

1. RD PROPERTY GROUP, LLC ZONING MAP AMENDMENT AND PATCHEN WILKES, UNIT 2 DEVELOPMENT PLAN

Note: The Planning Commission postponed this item at the June 26, 2025 meeting.

- a. **PLN-MAR-25-00008: RD PROPERTY GROUP, LLC** – a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone and a Neighborhood Business (B-1) zone to a Commercial Center (B-6P) zone and to remove existing conditional zoning restrictions within the property's Neighborhood Business (B-1) zone, for 32.30 net (34.28 gross) acres for property located at 1811 Winchester Road (a portion of). The applicant is also requesting a variance to increase the maximum VUA between a building and a street from 60' to 110'.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 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.

The applicant is proposing the rezoning of a portion of the subject property to construct a mixed-use development that consists of a grocery store, a gas station, commercial outlots, as well as a multi-family residential component. The grocery store is proposed to be a total of 127,000 square feet, and includes an attached pharmacy and liquor store, and a total of 492 parking spaces. The store is oriented towards an internal access drive that runs parallel to Winchester Road. A gas station is proposed along Charleston Drive, west of the proposed grocery. The proposal includes five outlots along Winchester Road, which will be accessed through internal access driveways.

The multi-family residential component consists of two multi-family residential buildings, with a total of 154 units. These buildings are proposed to be accessed from Thunderstick Drive, and feature 154 parking spaces.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval of the zone change to B-6P for the following reasons:

1. The proposed Commercial Center (B-6P) zone is in agreement with the Imagine Lexington 2045 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The request allows for more flexibility to create higher density housing (Theme A, Goal #1.b)
 - b. The proposal utilizes an underdeveloped property along a corridor for a mixed-use development (Theme A, Goal #2.a; Theme E, Goal #1.d and #1.e)
 - c. The request will provide for neighborhood serving commercial uses (Theme A, Goal #3.d).
2. The proposal is in agreement with the Policies of the 2045 Comprehensive Plan for the following reasons:
 - a. The request will improve connectivity by extending existing stub streets, thereby increasing connectivity (Theme A, Design Policy #2 and #13)
 - b. The proposed apartment uses will increase the variety of housing choice available in the area (Theme A, Design Policy #8).
 - c. The request provides commercial uses that will provide for nearby residents' daily needs (Theme A, Design Policy #12).
3. The justification and corollary development plan are in agreement with the Development Criteria of the 2045 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Land Use, as the request provides neighborhood level commercial areas (A-DS12-1), incorporates residential uses into their commercial center (A-DN3-2), and provides a greater access to healthy and affordable food (C-PS15-2).
 - b. The proposed rezoning meets several criteria for Transportation, Connectivity, and Walkability, as the request makes vehicular connections to the existing commercial areas and allows for future

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connectivity with both Patchen Wilkes Farm and the existing Eastland Parkway neighborhood (A-DS4-1; A-DS13-1), and provides a starting point for future pedestrian facilities along the Winchester Road frontage (D-CO-2).

- c. The request meets the criteria for Environmental Sustainability and Resiliency, as the request locates the structure outside of the floodplain setback (B-PR-2-1), provides for street trees (D-SP10-1), and will avoid overlighting B-PR10-1).
 - d. The proposal meets several criteria for Site Design, as the development introduces a pavilion and the potential for programmatic elements within their open space (D-PL4-1), provides for connections to existing stub streets (C-Li8-1), and meets the parking requirements of the B-6P zone (C-PS1-2).
 - e. The plan meets several of the criteria for Building Form, as the request intensifies a parcel that is located along a Corridor (A-DS4-2), and transitions its uses from the most auto-centric outlots along the corridor to grocery and multi-family residential further into the site (A-EQ5-1).
4. This recommendation is made subject to approval and certification of PLN-MJDP-25-00027: PATCHEN WILKES UNIT 2) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

The Staff Recommends: **Approval** of the removal of the conditional zoning for the following reasons:

1. The nearby increases in allowable land use intensity, expansion of the Urban Services Boundary, adoption of the Urban Growth Master Plan, and the construction of large regional scale institutions are changes that have occurred that have shifted the intensity of anticipated development along this portion of Winchester Road, and make the current conditions inappropriate.
- b. **VARIANCE** – As part of their application, the petitioner is also seeking a dimensional variance to increase the allowable width of Vehicular Use Area in front of the building from 60 feet to 110 feet.

