

AN ORDINANCE CHANGING THE ZONE FROM A LIGHT INDUSTRIAL (I-1) ZONE TO A PROFESSIONAL OFFICE (P-1) ZONE FOR 25.50 NET (29.22 GROSS) ACRES, FOR PROPERTY LOCATED AT 740 W. NEW CIRCLE ROAD (A PORTION OF), AND FROM AN AGRICULTURAL URBAN (A-U) ZONE TO A PROFESSIONAL OFFICE (P-1) ZONE, FOR 4.56 NET AND GROSS ACRES OF PROPERTY, LOCATED AT 1180 NEWTOWN PIKE (A PORTION OF). (LEXMARK INTERNATIONAL, INC.; COUNCIL DISTRICT 1).

WHEREAS, at a Public Hearing held on February 23, 2017, a petition for a zoning ordinance map amendment for property located at 740 W. New Circle Road (a portion of) from a Light Industrial (I-1) zone to a Professional Office (P-1) zone for 25.50 net (29.22 gross) acres, and from an Agricultural Urban (A-U) zone to a Professional Office (P-1) zone, for 4.56 net and gross acres of property located at 1180 Newtown Pike (a portion of), was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change by a vote of 8-0; 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 740 W. New Circle Road (a portion of) from a Light Industrial (I-1) zone to a Professional Office (P-1) zone for 25.50 net (29.22 gross) acres, and from an Agricultural Urban (A-U) zone to a Professional Office (P-1) zone, for 4.56 net and gross acres of property located at 1180 Newtown Pike (a portion of), 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: April 13, 2017

MAYOR 

ATTEST: 
CLERK OF URBAN COUNTY COUNCIL
Published: April 20, 2017-1t
TWJ:X:\Cases\PLANNING\17-LE0001\LEG\00567951.DOCX

1180 - 1250 Newtown Pike (a portion of)
Lexmark International, Inc. Property
Zone Change from A-U to P-1
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED NORTH OF AND ADJACENT TO NEW CIRCLE ROAD APPROXIMATELY 0.3 MILES EAST OF THE INTERSECTION OF NEW CIRCLE ROAD AND NEWTOWN PIKE IN NORTHWEST LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

COMMENCING AT A POINT in the northern right of way of New Circle Road, said point also lying in the common line of 763 West New Circle Road and a portion of 740 West New Circle Road; Thence North 40 Degrees 45 Minutes 54 Seconds East, a distance of 787.17 feet to the **TRUE POINT OF BEGINNING**; Thence North 54 degrees 04 minutes 26 seconds West, a distance of 511.24 feet to a point; Thence North 55 Degrees 12 Minutes 58 Seconds East, a distance of 424.03 feet to a point; Thence North 50 Degrees 16 Minutes 21 Seconds East, a distance of 36.99 feet to a point; Thence North 35 Degrees 43 Minutes 31 seconds East, a distance of 43.97 feet to a point; Thence South 54 Degrees 46 Minutes 56 Seconds East, a distance of 48.88 feet to a point; Thence South 50 Degrees 12 Minutes 44 Seconds East, a distance of 65.89 feet to a point; Thence South 38 Degrees 33 Minutes 56 Seconds East, a distance of 49.11 feet to a point; Thence South 31 Degrees 57 Minutes 13 Seconds East, a distance of 71.02 feet to a point; Thence South 20 Degrees 52 Minutes 04 Seconds East, a distance of 130.23 feet to a point; Thence South 12 Degrees 06 Minutes 21 Seconds East, a distance of 91.27 feet to a point; Thence South 43 Degrees 52 Minutes 06 Seconds West, a distance of 306.91 feet to the **POINT OF BEGINNING** and containing 4.56 acres gross and net.

