

## 2. EASTLAND LEGACY CENTER, INC ZONING MAP AMENDMENT & EASTLAND SHOPPING CENTER (AMD) ZONING DEVELOPMENT PLAN

- a. **PLN-MAR-22-00024: EASTLAND LEGACY CENTER, INC** – a petition for a zone map amendment from a Neighborhood Business (B-1) zone to a Light Industrial (I-1) zone, for 1.80 net (2.22 gross) acres, for property located at 1301 Winchester Road (a portion of).

### 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 Light Industrial (I-1) zone in order to construct flexible warehouse space for the operation of shops of specialty trade. The proposed development would be comprised of two buildings to include nine potential areas for special trade contractors to operate. The proposed development would be situated in a portion of the property that is currently being utilized for parking, as well as a small portion of the current shopping center.

### The Zoning Committee Recommended: Approval with the addition of conditional zoning restrictions.

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

1. A restricted Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
  - a. The proposed amendment will help to eliminate the vacant and underutilized employment space of the subject property by providing job opportunities to Lexington residents in general and particularly for residents who live near the subject property along the Winchester Road corridor (Theme A, Goal # 2.a; Theme E, Goal #1.c).
  - b. The proposed building design and character will be in keeping with the context of the surrounding business structures (Theme A, Goal #2.b).
  - c. The proposed rezoning will strengthen efforts to develop a variety of job opportunities that can lead to upward prosperity and impact individuals from various economic and educational backgrounds (Theme C, Goal #1.a).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
  - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location, as the development will create an industrial development that provides connectivity for bike and pedestrian mobility through the site, and infills an area of parking to provide a wider range of employment opportunities, which are compatible within the area.
  - b. The proposed rezoning meets the criteria for Transportation and Pedestrian, as development will provide pedestrian access throughout the site and better delineate the internal vehicular circulation for this portion of the site
  - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will increase tree canopy coverage, and reduce impermeable surface.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
  - a. Prohibited Uses:
    - i. Self-storage warehousing.
    - ii. Outdoor Storage.
  - b. Fencing in the front yard along Industry Road shall be limited to four (4) feet and barbed wire or razor wire are prohibited.

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

1. To maintain agreement with the 2018 Comprehensive Plan by limiting those uses which have low employment opportunities.
2. To maintain the context of the Eastland Shopping Center.

4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00076: Eastland Shopping Center (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

b. **PLN-MJDP-22-00076: EASTLAND SHOPPING CENTER (2/26/2023)\*** - located at 1301 WINCHESTER ROAD, LEXINGTON, KY  
Council District: 1  
Project Contact: Barrett Partners Inc.

Note: The purpose of this plan is to depict redevelopment of the property and remove a conditional zoning restriction in the Neighborhood Business (B-1) zone.

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

1. Provided the Urban County Council approves the zone change to I-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval if environmentally sensitive areas.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Division.
8. Dimension access points onto property.
9. Denote location for construction access.
10. Denote height of buildings in feet.
11. Denote uses on property.
12. Addition of tree inventory map.
13. Addition of record plat information.
14. Discuss proposed one-story building at intersection of Eastland Drive and Industry Road.
15. Discuss Placebuilder criteria.

Staff Presentation – Mr. Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a Neighborhood Business (B-1) zone to a Light Industrial (I-1) zone, for 1.80 net (2.22 gross) acres, for property located on a portion of 1301 Winchester Road. Mr. Baillie indicated that the applicant is seeking the Industrial and Production Place-Type and the Industry and Production Non-Residential Development Type to construct 2 buildings for shops of special trade. Mr. Baillie indicated that these would be an appropriate Place-Type and Development-Type. Mr. Baillie noted a portion of a building on the property that is being proposed to be demolished as a part of this application.

Mr. Baillie stated that the applicant is seeking to fill in a large portion of the parking lot on the subject property and that many of these types of shopping centers are seeing greater amounts of infill than before. Additionally, Mr. Baillie indicated that the applicant is seeking to add a different use on the property.

Mr. Baillie continued his presentation by highlighting recommended conditional zoning restrictions, which include prohibiting self-storage warehousing, outdoor storage, and limiting fencing limited to four feet in the front yard along Industry Road, with no barbed and razor wire. Mr. Baillie stated the importance of these restrictions because they help maintain agreement with the Comprehensive Plan and help maintain the context of the Eastland Shopping Center.

Mr. Baillie concluded his presentation by stating that Staff is recommending approval of the zone change, and the applicant has provided justification for the change, and the staff recommends the mentioned conditional zoning restrictions.

Commission Questions – Ms. Meyer asked about the previous case, Goodwill Industries, having conditional zoning restrictions that prohibited all above ground and underground storage tanks and on-site disposal of hazardous waste and if those same conditions were considered for this application. Mr. Baillie stated that the Goodwill Industries application was located in the Royal Springs Aquifer and those restrictions were

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

recommended for every industrial property within that area. Additionally, Mr. Baillie indicated that Staff does not have same justification for this site.

