

# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-23-00003: BREAD AND ROSES, LLC

## DESCRIPTION OF ZONE CHANGE

Zone	From a Professional Office (P-1) zone
Change:	To a Neighborhood Business (B-1) zone
Acreage:	1.2314 net (1.3317 gross) acres
Location:	446 E High Street



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	P-1	Office
To North	R-3	Multi-Family Residential
To East	R-3	Single-family Residential
To South	P-1	Office
To West	B-1/R-3	Florist / Restaurant/ Multi-family Residential

## URBAN SERVICE REPORT

**Roads** - The subject property is located along E High Street (US Route #1974), which is a one-way major arterial roadway that connects Tates Creek Road (US Route #1974) with the downtown core.

**Curb/Gutter/Sidewalks** - Curb and sidewalk facilities have been constructed along E High Street; however, gutter facilities have not been constructed due to the historic nature of the area.

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

**Storm Sewers** - The subject property is located within the Town Branch watershed. There are no FEMA Special Flood Hazard Areas or environmentally sensitive areas on the subject property, or the immediate vicinity.

**Sanitary Sewers** - The subject site is located within the Town Branch sewershed. Sanitary sewer treatment is provided by the Town Branch Wastewater Treatment Plant for properties within this portion of the Urban Service Area, which is located on Lisle Industrial Road. Prior to any construction on the site, the Division of the Water Quality's Capacity Assurance Program will evaluate the available capacity of the system.

**Refuse** - The Urban County Government serves this area with refuse collection on Tuesdays. Supplemental service by private refuse haulers is available to supplement existing service, if necessary.

**Police** - The subject property is located within the Central Sector, and is served by the Central Sector Roll Call Center, which is located on Industry Road, approximately two miles to the northeast of the subject property. The downtown Police Headquarters is also in close proximity to the subject site, about 1/2 mile to northeast on East Main Street.

**Fire/Ambulance** - The nearest fire station (#5) is located about two blocks south of the subject property, at the intersection of Woodland Avenue and E Maxwell Street. The transit center is also located approximately half a mile north of the subject property, on E Vine Street.

**Transit** - LexTran service is available within the immediate area along E High Street. Outbound service for the Southland Drive Route (#16) is located less than 1/4 mile from the subject property, at the intersection of Arlington Avenue and E High Street.

**Parks** - There are two parks within close proximity to the subject property. Woodland Park is located approximately one block southeast of the subject property, while Thoroughbred Park is located approximately 1/4 mile to the north.

## SUMMARY OF REQUEST

The applicant is seeking to rezone the subject property from a Professional Office (P-1) zone to the Neighborhood Business (B-1) zone in an effort to establish a bakery use within an existing professional office structure.

## PLACE-TYPE

**ENHANCED NEIGHBORHOOD**  
A Enhanced Neighborhood is an existing residential area that could be enhanced with additional amenities, housing types, and neighborhood-serving retail, services, and employment options that contribute to a sustainable neighborhood. Vibrant neighborhoods include a range of uses. The development that occurs in this place-type should be context-sensitive to the surrounding area and implemented in a way that adds to the sense of place. Multi-modal connections from new elements within enhanced neighborhoods are crucial to their success and long-term 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. The retail/service options typically include boutique-type establishments, neighborhood restaurants or pubs, and/or neighborhood-serving services like dentists, daycares, etc, and the places of employment are small offices.

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



This zone is intended to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. Generally, they should be planned facilities and should be located as recommended in the Comprehensive Plan. This zone should be oriented to the residential neighborhood, and should have a roadway system which will be adequate to accommodate the anticipated vehicular traffic.

## PROPOSED USE



The petitioner proposes the rezoning of the subject property to the Neighborhood Business (B-1) zone to allow for the applicant to utilize a 4,500 square-foot portion of the existing two story, 18,000 square-foot office structure for a bakery use. This bakery use is intended to supply baked goods to supplement the operations of the Kentucky Native Cafe on the adjoining property at 417 E Maxwell Street, as well as accommodating on-site sales.