740 West New Circle Road (a portion of)
Lexmark International, Inc. Property
Zone Change from I-1 to P-1
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED NORTH OF AND ADJACENT TO NEW CIRCLE ROAD APPROXIMATELY 0.3 MILES EAST OF THE INTERSECTION OF NEW CIRCLE ROAD AND NEWTOWN PIKE IN NORTHWEST LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the northern right of way of New Circle Road, said point also lying in the common line of 763 West New Circle Road and a portion of 740 West New Circle Road; Thence North 35 Degrees 07 Minutes 23 Seconds East, a distance of 264.16 feet to a point; Thence North 43 degrees 36 minutes 02 seconds East, a distance of 524.93 feet to a point; Thence North 43 Degrees 52 Minutes 06 Seconds East, a distance of 712.79 feet to a point; Thence South 34 Degrees 38 Minutes 01 Seconds East, a distance of 181.14 feet to a point; Thence South 37 Degrees 19 Minutes 09 seconds East, a distance of 95.40 feet to a point; Thence South 11 Degrees 36 Minutes 06 Seconds East, a distance of 155.12 feet to a point; Thence South 32 Degrees 17 Minutes 41 Seconds East, a distance of 128.38 feet to a point; Thence South 48 Degrees 51 Minutes 11 Seconds East, a distance of 26.76 feet to a point; Thence South 14 Degrees 50 Minutes 44 Seconds East, a distance of 176.73 feet to a point; Thence South 09 Degrees 00 Minutes 05 Seconds East, a distance of 69.20 feet to a point; Thence South 15 Degrees 49 Minutes 34 Seconds East, a distance of 102.65 feet to a point; Thence South 43 Degrees 42 Minutes 14 Seconds East, a distance of 102.94 feet to a point; Thence South 08 Degrees 11 Minutes 55 Seconds East, a distance of 108.45 feet to a point; Thence South 22 Degrees 56 Minutes 07 Seconds East, a distance of 144.77 feet to a point; Thence South 34 Degrees 47 Minutes 04 Seconds East, a distance of 118.64 feet to a point; Thence South 47 Degrees 56 Minutes 58 Seconds East, a distance of 77.74 feet to a point; Thence South 38 Degrees 14 Minutes 48 Seconds East, a distance of 36.31 feet to a point; Thence South 09 Degrees 22 Minutes 35 Seconds East, a distance of 81.45 feet to a point; Thence South 10 Degrees 37 Minutes 10 Seconds West, a distance of 96.64 feet to a point in the centerline of New Circle Road; Thence with said centerline North 79 Degrees 22 Minutes 41 Seconds West, a distance of 1704.29 feet to a point; Thence leaving said centerline North 10 Degrees 37 Minutes 10 Seconds East, a distance of 86.64 feet to the **POINT OF BEGINNING** and containing 29.22 acres gross and 25.50 acres net.

Rec'd by Bm
Date: 3-10-17

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

IN RE: **PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC** – a petition for a zone map amendment from a Light Industrial (I-1) zone to a Professional Office (P-1) zone, for 25.50 net (29.22 gross) acres of property, located at 740 W. New Circle Road (a portion of), and from an Agricultural Urban (A-U) zone to a Professional Office (P-1) zone, for 4.56 net and gross acres of property, located at 1180 Newtown Pike (a portion of). (Council District 1)

Having considered the above matter on **February 23, 2017**, at a Public Hearing, and having voted **8-0** 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 requested Professional Office (P-1) zone is appropriate for the site, as it has historically operated as an office building in support of the petitioner's industrial land use to the south of New Circle Road. The right-of-way of New Circle Road and the proposed sale of the property necessitate the use now being a principal use, which is not permitted in the existing zones.
2. The existing Light Industrial (I-1) zone and Agricultural Urban (A-U) zone are no longer appropriate at this location, for the following reasons:
 - a. The site has never been utilized for manufacturing, compounding, assembling, processing or packaging of finished products.
 - b. The existing structure was designed and constructed as an accessory office building, indicating its intended use.
 - c. The site is not viable for traditional agriculture nor other uses permitted in the A-U zone. A portion of the site is located within a FEMA floodplain, and is surrounded by the Legacy Trail, a private access roadway and the utility substation.
3. The proposed zone change for Professional Office (P-1) zoning is supported by the Winburn & Russell Cave Area Neighborhoods Small Area Plan, an adopted element of the Comprehensive Plan, and is consistent with the SAP's recommendations. It will bring about opportunities to infill the site.
4. This recommendation is made subject to approval and certification of **PLN-MJDP-16-00027: Lexmark International Corporation**, 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 10th day of March, 2017.


Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

Note: The corollary development plan, **PLN-MJDP-16-00027: LEXMARK INTERNATIONAL CORPORATION** was approved by the Planning Commission on February 23, 2017 and certified on March 9, 2017.

K.R.S. 100.211(7) requires that the Council take action on this request by May 25, 2017.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Rory Kahly, Landscape Architect.**

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (8) Cravens, Drake, Mundy, Owens, Plumlee, Richardson, Smith, and Wilson

NAYS: (0)

ABSENT: (3) Berkley, Brewer, and Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR 16-00012** 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.)

