

ORDINANCE NO. 063-2022

AN ORDINANCE CHANGING THE ZONE FROM AN AGRICULTURAL URBAN (A-U) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE, FOR 0.66 NET (1.64 GROSS) ACRES, FOR PROPERTY LOCATED AT 601 OLD TODDS ROAD AND 96 CODELL DRIVE, AS WELL AS A PORTION OF CLOSED PUBLIC RIGHT-OF-WAY. (AU ASSOCIATES, INC; COUNCIL DISTRICT 7).

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WHEREAS, at a Public Hearing held on May 26, 2022, a petition for a zoning ordinance map amendment for property located at 601 Old Todds Road and 96 Codell Drive from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 0.66 net (1.64 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 9-0; and

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

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

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

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 601 Old Todds Road and 96 Codell Drive from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 0.66 net (1.64 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: July 5, 2022

*Linda Gorton*

\_\_\_\_\_  
MAYOR

ATTEST:

*[Signature]*

\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: July 12, 2022-1t

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

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

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

**IN RE:** PLN-MAR-22-00006: AU ASSOCIATES, INC. - a petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 0.66 net (1.64 Gross) acres, for the properties located at 601 Old Todds Road and 96 Codell Drive, as well as a portion of closed public right-of-way. (Council District 7)

Having considered the above matter on May 26, 2022, at a Public Hearing, and having voted 9-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County

Planning Commission does hereby recommend APPROVAL of this matter for the following reasons:

1. The existing Agricultural Urban (A-U) zoning is inappropriate, and the proposed Planned Neighborhood Residential (R-3) zoning is appropriate at this location for the following reasons:
  - a. The existing A-U zone is intended to be a holding zone until public facilities and services are adequate. Generally, urban services have been available to serve this portion of the Urban Service Area since the mid-1980s and the realignment of Old Todds Road updated the roadway system in 1998.
  - b. The proposed R-3 zone is consistent with the adjoining lot that is intended to be consolidated and reconfigured in conjunction with the subject properties. The R-3 zone and the proposed multifamily dwelling units are compatible with the existing land uses in the immediate vicinity.
2. This recommendation is made subject to approval and certification of PLN-MJDP-22-000023: Shadow Wood Phase II (Richwood Bend), 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 10<sup>th</sup> day of June, 2022.

  
\_\_\_\_\_  
Secretary, Jim Duncan

LARRY FORESTER  
CHAIR

Note: The corollary development plan, PLN-MJDP-22-00023: Shadow Wood Phase II (Richwood Bend) was approved by the Planning Commission on May 26, 2022 and certified on June 9, 2022.

Note: A dimensional variance was approved by the Planning Commission on May 26, 2022.

K.R.S. 100.211(7) requires that the Council take action on this request by August 24, 2022.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Stephen Garland, Engineer.**

**OBJECTORS**

▪ None

**OBJECTIONS**

▪ None

**VOTES WERE AS FOLLOWS:**

AYES: (9) Bell, Davis, de Movellan, Forester, Meyer, Michler, Nicol, Penn, and Pohl

NAYS: (0)

ABSENT: (2) Barksdale, Worth

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-22-00006** carried.

Enclosures: Application  
Plat  
Staff Report  
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> AU ASSOCIATES, INC., 159 OLD GEORGETOWN STREET, LEXINGTON, KY 40508 PH: 859-233-2009
<b>Owner(s):</b> L C DALE PARTNERS, LLC, 2201 HUME ROAD, LEXINGTON, KY 40516

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

601 OLD TODDS ROAD, LEXINGTON, KY 40509 96 CODELL DRIVE, LEXINGTON, KY 40509
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**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY**

Zoning	Existing Use	Zoning	Requested Use	Acreage	
				Net	Gross
A-U	VACANT	R-3	MULTI-FAMILY RESIDENTIAL	0.32	0.57
A-U	VACANT	R-3	MULTI-FAMILY RESIDENTIAL	0.34	0.48
A-U	RIGHT-OF-WAY	R-3	RIGHT-OF-WAY	0.00	0.37

**4. COMPREHENSIVE PLAN**

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

**5. 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 checked="" type="checkbox"/> NO

**6. 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



Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, Kentucky 40507

RE: Zone Change Application from A-U to R-3  
96 Codell Drive and 601 Old Todds Road  
AND  
Setback Variance for 100 Codell Drive

Dear Chairman,

**Proposed Request**

AU Associates, Inc. is proposing an 84-unit deed restricted, affordable multi-family complex on the 3.471 acres at the following contiguous addresses:

- 96 Codell Drive (0.34 acres currently zoned A-U)
- 100 Codell Drive (2.811 acres and currently zoned R-3)
- 601 Old Todds Road (0.32 acres and currently zoned A-U)

The 0.66 parcels at 96 Codell Drive and 601 Old Todds Road were created out of the realignment of the intersection of Codell Drive and Todds Road and were zoned A-U. The existing zoning classification given to these two properties is currently inappropriate, and we are requesting to combine these three parcels and consolidate them under the more appropriate R-3 zoning district that represents a majority, 81%, of the total acreage submitted as a part of this preliminary development plan.