The applicant proposes to retain the site's the existing 69-space parking lot configuration and existing pedestrian network with this request.

## APPLICANT & COMMUNITY ENGAGEMENT



In addition to the general notification requirements, the applicant conducted a meeting with the Aylesford Park Neighborhood Association, and has indicated that the neighborhood association expressed no objections to the proposal.

## PROPERTY & ZONING HISTORY



Historically, the subject property has been utilized as professional office space. The two-story, 18,000 square foot office building that currently occupies the site was constructed in 1958

The subject property has no prior history of zoning map amendments, and has been zoned Professional Office (P-1) since the 1969 comprehensive rezoning of the City and County. The subject property is located within the defined Infill and Redevelopment area, as well as the Aylesford Historic District, which has an established H-1 Overlay zone.

## 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.

### GOALS, OBJECTIVES & POLICIES

The applicant opines that they are in agreement with the adopted Goals, Objectives, and Policies of the 2018 Comprehensive Plan. The applicant indicates that by utilizing an existing structure that has been in operation at this location since 1958, the request will maintain compatibility with the existing urban form and context of the surrounding area (Theme A, Goal #2.b). By introducing the neighborhood business scale uses into what was previously a strictly professional office development, the request will expand the uses and services available in the area, which will help the existing neighborhood to flourish ( Theme A, Goal #3.a). The applicant opines that the request will help facilitate safe social interactions, as the proposal retains the site's existing pedestrian connections to both the surrounding residential uses, as well as the adjoining Kentucky Native Cafe (Theme A, Goal #3.b). By enabling an expansion of the offerings at the adjoining Kentucky Native Cafe, the applicant indicates that they are meeting Comprehensive Plan goals relating to strengthening entertainment and quality of life opportunities that attract culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal #2.a).

Within their letter of justification, the applicant also highlights several Comprehensive Plan Policies that are being met with this request. The applicant opines the request meets Design Policy #4, which relates to providing development that is sensitive to the surrounding context. While the scope of uses are expanding, the footprint of the existing structure is not. With no physical changes proposed to the layout of the site, the scale of the building will remain compatible with the character of the immediate area. As such, the development of the property will not detract from the Aylesford Park H-1 Historic Overlay District, as the request maintains the site's existing 1950s aesthetic and development pattern. In expanding the allowable uses, the applicant opines the request meets Density Policy #3, which advocates for opportunities for additional neighborhood supportive uses. The applicant also indicates that this request will add to a neighborhood focal point by expanding the offerings at the Kentucky Native Cafe (Design Policy #10).

### 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 property. 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 2018 Comprehensive Plan. While these zones are the ideal zoning categories to develop within a specified area, other zones may be considered, provided there is an appropriate justification addressing the unique situation and provided the development is able to adequately meet the associated Development Criteria.

The applicant indicates that the project is located within the Enhanced Neighborhood Place-Type and is a Low-Density Non-Residential/ Mixed Use Development Type. The Enhanced Neighborhood Place-Type is an existing residential area that could be enhanced with additional amenities, housing types, and neighborhood-



servicing retail, services, and employment options that contribute to a sustainable neighborhood. Within their application, the petitioner describes that the Enhanced Neighborhood Place-Type is the most appropriate Place-Type as they were seeking to provide an additional service to help supplement the existing residential uses in this area. Staff agrees with the applicant's assessment of the proposed Enhanced Neighborhood Place-Type.

Additionally, the applicant is seeking to apply the Low-Density Non-Residential/Mixed Use Development Type, which is recommended within the Enhanced Neighborhood Place-Type and is meant to be comprised of 1-2 story commercial development that prioritizes enhancing existing development through quality design and connections. The applicant has proposed to utilize an existing two-story structure. Staff agrees that the proposed Development Type can be appropriate for the subject property.