Applicant: LEXMARK INTL INC, 740 W NEW CIRCLE RD, LEXINGTON, KY 40511
Owner(s): LEXMARK INTL INC 740 NEW CIRCLE RD LEXINGTON KY 40511 LEXMARK INTL INC 740 W NEW CIRCLE RD LEXINGTON KY 40511
Attorney:

2. ADDRESS OF APPLICANT'S PROPERTY

1180 NEWTOWN PIKE LEXINGTON KY (A PORTION OF) 740 NEW CIRCLE RD LEXINGTON KY (A PORTION OF)
--

3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY

Zoning	Existing		Requested		Acreage	
	Zoning	Use	Zoning	Use	Net	Gross
I-1		Office & Vacant	P-1	Office & Parking	25.50	29.22
A-U		Office & Vacant	P-1	Office & Parking	4.56	4.56

4. EXISTING CONDITIONS

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

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

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



EA Partners, PLC

CIVIL ENGINEERS • LAND SURVEYORS • LANDSCAPE ARCHITECTS
3111 WALL STREET
LEXINGTON, KENTUCKY 40513
PHONE (859) 296-9889
FACSIMILE (859) 296-9887

September 2, 2016

Lexington Fayette Urban County Government
101 East Vine Street
Lexington, Kentucky 40507

RE: Application for P-1 Zoning for
a portion of the Lexmark Property

Dear Members of the Planning Commission:

We represent Lexmark International Corporation and on its behalf have filed a zone change request for a portion of the properties located at 740 West New Circle Road and 1180 Newtown Pike. The request is to rezone to a Professional Office (P-1) zone in order to bring the existing uses on the property into compliance.

The proposal is consistent with the Comprehensive Plan's Land Use Change Considerations:

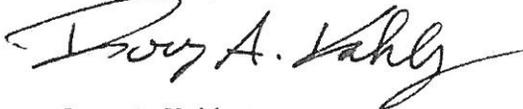
- The proposed land use enhances, and is compatible with, adjacent land uses.
- The land use will not impair existing environmental conditions of the site.
- The existing utility and transportation networks will accommodate the new land use.
- Underutilized land should be promoted for greater utility (and) function.
- The land use should maximize opportunities to accommodate future growth within the Urban Services Area, include land that is underutilized, vacant or planned for a reuse.

The majority of this site was zoned I-1 as part of a 285-acre tract to accommodate IBM's manufacturing. The final version of the Urban Service Area map for this location recommends Professional Service Office, which is consistent with our proposal. Our request will be eliminating a split zoned lot and fulfilling a previous condition placed on this property by the Planning Commission. More importantly, a P-1 zone will bring the current land uses into compliance. The I-1 zone is no longer appropriate. Manufacturing and those related uses no longer occur on site.

We will be at the October public hearing in order to make a complete presentation of this application and request your favorable consideration.

