

# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-25-00009: ON THE BLOCK, LLC

## DESCRIPTION OF ZONE CHANGE

Zone	From a Planned Neighborhood Residential (R-3)
Change:	zone
	To a Neighborhood Business (B-1) zone
Acreage:	0.16 net (0.28 gross) acres
Location:	400 Chestnut Street



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-3	Vacant Commercial
To North	R-3	Residential
To East	R-3	Residential
To South	R-3	Residential
To West	R-3	Residential

## URBAN SERVICE REPORT

**Roads** - The subject property is located at the intersection of Chestnut Street and East Fourth Street. Chestnut Street is a two lane local roadway, while this portion of East Fourth Street is a two lane collector roadway.

**Curb/Gutter/Sidewalks** - Curb, gutter and sidewalks exist along both Chestnut Street and East Fourth Street.

**Storm Sewers** - The subject property is located within the Town Branch watershed. No known flooding problems exist within the immediate vicinity of the subject site.

**Sanitary Sewers** - The subject property is 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. The petitioner will need to secure a signoff from the Capacity Assurance Program prior to occupancy of the structure.

**Refuse** - The Urban County Government serves this area with refuse collection on Tuesdays. Supplemental service may be required to serve the needs of the proposed development. This can be accomplished by contracting with private refuse collectors, if desired.

**Police** - The Police Headquarters, located on E. Main Street, is located approximately 1.4 miles to the west of the site. The property is located within the Central Sector and is served by the Central Sector Roll Call Center located approximately 1.4 miles to the east of the property.

**Fire/Ambulance** - The closest station is Fire Station #1 and Headquarters, located on E. Third Street, between Elm Tree Lane and N. Martin Luther King Boulevard, located approximately 1/4 mile northwest of the subject property.

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

**Transit** - This area is served by Lextran Route #9 with service directly on the corner of the subject property.

**Parks** - The subject property is a walkable distance to multiple downtown parks. Charles Young Park is located about 1,000 feet to the southeast, along Shropshire Avenue. Northeastern Park is located approximately 1/3 miles southwest, on Eastern Avenue. Thoroughbred Park is located 1/3 miles to the southwest, also along Eastern Avenue.

## SUMMARY OF REQUEST

The applicant is seeking a zone change from the Planned Neighborhood Residential (R-3) zone to the Neighborhood Business (B-1) zone in order to continue commercial uses on the subject property. In conjunction with the zone change, the applicant is seeking a variance to reduce the required property perimeter landscaping from 15' to 0'.

## 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 multimodal 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, 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. Developments with a residential component are generally non-residential on the ground floor with units above, providing opportunities for live/work arrangements.  
Transit Infrastructure & Connectivity  
Bicycle and pedestrian connections to adjoining neighborhoods, and buildings oriented to 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

**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.

## PROPOSED USE



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.

## APPLICANT & COMMUNITY ENGAGEMENT



The applicant opined that discussions with local residents and business owners have occurred; however, they did not clarify the any information regarding the time, place, and content of those discussions.

## PROPERTY & ZONING HISTORY



The subject property has been zoned Planned Neighborhood Residential (R-3) since before the comprehensive rezoning of the City and County in 1969. Despite the existing residential zoning, the subject property has historically been utilized commercially, with a one-story 1,078 square foot structure occupying the site since 1932. Due to the residential zoning, the property has had numerous Board of Adjustment (BOA) cases to change nonconforming uses. On September 9, 1932, an appeal was approved for the subject property to tear down an existing building on the corner of Fourth and Chestnut Streets in order to erect a new building for the purpose of conducting a retail grocery use. Since then the subject property has seen requests to change the non-conforming use at least five times. The uses on the subject property have included a grocery store, laundromat, another grocery store, retail record sales store, and a beauty salon. The last BOA case was in 2015 requesting an administrative appeal and variance to allow for the change of a non-conforming use (beauty salon) to a non-conforming use (cocktail lounge/bar), which was disapproved. The property has remained underutilized since the disapproval. The applicant is seeking the proposed zone change in order to establish a commercial zone to lease to prospective tenants.

The subject property is also located within the study area for the East End Small Area Plan, which was adopted in 2009. This Small Area Plan emphasized protecting the neighborhood's identity, and proposed restoration of important cultural facilities, signage and beautification, improvement of infrastructure, and maintaining affordable housing. The plan's objectives speak to preserving residential character, while also expanding opportunities for creating and maintaining neighborhood serving businesses. In this instance, the subject property has an extensive history of nonconforming commercial uses, never having a residential character. The proposed rezoning would allow for a neighborhood scale commercial use, at a location that has been operating commercially since its creation in 1932.

## 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, OBJECTIVES, & POLICIES

Although the applicant did not explicitly outline the goals and objectives that their request meets; the information provided within their justification statement does address several themes, goals, and policies. The applicant proposes to create a neighborhood-serving business that respects the surrounding context (Theme A). By not incorporating on-site parking, the proposal prioritizes multi-modal options that reduce greenhouse gas emissions (Theme B). Their proposal will provide jobs and employment opportunities through revitalizing vacant commercial space (Theme C). Their proposal will create a sense of place and community through incorporating thoughtful uses and zoning (Theme D). This proposal is an area of opportunity for infill, redevelopment, and mixed-use development (Theme A, Goal #2.a). The proposal's reuse of an existing structure maintains its scale with the surrounding neighborhood (Theme A, Goal #2.b). The site design prioritizes safe multi-modal connections with the adjacent properties and neighborhoods (Theme A, Goal #3.b). Staff agrees that these Goals and Objectives of the 2045 Comprehensive Plan can be met with the proposed request.

