Not accessible by walking or biking.

D-PL7-1 Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting application.

Applicant and property owner met with President of Georgetown Street Neighborhood Association along with interested community members to discuss project and map out site plan. Additional meetings are planned.

E-GR4-1 Developments should incorporate the reuse of viable existing structures.

The site for the grocery store/farmer's market uses the existing structure.

E-GR9-2 Low intensity business uses that will provide neighborhood amenities should be incorporated into existing neighborhoods.

The grocery store/farmer's market is a low intensity business that will be part of the neighborhood.

A-DS1-1 Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes.

The project site is centrally located within Lex Tran connection at either end of Florence Avenue with easy access to or from the grocery store/farmer's market.

A-DS4-1 A plan for connected multimodal network to adjacent neighborhoods, greenspaces, developments, and complementary uses should be provided.

The project proposes a pedestrian sidewalk connection to and from the grocery store/farmer's market with the community garden.

A-DS10-2 New focal points should be designed with multimodal connections to the neighborhoods.

The project has access with inbound and outbound Lex Tran connections as well as pedestrian and biking connectivity.

VARIANCE:

In addition to the rezoning request, the applicant requests approval of a variance to reduce the property perimeter landscape buffer for a business for a business zone adjacent to a residential zone from 15 feet to 0 feet along the southern property line concurrent with the building. The reason for this is due to the existing structure is too close to the property boundary and the neighboring property driveway encroaches on to applicant's property. Adhering to the 15-foot landscape buffer requirement would impose a hardship on both the applicant and the neighboring property. The applicant proposes to place a tree buffer within a proposed 5' buffer zone, along with a 6-foot-tall solid fence, in the rear of the property immediately behind the building.

Respectfully submitted,



Christopher M. Clendenen

CMC/prb

Legal Description
Sassafras OZ, LLC
Zone Change From R-2 to B-1
At 760-762 Florence Avenue
Lexington, Fayette County, Kentucky

ALL THAT TRACT OR PARCEL OF LAND SITUATED ON THE EAST SIDE OF FLORENCE SOUTH OF PRICE ROAD IN LEXINGTON, FAYETTE COUNTY, KENTUCKY, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at a point in the centerline of Florence Avenue, said point being approximately 452 feet south of the intersection with the centerline of Price Road and having state plane coordinates of 1,566,391.2 feet easting and 206,791.0 feet northing; thence leaving Florence Avenue north 69 degrees 09 minutes 23 seconds east 150.00 feet to a point; thence south 20 degrees 34 minutes 27 seconds east 50.00 feet to a point; thence south 69 degrees 09 minutes 23 seconds west 150.00 feet to a point in the centerline of Florence Avenue; thence along the centerline of Florence Avenue north 20 degrees 34 minutes 27 seconds west 50.00 feet to the point of beginning and containing 0.17 gross acres and 0.15 net acres.

BLACK SOIL: OUR BETTER NATURE, LLC (PLN-MAR-23-00019)

Rezone the property for a grocery store development.

760 & 762 FLORENCE AVENUE

Applicant

BLACK SOIL: OUR BETTER NATURE, LLC.
107 W LOUDON AVE, STE 101,
LEXINGTON, KY 40508
chris@murphyclendenen.com (Attorney)

Owner

SASAFRASS OZ, LLC.
1904 DEAUVILLE DR
LEXINGTON KY 40504

Application Details

Acreage:

0.15 net (0.17 gross) acres

Current Zoning:

Mixed Low Density Residential (R-2) Zone

Proposed Zoning:

Neighborhood Business (B-1) Zone.

Place-type/Development Type

Enhanced Neighborhood
Low Density Non-Residential/ Mixed Use

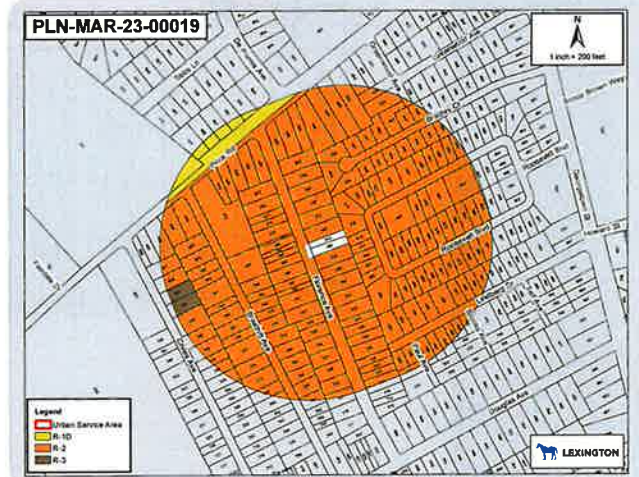
For more information about the Enhanced Neighborhood place type see Imagine Lexington pages 327-336. For more information on the Low Density Non-Residential/ Mixed-Use Development Type see page 272.

Description:

The applicant is seeking to rezone the subject properties to establish a grocery store use in an existing 1,200 square-foot building.

Public Engagement

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

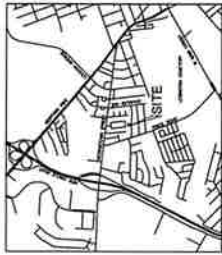


Status

- 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.

