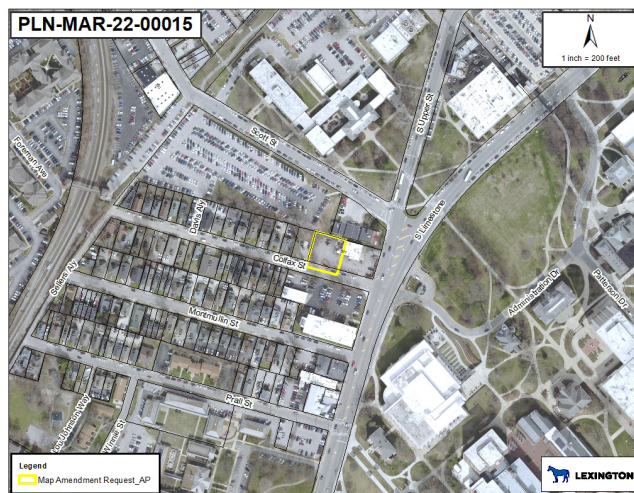


STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-22-00015: DUTCH BROS, LLC

DESCRIPTION OF ZONE CHANGE

Zone Change:	From a Planned Neighborhood Residential (R-3) zone To a Neighborhood Business (B-1) zone
Acreage:	0.2916 net (0.3516 gross) acres
Location:	507 South Limestone (a portion of)



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	R-3/B-1	Vacant structure
To North	B-4	Fire station/ Parking lot
To East	R-4	University of Kentucky
To South	B-1	Parking lot/ Maintenance building
To West	R-1E	Residential

URBAN SERVICE REPORT

Roads - The subject property is located near the corner of South Limestone and Colfax Street. South Limestone is a five lane major arterial roadway and is identified as one of Lexington's urban corridors. Colfax street is a two lane local roadway. Access to the site is proposed solely from Colfax Street.

Curb/Gutter/Sidewalks - Both South Limestone and Colfax Street have been constructed with 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 proposed development.

Storm Sewers - The subject property is located within the Town Branch watershed. Storm sewers are currently located along the right-of-way. There are no special flood hazard areas in this location.

Sanitary Sewers - The subject property is located within the Town Branch sewershed, which is served by the Town Branch Wastewater Treatment Facility, located on Lisle Industrial Avenue, 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 land uses.

Police - The nearest police station is the main headquarters, located approximately one and a half miles to the northeast on East Main Street.

Fire/Ambulance - Fire Station #6 is the nearest station to this site, and is located on the adjoining parcel to the north.

Transit - LexTran service is available within the immediate area along South Limestone. Outbound and inbound service for the Nicholasville Road (#5) route is available within 300 feet of the subject property. The Imagine Nicholasville Road Plan also designates a future Bus Rapid Transit (BRT) station near the subject property, along Prall Street.

Parks - The subject is approximately 800 feet northeast of Lou Johnson park, which is located on Prall Street. There is also significant public open space across South Limestone on the University of Kentucky campus.

SUMMARY OF REQUEST

The applicant is seeking a zone change from Planned Neighborhood Residential (R-3) zone to the Neighborhood Business (B-1) zone for a portion of the subject property in order to establish drive through facilities for a coffee shop use.

PLACE-TYPE

CORRIDOR

Lexington’s major roadways focused on commerce and transportation. The overriding emphasis of Imagine Lexington is significantly overhauling the intensity of the major corridors. The future of Lexington’s corridors lies in accommodating the shifting retail economic model by incorporating high density residential and offering substantial flexibility to available land uses. Adding a mix of land uses to support the existing retail will provide a built-in customer base, create a more desirable retail experience, and allow a greater return on investment for landholders. Additional focus is on increasing the viability of enhanced mass transit, thereby reducing the reliance on single-occupancy vehicles and improving Lexington’s overall transportation efficiency.

DEVELOPMENT TYPE

MEDIUM DENSITY NON-RESIDENTIAL / MIXED-USE

Primary Land Use, Building Form, & Design

Primarily community-serving commercial uses, services, places of employment, and/or a mix of uses within mid-rise structures with a higher Floor Area Ratio. Mixed-use structures typically include more multi-family residential units and places of employment, and retail and commercial options generally draw from a larger geographic area. An activated and pedestrian-scale ground level should be provided. These developments may include more employment space for professional office and can include some larger entertainment spaces.

Transit Infrastructure & Connectivity

Though they draw more external users, they should still include multi-modal connections allowing for easy neighborhood access. Mass transit infrastructure is to be provided on par with that of other modes, and the higher-density housing types should be located in close proximity.

Parking

The buildings should be oriented to the street, and developments should avoid over-parking, with provided parking 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 applicant is seeking to construct a two-lane drive-through facility to support a proposed coffee shop use at this location. As proposed, the coffee shop use will have two access points on Colfax Street, with the existing access point along South Limestone being closed. Speakers and order points for the drive-through facility will be provided near the middle of the site.