We are also requesting a setback variance on the R-3 zoned, 100 Codell Drive site to reduce the side yard setback from 20' to 10' along 447.89' of the 618.31' eastern boundary as noted on the preliminary development plan.

**Justification for Zone Change:**

The current AU zoning classification on the two parcels, totaling 0.66 acres, is inappropriate because A-U zoning has been described as a "placeholder" zone for properties within the urban service area which are not ready for development until proper public facilities and services are adequate and available. This 0.66-acre site inside the urban service area is already adequately serviced by City services but cannot be developed without a zone change. Furthermore, it is difficult to apply Placebuilder for the following reasons.

1. Site size: Neighboring uses suggest a residential use, but the size of the site at 0.66 acres is insufficient to develop with any density unless it is combined with the neighboring R-3 parcel, which are all owned under common ownership and are being sold together.
2. Site geometrics: The 0.66 acres is a triangle shape which effectively eliminates a sizable portion of the developable area once the setbacks are taken into consideration.
3. Right-of-Way: 96 Codell Drive (0.34 acres) is significantly impinged by the right of way that is used to access the landlocked, but larger, 100 Codell Drive parcel that is zoned R-3. It effectively cuts the developable portion of this lot in half.

4. Site Topography: 601 Old Todds Road (0.32 acres) has a significant rise in topography from the sidewalk along Old Todds up to the buildable area of the site. The front third of the site is not easily developable without roughly moving the topography in an expensive and unnecessary way especially when it could be easily combined with the neighboring R-3 in a more cohesive development plan.

While it is difficult to apply Placebuilder in any meaningful way on such a small parcel, the re-zoning of these small parcels agrees with the goals and objectives of the comprehensive plan and the submitted preliminary development plan. Under Imagine Lexington, the 2018 Comprehensive Plan, this area most closely resembles the “Enhanced Neighborhood” and would provide affordable, multifamily housing in an already established mixed-use area on an infill parcel. As a majority of the site is already zoned R-3, the addition of these two parcels would complement the Medium Density Residential development type and conforms with the recommended zoning for an “Enhanced Neighborhood”.

Additionally, the incorporation of these two smaller parcels into the R-3 zone and the subsequent development of affordable, multifamily housing would primarily address the following themes, goals, and objectives of the Comprehensive Plan.

- Theme A: Growing Successful Neighborhoods
  - Goal 1: Expand Housing Choices.
    - Objective b: Accommodate the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types.
      - The re-zoning of this site provides a 3.471-acre tract with public access that, zoned R-3, can provide moderately dense apartment units that blend with the neighboring residential and commercial uses.
    - Objective d: Create and implement housing incentives that strengthen the opportunities for higher-density and housing affordability.
      - The re-zoning of this project will create 84 deed-restricted units dedicated to affordable housing for families in Lexington.
  - Goal 2: Support Infill and Redevelopment.
    - Objective a: Identify areas of opportunity for *infill*, redevelopment, adaptive reuse, and mixed-use development.
      - The re-zoning of the smaller parcels to incorporate the neighboring R-3 land allows the infill of this property for productive use on existing public utilities.

#### **Justification for Variance**

We are also requesting a variance on the R-3 zoned, 100 Codell Drive site to reduce the side yard setback from 20' to 10' along 447.89' of the 618.31' eastern of the eastern boundary as noted on the preliminary development plan.

1. The request arises from the unique shape of the R-3 parcel. At only 24.2 units/acre, the medium density preliminary development plan is not an overly-taxing use of the R-3 parcel. The shape of the parcel, and primarily its narrowness, prevents parking adjacent to the northern building. This does allow the property to maintain a 20' setback near the primarily single-family

residences on the northeastern portion of the site; however, in order to park the density of R-3, we need to have a double loaded parking corridor adjacent to the other two 24-unit buildings in the center of the site AND keep parking out of the expansive front yard that has frontage on both Codell and Old Todds Road. There is not a way to both provide the density and required parking while also maintaining a 20' setback on the full length of the eastern part of the parcel. The variance request has been tailored to minimally impact the rear setbacks of the adjacent single-family homes and mostly impact the more intensive use of the larger parcel at the corner of Old Todds Road and Catera Trace. This variance would not generally apply to other R-3 land.

2. The variance will not adversely affect the public health, safety and welfare and will not alter the essential character of the general vicinity nor would cause a nuisance. Moreover, a strict application of the zoning ordinance would deprive the applicant of the reasonable use of the spirit and density of R-3 zoned land inside the urban service area and would run contrary to the spirit of Theme A, Goal 1 of the Comprehensive Plan which encourages infill housing and prioritizes higher density and affordability.

#### **Conclusion**

Given the reasons stated above, 96 Codell Drive and 601 Old Todds Road should be rezoned from Agricultural Urban (A-U) zone to Planned Neighborhood Residential (R-3) zone and the variance on the 100 Codell Drive property should be granted. This proposal adheres to many of the applicable goals and objectives of the Comprehensive Plan and R-3 is an appropriate use given the current inappropriate use of the A-U zoned land. The new zoning small setback variance will allow for safe, thoughtful, dense, and affordable and infill development to occur that will address the affordable housing needs of the Lexington-Fayette community.

