

ORDINANCE NO. 001 - 2024

AN ORDINANCE CHANGING THE ZONE FROM A PROFESSIONAL OFFICE (P-1) ZONE TO NEIGHBORHOOD BUSINESS (B-1) ZONE, FOR .6130 NET (1.04 GROSS) ACRES, FOR PROPERTY LOCATED AT 1617 CLAYS MILL ROAD (CLEAR OPTIKS, LLC; COUNCIL DISTRICT 10).

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WHEREAS, at a Public Hearing held on August 24, 2023 and December 14, 2023, a petition for a zoning ordinance map amendment for property located at 1617 Clays Mill Road from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for .6130 net (1.04 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 7-2; and

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

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

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

Section 1 – That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 1617 Clays Mill Road from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone, for .6130 net (1.04 gross) acres, being more fully described in Exhibit “A” which is attached hereto and incorporated herein by reference.

Section 2 – 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 3 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: January 23, 2024



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MAYOR

ATTEST:

  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: January 30, 2024- 1t  
0029-24:TWJ:4865-6093-0459, v. 1

Rec'd by \_\_\_\_\_

Date: \_\_\_\_\_

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

**IN RE: PLN-MAR-23-00011: CLEAR OPTIKS, LLC** - a petition for a zone map amendment from a Professional Office (P-1) zone to Neighborhood Business (B-1), for 0.6130 net (1.04 gross) acres, for property located at 1617 Clays Mill Road. (Council District 10)

Having considered the above matter on August 24, 2023 and December 14, 2023, at a Public Hearing, and having voted 7-2 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend APPROVAL of this matter for the following reasons:

1. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed rezoning addresses the goal of growing successful neighborhoods by supporting infill and redevelopment throughout the Urban Service Area (Theme A, Goal #2.b), while also re-activating a site on one of Lexington's most significant corridors (Theme E, Goal #1.d).
  - b. The proposed project includes a neighborhood-oriented restaurant use that features extensive connections to several pedestrian networks and neighborhoods (Theme A, Goal #3.b)
  - c. By utilizing an already developed site, the proposed development minimizes the disruption of natural features of the site (Theme E, Goal #3.c)
  - d. At the proposed scale, the development provides an accessible, neighborhood level commercial area (Theme A, Design Policy #12).
  - e. The request introduces a neighborhood restaurant use into an area that lacks walkable dining options (Theme A, Density Policy #3).
  - f. The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).
2. 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 Location as the use remains at an appropriate scale for the low density residential and commercial development in this area, provides for a neighborhood scale restaurant use that is not present in the vicinity, and utilizes outdoor dining areas to activate the frontage for pedestrians.
  - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity as it maintains an extensive pedestrian network that served the previous bank use, and provides for direct and accessible linkages to transit along a major corridor.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, and limits the impacts on the surrounding environment.
3. This recommendation is made subject to approval and certification of PLN-MJDP-23-00049: FIRST SECURITY NATIONAL BANK (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

ATTEST: This 5<sup>th</sup> 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-23-00043: FIRST SECURITY NATIONAL BANK (AMD)** was approved by the Planning Commission on December 14<sup>th</sup>, 2023 and certified on December 27<sup>th</sup>, 2023.

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

**OBJECTORS**

- Lynn Flynn, 518 Springhill Drive.
  
- Laurie Fields, 411 Picadome Park.
  
- Mary Cheney Ringo, 525 McCubbing Drive.
  
- Steve Davis, 511 Woodbine Drive.
  
- Charles Thompson, 531 McCubbing Drive.
  
- Amy Clark, 628 Kastle Drive.

**OBJECTIONS**

- Stated that the traffic was their main concern with the proposal. She also mentioned the pedestrian crossings, proposed drive-through, and hours of operation as challenges to traffic safety in the area.
- Stated that the proposal is not neighborhood friendly, especially with the drive-through. She was also concerned with what the property could become if the restaurant was not successful.
- Shared her concerns about pedestrians crossing the road to the restaurant.
  
- Stated that he does not want this business or access to it, because he believed the new traffic would cause too many accidents.
- Stated that he had concerns about walkability, traffic safety, and that if you did want to walk safely you would have to walk a mile to find the safest crossing.
- Stated that there was no compelling need for a zone change and that the applicant could use one of the many uses already allowed in the P-1 zone.

VOTES WERE AS FOLLOWS:

AYES: (7) Forester, Wilson, Barksdale, Michler, Pohl, Owens and Nicol  
NAYS: (2) Meyer and Worth  
ABSENT: (1) Davis  
ABSTAINED: (0)  
DISQUALIFIED: (0)

Motion for APPROVAL of PLN-MAR-23-00011 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.)**

<b>Applicant:</b> CLEAR OPTIKS LLC, 811 CORPORATE DR STE 101, LEXINGTON, KY 40503
<b>Owner(s):</b> CLEAR OPTIKS LLC 811 CORPORATE DR STE 101 LEXINGTON KY 40503
<b>Attorney:</b> Richard Murphy, 250 West Main Street, Suite 2510, Lexington, KY 40507

**2. ADDRESS OF APPLICANT'S PROPERTY**

1617 CLAYS MILL RD LEXINGTON KY 40503
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**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY**

Zoning	Existing Use	Zoning	Requested Use	Net Acreage	Gross Acreage

**4. EXISTING CONDITIONS**

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40% of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO

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

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



# MURPHY & CLENDENEN, PLLC

ATTORNEYS AT LAW

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Chris@MurphyClendenen.com

RICHARD V. MURPHY  
CHRISTOPHER M. CLENDENEN

July 3, 2023

Mr. Larry Forester, Chairman  
and Members of the Lexington-Fayette  
Urban County Planning Commission  
200 East Main Street  
Lexington, KY 40507

Re: Proposed zone change for 1617 Clays Mill Road

Dear Chairman Forester and Members of the Planning Commission:

This letter is written on behalf of Clear Optiks, LLC, which is filing a zone change application and development plan for property at 1617 Clays Mill Road. This property is located in the triangle created by Harrodsburg Road, Clays Mill Road and McCubbing Drive. It consists of approximately 0.61 net acre and is currently zoned Professional Office (P-1). We are requesting a zone change to the Neighborhood Business (B-1) zone in order to convert the existing building into a restaurant/coffee shop with indoor and outdoor seating and a drive-thru facility.

## INTRODUCTION

This property is located near the intersection of Clays Mill Road and Harrodsburg Road. It is bordered by three streets: Clays Mill Road on the east, McCubbing Drive on the south, and Harrodsburg Road to the west. It is the former site of a Chase Bank branch and has been more recently used as a COVID testing center.

## DESCRIPTION OF PROJECT

The applicant, Clear Optiks, LLC, purchased the property from Chase Bank in 2021. Clear Optiks consists of local residents Jeremy Corbett and Chad Voelkert. When Chase Bank abandons

a branch bank site, it imposes deed restrictions on the property to prohibit the use of the property as another bank, credit union or any kind of financial institution for at least 10 years. The restrictions also prohibit ATM machines and check cashing services. Coupled with the local and nationwide downturn in the office market, these restrictions put a serious limitation on the types of P-1 uses that can be made of the property. As mentioned above, the building has been used as a COVID testing facility, but that use has run its course.

The current building is very solidly built as a bank, and the applicant would like to re-use the existing building, but make it more inviting and friendly to neighboring residents. We are proposing a breakfast restaurant/coffee shop with indoor and outdoor seating and a drive-thru facility. We will add a patio area in a portion of the old parking lot near the front door in order to activate the Clays Mill and McCubbing frontages and attract diners. In addition, there will be indoor dining to attract local residents. Bike racks will be provided, and the property is on a LexTran route. There are existing sidewalks on all three road frontages. There will be no vehicular access to Harrodsburg Road. We will retain the existing one-story building, so the scale and massing on the property will remain the same and will be appropriate in this mixed commercial and residential area.

## **CURRENT AND PROPOSED ZONING**

As mentioned above, the property is currently zoned P-1 (Professional Office). We are requesting Neighborhood Business (B-1) zoning.

B-1 zoning is appropriate for this property. The two properties to the north, in the triangle formed by the intersection of Clays Mill Road and Harrodsburg Road, are both zoned B-1. They are a dry cleaner and a physical therapy facility. Directly to the south is the Vocational and Technical School operated by the Fayette County Schools. B-1 zoning is appropriate between the businesses and the school campus.

## **GOALS AND OBJECTIVES OF THE 2018 COMPREHENSIVE PLAN**

This proposal is in agreement with the Goals and Objectives of the 2018 Comprehensive Plan. It will re-use an existing building and thus retain the scale and streetscape of the area. The Clays Mill and McCubbing frontages will be activated to attract local residents.