Development Plan



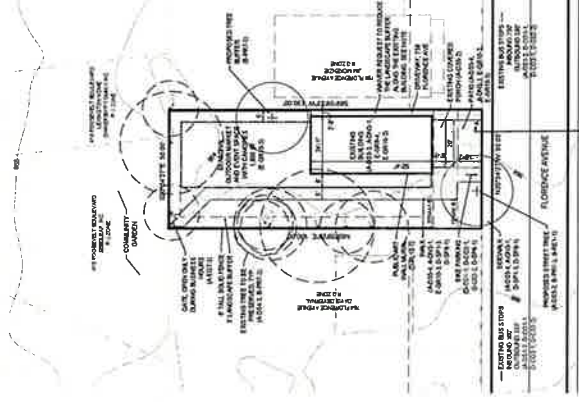
VICINITY MAP

THE PROPOSED PLANS SHOW:

- 1. 15,000 SQ. FT. OF RESIDENTIAL USE
- 2. 15,000 SQ. FT. OF COMMERCIAL USE
- 3. 15,000 SQ. FT. OF OFFICE USE
- 4. 15,000 SQ. FT. OF RETAIL USE
- 5. 15,000 SQ. FT. OF RESTAURANT USE
- 6. 15,000 SQ. FT. OF HOTEL USE
- 7. 15,000 SQ. FT. OF MIXED USE
- 8. 15,000 SQ. FT. OF MULTIFAMILY USE
- 9. 15,000 SQ. FT. OF MANUFACTURING USE
- 10. 15,000 SQ. FT. OF INDUSTRIAL USE
- 11. 15,000 SQ. FT. OF AGRICULTURAL USE
- 12. 15,000 SQ. FT. OF OPEN SPACE
- 13. 15,000 SQ. FT. OF PARKING
- 14. 15,000 SQ. FT. OF UTILITY
- 15. 15,000 SQ. FT. OF OTHER

IF ALL REQUIRED FEES HAVE BEEN PAID TO THE CITY ENGINEER, THE CITY ENGINEER SHALL REVIEW THE PLANS AND ISSUE A PERMIT TO CONSTRUCTION. THE PERMIT TO CONSTRUCTION SHALL BE VALID FOR 180 DAYS FROM THE DATE OF ISSUANCE.

PUBLIC NOTICE
 NOTICE IS HEREBY GIVEN THAT THE CITY ENGINEER HAS REVIEWED THE PLANS AND FOUND THEM TO BE IN ACCORDANCE WITH THE CITY ENGINEERING CODE. THE CITY ENGINEER HAS ISSUED A PERMIT TO CONSTRUCTION FOR THE PROJECT. THE PERMIT TO CONSTRUCTION SHALL BE VALID FOR 180 DAYS FROM THE DATE OF ISSUANCE. ANY CHANGES TO THE PLANS MUST BE APPROVED BY THE CITY ENGINEER BEFORE CONSTRUCTION BEGINS.



OWNER CERTIFICATION
 I, THE UNDERSIGNED, HAVE MADE AND THE NUMBER OF THE PROPERTY APPROXIMATELY 100 DAILY VISITS TO ALL SURROUNDING AND ADJACENT PROPERTIES TO DETERMINE THE EFFECTS OF THE PROPOSED DEVELOPMENT PLAN ON THE PROPERTIES.

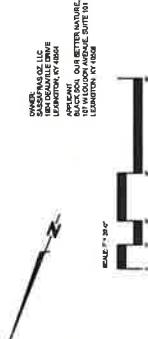
COMMISSIONER'S CERTIFICATION
 I, THE UNDERSIGNED, AS COMMISSIONER OF THE URBAN COUNTY PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____

PLANNING COMMISSION SECRETARY
 _____ DATE _____

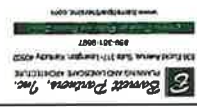
- NOTES:**
1. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 2. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 3. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 4. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 5. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 6. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 7. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 8. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 9. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 10. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 11. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 12. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 13. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 14. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____
 15. THE DEVELOPMENT PLAN SHALL BE REVIEWED BY THE PLANNING COMMISSION AT ITS MEETING HELD ON _____ DATE _____

VARIANCE REQUEST
 THE DEVELOPMENT PLAN REQUESTS A VARIANCE FROM THE CITY ENGINEERING CODE. THE VARIANCE REQUEST IS BASED ON THE FOLLOWING REASONS: _____

NO.	DATE	DESCRIPTION
1	10/16/2023	PRELIMINARY REVIEW
2	10/16/2023	REVISIONS
3	10/16/2023	FINAL REVIEW
4	10/16/2023	PERMIT ISSUANCE
5	10/16/2023	CLOSURE



OWNER:
 BARRINGTON LLC
 1000 BARRINGTON DRIVE
 LEXINGTON, KY 40504
 TEL: 606.253.1234
 FAX: 606.253.1235



Barry's Professional Services, Inc.
 1000 Eastern Avenue, Suite 117 - Lexington, Kentucky 40502
 606-301-0027
 www.barrysprof.com

GALBRATH SUBDIVISION
 760 & 762 Florence Avenue
 Lexington, Kentucky

Final Development Plan
 Revised:
 PLN-MDP-23-00070

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-23-00019 BLACK SOILS: OUR BETTER NATURE, LLC.