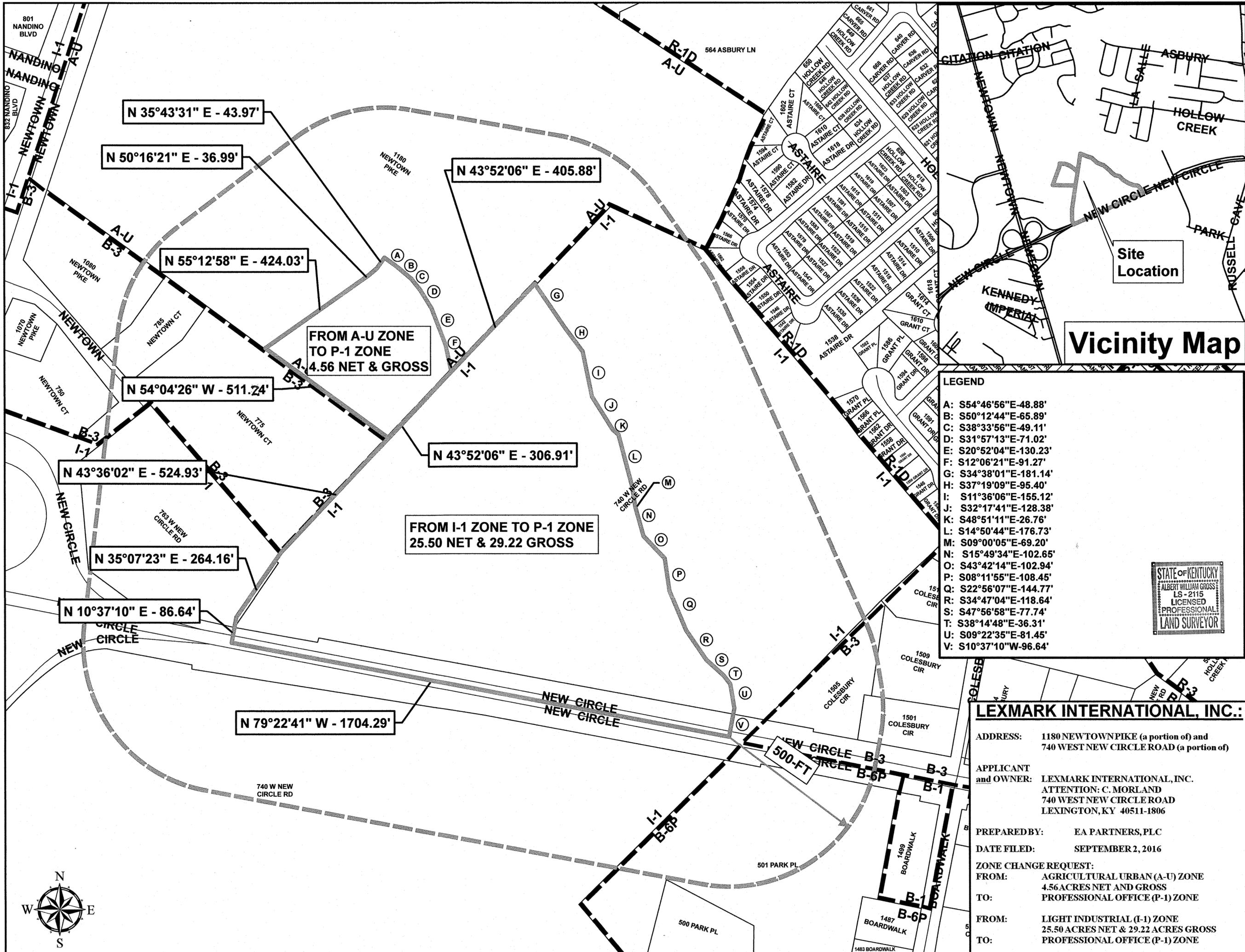
Sincerely,

EA Partners, PLC



Rory A. Kahly

RAK/agw



N 35°43'31" E - 43.97'

N 50°16'21" E - 36.99'

N 43°52'06" E - 405.88'

N 55°12'58" E - 424.03'

FROM A-U ZONE
TO P-1 ZONE
4.56 NET & GROSS

N 43°52'06" E - 306.91'

FROM I-1 ZONE
TO P-1 ZONE
25.50 NET & 29.22 GROSS

N 54°04'26" W - 511.24'

N 43°36'02" E - 524.93'

N 35°07'23" E - 264.16'

N 10°37'10" E - 86.64'

N 79°22'41" W - 1704.29'

LEGEND

- A: S54°46'56"E-48.88'
- B: S50°12'44"E-65.89'
- C: S38°33'56"E-49.11'
- D: S31°57'13"E-71.02'
- E: S20°52'04"E-130.23'
- F: S12°06'21"E-91.27'
- G: S34°38'01"E-181.14'
- H: S37°19'09"E-95.40'
- I: S11°36'06"E-155.12'
- J: S32°17'41"E-128.38'
- K: S48°51'11"E-26.76'
- L: S14°50'44"E-176.73'
- M: S09°00'05"E-69.20'
- N: S15°49'34"E-102.65'
- O: S43°42'14"E-102.94'
- P: S08°11'55"E-108.45'
- Q: S22°56'07"E-144.77'
- R: S34°47'04"E-118.64'
- S: S47°56'58"E-77.74'
- T: S38°14'48"E-36.31'
- U: S09°22'35"E-81.45'
- V: S10°37'10"W-96.64'

STATE OF KENTUCKY
ALBERT WILLIAM GROSS
LS-2115
LICENSED
PROFESSIONAL
LAND SURVEYOR

LEXMARK INTERNATIONAL, INC.:

ADDRESS: 1180 NEWTOWN PIKE (a portion of) and
740 WEST NEW CIRCLE ROAD (a portion of)

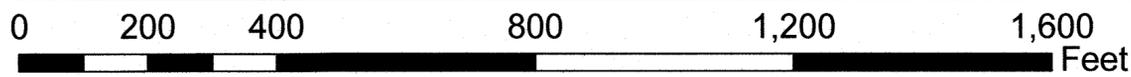
APPLICANT
and OWNER: LEXMARK INTERNATIONAL, INC.
ATTENTION: C. MORLAND
740 WEST NEW CIRCLE ROAD
LEXINGTON, KY 40511-1806