Our proposal complies with Theme A, growing successful neighborhoods, and Goal A.2., supporting infill and redevelopment. Objective A.2.a. calls for identification of opportunities for infill, redevelopment and adaptive re-use. This proposal will adaptively re-use an existing building which has long been part of the neighborhood. Re-using the existing building also respects the context and design features of the area surrounding the project, as called for in Objective A.2.b. It

meets Goal A.3, providing well-designed neighborhoods and communities. Adaptive re-use is an opportunity for neighborhood character preservation, as called for in Objective A.3.b.

The breakfast restaurant/coffee shop will provide a place for positive and safe social interactions in the neighborhood (Objective A.3.b.). Re-using the same building will minimize disruption of natural features (Objective A.3.c.) and will address community facilities at a neighborhood scale (Goal A.4). The project will support Goal B.2. (which calls for reducing Lexington's carbon footprint) and Objective B.2.d. in two ways: first, by re-using the existing building, it avoids the carbon footprint of new construction; second, the business will be walkable, bikeable and it is on public transit.

This project complies with Theme D, improving a desirable community. Despite the presence of major highways, it accommodates pedestrian and bicycle use, as well as transit and automobile traffic (Objective D.1.a.). It accommodates bicycles and walkways as called for in Objective D.1.b. Finally, the proposal complies with Theme E., urban and rural balance. By utilizing redevelopment of underutilized corridors, it supports Objective E.1.c. and Goal E.3.

#### **PUBLIC ENGAGEMENT**

The applicant is contacting the Picadome Neighborhood Association to solicit feedback on the proposal. The Skycrest Association is listed on maps, but there is no contact information available.

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

This proposal fits within the Enhanced Neighborhood place-type, and within the Low Density Non-Residential/Mixed-Use (LNR-MU) development type. We are requesting the Neighborhood Business (B-1) zone, which is a recommended zone.

#### **DEVELOPMENT CRITERIA**

Here is a discussion of the criteria that were not specifically addressed on the development plan, or which need further discussion:

- **A-DS5-3, A-DS7-1 and A-DN3-1.** Although the property has frontages on three roads, sidewalks are available on all three frontages, and bike racks are provided. In addition, the property is located on a LexTran route. The orientation to Clays Mill and McCubbing will be activated by a new outdoor seating area in front. It is anticipated that greater pedestrian traffic will come from the Clays Mill Road side and from the school to the south, because of the lesser traffic on Clays Mill and McCubbing, compared to Harrodsburg Road. Parking will be screened.



- **C-LI7-1.** This development will enhance the small commercial area to the north which includes a dry cleaner and a physical therapy facility.
- **C-PS9-2 and C-PL2-1.** This proposal modifies the current office use with a use which is complimentary to the commercial area to the north, the vocational school to the south, and the residential areas to the east and west.
- **D-PL7-1.** Please see the section on public engagement above.
- **B-PR2-1.** There are no environmentally sensitive areas on the property. Re-use of the existing building will minimize the environmental impact of the project.

## CONCLUSION

This proposal will make use of an existing building to provide a more activated, pedestrian and bicycle-friendly use which is complementary to the adjacent businesses, school, and the nearby residential areas. It will make a positive contribution to the area.

Thank you for your consideration of this zone change request.

Sincerely,



Richard V. Murphy  
Attorney for Applicant

# ENHANCED NEIGHBORHOOD

DEVELOPMENT CRITERIA **ON Plan**

*Written*

**Not Applicable**



## LOW DENSITY NON-RESIDENTIAL / MIXED USE

### SITE DESIGN, BUILDING FORM, & LOCATION

- A-DS4-2** New construction should be at an appropriate scale to respect the context of neighboring structures; however, along major corridors, it should set the future context in accordance with other Imagine Lexington corridor policies and Placebuilder priorities.
- A-DSS-3** Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.
- A-DSS-4** Development should provide a pedestrian-oriented and activated ground level.
- A-DS7-1** Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
- A-DS7-2** Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
- A-DS10-1** Residential units should be within reasonable walking distance to a focal point.
- A-DS11-1** Common public uses that serve as neighborhood focal points, such as parks and schools, should be on single loaded streets.
- A-DS12-1** Medium-high density development should be located nearest to neighborhood-serving commercial areas.
- A-DN2-1** Infill residential should aim to increase density.
- A-DN2-2** Development should minimize significant contrasts in scale, massing and design, particularly along the edges of historic areas and neighborhoods. (D-PL9, E-GR6)
- A-DN3-1** Pedestrian-oriented commercial opportunities should be incorporated within residential neighborhoods.
- A-DN3-2** Development should incorporate residential units in commercial centers with context sensitive design.
- A-EQ7-1** School sites should be appropriately sized.
- B-PR9-1** Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
- B-SU11-1** Green infrastructure should be implemented in new development. (E-GR3)
- C-D11-1** Consider flexible zoning options that will allow for a wide range of jobs.
- C-D15-1** In Opportunity Zones with a clearly defined local context, consider adaptive reuse to enhance the existing context.
- C-L16-2** ADUs and/or affordable housing options should be incorporated into existing and new single-family residential development. (A-DN5)

- C-L17-1** Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.
- C-PS9-2** Modify current office space to include complementary uses.
- C-PS10-2** Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots.
- C-PS10-3** Over-parking of new developments should be avoided. (B-SU5)
- 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.
- D-PL7-1** Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
- D-PL9-1** Historically significant structures should be preserved.
- D-PL10-1** Activate the streetscape by designating public art easements in prominent locations.
- D-SP1-1** Elementary and middle schools should be located within residential neighborhoods, and high schools primarily along collector streets. (A-EO7)
- D-SP1-2** An open and inviting school campus/locale should utilize frontage on single-loaded streets (also true for other support facilities, like parks, community centers, social services, healthcare).
- D-SP3-1** Adequate right-of-way, lease areas and easements for infrastructure, with emphasis on wireless communication networks should be provided to create reliable service throughout Lexington.
- D-SP3-2** Cellular tower antennae should be located to minimize intrusion and negative aesthetic impacts, and stealth towers and landscaping should be used to improve the visual impact from the roadway and residential areas.
- D-SP9-1** Encourage co-housing, shared housing environments, planned communities and accessory dwelling units for flexibility and affordability for senior adults and people with disabilities.
- E-GR4-1** Developments should incorporate reuse of viable existing structures.
- E-GR5-1** Structures with demonstrated historic significance should be preserved or adapted.
- E-GR9-1** Live/work units should be incorporated into residential developments.
- E-GR9-2** Low-intensity business uses that will provide neighborhood amenities should be incorporated into existing neighborhoods.
- E-GR9-3** Less intense multi-family residence types (duplexes, four-plexes, courtyard apartments, etc.) should be incorporated into primarily single-family areas.

### ENHANCED NEIGHBORHOOD

Theme Letter - Pillar Abbreviation & Policy Number - Criteria Number

Ex: from Theme A - Design Pillar & Policy #1 - Criteria #1 = A-DS1-1. Full decoder on page ###

Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.

**LOW DENSITY NON-RESIDENTIAL / MIXED-USE**

**SITE DESIGN, BUILDING FORM, & LOCATION (CONT.)**

- E-GR9-4** Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods. (E-GR6)
- E-GR10-2** Developments should provide walkable service and amenity-oriented commercial spaces.
- E-GR10-3** Shared common space in commercial developments should be provided to encourage experiential retail programming.

**TRANSPORTATION & PEDESTRIAN CONNECTIVITY**

- A-DS1-1** Mass transit infrastructure such as seating and shelters should be provided/enhanced along transit routes. (A-EQ7).
- A-DS1-2** Direct pedestrian linkages to transit should be provided.
- A-DS4-1** A plan for a connected multimodal network to adjacent neighborhoods, greenspaces, developments and complementary uses should be provided. (A-DS2, A-DN1, B-SU1, B-SU2, C-L17, E-AC5)
- A-DS5-1** Adequate multimodal infrastructure should be provided to ensure vehicular separation from other modes of transport.
- A-DS5-2** Roadways should provide a vertical edge, such as trees and buildings.
- A-DS10-2** New focal points should be designed with multimodal connections to the neighborhood.
- A-DS13-1** Stub streets should be connected. (D-CO4)
- B-SU4-1** Where greenspace/community centers are not located within walking distance of a new development, applicants should attempt to incorporate those amenities. (A-DS9)
- C-PS10-1** Flexible parking and shared parking arrangements should be utilized.
- D-CO1-1** Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.
- D-CO2-1** Safe facilities for all users and modes of transportation should be provided.
- D-CO2-2** Development should create and/or expand a safe, connected multimodal transportation network that satisfies all users' needs, including those with disabilities.
- D-CO4-1** Dead-end streets and Cul-de-sacs should be discouraged except where connections are not topographically or environmentally feasible.
- D-CO4-2** Roadway capacity should be increased by providing multiple parallel streets, which alleviate traffic and provide multiple route options, in lieu of additional lanes.