Staff Development Plan Presentation – Ms. Cheryl Gallt oriented the Planning Commission to the location of the subject property, and highlighted the access points, trees, parking lot and buildings. Ms. Gallt stated that the Subdivision Committee had recommended approval. Additionally, Ms. Gallt stated that since this was a preliminary development plan there would be a few clean-up conditions that include dimensions on the access point, the location of construction access, the height of the building, and to denote uses of the property.

Ms. Galt indicated that Staff was recommending approval and she could answer any questions or concerns.

Applicant Presentation – Wes Harned, attorney for the applicant, stated that they were pleased with the Staff's recommendation, but do not agree with Staff's restrictions to the property. Mr. Harned presented pictures of the surrounding properties highlighting fences that are above 4 feet in height, and arguing 4 feet is too restrictive and that taller than 6 feet is in line with the area and other properties with outdoor storage. Mr. Harned also indicated that they are in agreement with the no razor or barbed wire restriction, they just need more than 4 feet of fence and would like outdoor storage given it is in line with what other properties are doing in the immediate area.

Mr. Harned went over the regulations for conditional zoning and stated that restrictions should be used thoughtfully and sparingly, and that no restriction could deprive the applicant of a reasonable use. Mr. Harned asserted that the conditional restrictions do just that.

Mr. Harned reaffirmed his appreciation for the Staff and their recommendation, but asked the Planning Commission to not add the conditional zoning restrictions of a 4 foot height limits for a fence and prohibition outdoor storage on the subject property.

Commission Questions – Mr. de Movellan stated that he did not see a fence on the development plan. He asked the applicant why they don't show that on the plan and if the fencing would enclose the development. Mr. Harned indicated that there is an intent to put a fence on the property, and there is already fencing along Industry Road as of now. The fence would be for security. Mr. Barrett, project designer for the applicant, noted that they did not want to limit themselves to a use restriction on the site that may or may not come into play. Mr. Barrett stated that the lack of a fence on the development plan is to allow more flexibility to a potential tenet.

Mr. Michler noted that the context of the area was more towards building space and not outdoor space and changing that changes the whole image of the property and asked if the rear yard would be subjected to the 4 feet restriction. Mr. Barrett indicated that was the case, but the outdoor storage restriction would not be allowed in the back if it was a prohibited use.

Public Comment – Amy Clark, 628 Kastle Road, suggested that the Planning Commission consider compatibility for the subject property with adjoining uses and development.

Staff Rebuttal – Mr. Baillie clarified a few of Mr. Harned's points about the fencing he showed at the various properties. Mr. Baillie stated that the fences that Mr. Harned displayed were side-yard and rear-yard fences, which are allowed to have higher fences. Mr. Baillie reiterated that there needed to be adequate transitions from one land use to another, and that the restrictions that Staff has recommended are thoughtfully applied and sparingly used. Additionally, Mr. Baillie pointed out that while the development plan is preliminary, the Planning Commission is acting on a zone change with the corresponding development plan and the Planning Commission can disapprove the change if a final development plan is drastically different.

Commission Questions – Ms. Worth stated that Mr. Baillie addressed the fencing, but asked for Mr. Baillie to clarify the reasons for the restrictions on outdoor storage. Mr. Baillie indicated that the applicant has not stated where they want the outdoor storage, specifically in the front yard or the rear yard of the property. Mr. Baillie also stated that the applicant's development plan does not allow any space for outdoor storage, and if the outdoor storage was towards the rear, there would be an issue with transition from an industrial zone to a neighborhood business zone.

Mr. Nicol asked for Mr. Baillie to explain how the Planning Commission could strike the outdoor storage restriction from the prohibited uses and if they could make it a condition of the final development plan. Mr. Baillie indicated that the Planning Commission could make that a development plan note if they wished.

Mr. Bell asked if this was one of the newer infill projects in this area and if this would set a precedent for attracting and upgrading in this area. Mr. Baillie indicated yes to both, and stated that the precedent question is why there was not a bevy of conditional zoning restrictions.

Mr. Bell asked the owner of the property to give a history of his business. Mr. Brian Wood, owner of the property, stated that he had owned the shopping since 9/11/2001. Mr. Wood listed all the types of businesses that were in the shopping center, as well as his cooperation with LFUCG.

Mr. Bell asked how they can be flexible and allow for outdoor storage. Mr. Baillie indicated that the Planning Commission could keep the Staff recommended language on the 4 foot fences, but could allow for outdoor storage in the back.

Mr. Davis asked Mr. Wood if that was acceptable to him or if they needed taller fencing in the front yard. After further explanation, Mr. Wood indicated he would agree the fencing height restriction.

Action – A motion was made by Mr. Nicol and seconded by Mr. de Movellan and carried 9-0 (Penn and Pohl absent) to approve PLN-MAR-22-00024: EASTLAND LEGACY CENTER, INC with the Staff's justifications, but deleting the restriction on outdoor storage.

Action – A motion was made by Mr. Nicol and seconded by Ms. Worth and carried 8-1 (Penn and Pohl absent) to approve PLN-MJDP-22-00076: EASTLAND SHOPPING CENTER with Staff's recommendation of 14 revised conditions, and the removal of condition #15.