PREPARED BY: EA PARTNERS, PLC
DATE FILED: SEPTEMBER 2, 2016

ZONE CHANGE REQUEST:
FROM: AGRICULTURAL URBAN (A-U) ZONE
4.56 ACRES NET AND GROSS
TO: PROFESSIONAL OFFICE (P-1) ZONE

FROM: LIGHT INDUSTRIAL (I-1) ZONE
25.50 ACRES NET & 29.22 ACRES GROSS
TO: PROFESSIONAL OFFICE (P-1) ZONE

Notification Map



STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC.

DESCRIPTION

Zone Change:	<u>Request</u>		<u>Acreage</u>	
	<u>From</u>	<u>To</u>	<u>Net</u>	<u>Gross</u>
	A-U	P-1	4.56	4.56
	I-1	P-1	<u>25.50</u>	<u>29.22</u>
	TOTAL:		30.06	33.78

Location: 1180 Newtown Pike (a portion of) and 740 W. New Circle Road (a portion of)

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Properties	A-U & I-1	Legacy Trail, Utility Substation, & Professional Office
To North	A-U & I-1	Private Outdoor Recreation Facility (Lexmark)
To East	B-3 & I-1	Private Outdoor Recreation Facility & Highway Commercial
To South	B-3 & I-1	Hotel & Lexmark Headquarters
To West	A-U & B-3	Private Outdoor Recreation Facility (Lexmark) & Hotel

URBAN SERVICES REPORT

Roads – The subject properties are accessible via W. New Circle Road (KY 4), very near its interchange with Newtown Pike (KY 922), and via a private access easement from Newtown Pike at its signalized intersection with Nandino Boulevard. Roadway improvements along New Circle Road will not be required, but internal access/street improvements may be necessary, especially when other vacant lands in the immediate vicinity intensify.

Curb/Gutter/Sidewalks – W. New Circle Road, Newtown Pike, and the private access easements on site do not have curb, gutter or sidewalk improvements. These improvements should be considered for the private access roadway from Newtown Pike, to serve the employees and future development near that part of the subject site. The Legacy Trail crosses the Lexmark property, and does impact the petitioner’s desire to locate a parking lot west of the existing utility substation.

Storm Sewers – The subject property is located within the Cane Run watershed. The property is also located within the Royal Spring Wellhead Protection Area, which is the ground water source for the City of Georgetown. A portion of the subject site is located within a FEMA Special Flood Hazard Area associated with Cane Run Creek and the IMB Tributary. All stormwater management improvements necessary to accommodate the proposed parking lots associated with the existing office building shall be constructed in accordance with the adopted Division of Engineering Stormwater Manual. A Special Use Permit may also be necessary from the Division of Engineering for parking areas proposed in a floodplain.

Sanitary Sewers – The subject property is located within the Cane Run sewershed, which is served by the Town Branch Wastewater Treatment Plant, located about 2½ miles to the southwest of the site. The current Capacity Assurance Program (CAP) data indicates that the site is located in two different sanitary sewer banks, but each have a positive balance. No new sanitary sewer connections are proposed at this time, but if the site development is intensified, in the future, sanitary sewer improvements for the site would need to be reviewed and accepted by the Division of Engineering, and constructed in accordance with the adopted LFUCG Engineering Manuals.

Refuse – The Urban County Government currently serves this area with residential collection on Thursdays. It is common practice that additional private waste removal services are provided for large office complexes.

Police – The nearest police station is the West Sector Roll Call Center, located on Old Frankfort Pike, just inside New Circle Road, approximately three miles to the southwest of the subject property.

Fire/Ambulance – Fire Station #10 is located approximately ¾ mile west of this location on Finney Drive, near the New Circle Road and Georgetown Road interchange.

Utilities – All utilities, including gas, electric, water, phone, and cable television, exist to serve subject properties.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The subject property is located within the boundary of the recently adopted Winburn & Russell Cave Neighborhoods Small Area Plan (WRCN SAP), which is generally south of Interstate 75, west of Newtown Pike, north of New Circle Road and east of Russell Cave Road. The Plan identifies seven guiding principles for the area that should be further considered by the Planning Commission.