Sincerely,

Johan Graham  
President  
AU Associates, Inc.

UPDATED 04.04.2022

**AU ASSOCIATES, INC.**  
**(PLN-MAR-22-00006)**

96 CODELL DRIVE & 601 OLD TODDS ROAD

**Rezoning to allow for the construction of multi-family residential dwelling units.**

**Applicant**

AU ASSOCIATES, INC.  
159 Old Georgetown Street  
Lexington, KY 40508



**Owner**

L C DALE PARTNERS, LLC  
2201 Hume Road  
Lexington, KY 40516



**Application Details**

**Acreage:**

96 Codell Drive: 0.32 net (0.57 gross) acres  
601 Old Todds Road: 0.34 net (0.48 gross) acres  
Right-of-Way: 0.00 net (0.37 gross) acres  
Total: 0.66 net (1.42 gross) acres

**Current Zoning:**

Agricultural Urban (A-U) Zone

**Proposed Zoning:**

Planned Neighborhood Residential (R-3) zone

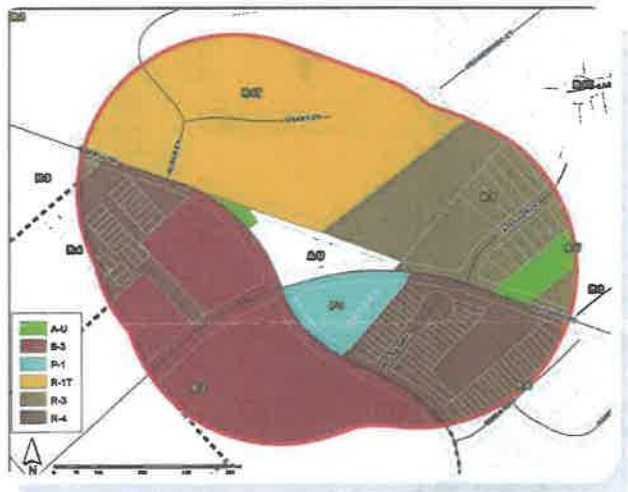
**Place-type / Development Type:**

Enhanced Neighborhood  
Medium Density Residential

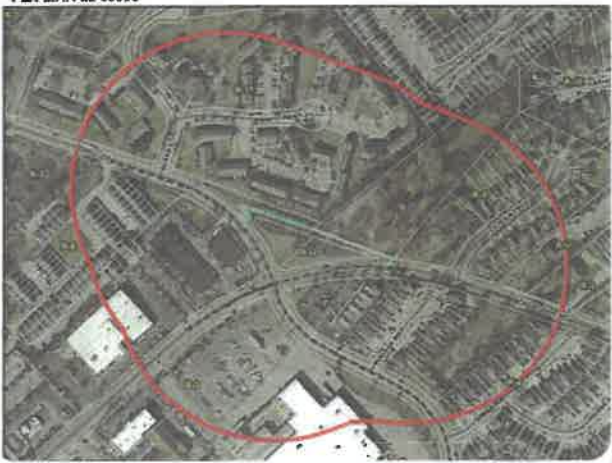
*For more information about the Enhanced Neighborhood Place-Type see Imagine Lexington pages 327-328. For more information about the Medium Density Residential Development Type see page 271.*

**Description:**

The applicant is seeking to rezone the properties to allow for the development of a multi-family complex for three parcels (96 and 100 Codell Drive, and 601 Old Todds Road), two of which are remnant portions of right-of-way created by the realignment of Old Todds Road. The applicant is also requesting a variance to reduce the required side yard setback from 20 feet to 10 feet for portions of 100 Codell Drive.



PLN-MAR-22-00006



**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

**Public Engagement**

- The applicant has not indicated what engagement they have conducted.

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

**GENERAL NOTES:**

1. THIS DEVELOPMENT PLAN MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.
2. THIS DEVELOPMENT PLAN IS THE PROPERTY OF THE ARCHITECT AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON.
3. ANY CHANGES TO THIS DEVELOPMENT PLAN MUST BE APPROVED BY THE ARCHITECT IN WRITING.
4. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE BUILDING AND ITS MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS.
5. THE ARCHITECT DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS COMPLETELY ACCURATE OR THAT THE DESIGN OR CONSTRUCTION OF THE BUILDING OR ITS MECHANICAL, ELECTRICAL, OR PLUMBING SYSTEMS WILL BE WITHOUT DEFECT OR ADVERSELY AFFECTED BY ANY CAUSE, INCLUDING BUT NOT LIMITED TO, NECESSARY REVISIONS TO THE DESIGN OR CONSTRUCTION OF THE BUILDING OR ITS MECHANICAL, ELECTRICAL, OR PLUMBING SYSTEMS.
6. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE BUILDING AND ITS MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS.
7. THE ARCHITECT DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS COMPLETELY ACCURATE OR THAT THE DESIGN OR CONSTRUCTION OF THE BUILDING OR ITS MECHANICAL, ELECTRICAL, OR PLUMBING SYSTEMS WILL BE WITHOUT DEFECT OR ADVERSELY AFFECTED BY ANY CAUSE, INCLUDING BUT NOT LIMITED TO, NECESSARY REVISIONS TO THE DESIGN OR CONSTRUCTION OF THE BUILDING OR ITS MECHANICAL, ELECTRICAL, OR PLUMBING SYSTEMS.
8. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE BUILDING AND ITS MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS.
9. THE ARCHITECT DOES NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN IS COMPLETELY ACCURATE OR THAT THE DESIGN OR CONSTRUCTION OF THE BUILDING OR ITS MECHANICAL, ELECTRICAL, OR PLUMBING SYSTEMS WILL BE WITHOUT DEFECT OR ADVERSELY AFFECTED BY ANY CAUSE, INCLUDING BUT NOT LIMITED TO, NECESSARY REVISIONS TO THE DESIGN OR CONSTRUCTION OF THE BUILDING OR ITS MECHANICAL, ELECTRICAL, OR PLUMBING SYSTEMS.
10. THE ARCHITECT'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE BUILDING AND ITS MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS.