The coffee shop will be a single story, 950 square-foot building that will be oriented towards South Limestone, with a pick up window located to the rear. While the building will have a walk up window to serve pedestrians along the South Limestone frontage, dine-in service will not be provided.

APPLICANT & COMMUNITY ENGAGEMENT



The letter of justification submitted by the applicant does not indicate that any public outreach or community engagement has taken place. The applicant should provide information regarding the outreach they have conducted.

PROPERTY & ZONING HISTORY



The subject property was split-zoned Neighborhood Business (B-1) and Planned Neighborhood Residential (R-3) at the time of the 1969 comprehensive rezoning of the City and County. Historically, the property has been utilized for restaurant land uses, with the most recent tenant being Arby's. The Arby's at this location closed in 2019, and the property has remained vacant since.

The subject property has has been the subject of several applications to the Board of Adjustment in order to address the split-zoning present on the property. In 1980, the property received a variance in order to extend the B-1 zoning line 50-feet in order to accommodate a new restaurant structure, as well as a variance to waive required landscaping between residential and commercial zones (V-1980-120). In 1997, a variance was granted to reduce the number of required parking spaces, as well as to reduce the side street side yard setback in order to accommodate a parking area for the Arby's use (CV-1997-96). A conditional use permit request for expanded drive-through facilities for a Dunkin Donuts coffee shop use was applied for in 2021, but was subsequently withdrawn (PLN-BOA- 21-00025).

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

Within their letter of justification, the applicant describes the Goals and Objectives of the Comprehensive Plan that they believe the proposed rezoning meets. First, the applicant indicates that by utilizing a vacant lot, they are supporting infill and redevelopment throughout the Urban Services Area (Theme A, Goal #2.a). They further opine that the site will be able to provide employment for UK students, furthering the creation of jobs (Theme C, Goal #1).

While staff agrees that these Goals and Objectives can be met with this request, there are several ways in which the applicant's proposal is in conflict with other Goals and Objectives of the Comprehensive Plan.

First, the proposed development fails to meet Comprehensive Plan goals relating to respecting the context of the surrounding development (Theme A, Goal #2.b). The subject property is a corner lot located on a major arterial roadway where the transition to the downtown core starts to occur; however, the low density land use and form of the applicant's proposal is more in line with suburban development than an urban corridor. Establishing such a low density, auto-centric land use also works against creating an environment that can effectively support mass transit (Theme D, Goal#1.c).

The applicant also opines that by closing one of the site's existing access points they are in agreement with the Comprehensive Plan's goal of working to achieve an effective transportation system (Theme D, Goal#1). While staff agrees that closure of the existing South Limestone access point is beneficial to the overall transportation system, staff finds that the applicant's proposal is potentially creating other areas of vehicular conflict with drivers on both Colfax Street and South Limestone. As designed, the two lanes of drive-through traffic converge at the site's



pick-up window, and then immediately exit on to the easternmost portion of Colfax Street. Due to the location of the access point on Colfax Street, there is enough room to accommodate approximately three cars stacking at the stop sign as users wait to turn onto South Limestone. As this intersection is not signalized, users attempting to head downtown in the morning at peak business hours will have to make a left turn movement across four lanes of traffic to resume their commute. While Imagine Nicholasville Road calls for the intersection of Colfax and South Limestone to be restricted to a right-in/right out turn movement only, until the recommendations are implemented many users of the site at its peak hours will be forced to attempt precarious turn movements in order to continue in that direction. While drivers wait to make these dangerous turn movements onto South Limestone, the short distance from the site's egress to the intersection would result in backups that inhibit site circulation.

In addition, the Comprehensive Plan calls for developments to reduce their carbon footprint by prioritizing multi-modal options that deemphasize single-occupancy vehicle dependence (Theme B, Goal #2.d). While the applicant is proposing connections to the surrounding pedestrian facilities, the intent behind the rezoning is a dramatic increase in the size and scope of drive-through facilities' ability to cater to single-occupancy automobiles, and is therefore not a "people first design"(Theme D, Goal #2). This proposal is working against the efforts to establish effective mass transit options along this corridor.