The petitioner proposes a Professional Office (P-1) zone in order to bring the site into conformity with the Zoning Ordinance. Currently, the site is part of the larger Lexmark headquarters property which crosses New Circle Road, and is considered an accessory use to their principal industrial use. The petitioner is proposing to transfer the subject properties for an independent professional office use; therefore, the facilities can no longer be considered accessory, and must comply with the zone requirements for an office building.

CASE REVIEW

The petitioner has requested a zone change from a Light Industrial (I-1) zone and an Agricultural Urban (A-U) zone to a Professional Office (P-1) zone for approximately 30 acres of property on the north side of W. New Circle Road.

The subject properties are located to the northeast of the New Circle Road and Newtown Pike interchange. The site has long been an accessory office building on the Lexmark property, but is separated from the main headquarters building(s) by the right-of-way of New Circle Road. Lexmark's private recreation facilities are also located on the north side of New Circle Road in the immediate vicinity.

The area is characterized by a mixture of industrial, office and highway commercial land uses and zoning, in addition to the Lexmark facilities. The petitioner proposed to subdivide their property to create a standalone parcel for the subject site a few months ago. The subdivision and proposed addition of surface parking on the site triggered an inquiry about the use of the site and whether, if on its own lot, it remained in conformity with the existing I-1 zoning, and also whether a parking lot was a permitted use in the A-U zone. Ultimately, the Planning Commission informed the petitioner that a zone change would be necessary for the site to be considered in compliance with the Zoning Ordinance.

Formerly, the 2007 Comprehensive Plan's Land Use Element recommended Professional Services (PS) land use for the subject properties, as well as land to the north and west of the site that is now utilized as private recreation for Lexmark. The 2013 Comprehensive Plan no longer makes a specific land use recommendation for the subject property. The petitioner contends that the proposed zone is appropriate

and the existing zone is inappropriate, and that the change is consistent with the 2013 Comprehensive Plan's land use considerations.

The subject properties are located within the boundaries of the recently adopted Winburn & Russell Cave Neighborhoods Small Area Plan. The SAP was recommended by the 2013 Comprehensive Plan (pages 45-46) in order to guide growth and development within the vacant or underutilized properties in the area, to promote neighborhood stabilization and revitalization, and to establish improved connectivity in this portion of the Urban Service Area.

The guiding planning principles of the Winburn & Russell Cave Neighborhoods SAP do provide some guidance for the Planning Commission in considering a zone change request and also provide more detailed information than the 2013 Plan did for this vicinity. The SAP identifies seven guiding planning principles to increase transportation connectivity; increase equity for residents; promote strategies to increase home ownership and improve housing conditions; optimize the use of land to promote mixed housing types; ensure infill is well designed and sensitive to existing neighborhoods; and improve public safety. The SAP identifies the subject site as having "potential for infill development" and states that "it is clear that connectivity is the foremost need for enhancement ... not just in terms of mobility and connectivity, but also when evaluating safety, additional opportunities for economic development and continuation of the neighborhood fabric" (page 53). To implement this concept, the SAP identifies the Lexmark access roadway as a "new priority road connection" so that Nandino Boulevard can connect through to a public street system around the site (page 65). In terms of land use, the SAP recommends additional Office (intensification) for the main building site, and Mixed-Use for the area proposed as a parking lot along the private access roadway.

At this juncture, the petitioner has no plans to intensify the site, other than with additional parking lots, which arguably will not change the land use of the site, but allow it to function as a principal use (rather than as a part of Lexmark). The petitioner acknowledges that the site has been used as a professional office building for decades and plans to continue to be utilized in this manner, with its associated off-street parking, with no immediate plans to construct any structures on the site. While the staff does not know why the building was originally constructed in this location many years ago, at a greater distance from the rest of Lexmark's about 30 buildings, it does lend itself to be separated from the main campus due to that distance and the division that New Circle Road right-of-way creates.

With the rezoning, the petitioner plans to double the number of on-site parking spaces to about 1,200, which still falls short of the 1/200 square foot parking requirement. There are two options to meet the Zoning Ordinance requirements established for parking in the P-1 zone for the site: either construct another 425 spaces on-site, likely with a parking deck, or declare the site a Professional Office Project. The Professional Office Project declaration provides for a reduction in parking for sites that are greater than 10 acres in size, reducing the required parking to 1/400 or about 813 spaces for the site.