DESCRIPTION OF ZONE CHANGE

Zone Change:	From a Mixed Low Density Residential (R-2) To a Neighborhood Business (B-1) zone
Acreage:	0.15 net (0.17gross) acres
Location:	760 & 762 Florence Avenue



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Properties	R-2	Vacant
To North	R-2	Residential
To East	R-2	Community Garden/ Residential
To South	R-2	Residential
To West	R-2	Residential

URBAN SERVICE REPORT

Roads - The subject properties are located on Florence Avenue, a two-lane local roadway. Florence Avenue connects Price Road to the north of the site to Douglass Avenue to the south within the Galberith neighborhood.

Curb/Gutter/Sidewalks - Curb, gutter and sidewalks exist along Florence Avenue.

Storm Sewers - The subject properties are located within the Town Branch watershed. There are no FEMA Special Flood Hazard Areas on the site or in the immediate vicinity. Storm sewers exist in this portion of the Urban Service Area.

Sanitary Sewers - The subject properties are located within the Town Branch sewershed. The property is served by the Town Branch Waste Water Treatment Facility, located on Lisle Industrial Avenue, inside New Circle Road, and west of Leestown Road approximately 3 miles to the northwest of the subject property.

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

Refuse - The Urban County Government serves this area with refuse collection on Thursdays.

Police - The subject properties are located within the and are served by the Central Sector Roll Call Center, located on Industry Road, approximately 3 miles southeast of the subject properties. The downtown Police Headquarters is approximately 1.5 miles southwest of the subject properties, on East Main Street.

Fire/Ambulance - Fire Station #10 is located approximately 1/2 of a mile northeast of the subject properties, on Finney Drive.

Transit - Lextran Route #2 has several stops on Florence Avenue, less than 300 feet from the subject properties.

Parks - The subject properties are less than 1/4 of a mile west of Douglass Park, and approximately 1/3 of a mile southeast of Whitney Young Park.

SUMMARY OF REQUEST

The applicant is seeking a zone change from the Mixed Low Density Residential (R-2) zone to the Neighborhood Business (B-1) zone in order to establish a grocery store use. In addition, the applicant is also seeking a variance to reduce the required property perimeter landscape screening from 15 feet to 0 feet along the southern property line, where the existing structure adjoins the R-2 zoned parcel at 758 Florence Avenue.

PLACE-TYPE

ENHANCED NEIGHBORHOOD
The Enhanced Neighborhood Place-Type is an existing residential area to be enhanced with additional amenities, housing types, and neighborhood serving retail, services, and employment options. Development should be context sensitive to surrounding areas and should add to the sense of place. Incorporating multi-modal connections is crucial to neighborhood success and viability.

DEVELOPMENT TYPE

LOW DENSITY NON-RESIDENTIAL/ MIXED USE
Primary Land Use, Building Form, & Design
Primarily neighborhood serving commercial uses, services, or places of employment and/or a mix of uses within low to mid-rise structures appropriately scaled to the surrounding neighborhood.

Mixed-use structures can include a mix of residential, commercial, services, and or employment uses, and an activated and pedestrian-scale ground level should be provided.

Transit Infrastructure & Connectivity
Bicycle and pedestrian connections to adjoining neighborhoods, and buildings oriented towards the street are required to ensure the non-residential enhances nearby neighborhoods by creating a truly walkable environment.

Parking
Parking should be minimized, and where necessary, located internally.

PROPOSED ZONING



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.

PROPOSED USE



The petitioner is proposing the Neighborhood Business (B-1) zone in order to utilize an existing 1,200 square-foot structure for a grocery store use. The applicant is also proposing removing the on-site parking and replacing it with an outdoor patio area. A sidewalk is proposed through the middle portion of the site that will provide a connection to the community garden located on the adjoining property to the rear at 415 Roosevelt Boulevard. An area for outdoor seasonal events is located to the rear of the property.

APPLICANT & COMMUNITY ENGAGEMENT



The applicant has indicated that they spoke with the president of the Georgetown Street Neighborhood Association, and that meetings with the neighborhood groups are planned in the future. The applicant should provide further information on these meetings, and the response from the surrounding neighborhood.

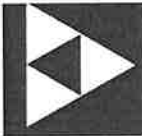
PROPERTY & ZONING HISTORY



The properties at 760 & 762 Florence Avenue have been zoned Mixed Low Density Residential (R-2) since before the 1969 comprehensive rezoning of the city and county. Historically, the property at 762 Florence Avenue was utilized as a single-family residence; however, this structure was demolished in 1972 and the lot has remained vacant since. Since that time, this property has served as an informal path for residents of the neighborhood to walk between Florence Avenue and Roosevelt Boulevard. A variance to reduce various setbacks in order to establish a new single-family residence at this location was approved by the Board of Adjustment in early 2023 (PLN-BOA-23-00010); but the proposed home was never built.

The property at 760 Florence Avenue historically contained a legal nonconforming convenience store use that was in operation prior to the comprehensive rezoning of the city and county. This nonconforming use was recently discontinued, and as a result, a zone change is required to establish another retail use (grocery store) in its place.