The Zoning Committee Recommended: **Postponement**.

The Staff Recommends: **Disapproval** of the requested variance for the following reasons:

1. The applicant has not provided a sufficient justification to meet the requirements of Article 7 of the Zoning Ordinance or KRS 100.243. There do not appear to be special circumstances that are unique to the subject property that do not generally apply to land in the general vicinity, or in the same zone that justify the need for the variance.
 2. The applicant has not provided sufficient information to determine that strict enforcement of the Zoning Ordinance will result in an unnecessary hardship or deprive the applicant of the reasonable use of their land
 3. Approval of the requested variance would negatively impact the pedestrian experience in the area, and is not consistent with the character of development in the area.
- c. **PLN-MJDP-25-00027: PATCHEN WILKES, UNIT 2** (8/3/25)* – located at 1811 WINCHESTER ROAD, LEXINGTON, KY
Council District: 6
Project Contact: EA Partners

Note: The purpose of this plan is to depict a 127,000 sq. ft. grocery store with parking, a gas station, and 154 multi-family dwelling units in support of the requested zone change from a Neighborhood Business (B-1) zone and Planned Neighborhood Residential (R-3) zone to a Highway Business (B-6P) zone and removing the conditional zoning from the remaining B-1 zoned area.

The Subdivision Committee Recommends: **Postponement**. There are questions regarding the need for a floodplain study to identify the extent of the floodplain.

1. Provided the Urban County Council approves the zone change to **B-6P** and removes conditional zoning; 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.

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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 Commission.
8. Add north arrow to vicinity map.
9. Add section line for cross-section E-E.
10. Provide Tree Inventory Map per Article 26 of the Zoning Ordinance.
11. Depict VUA (Vehicular Use Area) perimeter buffering per Article 18(a)(2) of the Zoning Ordinance.
12. Depict proposed development of Outlots #2-6 per Article 21 of the Zoning Ordinance.
13. Discuss lack of pedestrian connection between multi-family residential and grocery store.
14. Discuss orienting proposed grocery store to Charleston Drive instead of Winchester Road.
15. Discuss Placebuilder criteria.

Staff Presentation - Mr. Crum oriented the Commission to the zone change request. He explained that the applicant wished to build a Kroger Marketplace as the center of the development. He also said that they desired a zone change, as well as a removal of conditional zoning requirements attached to a smaller B-1 zone portion of the property. He said that the Staff agrees with the Regional Center Place Type and Medium Density Non-Residential/Mixed Use Development Type. He pointed out the features of the surrounding areas and the portion of the property that would remain in the B-1 zone. He told the Commission that there was limited transit service, and the Kentucky Transportation Cabinet was studying improvements to Winchester Road. He briefly described the initial concerns of the Staff, and the revised plans. Mr. Crum added that the variance request previously mentioned was no longer required. Lastly, Mr. Crum addressed the aspects of the Comprehensive Plan that were being met and those that were not. He stated that Staff recommended approval of the zone change request from a B-1 to a B-6P zone.

Commission Questions - Mr. Michler asked if there were any written comments sent, and Mr. Crum replied that there was one citizen comment letter sent in regarding the zone change piece of the application.

Mr. Michler stated that he was concerned that dividing the property into zones in this way could cause a circumvention of the Floor Area Ratio (FAR) requirements. Mr. Crum confirmed that the applicant stated that they had chosen to keep the B-1 zone on the front outlots so they could avoid the FAR requirements as well as parking requirements of the B-6P zone. He added that there was nothing in the Ordinance that prohibited them from doing this, but there were disadvantages to their choice as well, including drive-throughs being a conditional use in the B-1 zone.