PLACE TYPE, DEVELOPMENT TYPE, AND ZONE

In an effort to allow for the greatest contextual development of Lexington's Urban Service Area, applicants are asked to identify a Place-Type based on the location of the subject properties. Within each Place-Type there are recommended Development Types based on the form and function of the proposed development. Based on the Place-Type and Development Type there are also several recommended zones that are most appropriate based on the Goals, Objectives, and Policies of the 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 has indicated that the site is located within the Corridor Place-Type and is seeking to redevelop the property as a Medium Density Non-Residential / Mixed Use Development Type. Staff concurs with the applicant's assessment of the Place-Type, as the site is located along a major arterial roadway, and South Limestone is identified within the 2018 Comprehensive Plan as a "major corridor." Staff also agrees that a Medium Density Non-Residential / Mixed Use Development Type can be appropriate for the subject property, as it is a recommended Development Type within the Comprehensive Plan and can fit the context of the established area. However, staff finds that the applicant's proposal does not accurately reflect the Development Type indicated within the letter of justification. The 2018 Comprehensive Plan characterizes Medium Density Non-Residential/ Mixed Use development as consisting of "Community serving commercial uses, services, places of employment, and/or a mix of uses within mid-rise structures with a higher Floor Area Ratio"(Pg. 272). As proposed, the applicant's development consists of a single story, single user building with a total floor area of 950 square-feet, and a Floor Area Ratio of 0.04. Based on the small structure size and extremely low density of the site, the applicant's development is more accurately characterized as Low Density Non-Residential/ Mixed Use Development Type, which is not a recommended development type for the Corridor Place-Type. The applicant opines that the size of the parcel precludes them from being able to develop the site at a medium density; however, the staff finds that the site is large enough to accommodate denser, multi-story development if the vast majority of the site were not being occupied by the proposed double drive-through facility.

As it is a recommended zone within the Corridor Place-Type, staff finds that Neighborhood Business (B-1) zone could be appropriate for this location, provided the applicant is able to demonstrate agreement with the Imagine Lexington Comprehensive Plan and the Imagine Nicholasville Road Corridor Plan, and that the proposed development is reflective of the character and context of the area.



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

Despite compliance with some of the criteria for Site Design, Building Form and Location, there are several criteria that warrant further discussion

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; E-GR-9-4: Development should intensify underutilized properties and develop vacant and underutilized gaps within neighborhoods

The applicant opines within their letter of justification that their single story building with a Floor Area Ratio of 0.04 is appropriate as they are matching the current scale of the adjacent neighborhood. While the immediately adjoining properties to the west and north consist of pre-existing single-story non-commercial structures, they are much denser, with Floor Area Ratios ranging from approximately 0.25 to 0.5. The applicant's proposal also fails to match the scale and character of other commercial development along this portion of the Nicholasville Road corridor, which is primarily comprised of a mix of two and three story structures. At this time, the only other single-story commercial structure along this portion of the Nicholasville Road corridor is located over 1,800 feet north of the subject property.

This request also represents a decrease in the density of the previous use. The existing Arby's structure is approximately 3,000 square-feet in size, with a FAR of 0.13. The Comprehensive Plan calls for intensification of this property; however, the applicant's proposal is three times less dense than the previous low-density use.

The lack of density at the subject property is especially problematic as it is located within the area studied in the recently adopted 2021 Imagine Nicholasville Road Corridor Plan. This location is within the area designated as "Segment 2", which is described as having an "Urban Center" typology. The Urban Center includes the portions of the corridor closest to downtown, which capitalize on the walkable environment already seen in this part of the corridor. This area already has the building blocks for a pedestrian-friendly environment: streets with sidewalks, mixed-use clusters, a strong residential population, and access to employment and institutional uses. Within the Urban Center typology, the plan calls for higher density development in areas nearest to planned Bus Rapid Transit (BRT) stations, with recommended minimum heights of 40 feet for new structures within a quarter mile of the station. This increase in desired height and density within these targeted areas is designed to increase the feasibility of the BRT system by increasing the user base, reinforcing the corridor streetscape, and making these destinations attractive to a wide number and array of users. As a site that is in close proximity to a planned BRT station, the low density, single-story, single-user proposal is both out of character for other development in the area, but is also in direct conflict with the size provisions of the Imagine Nicholasville Road plan.

A-DS7-3: Development should create context-sensitive transitions between intense corridor development and existing neighborhoods

Rather than provide a context sensitive increase in the intensity and density of land uses approaching the corridor, the applicant's proposal results in a FAR that is over six times less dense than the adjoining neighborhood. This low density development stands out, rather than blends in, with the established context of the corridor.

In addition to the lack of transitional density, the applicant's proposal also lacks a context sensitive transition from the single-family residential uses to the west and the proposed drive-through facilities. As proposed, the request will significantly increase the amount of commercial traffic that will be accessing Colfax Street, a residential local road. In addition, the site access and double drive-through lanes will be located as close as 10-feet from the adjoining residential property line to the west. While the preliminary development plan does



show a wooden fence partially screening view of the use, the proposal does not address the impact that the sound and light from the drive through vehicular use areas may have on the adjacent residential area.

C-LI7-1 Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment; C-LI6-1: Developments should incorporate multi-family housing and walkable commercial uses into development along arterials/corridors.