**GREENSPACE & ENVIRONMENTAL HEALTH**

- A-DS4-3** Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
- A-EQ7-3** Community open spaces should be easily accessible and clearly delineated from private open spaces.
- B-PR2-1** Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
- B-PR2-2** Dividing floodplains into privately owned parcels with flood insurance should be avoided.
- B-PR2-3** Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.
- B-PR7-1** Connections to greenways, tree stands, and stream corridors should be provided.
- B-PR7-2** Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability.
- B-PR7-3** Developments should improve the tree canopy.
- B-RE1-1** Developments should incorporate street trees to create a walkable streetscape.
- B-RE2-1** Green infrastructure should be used to connect the greenspace network.
- D-SP2-1** Visible, usable greenspace and other natural components should be incorporated into school sites.
- D-SP2-2** Active and passive recreation opportunities should be provided on school sites.
- E-GR3-1** Physical and visual connections should be provided to existing greenway networks.
- E-GR3-2** New focal points should emphasize geographic features unique to the site.

**ENHANCED NEIGHBORHOOD**

Theme Letter - Pillar Abbreviation & Policy Number - Criteria Number  
Ex: from Theme A, Design Pillar, Policy #1, Criteria #1: A-DS1-1. Full decoder on page ###

Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.

**ZONING LEGAL DESCRIPTION**  
for  
1617 Clays Mill Road  
Lexington, Fayette County, Kentucky

Clear Optiks, LLC  
(Deed Book 3904, Page 739)

**Zone Change from P-1 to B-1**

Being a parcel of land in the city of Lexington, Fayette County, Kentucky lying approximately on the north side of McCubbing Drive, said property being all of Parcels 2 and 4 of Plaza Properties, Inc. subdivision (plat recorded in Plat Cabinet B, Slide 335) less that certain property conveyed to LFUCG in Deed Book 3567, Page 691 and being more particularly described as:

Beginning in the west right-of-way of Clays Mill Road, approximately 358.73 feet south of the point of intersection of said west right-of-way of Clays Mill Road and the east right-of-way of Harrodsburg Road (US 68), said point being a 24"-long, 5/8" diameter rebar with 2.5" aluminum surveyor's cap (PLS 3350) set in the west right-of-way of Clays Mill Road and said point having Kentucky State Plane Coordinates of N=192,959.45' and E=1,559,984.26'; thence leaving said west right-of-way and through the Clays Mill Road right-of-way,

South 64°58'59" East a distance of 34.89 feet to a point in the centerline of Clays Mill Road; thence with the centerline of said Clays Mill Road,

South 25°22'16" West a distance of 167.35 feet to the intersection of the centerlines of Clays Mill Road and McCubbing Drive; thence leaving the center of Clays Mill Road and with the centerline of said McCubbing Drive,

North 54°28'52" West a distance of 306.27 feet to a point in the centerline of Harrodsburg Road (US 68); thence with the centerline of Harrodsburg Road,

North 48°35'00" East a distance of 152.89 feet to a point; thence continuing with the center of Harrodsburg Road,

North 48°17'44" East a distance of 31.82 feet to a point; thence leaving the centerline of Harrodsburg Road, and with a line through the Harrodsburg Road right-of-way,

South 49°25'59" East a distance of 45.77 feet to a point, said point being witnessed by a 5/8" rebar w/ plastic surveyor's cap (PLS 3661) found at North 33°45'20" West, 0.35 feet from corner; thence leaving the Harrodsburg Road right-of-way and with the south line of TATM I, LLC (Deed Book 3311, Page 632; Plat Cabinet D, Slide 799) for three calls:

South 49°25'59" East a distance of 95.41 feet to a 5/8" rebar with plastic cap (found, PLS 3661); thence


South 25°01'01" West a distance of 20.00 feet to a MAG nail with stainless steel surveyor's identification washer (set, PLS 3350); thence

South 64°58'59" East a distance of 57.57 feet to a 24"-long, 5/8" diameter rebar with 2.5" aluminum cap (PLS 3350) set in the aforementioned west right-of-way of Clays Mill Road; which is the Point of Beginning, having a GROSS area of 45,380.8 square feet, or 1.0418 acres and a NET area of 26,704.3 square feet. or 0.6130 acre.

The bearings and coordinates hereon are based on Kentucky State Plane North Zone, North American Datum of 1983 (NAD '83(2011), US Feet). Particularly, the bearings and coordinates are based on a GNSS Survey utilizing a Trimble R6 GNSS Receiver and the KYTC VRS System.

The description above being based on an actual ground survey of the property conducted under the direct supervision of Kevin Phillips (PLS 3350), of Endris Engineering, 771 Enterprise Drive, Lexington, Kentucky.



  
\_\_\_\_\_  
Kevin M. Phillips (PLS 3350)  
Endris Engineering, PSC  
771 Enterprise Drive  
Lexington, KY 40510

06-30-2023

Date

**CLEAR OPTIKS, LLC.**  
**(PLN-MAR-23-00011)**  
1617 CLAYS MILL ROAD

Rezone the property in order to establish a restaurant/coffee shop with a drive through facility.

### Applicant/ Owner

CLEAR OPTIKS, LLC  
811 CORPORATE DR, STE 101  
LEXINGTON, KY 40503  
richard@murphyclendenen.com (Attorney)

### Application Details

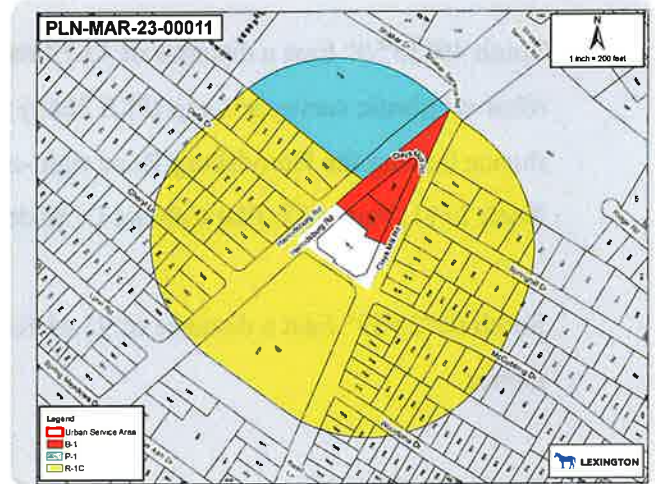
**Acreage:**  
0.6130 net (1.0418 gross) acres

**Current Zoning:**  
Professional Office (P-1) 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 266.*

**Description:**  
The applicant is seeking to rezone the subject property in order to establish a restaurant/coffee shop use with a drive through facility.



### 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](http://lexingtonky.gov/plans)) or contact Planning for the latest information.

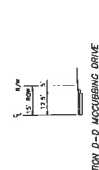
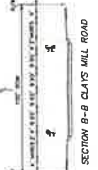
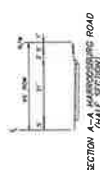
# Development Plan



VICINITY MAP

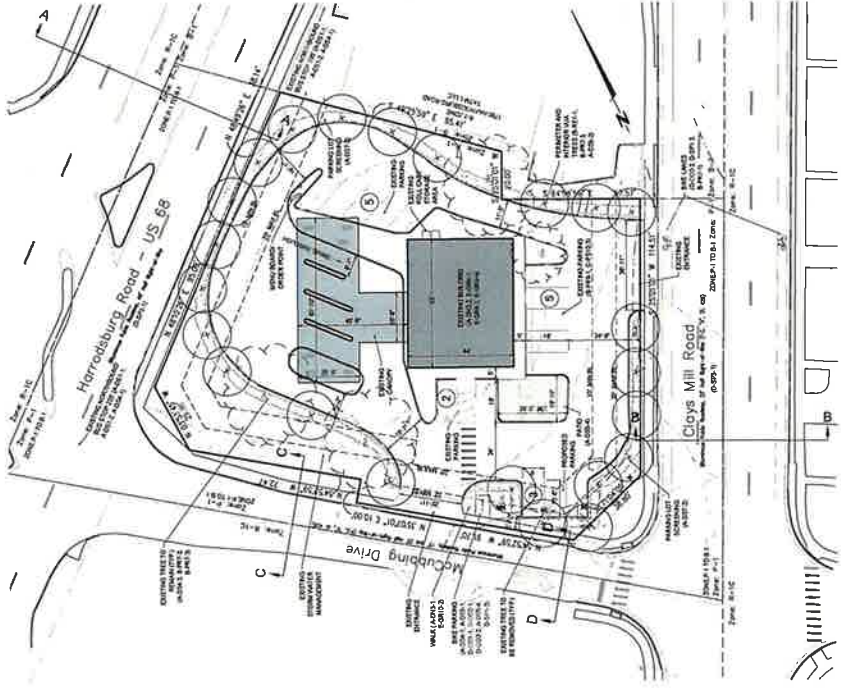
**TRAFFIC VOLUMES**

ROAD NAME	AM PM	PM	AM
1. HARRISBURG ROAD	1,341	1,341	2,682
2. HARRISBURG ROAD	6,739	6,739	13,478
3. HARRISBURG ROAD	1,000	1,000	2,000
4. HARRISBURG ROAD	1,341	1,341	2,682
5. HARRISBURG ROAD	6,739	6,739	13,478
6. HARRISBURG ROAD	1,341	1,341	2,682
7. HARRISBURG ROAD	1,341	1,341	2,682
8. HARRISBURG ROAD	1,341	1,341	2,682
9. HARRISBURG ROAD	1,341	1,341	2,682
10. HARRISBURG ROAD	1,341	1,341	2,682
11. HARRISBURG ROAD	1,341	1,341	2,682
12. HARRISBURG ROAD	1,341	1,341	2,682