Mr. Michler also stated that he was concerned that the residential buildings had no users and could just be depicted to comply with the FAR. Mr. Crum stated that it was the understanding of Staff that the applicant did intend to build the apartments. Mr. Michler said that another Kroger that had been built in a B-6P zone had not built any of the buildings other than the grocery store and was concerned that this property could end up the same way.

Mr. Nicol asked if the project could be completed with the current B-1 zoning, and why the request to B-6P zone was a better option. Mr. Crum explained that the B-1 zone does not allow for such a large building such as the proposed grocery store. He also stated the conditional zoning restrictions currently required vertical mixed use, and that has not proven to be successful. He explained that the B-6P zone allows for taller buildings and gives residential flexibility. Mr. Nicol appreciated that the B-6P allowed for the multi-family residential units.

Ms. M. Davis asked if Kroger had considered changing the orientation of the building to Charleston Drive rather than Winchester Road. She added that she felt that the back of the Kroger building should not face the multi-family buildings. Mr. Crum said that it had been discussed from the beginning of the plan, but the applicant had some spacing concerns with orientation towards Charleston Drive. He added that the applicant could speak to the question.

Mr. Owens requested more information about the outlots on the front of the property, specifically if the Planning Commission would see the plans. Mr. Crum reminded them that the Planning Commission would

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not see the development plans unless there was a waiver associated with the plan or a specific health, safety, or welfare concern.

Mr. Owens asked about drive-throughs on the outlots. Mr. Crum replied that, if the conditional zoning was lifted during this zone change process, a drive through would require a conditional use permit.

Staff Presentation - Mr. Chaney oriented the Planning Commission to the preliminary development plan. He told the Commission that staff had requested that the applicant depict something on each outlot so that they could justify their request to remove the conditional zoning. Mr. Chaney listed the following revised conditions, and told the Commission that the Staff was recommending approval.

1. Provided the Urban County Council approves the zone change to B-6P and removes conditional zoning; 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. Discuss Placebuilder criteria.

Mr. Crum presented the request to remove the conditional zoning from the B-1 zone area of the property. He said that staff recommended approval due to significant changes in the area. The existing conditional zoning restrictions are as follows:

1. There shall be a minimum of 125 residential units in the B-1 zone.
2. Signage shall be provided only as per the B-6P zone.
3. Sixty percent (60%) of all commercial square footage shall be in multi-story buildings with a mixture of residential units.
4. Existing trees withing 30 feet of the Winchester Road right-of-way are to be preserved, except those trees that are diseased or dying, and those needed to be removed for right-of-way improvements.
5. The sale of gasoline shall be restricted only to one business, only as an accessory to a convenience store, with no more than eight gasoline pumps.
6. No more than four drive-through facilities shall be provided on the subject property.

Mr. Crum reiterated that the Staff supported removal of all of the existing restrictions.

Commission Questions - Mr. Michler opined that the conditional zoning ensured that the development would be neighborhood oriented, but removing it would essentially remove the neighborhood center. Mr. Crum stated that the development would need to interface with the neighborhood, but also serve the needs of the greater area.

Mr. Nicol agreed that the grocery store would serve more than the Patchen Wilkes neighborhoods because of the lack of other grocery stores in the area. He felt that the development would serve the greater Winchester Road corridor.

Applicant Representation - Attorney Branden Gross was present to represent the applicant, and noted their desire to withdraw the variance since it was no longer necessary. He told the Planning Commission about the multiple neighborhood meetings that he had attended, and they had encouraged some changes made to the development plan. He reiterated that Kroger was the only known user at this time, and the other buildings were just conceptual. He briefly described the reasoning behind the request for the B-6P zone. He also informed the Commission that they had no users for the apartments, but as soon as they did, they would detail compliance with the multi-family design standards. Mr. Gross stated that they hesitated to include the buildings on the outlots in the B-1 zone area, because they were unsure of the users at this time. He reminded the Planning Commission that drive-throughs in the B-1 zone were a conditional use and there were no fueling stations allowed at all. Regarding the orientation of the Kroger building, he explained that the neighbors did not want the building facing them because of potential light and noise

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pollution. He explained other reasons why they wanted to keep the orientation of the grocery store to Winchester Road rather than Charleston Drive.