Finally, the applicant has requested the rezoning of the property to the Neighborhood Business (B-1) zone. This zone is a recommended zone associated with the Enhanced Neighborhood Place-Type and the Low-Density Non-Residential/ Mixed Use Development Type. Staff agrees that the B-1 zone can be appropriate for the subject property.

### **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 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 Enhanced Neighborhood Place-Type and Low Density Non-Residential/ Mixed Use Development Type.

#### 1. Site Design, Building Form and Location

The proposed rezoning works with the criteria for Site Design, Building Form, and Location as it utilizes the same structure that has been operating at this location since 1958, which will retain the scale and character of the current development. The request emphasizes the existing structure as the focal point of the site by locating parking to the side and rear of the site. The request allows for greater employment opportunities at this location, and provides a neighborhood scale use to serve the surrounding area.

#### 2. Transportation and Pedestrian

The proposed rezoning meets the Transportation and Pedestrian Connectivity development criteria, as the proposal will utilize the existing pedestrian and vehicular connections that are in place for the existing office building, and is in close proximity to existing transit stop.

#### 3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will increase tree canopy coverage through additional vehicular use area and property perimeter screening.

### **CONDITIONAL ZONING RESTRICTIONS**

In an effort to preserve the character of the historic Aylesford Park area, protect the existing pedestrian-oriented environment, protecting a major gateway into Lexington, a list of restricted uses are proposed. The following uses are to be prohibited via conditional zoning:

1. Automobile service stations
2. Tattoo parlors
3. Miniatures golf courses
4. Carnivals and Circuses, even on a temporary basis
5. Drive-through facilities
6. Indoor theaters
7. Pawn shops
8. Gasoline pumps
9. Mining of non-metallic mineral
10. Funeral parlors
11. Parking lots and structures, other than as an accessory use
12. Rental of equipment whose retails sale would otherwise be permitted in a B-1 zone
13. Minor Automobile repair



Staff finds that these restrictions are appropriate and necessary to protect the character of the Aylesford Park Historic Area, as well as the character of the High Street Corridor, a major downtown corridor. The limitations of these uses also align with the applicant's stated goals of providing a development that is oriented towards the existing neighborhood, rather than the traveling public. Finally, these restrictions help ensure that the site provides a safe pedestrian experience and does not encourage auto-centric travel patterns.

**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, Objectives and Policies, for the following reasons:
  - a. The proposed development will respect the context of the surrounding area by utilizing a structure that has been at this location since 1958 (Theme A, Goal #2.b).
  - b. The proposed development will help the existing neighborhood flourish by introducing new neighborhood scaled and oriented business uses into what was previously a strictly professional office development (Theme A, Goal #3.a).
  - c. The proposed development will encourage positive and safe social interactions by retaining the pedestrian connections to surrounding uses (Theme A, Goal #3.b).
  - d. The proposed development will help attract young and culturally diverse professionals by enabling an expansion of the offerings at the adjoining Kentucky Native Cafe (Theme C, Goal #2.a).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
  - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as it utilizes the site's existing office structure, which will retain the scale and character of the current development. The request emphasizes the existing structure as a focal point of the site by locating parking to the side and rear of the site. The request allows for greater employment opportunities at this location, and provides a neighborhood-oriented use to serve the surrounding area.
  - b. The proposed rezoning meets the Transportation and Pedestrian Connectivity development criteria, as the proposal will utilize the existing pedestrian and vehicular connections that are in place for the existing office building, and is in close proximity to an existing transit stop.
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will increase tree canopy coverage through additional vehicular use area and property perimeter screening.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
  - a. Prohibited Uses:
    - i. Automobile service stations
    - ii. Tattoo parlors
    - iii. Miniatures golf courses
    - iv. Carnivals and Circuses, even on a temporary basis
    - v. Drive-through facilities
    - vi. Indoor theaters
    - vii. Pawn shops
    - viii. Gasoline pumps
    - ix. Mining of non-metallic minerals
    - x. Funeral parlors
    - xi. Parking lots and structures, other than as an accessory use
    - xii. Rental of equipment whose retails sale would otherwise be permitted in a B-1 zone
    - xiii. Minor automobile repair