**PLANNING AND DESIGN NOTES:**

1. ALL DISTRICTS SHALL COMPLY WITH THE PLANNING AND DESIGN MANUAL.
2. ALL DISTRICTS SHALL COMPLY WITH THE PLANNING AND DESIGN MANUAL.
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12. ALL DISTRICTS SHALL COMPLY WITH THE PLANNING AND DESIGN MANUAL.



**PERMITS AND APPROVALS**

NO.	DATE	BY	FOR
1	07/11/2023	PLANNING	PLANNING
2	07/11/2023	PLANNING	PLANNING
3	07/11/2023	PLANNING	PLANNING
4	07/11/2023	PLANNING	PLANNING
5	07/11/2023	PLANNING	PLANNING
6	07/11/2023	PLANNING	PLANNING
7	07/11/2023	PLANNING	PLANNING
8	07/11/2023	PLANNING	PLANNING
9	07/11/2023	PLANNING	PLANNING
10	07/11/2023	PLANNING	PLANNING
11	07/11/2023	PLANNING	PLANNING
12	07/11/2023	PLANNING	PLANNING

DATE: July 11, 2023



# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-23-00011: CLEAR OPTIKS, LLC

## DESCRIPTION OF ZONE CHANGE

Zone Change: From a Professional Office (P-1) zone  
To a Neighborhood Business (B-1) zone

Acreage: 0.6130 (1.0418 gross) acres

Location: 1617 Clays Mill Road



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	P-1	Vacant Bank
To North	B-1	Medical Office
To East	R-1C	Single Family Residential
To South	R-1C	Fayette County Public School
To West	R-1C	Single Family Residential

## URBAN SERVICE REPORT

**Roads** - The subject property has frontage on Harrodsburg Road (US 68), Clays Mill Road, and McCubbing Drive. Harrodsburg Road is a major arterial roadway with five lanes in the vicinity of the subject property, and is identified as one of Lexington's urban corridors. Clays Mill Road is an arterial roadway that was recently widened to four lanes in the vicinity, and contains an existing access point. McCubbing drive is a two lane local road that serves as the secondary access to the site.

**Curb/Gutter/Sidewalks** - Clays Mill Road, McCubbing Drive, and Harrodsburg Road have curb, gutters, and sidewalks at this location.

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

**Storm Sewers** - The subject property is located within the Wolf Run watershed. Storm sewers are available to serve the property. There are no special flood hazard areas in this location.

**Sanitary Sewers** - The subject properties are located within the Wolf Run sewershed, which is served by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial, east of New Circle Road. Sanitary sewer capacity will need to be verified prior to certification of the final development plan for the proposed redevelopment.

**Refuse** - The Urban County Government serves this area with refuse collection on Mondays. However, supplemental service by private refuse haulers is commonly utilized for commercial and multi-family land uses, such as those proposed.

**Police** - The nearest police station is the main headquarters, approximately two miles to the northeast on East Main Street.

**Fire/Ambulance** - Fire Station #11 is the nearest station to this site. It is located approximately 900 feet to the northeast on Harrodsburg Road between St. Joseph Hospital and Picadome Elementary School.

**Transit** - LexTran service is available within the immediate area, with inbound and outbound routes for South Broadway Route #13. Two bus stops are present in the near vicinity, one at the intersection of Harrodsburg and Clays Mill, and the other at Harrodsburg Road and Cheryl Lane.

**Parks** - Picadome Golf Course is located one third (1/3) mile north of the subject property on Parkway Drive.



## SUMMARY OF REQUEST

The applicant is seeking a zone change from the Professional Office (P-1) zone to the Neighborhood Business (B-1) zone in order to establish a restaurant/ coffee shop use with an accessory drive-through at this location.

## 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 applicant is seeking to utilize the existing 2,322 square-foot vacant bank structure on the property as a restaurant/ coffee shop. The applicant proposes to continue to utilize the existing accessory drive-through facilities present on the site in order to serve the proposed use. The change in use will be accompanied by a minor change in the parking lot configuration to support a 16-seat outdoor dining area and a total of 18 parking spaces.

## APPLICANT & COMMUNITY ENGAGEMENT



The applicant has indicated that they intend to reach out to the Picadome Neighborhood Association to discuss the project, but have not provided any further information about their outreach efforts at this time.

## PROPERTY & ZONING HISTORY



The subject property was zoned Single Family Residential (R-1C) at the time of the 1969 comprehensive rezoning of the city and county. The site was rezoned to Professional Office (P-1) in 1975 in order to establish the First Security Bank (75-08).

The current bank structure and accessory drive-through facilities were constructed in 1996, and most recently were utilized by Chase Bank until the property was sold in 2021.

## COMPREHENSIVE PLAN COMPLIANCE



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

The applicant opines that their proposed rezoning is in agreement with several goals and objectives of the 2018 Comprehensive Plan. In the following section the staff describes some of the elements that are in agreement with the Comprehensive Plan.

### GOALS & OBJECTIVES

Within their letter of justification, the applicant describes the goals and objectives of the Comprehensive Plan that they are seeking to comply with for the proposed rezoning. First, the applicant indicates that the proposed development will support infill and redevelopment throughout the Urban Service Area as a strategic component of growth (Theme A, Goal 2). The applicant indicates that the proposed development is an example of redevelopment of an existing parcel and features the adaptive reuse of an existing structure on an underutilized parcel on a major corridor (Theme A, Goal #2.b; Theme E, Goal #1.d).

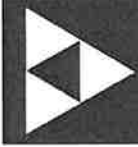
Next, the applicant indicates that the proposed restaurant/ coffee shop will encourage social interaction (Theme A, Goal #3) by providing a new neighborhood-scale use in an area that lacks walkable commercial uses. This neighborhood commercial use will provide for safe connections for all users of the site, with pedestrian connections to all three adjoining roadways, and nearby transit service (Theme A, Goal #3.b).

Finally, the applicant opines that by re-purposing an already developed site, the applicant indicates that there will be a minimal disruption of natural features (Theme A, Goal #3.c).

The staff agrees with these aspects of the applicant's proposal and that these goals and objectives of the 2018 Comprehensive Plan can be met with the proposed development.

### POLICIES

While the letter of justification submitted by the applicant did not include a discussion of the policies of the 2018 Comprehensive Plan, Staff has identified several policies that are being met with this request. At the proposed scale, the request is meeting policies relating to providing support for neighborhood level commercial areas (Theme A, Design Policy #12), and are meeting a need of walkable restaurant uses for



the Picadome neighborhood (Theme A, Density Policy #3). Furthermore, the request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).

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

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. While the subject property is located on a major arterial roadway, it is oriented towards the less intense local and collector streets, and the applicant anticipates most pedestrian traffic will come from the adjoining Picadome neighborhood. With the emphasis being placed on connectivity to the neighborhood rather than the corridor, staff finds the applicant's proposed place type to be appropriate. 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 character of the detached single-family residential development in the area, as well as the existing low density commercial uses to the north. The applicant's proposed Neighborhood Business 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, 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

The request meets the criteria for Site Design, Building Form, and Location, as it remains at an appropriate scale for the low density residential and commercial development in this area, provides for a neighborhood scale restaurant use that is not present in the vicinity, and utilizes outdoor dining areas to activate the frontage for pedestrians.

#### 2. Transportation and Pedestrian Connectivity

Overall, agrees that the request meets the majority of the Transportation and Pedestrian Connectivity criteria, as it maintains an extensive pedestrian network, and provides for direct linkages to transit along a major corridor. The applicant should however address the following development criteria:

*D-CO2-1: Safe facilities for all users and modes of transportation should be provided.*

While the site has access to sidewalk networks along all of its road frontages, the pedestrian crossings from the sidewalk to the structure are limited to McCubbing Drive. The applicant should provide a direct pedestrian crossing from the restaurant to the Harrodsburg Road and Clays Mill Road sidewalk facilities.