COMPREHENSIVE PLAN COMPLIANCE



The Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

GOALS, OBJECTIVES, & POLICIES

The applicant opines that they are in agreement with the adopted Goals and Objectives of the 2045 Comprehensive Plan. The applicant further states that by adaptively reusing the existing vacant structure, the proposed request supports infill and redevelopment (Theme A, Goal #2). The applicant states that the request will prioritize multi-modal options to de-emphasize single occupancy vehicles with its proximity to transit service, pedestrian connections, and the installation of bicycle facilities (Theme B, Goal#2.d). The applicant states that the commercial use will be a neighborhood gathering point, promoting safe social interactions in neighborhoods (Theme A, Goal #3.b).

In addition, the applicant identifies several of the policies of the 2018 Comprehensive Plan that opine are being met with this request. The applicant states the proposal improves pedestrian safety and utilizes a people first design by removing the substandard parking areas in front of the structure, and providing for additional pedestrian connections. (Theme A, Policy #1). At the proposed scale, the development provides an accessible, neighborhood level commercial area and gathering space (Theme A, Design Policy #12; Theme A, Design Policy #10). The request introduces a neighborhood grocery use into an area that lacks walkable food options (Theme A, Density Policy #3). The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).

Staff agrees that the Goals, Objectives, and Policies of the Comprehensive Plan that were identified by the applicant can be met with this request.

PLACE TYPE, DEVELOPMENT TYPE, AND ZONE

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



The applicant has indicated that the site is located within the Enhanced Neighborhood Place-Type, and is seeking to utilize the property as Low Density Non-Residential / Mixed-Use Development Type. The property is located within an existing residential neighborhood, which the applicant is seeking to improve with a neighborhood serving use. Within the Enhanced Neighborhood Place-Type, the Low Density Non-Residential/ Mixed-Use Development Type is a recommended Development Type, and is in keeping with the scale of the detached single-family residential development in the area. The applicant's proposed Neighborhood Business (B-1) zone is a recommended zone for the chosen Place-Type and Development Type.

Staff concurs with the applicant's assessment of the Place-Type, and agrees that a low density commercial development can be appropriate for the subject property within a Neighborhood Business (B-1) zone.

DEVELOPMENT CRITERIA

The development criteria for a zone change are the distillation of the adopted Goals and Objectives from the 2045 Comprehensive Plan, as well as the policies put forth in the 2018 Comprehensive Plan. The development criteria for development represent the needs and desires of the Lexington-Fayette Urban County community in hopes of developing a better built environment. The applicable criteria are defined based on the proposed Place-Type and Development Type.

1. Site Design, Building Form and Location

Staff finds that the request meets the requirements for Site Design, Building Form, and Location, as the request reuses the existing commercial structure that has occupied the site since 1969, creates a safer pedestrian environment by removing substandard parking areas along Florence Avenue, and creates mixed-use commercial opportunities in a neighborhood that lacks an accessible grocery store.

There was one aspect of the applicant's proposal that staff would like the applicant to address.

A-DS4-1: A Plan for a connected multi-modal network to adjacent neighborhoods, greenspaces, developments, and contemporary uses should be provided.

The development plan shows a sidewalk connection from the Florence Avenue right-of-way that connects to the rear of the property, where the subject properties adjoin the community garden parcel on Roosevelt Street. This area is shown to be fenced and gated. In order to ensure this pedestrian connection still functions when the use is not operating, the applicant should explore relocating the fencing/gate further into the interior of the property, and providing the sidewalk outside of the proposed fencing. This would allow the applicant to secure their commercial use without impeding pedestrians from the neighborhood utilizing the proposed sidewalk.

2. Transportation and Pedestrian

Staff finds that this request meets the requirements for Transportation and Pedestrian Connectivity, as the proposed development expands on the existing pedestrian system, has several close connections to transit, and provides a safer experience for pedestrians along Florence Avenue.

3. Greenspace and Environmental Health

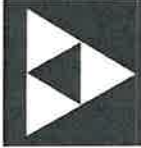
The proposed rezoning meets the criteria for Greenspace and Environmental Health as the proposal works with the existing landscape, will increase the overall tree canopy, and will not impact any environmentally sensitive areas.

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:
 - b. The request will activate an underutilized parcel within the Infill and Redevelopment Area in order to provide a neighborhood-oriented use (Theme A, Goal #2). The proposed grocery store will supply daily necessities to the immediate area.
 - c. The request will prioritize multi-modal options and de-emphasize single occupancy vehicles with its proximity to transit service, pedestrian connections, and the installation of bicycle facilities (Theme B, Goal#2.d)
 - d. The proposal encourages safe interactions within the neighborhood by creating an accessible neighborhood commercial focal point and gathering space (Theme A, Goal #3). Retail sales of grocery and convenience items allows for residents to shop and interact on a routine basis.
2. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposal improves pedestrian safety and utilizes a people first design by removing the substandard parking areas in front of the structure, and providing for additional pedestrian connections. (Theme A, Policy #1)
 - b. At the proposed scale, the development provides an accessible, neighborhood level commercial area and gathering space (Theme A, Design Policy #12; Theme A, Policy #10).
 - c. The request introduces a neighborhood grocery use into an area that lacks walkable grocery options (Theme A, Density Policy #3).
 - d. The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).
3. The justification and corollary development plan are in agreement with the development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and as the request reuses the existing commercial structure that has occupied the site since 1969, creates a safer pedestrian environment by removing sub-standard parking areas along Florence Avenue, and creates neighborhood level commercial opportunities in a neighborhood that lacks an accessible grocery store.
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity development criteria, as the proposed development expands on the existing pedestrian system, has several close connections to transit, and provides a safer experience for pedestrians along Florence Avenue.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as the proposal works with the existing landscape, will increase the overall tree canopy, and will not impact any environmentally sensitive areas.
4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00071: GALBRAITH SUBDIVISION, LOTS 19 & 20 prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