**LEGEND:**

- TYPE A - 3 BEDROOMS / 2 BATHROOMS
- TYPE B - 2 BEDROOMS / 1 BATHROOM
- TYPE C - 2 BEDROOMS (PAUP BUILDING)

**OFF-STREET PARKING:**

CONFORM TO THE REQUIREMENTS OF THE LOCAL ORDINANCES AND THE PLANNING DEPARTMENT'S OFF-STREET PARKING REQUIREMENTS. SEE THE PLANNING DEPARTMENT'S OFF-STREET PARKING REQUIREMENTS FOR MORE INFORMATION.

**WATER QUALITY MAINTENANCE:**

CONFORM TO THE REQUIREMENTS OF THE LOCAL ORDINANCES AND THE PLANNING DEPARTMENT'S WATER QUALITY MAINTENANCE REQUIREMENTS. SEE THE PLANNING DEPARTMENT'S WATER QUALITY MAINTENANCE REQUIREMENTS FOR MORE INFORMATION.

**CONTRACTOR'S RESPONSIBILITY:**

THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE CONSTRUCTION OF THE BUILDING AND ITS MECHANICAL, ELECTRICAL, AND PLUMBING SYSTEMS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.



**PRIME AE**  
100 CORKLE DRIVE  
ROSWOOD BRIDGE  
LEICESTERSHIRE  
ALU ASSOCIATES INC  
110 CORKLE DRIVE  
LEICESTERSHIRE  
LEICESTERSHIRE

**PROJECT NO:** [ ]  
**DATE:** [ ]  
**SCALE:** [ ]  
**DESIGNER:** [ ]  
**CHECKED BY:** [ ]  
**DATE:** [ ]

**PRELIMINARY DEVELOPMENT PLAN**

**DP1**



**LEGAL DESCRIPTION FOR ZONE CHANGE**

**96 Codell Drive, 601 Todds Road, and Remanent Right of way**

Beginning at the point of intersection of the centerlines of Todds Road and Codell Drive thence  
thence N 23°36'56" W a distance of 32.37' to a point in the centerline of Codell and with the  
centerline of Codell in chords;  
thence N 24°04'29" W a distance of 75.59'  
thence N 31°09'42" W a distance of 27.57'  
thence N 35°51'22" W a distance of 35.74'  
thence N 39°27'28" W a distance of 35.74'  
thence N 43°03'35" W a distance of 35.74'  
thence N 46°39'41" W a distance of 35.74'  
thence N 50°15'47" W a distance of 35.74'  
thence N 53°51'53" W a distance of 35.74'  
thence N 57°27'59" W a distance of 35.74' to a point in the centerline;  
thence leaving the centerline  
N 17°07'05" E 21.74' to the line of DF LEXINGTON VILLAS LLC, thence with the common  
line of DF LEXINGTON VILLAS LLC S 73°53'08" E 404.01' to a point in the common line  
with 100 Codell Drive thence S 55°34'05" W 35.77' to a point thence with the common line of  
100 Codell Drive S 66°37'34" E 114.40' to a point with the GIS zone line thence with the zone  
line S 69°50'19" E 193.78' to a point being the corner of the GIS zone line,  
thence S 44°06'31" W a distance of 38.06' to a point in the centerline of Todds Road;  
thence with the centerline in chords N 89°40'54" W a distance of 38.46'  
thence S 88°25'41" W a distance of 39.71'  
thence S 85°59'07" W a distance of 44.38'  
thence S 83°51'48" W a distance of 32.72'  
thence S 82°03'43" W a distance of 32.72'  
thence S 79°56'22" W a distance of 44.41'  
thence S 77°29'42" W a distance of 44.41'  
thence S 75°03'02" W a distance of 44.41'  
thence S 72°47'06" W a distance of 37.91' to a point in the intersection;  
which is the point of beginning,  
having an area of 71,647.96 square feet, 1.64 acres gross and 0.66 acres net.

# STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00006: AU ASSOCIATES, INC.

## DESCRIPTION OF ZONE CHANGE

Zone Change: From an Agricultural Urban (A-U) zone To a Planned Neighborhood Residential (R-3) zone  
Acreage: 0.66 net (1.64 gross) acres  
Location: 96 Codell Drive, 601 Old Todds Road, & Right-of-Way



## EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	A-U	Vacant
To North	R-3 / R-1T	Single Family Residential
To East	P-1	Professional Offices
To South	B-3	Hardware Store
To West	B-3	Shopping Center

## URBAN SERVICE REPORT

**Roads** - The subject properties are located on the north side of the intersection of Old Todds Road and Codell Drive. The two roads are both categorized as collector roadways and service the surrounding residential and commercial traffic. The subject properties are less than ¼ of a mile north of the intersection of Old Todds Road and Richmond Road.

**Curb/Gutter/Sidewalks** - Old Todds Road and Codell Drive were upgraded by the state during the 1998 realignment of Old Todds Road and were constructed with curb, gutter and sidewalks.

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

**Storm Sewers** - The subject properties are located at the boundary of the West Hickman and East Hickman watersheds. The applicant is proposing stormwater basins along the front and rear of the proposed development. No FEMA Special Flood Hazard Area or known flooding issues exist within the immediate area.

**Sanitary Sewers** - The subject properties are located along the boundary of the West Hickman and East Hickman sewersheds and are served by the West Hickman Sewage Treatment Facility, located in northern Jessamine County. Since the use of the site is proposed for a major redevelopment, the petitioner will need to secure Capacity Assurance Program approval prior to the final development plan being certified.

**Refuse** - The Urban County Government serves this area with refuse collection on Fridays. However, supplemental service by private refuse haulers may be utilized by the applicant.

**Police** - The subject property is located within the Division of Police's East Sector. The East Sector Roll Call Center is the closest police station to the subject property; it is located approximately 2 ½ miles southwest of the site on Centre Parkway in the Gainesway neighborhood.

**Fire/Ambulance** - Fire Station #21 is located approximately 1¼ miles southeast of the subject property, at the intersection of Mapleleaf and Dabney Drives.

**Transit** - LexTran service is available within a ¼ of a mile south of the subject properties along Richmond Road. The Richmond Road (#11) route has outbound and inbound service.

**Parks** - There are no public parks within walking distance of the subject properties.

## SUMMARY OF REQUEST

The applicant is seeking to rezone the subject properties from an Agricultural Urban (A-U) zone to the Planned Neighborhood Residential (R-3) zone in an effort to allow for the construction of multi-family residential dwelling units. In addition to the requested rezoning, the applicant has applied for a variance to the side yard setback for portions of 100 Codell Drive.

## PLACE-TYPE

**ENHANCED NEIGHBORHOOD**  
An 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

**MEDIUM DENSITY RESIDENTIAL**  
Primary Land Use, Building Form, & Design  
Primarily multi-family units. Multi-family units should complement and enhance existing development through quality design and connections.  
Transit Infrastructure & Connectivity  
Nearby commercial/employment uses and greenspaces should be easily accessible, and bicycle and pedestrian modes should be maximized to connect residents to destinations.  
Parking  
These developments should include intentional open space designed to fit the needs of area residents, and a variety of neighborhood-serving commercial / employment uses.

## PROPOSED ZONING



This zone is primarily for multi-family dwellings and other residential uses. This zone should be at location and at the density (units/acre) recommended by the Comprehensive Plan, and in areas of the community where necessary services and facilities will be adequate to serve the anticipated population.

## PROPOSED USE



The applicant is seeking to rezone the properties to allow for the development of a multi-family complex on three parcels (96 and 100 Codell Drive, and 601 Old Todds Road), two of which are remnant portions of right-of-way created by the realignment of Old Todds Road. The applicant is also requesting a variance to reduce the required side yard setback from 20 feet to 10 feet for portions of 100 Codell Drive.

## APPLICANT & COMMUNITY ENGAGEMENT



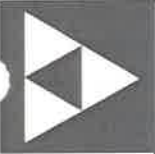
The applicant has not indicated any community engagement prior to the submission of the application. The applicant should indicate if they have conducted community engagement.

## PROPERTY & ZONING HISTORY



The area of rezoning was initially zoned Agricultural District (A-1) until the 1969 comprehensive rezoning of the city and county. During that rezoning, the area located east of Old Todds Road to the Urban Service Area's boundary were rezoned to Agricultural Urban. Whereas the majority of the properties surrounding the subject properties were rezoned in the late 1980s to the 1990s for development, the area of rezoning and the associated right-of-way remained zoned A-U. In 1998m Codell Drive was constructed and Old Todds Road was realigned. At that time, the remnant portions of the right-of-way and the area to the south were separated from those properties to the north. The applicant is seeking to include these remnant portions of land within their proposed project, which will be primarily situated on 100 Codell Drive, which was rezoned in 1994 (MAR 94-41; Ord. 256-94).

## 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. Despite the flexibility of the 2018 Comprehensive Plan the applicant indicates that due to the site size, site geometrics, impact of remnant right-of-way, and site topography, they are unable to show agreement with the Comprehensive Plan for 96 Codell Drive and 601 Old Todds Road.