#### 3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, and limits the impacts on the surrounding environment.

**STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:**



1. The requested Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed rezoning addresses the goal of growing successful neighborhoods by supporting infill and redevelopment throughout the Urban Service Area (Theme A, Goal #2.b), while also re-activating a site on one of Lexington's most significant corridors (Theme E, Goal #1.d).
  - b. The proposed project includes a neighborhood-oriented restaurant use that features extensive connections to several pedestrian networks and neighborhoods (Theme A, Goal #3.b)
  - c. By utilizing an already developed site, the proposed development minimizes the disruption of natural features of the site (Theme E, Goal #3.c)
  - d. At the proposed scale, the development provides an accessible, neighborhood level commercial area (Theme A, Design Policy #12).
  - e. The request introduces a neighborhood restaurant use into an area that lacks walkable dining options (Theme A, Density Policy #3).
  - f. The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).
2. 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 Location as the use remains at an appropriate scale for the low density residential and commercial development in this area, provides for a neighborhood scale restaurant use that is not present in the vicinity, and utilizes outdoor dining areas to activate the frontage for pedestrians.
  - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity as it maintains an extensive pedestrian network that served the previous bank use, and provides for direct and accessible linkages to transit along a major corridor.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, and limits the impacts on the surrounding environment.
3. This recommendation is made subject to approval and certification of PLN-MJDP-23-00043: FIRST SECURITY NATIONAL BANK, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

DAC/TLW  
08/01/2023

G:\Planning Services\Staff Reports\2023\PLN-MAR-23-0001 CLEAR OPTIKS, LLC

**1. CLEAR OPTIKS, LLC ZONING MAP AMENDMENT AND FIRST SECURITY NATIONAL BANK (AMD) DEVELOPMENT PLAN**

- a. **PLN-MAR-23-00011: CLEAR OPTIKS, LLC** – a petition for a zone map amendment from a Professional Office (P-1) zone to Neighborhood Business (B-1), for 0.6130 net (1.04 gross) acres, for property located at 1617 Clays Mill Road.

**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 applicant is seeking to utilize the existing 2,322 square-foot vacant bank structure on the property as a restaurant/ coffee shop. The applicant proposes to continue to utilize the existing accessory drive-through facilities present on the site in order to serve the proposed use. The change in use will be accompanied by a minor change in the parking lot configuration to support a 16-seat outdoor dining area and a total of 18 parking spaces.

**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 2018 Comprehensive Plan’s Goals and Objectives, for the following reasons:
    - a. The proposed rezoning addresses the goal of growing successful neighborhoods by supporting infill and redevelopment throughout the Urban Service Area (Theme A, Goal #2.b), while also re-activating a site on one of Lexington’s most significant corridors (Theme E, Goal #1.d).
    - b. The proposed project includes a neighborhood-oriented restaurant use that features extensive connections to several pedestrian networks and neighborhoods (Theme A, Goal #3.b)
    - c. By utilizing an already developed site, the proposed development minimizes the disruption of natural features of the site (Theme E, Goal #3.c)
    - d. At the proposed scale, the development provides an accessible, neighborhood level commercial area (Theme A, Design Policy #12).
    - e. The request introduces a neighborhood restaurant use into an area that lacks walkable dining options (Theme A, Density Policy #3).
    - f. The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).
  2. 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 Location as the use remains at an appropriate scale for the low density residential and commercial development in this area, provides for a neighborhood scale restaurant use that is not present in the vicinity, and utilizes outdoor dining areas to activate the frontage for pedestrians.
    - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity as it maintains an extensive pedestrian network that served the previous bank use, and provides for direct and accessible linkages to transit along a major corridor.
    - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, and limits the impacts on the surrounding environment.
  3. This recommendation is made subject to approval and certification of **PLN-MJDP-23-00049: FIRST SECURITY NATIONAL BANK (AMD)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.
- b. **PLN-MJDP-23-00043: FIRST SECURITY NATIONAL BANK (AMD)** (10/3/2023)\* - located at 1617 CLAYS MILL ROAD, LEXINGTON, KY

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

Council District: 10  
Project Contact: Barrett Partners, Inc

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

Note: The purpose of this development plan is to convert a bank to a restaurant, in support of the requested zone change from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone.

Note: The applicant submitted a revised plan on July 31, 2023. Based on that submittal, staff can offer the following revised conditions.

The Staff Recommends: **Approval**, subject to the following revised 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. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote area for bicycle parking.
14. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum presented the staff report and recommendation for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Professional Office (P-1) zone to Neighborhood Business (B-1) zone, for 0.6130 net (1.04 gross) acres, for property located at 1617 Clays Mill Road. Mr. Crum indicated that the applicant is seeking to rezone the property to establish a restaurant/coffee shop with an accessory drive-through facility. Mr. Crum stated that the applicant had selected the Enhanced Neighborhood Place-Type and the Low Density Non-Residential/ Mixed Use Development Type. Mr. Crum noted that Staff was in agreement with those selections.

Mr. Crum identified the property's location near the intersection of Harrodsburg Road and Clays Mill Road and highlighted the history of this area. Stating that this property was zoned R-1C until the 1970's and since then has had various professional offices on the property, most notably a bank. Mr. Crum noted the location's proximity to the Picadome and Skycrest neighborhoods. Additionally, Mr. Crum presented photos of the drive-through facility as well as the recent renovations to Clays Mill Road.

Mr. Crum continued, showcasing the development plan, and noting that the applicant is in large part keeping the configuration of the site the same, including maintaining the two access points onto McCubbing Drive and Clays Mill Road. Mr. Crum also indicated that two of the three drive-through lanes would be converted into parking spaces for the site and noted the location of proposed outdoor dining.

Mr. Crum transitioned into the various Goals and Objectives of the Comprehensive Plan that this site is in agreement with. The goals include respecting the context and design features of the surrounding area, maximizing development on vacant land in the Urban Service Area, encouraging safe social interactions with the adjoining neighborhoods, and providing opportunities for neighborhood supportive uses, and pedestrian connectivity.

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

Development Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin indicated that the applicant was maintaining the circulation of the existing structure, as well as the canopy over the previous drive-through facilities. Mr. Martin also noted the large access point on Clays Mill Road, and that the applicant is looking for an easement, so that their dumpster does not encroach on the neighboring property.

Mr. Martin made a point to mention how much thought Planning Staff puts into making access better on a property, and that there was concern about the amount of access points on the property because of current traffic patterns in this area. After various discussions with various agencies like the Division of Fire and Emergency Services and Waste Management, it became apparent that the access onto Clays Mill Road was necessary so that those agencies could enter with large trucks. Mr. Martin indicated that to increase the safety of the property, various signs will be placed on the McCubbing Drive access point directing people to Harrodsburg Road, and that McCubbing Drive can only turn right onto Clays Mill Road. Additionally, Mr. Martin stated that the applicant would be placing warning signs on the pedestrian walkways.

Mr. Martin concluded his presentation stating that there were standard sign-offs on this development plan and that Staff was recommending approval of the development plan.

Commission Questions – Mr. Michler asked if there was discussion between Staff and the applicant about a more creative use for the canopy space. Mr. Martin indicated that Staff was curious about that space and there were discussions, but ultimately the applicant wanted to maintain the canopy and utilize the space.

Ms. Worth asked if the adjustments made by Staff will help with traffic flow at various times during the day, and Mr. Martin indicated that they would because it is a breakfast restaurant and will only be active during breakfast/lunch hours.

Applicant Presentation – Mr. Dick Murphy, attorney for the applicant, gave a brief history of the site, indicating that it was formerly a Chase Bank until 2019. Mr. Murphy indicated that the surrounding businesses are already located within a B-1 zone and presented various old Comprehensive Plan Land Use maps dating back to the 1980's that showed this site was planned for commercial use.

Mr. Murphy indicated that when the applicant bought the property, Chase Bank put deed restrictions on the property so that it could not be another bank for 10 years, and because of that it has been very difficult to find a user for the property. In fact, the property has been vacant for the past three years, with the exception of its use as a COVID testing site.

Mr. Murphy displayed photographs of the subject property and indicated that they would be using a low intensity use breakfast/lunch restaurant with a drive-through window and because of that will have no traffic in the afternoon. Mr. Murphy also asserted that they would not be changing the building significantly, which would remain consistent with the character of the neighborhood.

Mr. Murphy reviewed the development plan and reiterated that this development would not generate any afternoon traffic, and would only be slightly increasing the morning traffic compared to the bank. Mr. Murphy continued his presentation, showing the Planning Commission photographs of the vantage point from the parking lot and making the point that you can see all the traffic that is coming from both ends in a safe way. On the other end of the spectrum, Mr. Murphy showed a photograph from McCubbing Drive that showed poor visibility, and explained the need for a sign at the intersection.