These use restrictions are appropriate and necessary for the following reasons:

1. Staff finds that these restrictions are appropriate and necessary to protect the character of the Aylesford Park Historic area as well as the character of the High Street corridor.
2. The limitations of these uses also align with the applicant's stated goals of providing a development that is oriented towards the existing neighborhood, rather than the traveling public.
3. These restrictions help ensure the site provides a safe pedestrian experience, and do not encourage auto-centric travel patterns.
4. This recommendation is made s made subject to approval and certification of PLN-MJDP-23-00013: Bread & Roses Development, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

## STAFF REPORT ON VARIANCE REQUEST



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

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

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

### ZONING ORDINANCE

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

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

### CASE REVIEW

The applicant is seeking two dimensional variances and a reduction of the scope of required hedges that are required by the property perimeter screening requirements. These requirements are for the portions of the property that abut the Planned Neighborhood Residential (R-3) zones to the north and west. The Zoning Ordinance requires buffering of a specific distance and regulated planting materials to provide screening between more intense commercial land uses and surrounding residential land uses. The specific provisions were added to the Ordinance to decrease the impact of light and sound on adjacent properties, which may be caused by events or activities, such as those that the applicant has expressed interest in developing on the property.

The area between the proposed B-1 zone and the R-3 zone requires a minimum buffer area of 15 feet adjacent to all common boundaries (located behind the building line) except street frontage, to contain one tree per 40 feet of linear boundary, or fraction thereof, from Group A or B only, plus, 1) a double row of six feet high hedge or 2) a six feet high fence, wall or earth mound. The applicant is requesting to reduce this required property perimeter buffer from 15 feet to 2.5 feet along the shared northern property line, and to 6.5 feet along the western property line where the property adjoins R-3 zoning. In addition, the applicant is also seeking to reduce the double row of required 6-foot tall hedges to a single row of hedges.

The applicant provides five justifications for the variance request. First, they opine that the variance will not affect the public health, safety, or welfare, as the applicant will retain the existing landscaping already present on-site, as well as installing the required trees and a 6-foot tall row of hedges. The applicant indicates that this landscaping should be sufficient to screen the use without requiring the full 15 foot buffer width and



second row of hedges. Next, the applicant opines that the variance will not be an unreasonable circumvention of the zoning ordinance because the applicant is not seeking to make any physical changes to the site or building layout to accommodate the newly proposed bakery use or any new uses. Next, the applicant opines that the lack of physical changes proposed by the request represent a special circumstance that justifies the need for the variance. The applicant then claims that strict application of the Zoning Ordinance would create an unnecessary hardship by requiring the reduction of parking spaces on site, or removal of existing landscaping to accommodate the required elements. Finally, the applicant indicates that they have done nothing to create the special circumstances, which impact this property. They indicate that the conditions on the property predate the current Zoning Ordinance requirements, and that they are seeking the variance prior to establishing of the proposed use.

At this time, the Landscape Review Committee has not yet had an opportunity to review the requested landscape variance. The request will be heard at their March 21, 2023 meeting.

While staff is recommending postponement of the variance application until the Landscape Review Committee has had an opportunity to weigh in on the request, staff does have concerns with several aspects of the applicant's justification for the variance. The lack of physical changes proposed to the site is not a special circumstance that justifies the need for the variance; furthermore, the proposed rezoning will allow for a greater intensity of uses on-site. Further compliance with landscape buffering requirements is warranted. As there are no longer parking minimums required by Ordinance, the applicant should also provide further information on how the resulting reduction in the 69 parking spaces in order to provide the buffer would create an unnecessary hardship.

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



1. The Landscape Review Committee has not yet had an opportunity to review the requested variance. The next scheduled meeting is March 21, 2023; and if a quorum is present, a recommendation on the requested variance will likely be made. Although the staff is concerned with certain components of the applicant's letter of justification, until that meeting occurs, it is best to defer a substantive recommendation.