The applicant states that due to the small size of the site it is insufficient to develop any density unless it is combined with the neighboring R-3 parcel, which are all owned under common ownership and are being sold together. Furthermore, the triangular shape of the properties eliminates a sizable portion of the developable area once the setbacks are taken into consideration, which is further impacted by the presence of the remnant right-of-way. Finally, the applicant indicates that the site has a significant rise in topography from the sidewalk along Old Todds Road up to the buildable area of the site. The front one-third of the site is not easily developable without regrading the site in an expensive and unnecessary way, especially when it could be easily combined with the neighboring R-3 zoned parcel in a more cohesive development plan.

Staff concurs with the applicant regarding the difficulty of showing agreement with the Comprehensive Plan due to the site size, site geometric, impact of right-of-way, and site topography. As such, the applicant is seeking to utilize an alternative justification for the zone change: that the current A-U zone is inappropriate and the proposed R-3 zone is the most appropriate zone for the subject properties. The applicant indicates that the A-U zone is described as a "placeholder" zone for properties within the urban service area which are not ready for development until proper public facilities and services are adequate and available. The applicant states that the properties are within the Urban Service Area and are adequately serviced by urban facilities. The applicant also indicates that the R-3 zone is the most appropriate, as the adjacent parcel, 100 Codell Drive, is currently zoned R-3. Furthermore, the R-3 zone is a recommended zone within the Comprehensive Plan for the Enhanced Neighborhood Place-Type and Medium Density Residential Development Type.

### GOALS & OBJECTIVES

Despite the inability of the applicant to show agreement with the Comprehensive Plan for the subject properties, the applicant opines that the project as a whole is in agreement with several Goals and Objectives of the 2018 Comprehensive Plan. The applicant indicates that the proposed project will encourage the expansion of housing choices (Theme A, Goal #1) by developing deed restricted affordable housing options and accommodating the demand for housing in Lexington responsibly, prioritizing higher-density residential and a mixture of housing types (Theme A, Goal #1.b and 1.d and Theme A, Goal #2.a and #2.c). Additionally, the applicant opines that the proposed development will support infill and redevelopment (Theme A, Goal #2), as the three properties that will be utilized for the development are either vacant or contain a single family dwelling unit.

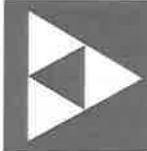
The staff agrees with these aspects of the applicant's proposal and that these Goals and Objectives of the 2018 Comprehensive can be met with the proposed development.

## STAFF RECOMMENDS: **APPROVAL**, FOR THE FOLLOWING REASON:



1. The existing Agricultural Urban (A-U) zoning is inappropriate, and the proposed Planned Neighborhood Residential (R-3) zoning is appropriate at this location for the following reasons:
  - a. The existing A-U zone is intended to be a holding zone until public facilities and services are adequate. Generally, urban services have been available to serve this portion of the Urban Service Area since the mid-1980s and the realignment of Old Todds Road updated the roadway system in 1998.
  - b. The proposed R-3 zone is consistent with the adjoining lot that is intended to be consolidated and reconfigured in conjunction with the subject properties. The R-3 zone and the proposed and multi-family dwelling units are compatible with the existing land uses in the immediate vicinity.
2. This recommendation is made subject to approval and certification of [PLN-MJDP-22-00023: Shadow Wood Phase II \(Richwood Bend\)](#), 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 a dimensional variance, requesting relief from the required side yard setback for a group residential project in a Planned Neighborhood Residential (R-3) zone. The applicant is seeking to reduce the minimum required side yard or project exterior yard from twenty (20) feet to ten (10) feet, a requirement of Article 9-6(c)(2) 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 9-6(c)(2) states that where a group residential project exterior yard is required, the distance between principal buildings and the outside boundary of the property upon which the Project is located shall not be less than the height of the building, nor twenty (20) feet, whichever is less. Where the wall of any principal building is not parallel to the outside boundary of the property or is broken or otherwise irregular, the average distance shall not be less than as specified above. At no point shall such distance be less than fifteen (15) feet.

### CASE REVIEW

The applicant is requesting a dimensional variance to reduce the minimum required side yard or project exterior yard from twenty (20) feet to ten (10) feet for a portion of the 100 Codell Drive that abuts 851 Old Todds Road and 212 Catera Trace. The applicant indicates that the request arises from the unique shape of the R-3 parcel, which tapers as the property extends from the frontage. The tapering of the property results in a narrowness that does not allow the property to maintain the required twenty (20) foot setback while also providing the necessary parking, vehicular circulation, and open space associated with multi-family development. The applicant indicates that they have tailored their request to minimally impact the rear setbacks of the adjacent single-family homes, and have situated the majority of the area indicated for the variance to the more intensive use located at the corner of Old Todds Road and Catera Trace. The applicant indicates that the variance does not generally apply to other R-3 zoned land as it is situated along a long and tapered lot and does not have greater connections to the overall area.