STAFF REPORT ON VARIANCE REQUEST



As part of their application, the petitioner is also seeking several dimensional variances that are requesting relief from the required property perimeter screening requirements for the portions of the property that abut Mixed Low Density Residential (R-2) zoning. The applicant is seeking to reduce the minimum required property perimeter requirements as regulated in Article 18-3(a)(1) of the LFUCG Zoning Ordinance.

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 18-3(a)(1) states that for any office or business zone (except P-2), that adjoins any residential zone, there shall be a minimum buffer area of 15 feet adjacent to all common boundaries (located behind the building line) except street frontage, which will contain one tree per 40 feet of linear boundary, or fraction thereof, from Group A or B only, plus, 1) a double row of six feet high hedge or 2) a six feet high fence, wall or earth mound.

CASE REVIEW

The applicant is seeking a dimensional variance for a portion of the property perimeter screening requirements. These requirements are for the portions of the property that abut the Mixed Low Density Residential (R-2) zones to the north, south, and east. The Zoning Ordinance requires buffering of a specific distance and regulated planting materials to provide screening between more intense commercial land uses and surrounding residential land uses. The specific provisions were added to the Ordinance to decrease the impact of light and sound on adjacent properties, which may be caused by events or activities, such as those that the applicant has expressed interest in developing on the property.

The area between the proposed B-1 zone and the R-2 zone requires a minimum buffer area of 15 feet adjacent to all common boundaries (located behind the building line) except street frontage, to contain one tree per 40 feet of linear boundary, or fraction thereof, from Group A or B only, plus, 1) a double row of six feet high hedge or 2) a six feet high fence, wall or earth mound. Thus buffer can be reduced to 5 feet with the inclusion of a 6 foot tall solid fence. While the applicant will provide the required landscape buffer around much of the property, they are seeking to reduce the landscape buffer to zero feet to waive the required landscaping along the portions of the property that adjoin the commercial structure.

The applicant states that there is less than three feet between the existing structure and the property line, and as such, there is not sufficient room to establish a 5-foot wide landscape buffer. The applicant opines that demolishing the structure in order to accommodate the thin strip of required landscaping would create an unnecessary hardship. Installing the required landscaping would also require demolishing part of an encroaching driveway along 758 Florence Avenue.



The Landscape Review Committee evaluated the proposed landscape variance at their October 24th, 2023 meeting. The committee recommended approval of the request, with no additional conditions of approval recommended.

Staff finds the request will not negatively impact the health safety or welfare of the general public, as the previous non-conforming commercial use operated at this location since before 1969 without any landscaping or screening between the structure and the adjoining parcel. The subject properties have a unique circumstance in that they are narrow lots that feature existing nonconforming structures that predates the current zoning regulations that encroaches less than 3 feet from the adjoining property line.

STAFF RECOMMENDS: APPROVAL FOR THE FOLLOWING REASONS:



1. Approval of the landscape variances should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. The subject property has operated over 50 years without landscaping buffers between the commercial and residential uses. Providing landscaping within the narrow side yard would likely not thrive or grow to maturity to create the buffer prescribed by the ordinance.
2. The narrow lot shape and existing nonconforming structure represent special circumstances unique to the subject property that justify the need for a variance.
3. Removing the existing structure present on the site to accommodate the required landscaping buffer would unreasonably restrict the applicant's use of the property.
4. 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 variance shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, 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 for the subject property.

2. BLACK SOIL: OUR BETTER NATURE, LLC ZONING MAP AMENDMENT AND GALBRAITH SUBDIVISION, LOTS 19 & 20 DEVELOPMENT PLAN

- a. **PLN- MAR-23-00019: BLACK SOIL: OUR BETTER NATURE, LLC** (12/31/2023)* – a petition for a zone map amendment from a Mixed Low Density Residential (R-2) zone to a Neighborhood Business (B-1) zone, for 0.15 net (0.17 gross) acres, for properties located at 760 and 762 Florence Avenue. This application has a variance request to reduce the required property perimeter landscaping from 15 feet to 0 feet.

Note: The Planning Commission voted to continue this hearing on November 16, 2023.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner is proposing the Neighborhood Business (B-1) zone in order to utilize an existing 1,200 square-foot structure for a grocery store use. The applicant is also proposing removing the on-site parking and replacing it with an outdoor patio area. A sidewalk is proposed through the middle portion of the site that will provide a connection to the community garden located on the adjoining property to the rear at 415 Roosevelt Boulevard. An area for outdoor seasonal events is located to the rear of the property.