Additionally, several policies listed within the 2045 Comprehensive Plan are being met with this request. The proposal will reuse an existing structure to remain as a commercial development while keeping with the scale of the surrounding neighborhood (Theme A, Design Policy #4). The proposal will not include any on-site parking enhancing the walkability and bikeability of the property (Theme A, Design Policy #7) by prioritizing a multi-modal street design (Theme D, Connectivity Policy #2). This project seeks to add



commercial resources to a walkable neighborhood (Theme A, Density Policy #3). The redevelopment of this site will support neighborhood-level commercial areas (Theme A, Design Policy #12). Staff agrees that these Policies of the 2045 Comprehensive can be met with the proposed development.

### **PLACE TYPE, DEVELOPMENT TYPE, AND ZONE**

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, 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 2045 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 Enhanced Neighborhood Place-Type consists of an existing residential area with opportunities for neighborhood-serving retail, amenities, and services to enhance the neighborhood. The subject property is located within an existing low-density residential area with significant multimodal connectivity. The staff agrees that the subject property is located within the Enhanced Neighborhood Place-Type and that the proposed one-story commercial use **is in line with the Low Density Non-Residential/Mixed Use Development Type. The Neighborhood Business (B-1) zone is recommended within the Enhanced Neighborhood Place Type and the Low Density Non-Residential/Mixed-Use Development Type.**

### **DEVELOPMENT CRITERIA**

The development criteria for a zone change are the distillation of the adopted Goals and Objectives, as well as the policies put forth in the 2045 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. Land Use

Staff finds that this request meets the Development Criteria for Land Use. The applicant's proposal re-establishes a commercial use in a neighborhood context (C-LI7-1) and provides pedestrian-oriented commercial opportunities within said neighborhood (A-DN3-1).

#### 2. Transportation and Pedestrian

Staff finds that this request meets the Development Criteria for Transportation and Pedestrian Connectivity. The proposal will provide safe multi-modal facilities (A-DS5-1) that incorporates clear and dedicated connections to community anchors (A-DS10-1) with accessible pedestrian linkages directly to transit (A-DS1-2).

#### 3. Environmental Sustainability and Resiliency

The proposed rezoning meets the criteria for Environmental Sustainability and Resiliency as the proposal will use native, low-impact landscaping (B-PR2-1) while not creating any impervious surface (B-SU4-1).

#### 4. Site Design

Staff finds that this request meets the requirements for Site Design as the proposal will provide a pedestrian-oriented and activated streetscape (A-DS5-4), enhance a well-connected public realm through activating the street corner (C-LI8-1), and no parking is provided on-site encouraging foot, bicycle, and transit traffic (C-PS10-2).

#### 5. Building Form

The request meets the criteria for Building Form, as the applicant's proposal will minimize contrasts in design and scale to the surrounding context (A-DN2-2), while creating a pedestrian-friendly atmosphere through the building fronting on the intersection (A-DS5-3). The request continues the reuse an existing structure (E-GR4-1) that will activate the street corner (D-PL2-1).



**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).
  - 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.

## STAFF REPORT ON VARIANCE REQUEST



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.

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 18-2(d) states that no use shall of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

Article 18-3(a)(1)2. states that any office or business zone, except P-2, that adjoins any residential zone shall have a minimum buffer area with an average width of 15 feet adjacent to all common boundaries behind the building line except for street frontage. To achieve opacity requirements, One tree/40 feet of linear boundary, OFT, from Group A or B only, plus, 1) a double staggered row of six feet high hedge or 2) a six feet high fence, wall or earth mound.

### CASE REVIEW

The applicant is requesting landscaping variances to reduce the zone-to-zone screening within Article 18 of the Zoning Ordinance. When a site is to undergo a change in zoning, no use shall commence until the required property perimeter landscaping requirements are met. Article 18 states that any office or business zone adjacent to a residential zone must provide at least fifteen (15) feet of landscaped screening.

The applicant put forth in their justification statement that the majority of the lot is occupied the existing commercial structure leaving insufficient space to meet the landscaping requirement of the Zoning Ordinance. They stated that the granting of the requested variance will not alter the essential character of the area or adversely impact the public health, safety, or welfare. Stating that the area is defined by a compact, walkable, urban development pattern with properties fronting on the street, narrow lots, and limited front and side yards.

The applicant purported that the compact configuration of the lot is a special circumstance necessitating the variance. That strict application of the requirements would impose improper conditions that cannot be physically met without significant modification and demolition of the existing structure. They indicate that the site constraints are inherent to the development of the building predating current landscaping regulations. They seek to keep the building as-is, opining that the granting of the variance would not constitute an unreasonable circumvention of the Zoning Ordinance, but a practical accommodation to the constraints present on-site.

In staff's review of the application, the applicant missed one central aspect of their justification, which is the intensity of the proposed use compared to the uses surrounding it. Landscape buffer requirements between incompatible land uses is a requirement within the Zoning Ordinance to promote the public health and safety. For a variance to these requirements to be considered, an analysis of the proposed use and the general vicinity is necessary. Staff engaged in this analysis and found that the intensity of the potential uses are similar in-scale to the surrounding residential and commercial uses, and the land uses have operated harmoniously. Staff found that these variances should not adversely affect the public health, safety, and welfare nor alter the character of the general vicinity.

**STAFF RECOMMENDS: APPROVAL, 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.