The staff agrees that the professional office zoning is appropriate at this location, and that the industrial and agricultural zoning are no longer appropriate. However, the recommendation for intensification should seriously be considered by the applicant in the future to utilize our urban land to its highest degree potential. When the site is brought forward for a final development plan, and as other portions of the Lexmark property along the north side of New Circle Road are contemplated for development, the public street network should be constructed as it is a necessary element to ensure the area has adequate public infrastructure and meets the connectivity objectives of the Small Area Plan.

The Staff Recommends: Approval, for the following reasons:

1. The requested Professional Office (P-1) zone is appropriate for the site, as it has historically operated as an office building in support of the petitioner's industrial land use to the south of New Circle Road. The right-of-way of New Circle Road and the proposed sale of the property necessitate the use now being a principal use, which is not permitted in the existing zones.

2. The existing Light Industrial (I-1) zone and Agricultural Urban (A-U) zone are no longer appropriate at this location, for the following reasons:
 - a. The site has never been utilized for manufacturing, compounding, assembling, processing or packaging of finished products.
 - b. The existing structure was designed and constructed as an accessory office building, indicating its intended use.
 - c. The site is not viable for traditional agriculture nor other uses permitted in the A-U zone. A portion of the site is located within a FEMA floodplain, and is surrounded by the Legacy Trail, a private access roadway and the utility substation.
3. The proposed zone change for Professional Office (P-1) zoning is supported by the Winburn & Russell Cave Area Neighborhoods Small Area Plan, an adopted element of the Comprehensive Plan, and is consistent with the SAP's recommendations. It will bring about opportunities to infill the site.
4. This recommendation is made subject to approval and certification of PLN-MJDP-16-00027: Lexmark International Corporation, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

TLW/WLS

10/6/16

Planning Services\Staff Reports\MAR\2016\PLN-MAR-16-00012.doc

1. **LEXMARK INTERNATIONAL, INC. ZONING MAP AMENDMENT & LEXMARK INTERNATIONAL CORPORATION DEVELOPMENT PLAN**

- a. PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC. (2/23/17)* – petition for a zone map amendment from a Light Industrial (I-1) zone to a Professional Office (P-1) zone, for 25.50 net (29.22 gross) acres of property, located at 740 W. New Circle Road and from an Agricultural Urban (A-U) zone to a Professional Office (P-1) zone, for 4.56 net and gross acres of property, located at 1180 Newtown Pike (a portion of).

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The subject property is located within the boundary of the recently adopted Winburn & Russell Cave Neighborhoods Small Area Plan (WRCN SAP), which is generally south of Interstate 75, west of Newtown Pike, north of New Circle Road and east of Russell Cave Road. The Plan identifies seven guiding principles for the area that should be further considered by the Planning Commission.

The petitioner proposes a Professional Office (P-1) zone in order to bring the site into conformity with the Zoning Ordinance. Currently, the site is part of the larger Lexmark headquarters property which crosses New Circle Road, and is considered an accessory use to their principal industrial use. The petitioner is proposing to transfer the subject properties for an independent professional office use; therefore, the facilities can no longer be considered accessory, and must comply with the zone requirements for an office building.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. The requested Professional Office (P-1) zone is appropriate for the site, as it has historically operated as an office building in support of the petitioner's industrial land use to the south of New Circle Road. The right-of-way of New Circle Road and the proposed sale of the property necessitate the use now being a principal use, which is not permitted in the existing zones.
 2. The existing Light Industrial (I-1) zone and Agricultural Urban (A-U) zone are no longer appropriate at this location, for the following reasons:
 - a. The site has never been utilized for manufacturing, compounding, assembling, processing or packaging of finished products.
 - b. The existing structure was designed and constructed as an accessory office building, indicating its intended use.
 - c. The site is not viable for traditional agriculture nor other uses permitted in the A-U zone. A portion of the site is located within a FEMA floodplain, and is surrounded by the Legacy Trail, a private access roadway and the utility substation.
 3. The proposed zone change for Professional Office (P-1) zoning is supported by the Winburn & Russell Cave Area Neighborhoods Small Area Plan, an adopted element of the Comprehensive Plan, and is consistent with the SAP's recommendations. It will bring about opportunities to infill the site.
 4. This recommendation is made subject to approval and certification of PLN-MJDP-16-00027: Lexmark International Corporation, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-16-00027: LEXMARK INTERNATIONAL CORPORATION (2/23/17)* - located at 740 W. New Circle Road and 1180 Newtown Pike. **(EA Partners)**

The Subdivision Committee Recommended: Postponement. The required tree inventory map has not been provided.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property P-1; 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. **Denote**: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.