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 request will activate an underutilized parcel within the Infill and Redevelopment Area in order to provide a neighborhood-oriented use (Theme A, Goal #2). The proposed grocery store will supply daily necessities to the immediate area.
 - b. The request will prioritize multi-modal options and de-emphasize single occupancy vehicles with its proximity to transit service, pedestrian connections, and the installation of bicycle facilities (Theme B, Goal#2.d)
 - c. The proposal encourages safe interactions within the neighborhood by creating an accessible neighborhood commercial focal point and gathering space (Theme A, Goal #3). Retail sales of grocery and convenience items allows for residents to shop and interact on a routine basis.
2. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposal improves pedestrian safety and utilizes a people first design by removing the substandard parking areas in front of the structure, and providing for additional pedestrian connections. (Theme A, Policy #1)
 - b. At the proposed scale, the development provides an accessible, neighborhood level commercial area and gathering space (Theme A, Design Policy #12; Theme A, Policy #10).
 - c. The request introduces a neighborhood grocery use into an area that lacks walkable grocery options (Theme A, Density Policy #3).
 - d. The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).
3. The justification and corollary development plan are in agreement with the development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and as the request reuses the existing commercial structure that has occupied the site since 1969, creates a safer pedestrian environment by removing sub-standard parking areas along Florence Avenue, and creates neighborhood level commercial opportunities in a neighborhood that lacks an accessible grocery store.
 - b. The proposed rezoning addresses the Transportation and Pedestrian Connectivity development

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

- criteria, as the proposed development expands on the existing pedestrian system, has several close connections to transit, and provides a safer experience for pedestrians along Florence Avenue.
- c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as the proposal works with the existing landscape, will increase the overall tree canopy, and will not impact any environmentally sensitive areas.
 4. This recommendation is made subject to approval and certification of PLN-MJDP-23-00071: GALBRAITH SUBDIVISION, LOTS 19 & 20 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** – The applicant is seeking a variance to reduce the required property perimeter landscape screening from 15 feet to 0 feet along the southern property line, where the existing structure adjoins the R-2 zoned parcel at 758 Florence Avenue.

The Zoning Committee Recommended: Approval.

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

1. Approval of the landscape variances should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. The subject property has operated over 50 years without landscaping buffers between the commercial and residential uses. Providing landscaping within the narrow side yard would likely not thrive or grow to maturity to create the buffer prescribed by the ordinance.
2. The narrow lot shape and existing nonconforming structure represent special circumstances unique to the subject property that justify the need for a variance.
3. Removing the existing structure present on the site to accommodate the required landscaping buffer would unreasonably restrict the applicant's use of the property.
4. 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 variance shall be null and void.
 - b. The development shall be constructed in accordance with the approved Final Development Plan, 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 for the subject property.
- c. PLN-MJDP-23-00070: GALBRAITH SUBDIVISION, LOTS 19 & 20 (12/31/2023)* - located at 760 & 762 FLORENCE AVENUE, LEXINGTON, KY
Council District: 2
Project Contact: Barret Partners, Inc.
Note: The purpose of this plan is to depict the use of the site for a grocery store, in support of the requested zone change from a Mixed Low d (R-2) zone to a Neighborhood Business (B-1) zone.

The Subdivision Committee Recommended: Approval, subject to the 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.

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

11. United States Postal Service Office's approval of kiosk locations or easement.
12. Provided the Planning Commission approves the requested variance.
13. Discuss proposed access to adjacent community garden.
14. Discuss proposed seasonal activities.
15. Discuss Placebuilder criteria.

Staff Presentation – Mr. Crum briefly reminded the Planning Commission of the zone change request. He briefly discussed the history of the property, as well as the variance that was being requested. He stated that staff was recommending approval of the zone change as well as the variance. Mr. Crum reiterated the concerns of the neighbors regarding the allowable uses in the B-1 zone. He stated that the applicant had met with the concerned individuals and had proposed a list of conditional zoning restrictions. The list included ten items that had been agreed upon, but also included a request to allow for sales of alcoholic beverages in a restaurant, if it became one in the future, that was not agreeable to the nearby residents.

Applicant Representation – Attorney Chris Clendenen was present to represent the applicant. He stated that there had been positive communication with the neighborhood, and noted that there was only one item of disagreement. He said that the restriction of alcoholic beverages sales in a restaurant would be too restrictive. He added that the applicant was committed to making the proposed grocery store work, and other uses would be an unlikely event.

Commission Questions – Ms. Worth asked how many neighbors had been involved in the discussions with the applicant. Mr. Clendenen replied that there had been several neighborhood meetings regarding the zone change, but he had communicated with a representative of the Georgetown Street Area Neighborhood Association regarding this particular issue.

Citizen Comments – Rolanda Woolfork was present to represent the Georgetown Street Neighborhood Association. She stated that they had sent out 300 flyers and received 150 responses with concerns. She added that they had had two neighborhood meetings as well. She stated that the neighborhood was against the sale of alcohol because of the nine sober living homes in the area. She stated that they wanted to help those residents with their sobriety. She said there were several locations that had alcohol sales already in the area.