Mr. Murphy stated that if the applicant wanted to maximize the property, they could redevelop with a much larger structure and tear down the existing structure, without a zone change, but the applicant does not want to do that.

Mr. Murphy concluded his presentation by stating the applicant agrees with the Staff's recommendations, and he could answer any questions from the Planning Commission.

Commission Questions – Mr. Owens asked if the access point on Clays Mill Road is a full access point which will serve as an entrance and exit and Mr. Murphy indicated that it was.

Mr. Michler asked about the discussions about the dumpster. He asked if there was a dumpster on the site currently and if the dumpster requirement is from Waste Management for restaurants. Mr. Murphy indicated that there was not currently a dumpster, that the bank used Herbies, and that a dumpster was a requirement from Waste Management. Mr. Michler also asked about the easement and if that was the original location that the applicant had in mind. Mr. Murphy identified an alternative location that was originally proposed by the applicant.

Citizen Comment – Lynne Flynn, 528 Springhill Drive, speaking on behalf of the Picadome Neighborhood Association, gave a presentation on their objections to the development. Ms. Flynn stated that they want the vacant property to be filled, but are concerned about the impact on traffic that this development would have on the already busy Clays Mill Road and McCubbing Drive.

Stephen Davis, 511 Woodbine Drive, stated his concern that this development would make the dangerous traffic even more dangerous. He stated that he had first-hand experience and his wife was struck by a car on McCubbing Drive.

Charles Thompson, 531 McCubbing Drive, stated that he had concerns about walkability, traffic safety, and that if you did want to walk safely you would have to walk a mile to find the safest crossing.

Mary Chezney Ringo, 525 McCubbing Drive, stated that this development would bring more traffic to an already heavily trafficked area and asked for various traffic calming measures if this were to go forward.

Amy Clark, 628 Kastle Drive, stated that there was no compelling need for a zone change and that the applicant could use one of the many uses already allowed in the P-1 zone.

Applicant Rebuttal – Mr. Murphy stated that the development is in an area that already has traffic issues, but when dealing with the cut-through traffic on McCubbing Drive, that is a state issue, and they could take care of it if they wished to. Mr. Murphy also reiterated that there was excellent site distance on the development and that the access on McCubbing Drive was necessary for fire and garbage trucks. Speaking on some of the stories shared during public comment, Mr. Murphy stated that they regretted previous accidents that have happened before, but the renovation of Clays Mill Road has made it much safer and with better visibility. Mr. Murphy stated that he did not think the answer for the traffic issues was to not allow this zone change and allow the property to remain vacant until a bank can go back into the property in 8.5 years.

Mr. Murphy concluded saying that the applicant was doing the best possible development here with a low intensity, commercial use and were in agreement with Staff's recommendations.

Citizen Rebuttal – Amy Clark, 628 Kastle Drive, stated that a zone change here introduces a non-conforming use and reiterated her opposition to this zone change.

Staff Comment – Mr. David Filiatreau, Division of Traffic Engineering, stated that the access on the site was something that was discussed during the Subdivision Committee and his goal was to reduce conflict points and potentially eliminating a left in access point on Clays Mill Road. Mr. Filiatreau stated there were practical issues with that, but stated that there were things outside of the Planning Commission process to mitigate the traffic issues.

Commission Questions and Comments – Mr. Michler stated that the "improvements" on Clays Mill Road were just making the road wider and did not improve accessibility for pedestrians. Mr. Michler suggested that Traffic Engineering should meet with the citizens to address the concerns with the site. Mr. Filiatreau stated that the Clays Mill Road improvements took place over a long time, and the newer "complete streets" policy will make the pedestrian accessibility more of a priority in the future.

Mr. Bell asked if you can control the time frame at the light at the intersection and if that would make a difference here. Mr. Filiatreau stated that you can control a lot from the light and could potentially make a difference after examining the data.

Ms. Barksdale asked if there are any traffic calming measures at McCubbing Drive and Clays Mill Road at this time and Mr. Filiatreau indicated that there were not currently any there.



Mr. Pohl asked if it was feasible to put a pedestrian crossing on Clays Mill Road like the one at Transylvania University and how long would it take to install. Mr. Filiatreau stated that it would have to be significant because there are various federal regulations and guidelines for what makes a crossing like that appropriate, and it would take a few years to put in place.

Mr. Bell asked Mr. Murphy if he could disclose what restaurant would be going on the sight and if they had any estimations on volume. Mr. Murphy stated that they did not know the estimates and that the restaurant was a new concept that they could not disclose yet.

Staff Comment – Captain Greg Lengal, Division of Fire and Emergency Services, stated he was familiar with this area, but since he was not at the Subdivision Committee he was not aware that the access point at Clays Mill Road was a talking point but were in agreement with that access being open.

Commission Questions and Comments – Ms. Worth stated that she agreed with the residents that this area is not a safe area and anything to make traffic safer should be done. She also stated that the drive-through is a big reason why she finds herself against this zone change, and if there were none, she would have no problem approving this.

Mr. Davis agreed with Ms. Worth and stated that it was a difficult site but the development plan was very well done. However, he believes it was zoned P-1 for a reason and he cannot support the application at this time.

Mr. Pohl wanted to reflect on this property being a P-1 zone and the current demand for office space and the difficulty in finding a tenant in this current zone. Additionally, Mr. Pohl expressed concern about the failure of having sufficient pedestrian access and transportation on Clays Mill Road. He concluded his comments by stating his support for this proposal if there was a condition that required pedestrian crossing facilities.

Mr. Forester asked if the Planning Commission could do that if it is a city road and what options the Planning Commission had. Ms. Wade indicated that an applicant can make improvements to the public right-of-way and the Planning Commission could make the applicant do the same with a public crossing. Mr. Filiatreau stated that Traffic Engineering would have to determine if a crossing at the location was appropriate and could take a considerable amount of time. Mr. Martin also indicated that an applicant can make a donation to the Traffic Calming Fund used by the city for various traffic calming measures in the area.

Applicant Comment – Mr. Murphy stated that he wished to postpone this application to explore some of the options mentioned.

Action – A motion was made by Mr. Wilson, seconded by Mr. Owens and carried 9-0 (Nicol and Meyer absent) to continue PLN-MAR-23-00011: CLEAR OPTIKS, LLC to the October 26, 2023 public meeting.

1. **CLEAR OPTIKS, LLC ZONING MAP AMENDMENT AND FIRST SECURITY NATIONAL BANK (AMD) DEVELOPMENT PLAN**

- a. **PLN-MAR-23-00011: CLEAR OPTIKS, LLC (12/14/23)\***– a petition for a zone map amendment from a Professional Office (P-1) zone to Neighborhood Business (B-1), for 0.6130 net (1.04 gross) acres, for property located at 1617 Clays Mill Road.

**Note:** The Planning Commission voted to continue the public hearing on August 24, 2023 and October 26, 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 applicant is seeking to utilize the existing 2,322 square-foot vacant bank structure on the property as a restaurant/ coffee shop. The applicant proposes to continue to utilize the existing accessory drive-through facilities present on the site in order to serve the proposed use. The change in use will be accompanied by a minor change in the parking lot configuration to support a 16-seat outdoor dining area and a total of 18 parking spaces.

**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 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed rezoning addresses the goal of growing successful neighborhoods by supporting infill and redevelopment throughout the Urban Service Area (Theme A, Goal #2.b), while also re-activating a site on one of Lexington's most significant corridors (Theme E, Goal #1.d).
  - b. The proposed project includes a neighborhood-oriented restaurant use that features extensive connections to several pedestrian networks and neighborhoods (Theme A, Goal #3.b)
  - c. By utilizing an already developed site, the proposed development minimizes the disruption of natural features of the site (Theme E, Goal #3.c)
  - d. At the proposed scale, the development provides an accessible, neighborhood level commercial area (Theme A, Design Policy #12).
  - e. The request introduces a neighborhood restaurant use into an area that lacks walkable dining options (Theme A, Density Policy #3).
  - f. The request will maintain the existing sidewalk networks and provide bicycle facilities on-site in order to promote connectivity (Theme B, Sustainability Policy #2).
2. 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 Location as the use remains at an appropriate scale for the low density residential and commercial development in this area, provides for a neighborhood scale restaurant use that is not present in the vicinity, and utilizes outdoor dining areas to activate the frontage for pedestrians.
  - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity as it maintains an extensive pedestrian network that served the previous bank use, and provides for direct and accessible linkages to transit along a major corridor.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, and limits the impacts on the surrounding environment.