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

8. Addition of walkways (and their dimensions) on the site.
9. Denote construction access point on plan.
10. Label access easement to proposed parking.
11. Denote tree protection areas.
12. Denote proposed and required parking.
13. Denote the approval from the Royal Springs Aquifer Committee prior to certification of Final Development Plan.
14. Discuss location of parking lot in tree stand.
15. Discuss conflict between Legacy Trail easement and new parking lot.
16. Discuss compliance with the Winburn Small Area Plan.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this zone change. She said that the subject property is part of the Winburn & Russell Cave Neighborhoods Small Area Plan, and the staff reviewed the recommendations related to the area and the subject property. An intensification of use is anticipated by this Small Area Plan. At that time, the staff would anticipate the need to consider a new public street through the site, as recommended by the Small Area Plan.

Development Plan Presentation – Mr. Martin presented a revised staff report of the rendering of the proposed Preliminary Development Plan, for the subject site. He said that there is already a Final Development Plan approved for this location. He added that there are some existing trees on the site that require greater protection, and reviewed the unusual condition #11, as proposed.

1. Provided the Urban County Council rezones the property P-1; 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. ~~Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.~~
7. 8. Addition of walkways (and their dimensions) connecting to designated bus stop on the site.
9. ~~Denote construction access point on plan.~~
8. 10. Label access easement to proposed parking.
9. 11. ~~Denote tree protection areas for 20', 32' & 40' existing trees identified on-site.~~
12. ~~Denote proposed and required parking.~~
13. ~~Denote the approval from the Royal Springs Aquifer Committee prior to certification of Final Development Plan.~~
14. ~~Discuss location of parking lot in tree stand.~~
10. 15. Discuss Denote how the conflict between Legacy Trail easement and new parking lot will be resolved.
11. 16. Discuss Denote that compliance with the Winburn Small Area Plan shall be determined at the time this site is redeveloped, via an amended Final Development Plan.

Commission Questions - Ms. Plumlee asked if condition #9 should continue to read "Denote tree protection areas for 20', 32' & 40' existing trees identified on-site". Mr. Martin agreed and stated that the condition is inches of the caliper of the trees not feet. Mr. Owens asked about the submitted Tree Inventory Map. Mr. Martin replied that the map has been provided.

Petitioner Presentation – Rory Kahly, was present with Mr. Steve Davis, of Lexmark International. He asked for a change to Condition # 9 to allow trees of that size that are to be in the proposed parking lot to not be in conflict with the off-street parking area.

Mr. Martin clarified, using the development plan rendering, highlighting the location of the parking area.

Commission Questions - Mr. Owens asked about the conflict between the proposed parking lot and the Legacy Trail. Mr. Kahly said that there is a small area where the parking lot is in conflict with the easement and that the issue will be resolved with the relocation of the Legacy Trail. The Final Development Plan will allow the Trail to be relocated away from the proposed parking lot.

Citizen Comment – There were no citizens present to speak to this application.

Zoning Action – A motion was made by Ms. Mundy, seconded by Ms. Richardson, and carried 8-0 (Berkley, Brewer, and Penn absent) to approve PLN-MAR-16-00012: LEXMARK INTERNATIONAL, INC., for the reasons provided by the staff.

Development Plan Action – A motion was made by Ms. Mundy, seconded by Ms. Richardson, carried 8-0 (Berkley, Brewer, and Penn absent) to approve PLN-MJDP-16-00027: LEXMARK INTERNATIONAL CORPORATION, for the reasons provided by the staff and noting the changes to condition #9 as follows:

1. Provided the Urban County Council rezones the property P-1; 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. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.~~
- ~~7.~~ 8. Addition of walkways ~~(and their dimensions)~~ connecting to designated bus stop on the site.
- ~~9. Denote construction access point on plan.~~
- ~~8.~~ 10. Label access easement to proposed parking.
- ~~9.~~ 11. Denote tree protection areas for 20", 32" & 40" existing trees identified on-site, not in conflict with the parking areas.
- ~~12. Denote proposed and required parking.~~
- ~~13. Denote the approval from the Royal Springs Aquifer Committee prior to certification of Final Development Plan.~~
- ~~14. Discuss location of parking lot in tree stand.~~
- ~~10.~~ 15. Discuss Denote how the conflict between Legacy Trail easement and new parking lot will be resolved.
- ~~11.~~ 16. Discuss Denote that compliance with the Winburn Small Area Plan shall be determined at the time this site is redeveloped, via an amended Final Development Plan.

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