Commission Questions - Mr. Wilson stated that he appreciated the work that had been done on the list of conditional zoning restrictions. He asked Ms. Woolfork if the condition that was being discussed was a dealbreaker for their support for the grocery store. She replied that it was not a dealbreaker because their partnership with the applicant was strong.

Mr. Owens asked Ms. Jones what their legal options were. She reminded the Commission that any conditional zoning restricts approved, would be binding, and any future applicant would be required to reapply for the removal of any of the conditions.

Mr. Forester asked for clarification regarding the grocery store use, and its ability to have alcohol sales. Ms. Jones stated that no alcohol sales would be allowed in the grocery store if it was specifically stated in the conditional zoning restrictions as a prohibited use.

Mr. Owens suggested that the 11th condition be changed to allow for a restaurant use only, without the sale of alcoholic beverages.

Applicant Rebuttal – Mr. Clendenen stated that he was sympathetic to the sober living residents. He reiterated that they were only suggesting the sale of the beverages in the event that the grocery store failed, and a restaurant was put there.

Citizen Comments – Ms. Woolfork listed the name of several area restaurants that did not sell alcohol, but were very successful.

Commission Comments – Mr. Nicol praised the efforts of the neighborhood, but was concerned about how difficult it would be to remove the restriction once it was placed.

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

Mr. Owens said that he could go either way with the decision.

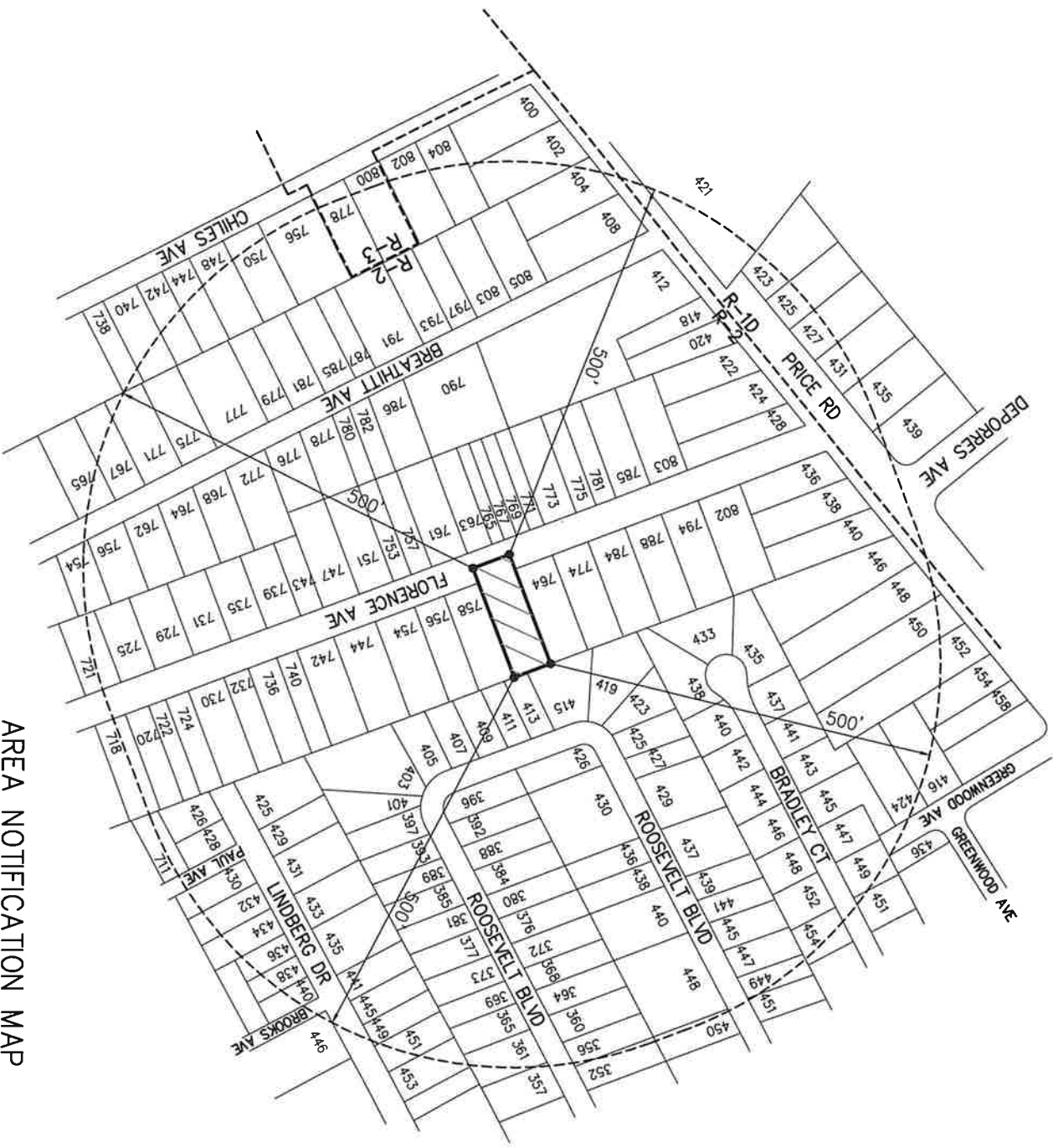
Action – Mr. Owens made a motion, seconded by Mr. Pohl, and carried 9-0 (Davis absent), to approve PLN- MAR-23-00019: BLACK SOIL: OUR BETTER NATURE, LLC with the following conditional zoning restrictions, finding that they are appropriate and necessary, for the betterment of the neighborhood:

Under the provisions of Article 6-7, the following uses are prohibited:

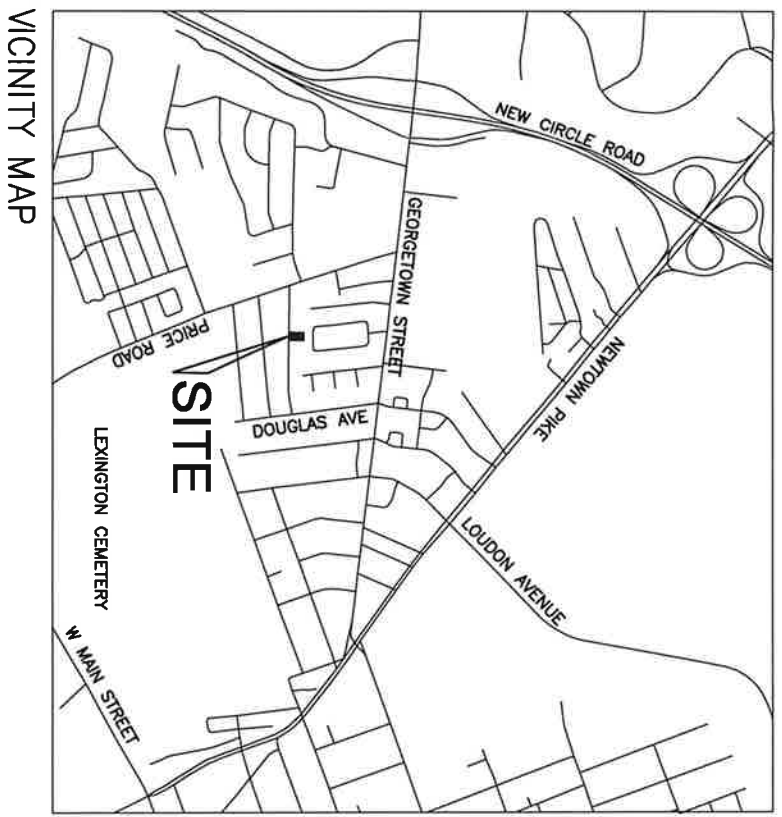
1. Funeral Homes
2. Rehabilitation Homes
3. Retail Sale of Beer, Wine, or Liquor
4. Automobile Service Stations
5. Pawnshops
6. Short-Term Rental, Either Hosted or Un-Hosted
7. Retail Sale of Liquid Propane
8. Indoor Live Entertainment/Dancing as Accessory to Restaurant
9. Drive-Through Facilities
10. Adult Entertainment

Action – Mr. Owens made a motion, seconded by Mr. Pohl, and carried 9-0 (Davis absent) to approve the variance to reduce the required property perimeter landscape screening from 15 feet to 0 feet along the southern property line, where the existing structure adjoins the R-2 zoned parcel at 758 Florence Avenue.

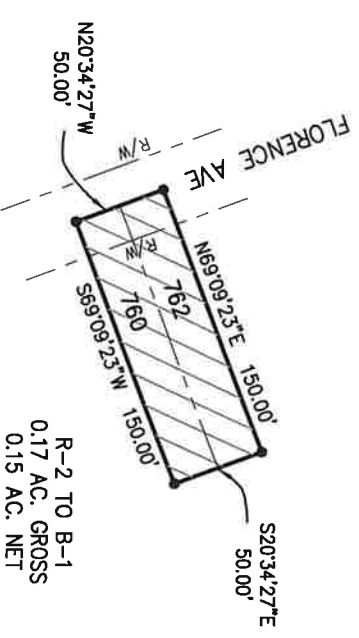
Action – Mr. Owens made a motion, seconded by Mr. Wilson, and carried 9-0 (Davis absent), to approve PLN- MJDP-23-00070: GALBRAITH SUBDIVISION, LOTS 19 & 20 as presented.



AREA NOTIFICATION MAP
1" = 200'



VICINITY MAP



PROPERTY MAP
1" = 100'

ZOMAR			
TITLE: PLN-MAR-23-00019	FROM	TO	GROSS NET
PROPERTY ADDRESS: 760 & 762 FLORENCE AVENUE	R-2	B-1	0.17 AC. 0.15 AC.
OWNER: SASSARRAS OZ, LLC 1904 DEAVILLE DRIVE LEXINGTON, KY 40504			
APPLICANT: BLACK SOL: OUR BETTER NATURE, LLC 107 W LOUDON AVENUE, SUITE 101 LEXINGTON, KY 40508			
PREPARED BY: WESLEY B WITT, INC.			
DATE PREPARED: OCTOBER 2, 2023			

STATE OF KENTUCKY
WESLEY B. WITT
2187
LICENSED PROFESSIONAL LAND SURVEYOR

Wesley B Witt