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

3. This recommendation is made subject to approval and certification of PLN-MJDP-23-00049: FIRST SECURITY NATIONAL BANK (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-23-00043: FIRST SECURITY NATIONAL BANK (AMD) (12/14/2023)\* - located at 1617 CLAYS MILL ROAD, LEXINGTON, KY  
Council District: 10  
Project Contact: Barrett Partners, Inc.

Note: The purpose of this development plan is to convert a bank to a restaurant, in support of the requested zone change from a Professional Office (P-1) zone to a Neighborhood Business (B-1) zone.

The Subdivision Committee Recommended: Approval, subject to the following revised 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. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote area for bicycle parking.
14. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum provided a brief overview of the application, and the events that took place at the Planning Commission on August 24, 2023, when the item was first presented. Mr. Crum reminded the Planning Commission that the applicant was seeking a zone map amendment from a Professional Office (P-1) zone to Neighborhood Business (B-1) zone, for 0.6130 net (1.04 gross) acres, for property located at 1617 Clays Mill Road. Mr. Crum indicated that the applicant is seeking to rezone the property to establish a restaurant/coffee shop with an accessory drive-through facility. Mr. Crum indicated that the property was rezoned to P-1 in the 1970s, and surrounding properties were reopened to B-1 later in the 1980s.

Mr. Crum highlighted the changes the applicant would be making on the site, including adding an outdoor patio space, and converting several drive-through lanes to parking. Mr. Crum stated that Staff recommended approval at the time of the August 24, 2023 meeting and that the neighborhood concerns at that time stemmed from pedestrian accessibility and the impact it would have on the traffic in the area.

Mr. Crum concluded his presentation by stating that the applicant had not supplied any new information to Planning Staff and that Staff was still recommending approval.

Applicant Representation – Mr. Dick Murphy, attorney for the applicant reiterated what Mr. Crum stated, and stated that all Comprehensive Plans until 2007 designated this site for a commercial use, like a restaurant. Mr. Murphy reminded the Planning Commission that there was a deed restriction on the property that dictated that this property could not be a bank for 10 years. Mr. Murphy noted the addition of bike racks, and an outdoor dining area to make the property more inviting for residents. Additionally, Mr. Murphy stated that this was an adaptive reuse of an existing property and will greatly reduce the carbon footprint and will remain at a neighborhood scale.

Mr. Murphy noted the neighborhood opposition due to lack of pedestrian connectivity and traffic and highlighted the pedestrian connections to the site. Mr. Murphy indicated that they have improved pedestrian connections as much as they could, and indicated that the applicant had met with those opposed and the Division of Traffic Engineering to come to a solution.

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Mr. Murphy stated that a safety audit was done by the Division of Traffic Engineering and indicated that the major recommendation from the audit was raised pedestrian refuge in the middle of Clays Mill Road. Additionally, Mr. Murphy indicated that the applicant would help fund adjustments to the intersection of McCubbing Drive.

Mr. Murphy indicated that since this was a breakfast/brunch restaurant, there would be no traffic generated during the afternoon and evening and there would not be an appreciable change in traffic from the applicant. Mr. Murphy concluded his presentation stating that the applicant has gone above and beyond to accommodate the neighborhoods concerns, and asked for the Planning Commission to approve this application.

Commission Questions – Mr. Wilson asked Mr. Murphy what the proposed operating hours would be at this site and Mr. Murphy indicated it would be from 7 AM to 4 PM.

Mr. Pohl asked Mr. Murphy if the pedestrian refuge proposed in the safety audit was likely to happen and what would be the timeline for it. Mr. Murphy stated that he did anticipate the crosswalk would be done and indicated that Mr. Filiatreau could better answer questions on the timeline.

Citizen Comments – Lynn Flynn, 518 Springhill Drive, spoke on behalf of Picadome Neighborhood Association. While she spoke, she displayed short videos and pictures of the various intersections surrounding the subject property. She said that there was information that was provided to the Commission by Mr. Murphy that they had not seen regarding a traffic study done by the Division of Traffic Engineering. She stated that the traffic was their main concern with the proposal. She also mentioned the pedestrian crossings, proposed drive-through, and hours of operation as challenges to traffic safety in the area. She said that she does not support this development.

Laurie Fields, 411 Picadome Park, stated that the proposal is not neighborhood friendly, especially with the drive-through. She was also concerned with what the property could become if the restaurant was not successful.

Mary Cheney Ringo, 525 McCubbing Drive, shared her concerns about pedestrians crossing the road to the restaurant.

Steve Davis, 511 Woodbine Drive, said that he does not want this business or access to it, because he believed the new traffic would cause too many accidents.

Applicant Rebuttal – Mr. Murphy reiterated that this application would not make a big difference when it comes to the amount of traffic and that the applicant has gone above and beyond when it comes to the pedestrian connections and improvements.

Mr. Chad Voelkert, owner of the property, stated that he met personally with those in the neighborhood who were concerned and promised to advocate for their concerns regarding the crosswalk and traffic calming devices. Mr. Voelkert stated that he believed that this restaurant would only add 2 to 20 trips an hour on a daily basis, of around 40,000 cars on the road a day. He thanked the Planning Commission for their time, and asked for their approval.

Citizen Rebuttal – Steve Davis, 511 Woodbine Drive, stated that in his conversations with neighbors no one is in support of this application, and adding any amount of additional trips will exacerbate an already dangerous road.

Staff Rebuttal – Mr. Crum stated even though there are much larger traffic problems in this area, Staff is still recommending approval because it is in agreement with the Comprehensive Plans goals and objectives.

Commission Questions – Mr. Wilson asked if the new ZOTA would prohibit drive-throughs in the B-1 zone and Mr. Crum indicated that this application would have to be in compliance with the current ordinance requirements, not the future one yet to be approved.

Ms. Worth asked to hear from Mr. Filiatreau about everything that has been proposed. Mr. Filiatreau stated that they did come up with a select amount of recommendations for improvements here and in the surrounding

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neighborhood. Mr. Filiatreau emphasized that none of these improvements are set in stone, but the Division of Traffic Engineering came up with a good start.

Mr. Michler asked if the improvements were contingent on the zone changing and Mr. Filiatreau stated that they would work on these improvements regardless of the zone change.

Mr. Michler also asked what the process would be given the applicant is willing to give funding for these improvements. Mr. Filiatreau stated that it would be on a note in the development plan, then the funds would go into an account, and the improvements would be scheduled.

Mr. Nicol read an excerpt from staff report when the property became a P-1 that said the limited hours of operation would not adversely affect the traffic in the area. For that reason Mr. Nicol stated he was inclined to approve this application.

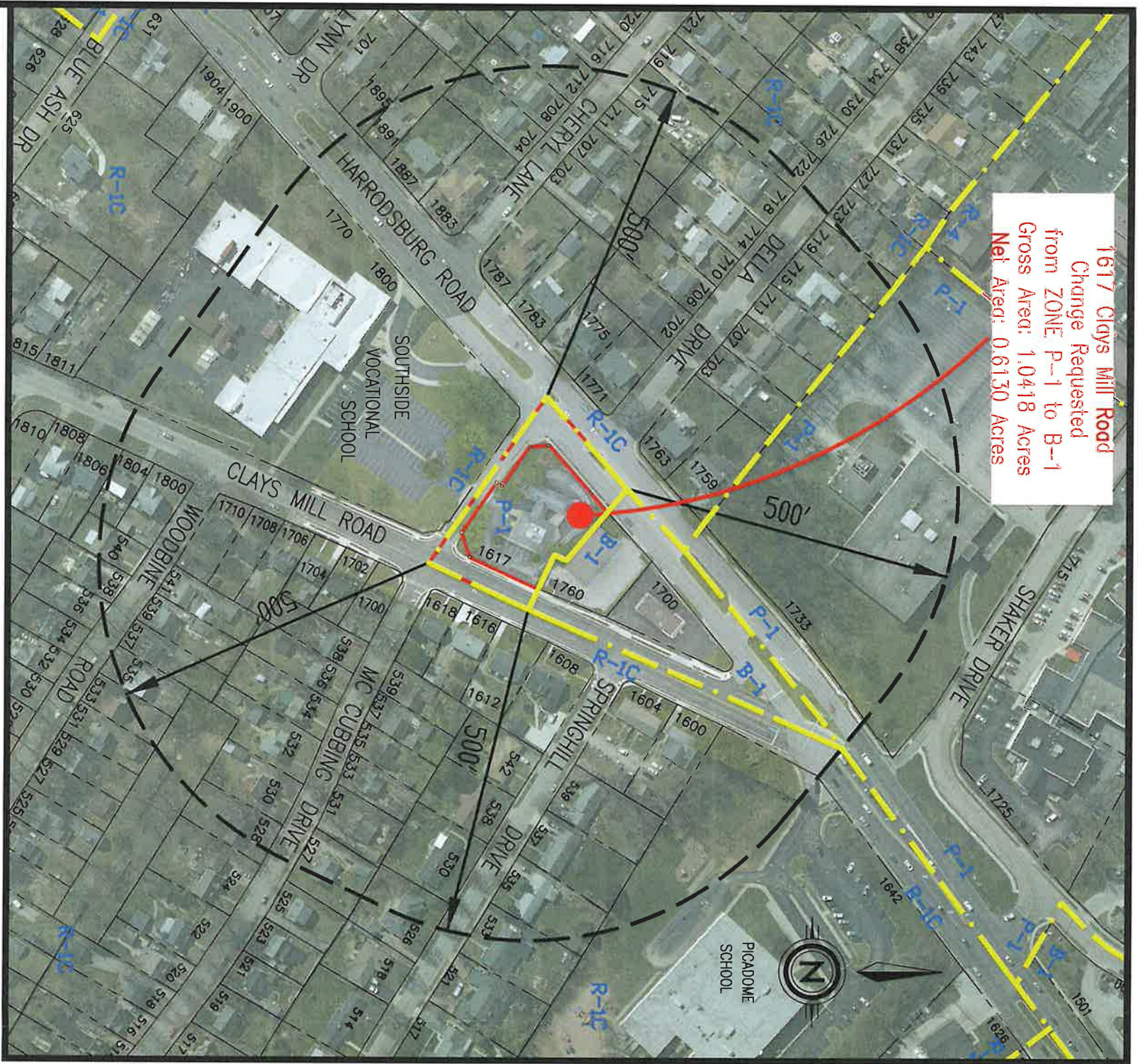
Mr. Michler stated that those in opposition have made their point well and that this area is not pedestrian friendly, but they have started a dialogue with the city and it appears that the pedestrian crossings are going to happen to make this a better neighborhood business and would save those in the community a car trip.