Commission Questions - Mr. Michler stated his concern about the number of parking spaces in the proposed development. He opined that the grocery store would perhaps only serve that many people a few times per year. Mr. Gross replied that while they had reduced the number of parking spots by 23%, Kroger knew their business and how many spots they needed.

Mr. Michler said that it appeared that the applicant was trying to circumvent the FAR requirements by requesting the zone change/removal of conditional zoning as they did. Mr. Gross agreed that it was intentional because the plan would not work if the entire property was zoned B-6P.

Mr. Nicol asked the applicant if they had met the objective standards of parking requirements to receive an approval recommendation from the Staff. Mr. Gross replied that they had, and in fact were under-parked compared to what was allowable. Mr. Nicol felt that this was important, because the property owners/tenants and the market should be able to determine what was needed for their business.

Citizen Comments - Jennifer Bringardner, resident of the Patchen Wilkes Townhomes, said that the applicant had been very helpful and responsive with her concerns. Her concerns were the safety of children crossing the street from the high school, and the potential light and noise pollution from the grocery store.

Applicant Rebuttal - Mr. Gross stated that the intersection of Charleston Drive and Winchester Road would be a fully lighted intersection with crosswalks for safety. He told the Planning Commission that he had committed to the neighbors that he would keep them apprised of changes and final development filings. He also reminded them that there were new lighting standards that would protect the neighbors from too much lighting.

Commission Comments - Mr. Michler stated that he could only support the re-zoning if it extended all the way to Winchester Road. He did not approve of the removal of the conditional zoning, because he felt that the development should be neighborhood oriented.

Mr. Nicol said the land was underutilized, and this development was much needed.

Action - Mr. Nicol made a motion, seconded by Mr. Penn, and carried 9-0 (Forester and Barksdale absent), to approve **PLN-MAR-25-00008: RD PROPERTY GROUP, LLC** to change the noted portion of the property to B-6P, for the reasons listed by staff.

Mr. Nicol made a motion, seconded by Mr. J. Davis, to approve the removal of the conditional zoning for **PLN-MAR-25-00008: RD PROPERTY GROUP, LLC** for the reasons presented by staff.

Commission Discussion - Mr. Penn said that he was concerned that the applicant was trying to make a zone fit a development plan without considering the intent of that zone.

Mr. Michler opined that it would be a mistake to remove the conditional zoning.

The motion failed by a vote of 3-6. (M Davis, J. Davis, Michler, Z. Davis, Worth, and Penn opposed, Forester and Barksdale absent)

Note: Mr. J. Davis left the meeting at approximately 4:16 p.m.

Action - Mr. Michler made a motion to leave the conditional zoning requirements in place for the B-1 portion of the property.

Commission Comments - Mr. Nicol suggested that some of the conditional zoning could be removed.

At this time, there was considerable discussion among the Planning Commission about removing portions of the conditional zoning with several suggestions and comments by members, staff, and the applicant.

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Action - Mr. Michler amended his motion to leave conditional zoning restrictions #2, #5, and #6 in place, but removing #1, #3, and #4 from the B-1 zone portion of the property. The motion was seconded by Ms. Worth, and carried 6-2 (M. Davis, Penn opposed, Forester, Barksdale, J. Davis absent).

Mr. Nicol made a motion, seconded by Ms. Worth, and carried 8-0 (Forester, Barksdale, J. Davis absent), to approve PLN-MJDP-25-00027: PATCHEN WILKES, UNIT 2, with the revised conditions, but removing #7.

Note: Chair Davis called for a ten-minute break at 4:25 p.m., and reconvened at 4:36 p.m. Mr. Nicol left the meeting at this time.

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