

ORDINANCE NO. _____-2013

AN ORDINANCE CHANGING THE ZONE FROM A NEIGHBORHOOD BUSINESS (B-1), PROFESSIONAL OFFICE (P-1), SINGLE FAMILY RESIDENTIAL (R-1E) AND HIGH DENSITY APARTMENT (R-4) ZONE TO A PLANNED SHOPPING CENTER (B-6P) ZONE, FOR 3.1462 NET (3.6588 GROSS) ACRES, FOR PROPERTIES LOCATED AT 704 EUCLID AVENUE; AND 408, 412, 416 AND 420 MARQUIS AVENUE INCLUDING DIMENSIONAL VARIANCES; AND IMPOSING CONDITIONS UPON APPROVAL: THE HEIGHT OF THE BUILDING SHALL NOT EXCEED TWENTY-EIGHT (28) FEET ABOVE THE FINISHED FLOOR ELEVATION EXCEPT IN THOSE LIMITED AREAS (SPECIAL DESIGN FEATURES) REFLECTED ON THE PRELIMINARY DEVELOPMENT PLAN APPROVED BY THE PLANNING COMMISSION AND THE ARCHITECTURAL RENDERINGS TENDERED TO THE PLANNING COMMISSION; THE BUILDING SHALL BE BUILT IN SUBSTANTIAL CONFORMITY WITH THE ARCHITECTURAL RENDERINGS TENDERED TO THE PLANNING COMMISSION EXCEPT FOR COMPLEMENTARY AND NECESSARY ADJUSTMENTS THAT MIGHT BE NEEDED SHOULD THE FINAL DEVELOPMENT PLAN BE REVISED BY THE PLANNING COMMISSION, THE APPLICANT HAS VOLUNTARILY AGREED TO THIS CONDITION; THERE SHALL BE A SIX (6) FOOT LANDSCAPE AREA WITH A MINIMUM PLANTED TREE HEIGHT OF EIGHTEEN (18) FEET ALONG MARQUIS AVENUE BETWEEN THE BUILDING AND THE SIDEWALK IN WHICH APPROPRIATE LANDSCAPING SHALL BE INSTALLED TO COMPLEMENT AND ENHANCE THE ARCHITECTURE; THE PROPERTY SHALL NOT BE SUBDIVIDED INTO COMMERCIAL OUT LOTS; AN EIGHT (8) FOOT TALL PRIVACY FENCE SHALL BE INSTALLED ALONG THE REAR BOUNDARY LINE OF THE SUBJECT PROPERTY WITH SUPPLEMENTAL PLANTINGS; THERE SHALL BE NO USE OF LOUDSPEAKERS ON THE PROPERTY EXCEPT THAT A LOW LEVEL AMPLIFICATION SYSTEM MAY BE USED AT THE DRIVE-THROUGH PHARMACY, BUT NO SUCH AMPLIFICATION SHALL BE HEARD AT THE PROPERTY LINE OF THE SUBJECT PROPERTY; THE OWNER OF THE SUBJECT PROPERTY SHALL INFORM ALL DELIVERY TRUCKS TO CUT THEIR ENGINES ONCE THE TRUCK IS PARKED TO UNLOAD PRODUCT; THE TRASH COMPACTOR SHALL ONLY BE UTILIZED BETWEEN 8:00 AM AND 9:00 PM; AND THE FINAL DEVELOPMENT PLAN WILL INCLUDE THE LOCATION AND INSTALLATION OF A COVERED BUS STOP ON EUCLID AVENUE (KROGER LIMITED PARTNERSHIP I; COUNCIL DISTRICT 3).

WHEREAS, at a Public Hearing held on May 23, 2013, a petition for a zoning ordinance map amendment for properties located at 704 Avenue; and 408, 412, 416 and 420 Marquis Avenue, from a Neighborhood Business (B-1), Professional Office (P-1), Single Family Residential (R-1E) and High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone, for 3.1462 net (3.6588 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending approval of the zone change including dimensional variances 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 704 Euclid Avenue; and 408, 412, 416 and 420 Marquis Avenue from a Neighborhood Business (B-1), Professional Office (P-1), Single Family Residential (R-1E) and High Density Apartment (R-4) zone to a Planned Shopping Center (B-6P) zone for 3.1462 net (3.6588 gross) acres; being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are proposed for the subject property via conditional zoning.

The council finds that the following conditional zoning provisions are reasonable and necessary to protect the health, safety and welfare of adjoining property owners, and are reasonable and necessary to further the purpose of the Zoning Ordinance and therefore makes approval of this zone change subject to the following conditions:

1. The height of the building shall not exceed twenty-eight (28) feet above the finished floor elevation except in those limited areas (special design features) reflected on the preliminary development plan approved by the Planning Commission and the architectural renderings tendered to the Planning Commission;
2. The building shall be built in substantial conformity with the architectural renderings tendered to the Planning Commission except for complementary and necessary adjustments that might be needed should the final development plan be revised by the Planning Commission; the applicant has voluntarily agreed to this condition;
3. There shall be a six (6) foot landscape area with a minimum planted tree height of eighteen (18) feet along Marquis Avenue between the building and the sidewalk in which appropriate landscaping shall be installed to complement and enhance the architecture;
4. The property shall not be subdivided into commercial out lots;
5. An eight (8) foot tall privacy fence shall be installed along the rear boundary line of the subject property with supplemental plantings;
6. There shall be no use of loudspeakers on the property except that a low level amplification system may be used at the drive-through pharmacy, but no such amplification shall be heard at the property line of the subject property;
7. The owner of the subject property shall inform all delivery trucks to cut their engines once the truck is parked to unload product;
8. The trash compactor shall only be utilized between 8:00 am and 9:00 pm;

9. The final development plan will include the location and installation of a covered bus stop on Euclid Avenue.

Section 3 - 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 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

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