While both the Comprehensive Plan and Imagine Nicholasville Road plan call for an intentional mixing of uses along our major corridors, the applicant's proposal is a low density single-user development that is oriented towards the traveling public. This stands in contrast to much of the existing commercial development on this portion of the corridor, which primarily consists of first floor commercial uses, with second floor residential units.

DPL7-1: Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.

The letter of justification submitted indicates that there was no public outreach conducted by the applicant prior to the submission of this application.

B-SU11-1: Green infrastructure should be implemented in new development

The applicant acknowledges the need for green infrastructure within their letter of justification; however, they are not willing to commit to providing any green infrastructure on-site at this time. While the current site largely consists of impervious surface and lacks any green infrastructure, the applicant is proposing a complete redevelopment of the site and thus has the flexibility to incorporate elements of green infrastructure in order to reduce the development's environmental impact.

2. Transportation and Pedestrian

Despite compliance with some of the criteria for Transportation and Pedestrian, there are areas of concern. The applicant should expand upon the following development criteria and staff comments.

A-EQ3-2 Development on corridors should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities)

Under the applicant's proposal, the majority of the site is dedicated to providing stacking areas to serve its drive-through component. While the site does have existing pedestrian connections, the lack of on-site seating and dining emphasize that the focus of this site is on the traveling public. With its low density, single use, and single-occupancy automobile emphasis, the proposed use detracts from the viability of transit in this area.

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 multi-modal transportation network that satisfies all users' needs, including those with disabilities.

The design of the site, especially in regards to access spacing, has the potential to create conflict and unsafe conditions for both vehicular users and pedestrians in the area. Vehicular users attempting to exit the site will be met with an extremely short stacking area for the stop sign at South Limestone, which may cause backups into the site. Many users of the site will then be required to make a precarious left turn across multiple lanes of a major arterial roadway in order to resume their commute downtown.

These movements not only endanger the vehicular users, but also place pedestrians in this area at risk as well. Pedestrians attempting to access the use from the adjacent residential neighborhood will be forced to cross both the entry and access points for the high-volume drive-through use in order to access the walk-up window on South Limestone, and traffic backups for users wishing to exit the site may result in blocked sidewalks, forcing the pedestrians to walk in the road or through the site's vehicular use area to proceed.

3. Greenspace and Environmental Health

While the proposed use will result in a greater amount of automobile emissions due to the increased vehicular traffic on site, staff finds that the Greenspace and Environmental Health site design criteria are being met with this request.

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



1. The requested rezoning to the Neighborhood Business (B-1) zone is not in agreement with the 2018 Comprehensive Plan for the following reasons:
 - a. The requested rezoning is not in agreement with the Goals, Objectives, and Policies of the 2018 Comprehensive Plan.
 1. The proposed development does not seek to construct at a density or intensity that might be reflective of a major corridor in Lexington, and is out of context with the surrounding area (Theme A, Goal #2.b).
 2. The low density and single-user vehicle focus detract from the effectiveness of mass transit in this area (Theme D, Goal #1.c).
 3. The design of the site may reduce the effectiveness of the overall transportation system by introducing additional vehicular conflicts on Colfax Street and South Limestone (Theme D, Goal #1).
 4. The application encourages the use of single-occupancy vehicles and will increase greenhouse gas emissions at this location (Theme B, Goal #2.d).
 - b. The proposed development is not in agreement with 2021 Imagine Nicholasville Road plan.
 1. The proposal does not increase the intensity of land uses along the corridor (Goal #1).
 2. The scale of the proposed development does is not in accordance with the height design requirements for the Urban Center Typology.
 - c. The proposed development does not meet the intent of the Medium Density Non-Residential / Mixed Use Development Type as established on page 272 of the Comprehensive Plan.
 - d. The requested rezoning is not in agreement with the Development Criteria of the 2018 Comprehensive Plan. The following Development Criteria are not being meet with the proposed rezoning.
 1. 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.
 2. A-DS7-3: Development should create context-sensitive transitions between intense corridor development and existing neighborhoods.
 3. C-L17-1: Developments should create mixed-use neighborhoods with safe access to community facilities, greenspace, employment, businesses, shopping, and entertainment.
 4. DPL7-1: Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
 5. C-LI6-1: Developments should incorporate multi-family housing and walkable commercial uses into development along arterials/corridors.
 6. A-EQ3-2: Development on corridors should be transit-oriented (dense & intense, internally walkable, connected to adjacent neighborhoods, providing transit infrastructure & facilities)
 7. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.



8. D-CO2-2: Development should create and/or expand a safe, connected multi-modal transportation network that satisfies all users' needs, including those with disabilities.
9. B-SU11-1: Green infrastructure should be implemented in new development.
2. There have been no major unanticipated changes of an economic, social or physical nature in the area of the subject property since the adoption of the 2018 Comprehensive Plan.
3. The applicant has not provided evidence as to why the current zoning is inappropriate and the proposed zoning is appropriate for this location.