Additionally, the applicant indicates that the variance will not adversely affect the public health, safety and welfare and will not alter the essential character of the general vicinity nor would cause a nuisance. Moreover, a strict application of the zoning ordinance would deprive the applicant of the reasonable use of the site and would restrict density of R-3 zoned land inside the Urban Service Area, which is contrary to the spirit of Theme A, Goal #1 of the Comprehensive Plan that encourages infill housing and prioritizes higher density and affordability.

Staff agrees with the applicant's justification, and recommends approval of the proposed variance request.

**STAFF RECOMMENDS: APPROVAL OF THE VARIANCE TO THE PROJECT EXTERIOR YARD, FROM TWENTY (20) FEET TO TEN (10) FEET, FOR THE FOLLOWING REASONS:**



1. Granting a variance of ten (10) feet should not adversely affect the public health, safety, or welfare as the applicant is situating the area impacted by the request along the adjacent clubhouse use and limiting the impact on the neighboring single family dwelling units.
2. The request arises from the unique shape of the parcel, which tapers as the property extends from the frontage.
3. The request is not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary process for this project and has requested the variances prior to commencing construction.

This recommendation of **Approval** is made subject to the following conditions:

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the R-3 zone, otherwise the requested variances shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.

- There are no objections to the petition

1. **AU ASSOCIATES, INC ZONING MAP AMENDMENT & SHADOW WOOD PHASE II PROPERTY ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-22-00006: AU ASSOCIATES, INC** – a petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 0.66 net (1.64 Gross) acres, for the properties located at 601 Old Todds Road and 96 Codell Drive, as well as a portion of closed public right-of-way. The applicant has also requested a variance to the project exterior yard setback for a group residential project to reduce the required yard from twenty (20) feet to ten (10) feet.

**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.

This petitioner is proposing the Planned Neighborhood Residential (R-3) zone to allow for the development of a multi-family complex on three parcels (96 and 100 Codell Drive, and 601 Old Todds Road), two of which are remnant portions of right-of-way created by the realignment of Old Todds Road. The applicant is also requesting a variance to reduce the required side yard setback from 20 feet to 10 feet for portions of 100 Codell Drive.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

**The Staff Recommends: Approval, for the following reasons:**

1. The existing Agricultural Urban (A-U) zoning is inappropriate, and the proposed Planned Neighborhood Residential (R-3) zoning is appropriate at this location for the following reasons:
    - a. The existing A-U zone is intended to be a holding zone until public facilities and services are adequate. Generally, urban services have been available to serve this portion of the Urban Service Area since the mid-1980s and the realignment of Old Todds Road updated the roadway system in 1998.
    - b. The proposed R-3 zone is consistent with the adjoining lot that is intended to be consolidated and reconfigured in conjunction with the subject properties. The R-3 zone and the proposed multifamily dwelling units are compatible with the existing land uses in the immediate vicinity.
  2. This recommendation is made subject to approval and certification of **PLN-MJDP-22-00023: Shadow Wood Phase II (Richwood Bend)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.
- b. **Variance Request** – The applicant is seeking to reduce the minimum required side yard or project exterior yard from twenty (20) feet to ten (10) feet, a requirement of Article 9-6(c)(2) of the LFUCG Zoning Ordinance within a Group Residential Project.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

**The Staff Recommends: Approval of the requested reduction of the project exterior yard from twenty (20) feet to ten (10) feet, for the following reasons:**

1. Granting a variance of ten (10) feet should not adversely affect the public health, safety, or welfare as the applicant is situating the area impacted by the request along the adjacent clubhouse use and limiting the impact on the neighboring single family dwelling units.
2. The request arises from the unique shape of the parcel, which tapers as the property extends from the frontage.
3. The request is not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary process for this project and has requested the variances prior to commencing construction.

**This recommendation of Approval is made subject to the following conditions:**

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the R-3 zone, otherwise the requested variances shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.

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



- c. **PLN-MJDP-22-00023: SHADOW WOOD PHASE II (RICHWOOD BEND)**, – (07/03/22)\* – located at 601 OLD TODDS RD., AND 96 & 100 CODELL DR., LEXINGTON, KY.  
Project Contact: Prime AE

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. United States Postal Service Office's approval of kiosk locations or easement.
8. Correct plan title to match staff report.
9. Provided the Planning Commission grants the requested side yard variance.
10. Denote: Release of right-of-way for Old Todds Road to be complete prior to certification of the final development plan.
11. Dimension all interior sidewalks.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and of the general area. He stated that the applicant was seeking a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 0.66 net (1.64 gross) acres, to allow for the construction of an affordable housing multi-family complex on this property, as well as an adjacent property.

Mr. Baillie discussed how with most zone changes he would talk about how the request is in compliance with the Comprehensive Plan, and the Placebuilder element of the Comprehensive Plan. In this particular case, Mr. Baillie indicated that the applicant is focused on trying to improve the remnant portions of the project. These remnant portions are small and unique in characterization and would make it difficult to apply the Placebuilder and meet a lot of elements of the Comprehensive Plan. The applicant is seeking to apply different elements of the Comprehensive Plan but are utilizing an alternative justification for their zone change. They are seeking to indicate that the current zoning is inappropriate and the proposed R-3 zoning is the most appropriate for the subject properties.