Citizen Comment – Myron Thompson, Fayette County School Board, shared a letter of opposition with the Planning Commission, and stated that this restaurant is targeted to the morning hours, where traffic, particularly that of Picadome Elementary is already backed up.

Action – A motion was made by Mr. Nicol, seconded by Mr. Owens and carried 7-2 (Meyer and Worth opposed) (Davis absent) to approve PLN-MAR-23-00011: CLEAR OPTIKS, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Nicol, seconded by Mr. Owens and carried 7-2 (Meyer and Worth opposed) (Davis absent) to approve PLN-MJDP-23-00043: FIRST SECURITY NATIONAL BANK (AMD) with the conditions proposed by Staff.

1617 Clays Mill Road  
 Change Requested  
 from ZONE P-1 to B-1  
 Gross Area: 1.0418 Acres  
 Net Area: 0.6130 Acres



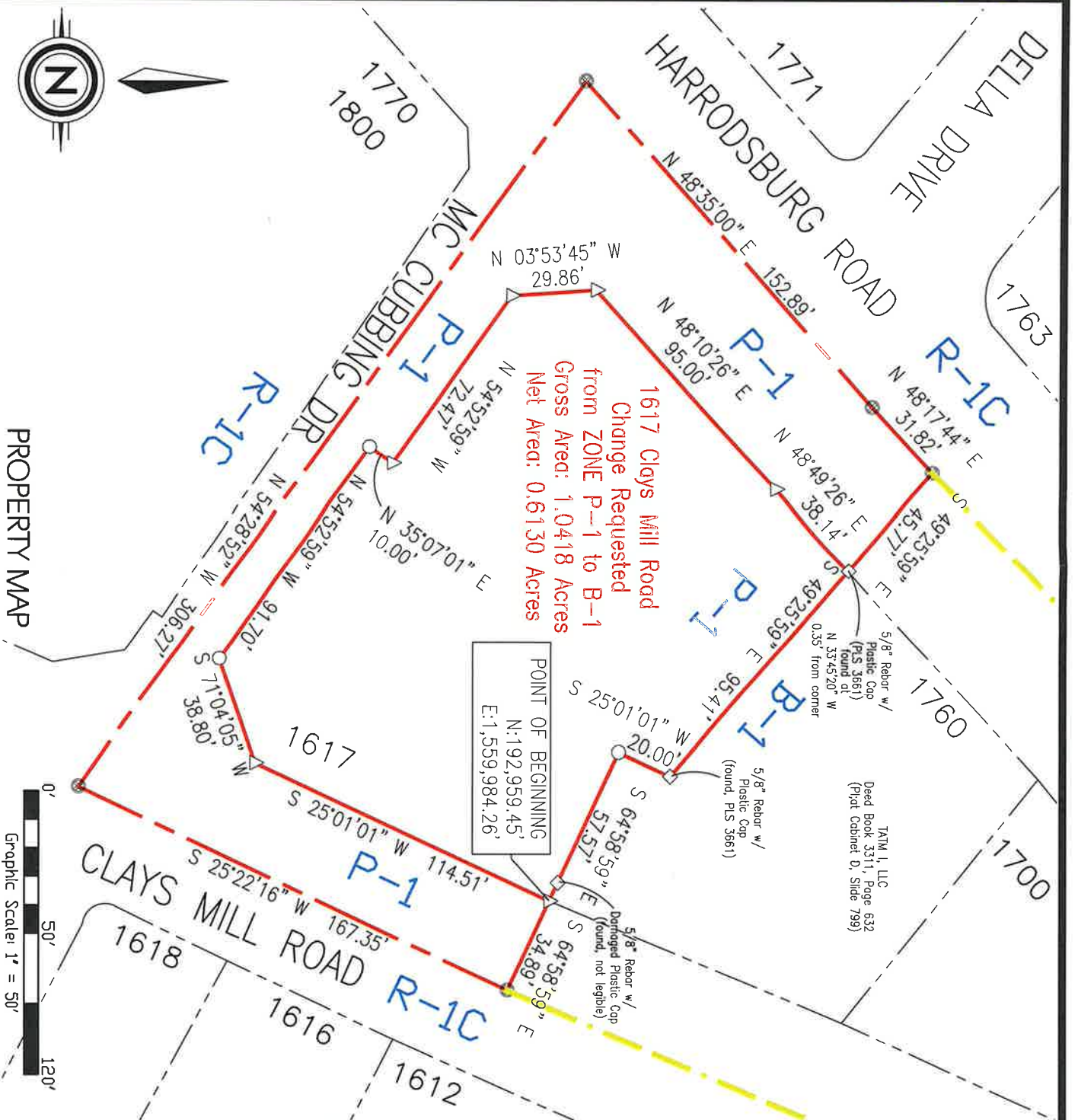
**NOTIFICATION AREA MAP**  
 PREPARED BY:

**ENDRIS**  
 engineering  
 Land Surveyors • Construction Layout • GPS

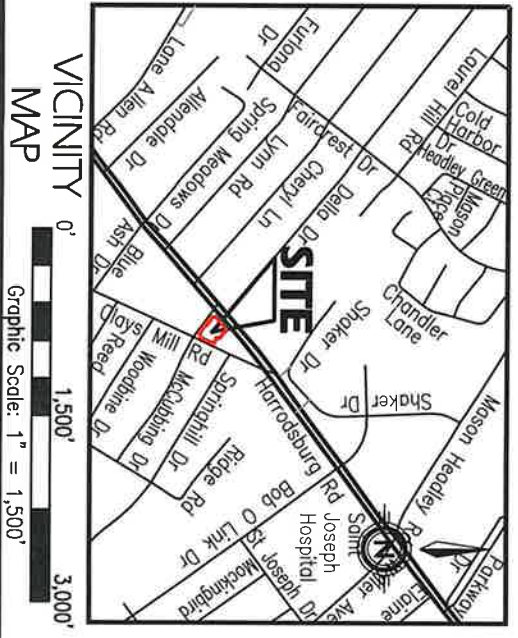
771 ENTERPRISE DRIVE  
 LEXINGTON, KY 40510  
 PH: 859 253-1425  
 FAX: 859 233-1436



- LEGEND**
- Corner Point (Not monumented)
  - ◇ Found Monument (as noted)
  - △ 24" Long, 5/8" Diameter Rebar w/ID Cap (PLS 4021, found this survey)
  - Mag Nail w/ID Washer (PLS 4021, found this survey)



**PROPERTY MAP**



STATE OF KENTUCKY  
 KEVIN M. PHILLIPS  
 LICENSED PROFESSIONAL LAND SURVEYOR  
 3350  
 07-12-2023

FROM	TO	NET	GROSS
P-1	B-1	0.6130 Acre	1.0418 Acres

**TITLE:** Clear Opitks, LLC  
**ADDRESS:** 1617 Clays Mill Road  
**APPLICANT:** Clear Opitks, LLC  
**OWNER:** Clear Opitks, LLC  
 811 Corporate Drive, Suite 101, Lexington, KY 40503  
**DATE FILED OR AMENDED:** July 12, 2023