Mr. Baillie indicated that the staff is in agreement with the applicant's justification and that Planning staff and Zoning Committee recommend approval, subject to approval and certification of the development plan.

\* Mr. Bruce Nicol arrived at 1:41 P.M.

Staff Development Plan Presentation – Mr. Martin presented the staff report and recommendations for the associated Development Plan. Mr. Martin presented a colored rendering of the subject property and reviewed the current development. Mr. Martin noted the unusual shape of the development and the types of challenges that would come from it. Mr. Martin highlighted that the right-of-way was owned by the state, and that would be an additional challenge for the applicant to deal with.

Mr. Martin ended the presentation stating that Planning staff and Subdivision Committee has recommended approval.

Commission Questions – Mr. Michler asked if the applicant is planning on adding any usable outdoor amenities and if there was a tree inventory done at the time of this preliminary plan. Mr. Martin answered that at this point there was not any discussion on outdoor amenities, but that the applicant and staff would explore the outdoor amenities issue during the final development plan stage. Additionally, Mr. Martin confirmed that a tree inventory had been done at the time of this preliminary plan and it had found one significant tree, a Green Ash, in poor condition.

Variance Presentation – Mr. Baillie presented the variance request to the Planning Commission and the reasons the variance was requested. The applicant is seeking to reduce the minimum required side yard or project exterior yard from twenty (20) feet to ten (10) feet. Mr. Baillie indicated that after reviewing the justifications for the variance, that staff was in agreement with the variance because of the unique tapering of the site, and the need for proper circulation for Fire, EMS, and Waste Management services.

Applicant Presentation – Mr. Stephen Garland, engineer representing the applicant, stated that he had nothing to add to what the staff had already presented, but was willing to answer any questions the Planning Commission had. There were no questions.

Commission Questions- None.

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

Zoning Action – A motion was made by Mr. Pohl, seconded by Mr. de Movellan, and carried 9-0 (Barksdale and Worth absent) to approve PLN-MAR-22-00006: AU Associates, Inc. for the reasons provided by the staff.

Variance Action – A motion was made by Mr. Pohl seconded by Mr. de Movellan, and carried 9-0 (Barksdale and Worth absent) to approve the variance request for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Pohl, seconded by Mr. de Movellan, and carried 9-0 (Barksdale and Worth absent) to approve PLN-MJDP-22-00023: Shadow Wood Phase II (Richwood Bend) for the reasons provided by the staff.

**VI. COMMISSION ITEMS** - The Chair will announced that one commission item would be heard at this time.

- a. **PFR 2022-4: BLUEGRASS COMMUNITY AND TECHNICAL COLLEGE NORTH CAMPUS EXPANSION** – a Public Facility Review to construct a new classroom building, additional parking, and a new vehicular access on property located at 690 Newtown Pike.

Staff Presentation – Ms. Wade presented the PFR to the Planning Commission, noting the location and the exact proposal. This proposal is for Bluegrass Community and Technical College’s North Campus expansion that would be located north of Loudon Ave. Ms. Wade presented pictures of the current location, orienting the Planning Commission to the location and showing the existing zoning for the area.

Ms. Wade continued showing the Planning Commission what additions the college is looking to make, highlighting a new classroom building, as well as a new roundabout, connecting the access point from Loudon Ave with the access from Newtown Pike. Additionally the roundabout would connect a third new access point from Freight Road.

Ms. Wade explained that BCTC is presenting this to the Planning Commission to show that that their proposal is in agreement with the Comprehensive Plan, however, Ms. Wade highlighted a few points to make their proposal even stronger. These points included considering modifying the Placebuilder Criteria for a Medium Density Non-residential Mixed use within a Corridor Place Type and access to a bike trail.

Commission Questions- Mr. Michler asked if this was a private development along a corridor, what the guidance would be for putting the storm water retention and what the guidance would say about the angle of the building. Ms. Wade responded that she was not sure there would be guidance on the angling of the building, but the suggestion would be to build along the corridor and place the parking in the rear.

Additionally, Mr. Michler asked if there was guidance away from the pits along the main corridor. Ms. Wade responded saying that there was not that type of guidance in the Placebuilder criteria for the location of storm water basins, it only states to use green infrastructure where possible.

Applicant Presentation- The applicant had nothing to add from what Ms. Wade had presented and stated he could answer any questions.

Commission Questions- Mr. Pohl had a question related to Mr. Michler’s earlier question about the angle of the building. Mr. Pohl was troubled about the angle of the building on the major corridor and asked the applicant why it was like that. The applicant did not have a response as to why it’s at an angle other than the building is in keeping with the other buildings in the area.

PFR Action- A motion was made by Mr. Penn seconded by Mr. de Movellan , and carried 9-0 (Barksdale and Worth absent) to approve PFR 2022-4: Bluegrass Community And Technical College North Campus Expansion for the reasons provided by the staff.

**VII. STAFF ITEMS** – The staff will report at the meeting.

**A. LONG RANGE PLANNING ACTIVITY REPORT**

Imagine Lexington

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