

AN ORDINANCE CHANGING THE ZONE FROM AN AGRICULTURAL URBAN (A-U) ZONE TO A LIGHT INDUSTRIAL (I-1) ZONE, FOR 45.08 NET (46.74 GROSS) ACRES, FOR PROPERTY LOCATED AT 1180 NEWTOWN PIKE. (EXETER NEWTOWN LAND, LLC; COUNCIL DISTRICT 1).

WHEREAS, at a Public Hearing held on November 19, 2020, a petition for a zoning ordinance map amendment for property located at 1180 Newtown Pike from an Agricultural Urban (A-U) zone to a Light Industrial (I-1) zone, for 45.08 net (46.74 gross) acres, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change by a vote of 10-0; 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 1180 Newtown Pike from an Agricultural Urban (A-U) zone to a Light Industrial (I-1) zone, for 45.08 net (46.74 gross) acres, 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 conditional zoning restrictions in the Light Industrial (I-1) Zone shall apply:

- a. Prohibited Uses:
 1. Self-storage warehousing;
 2. Outdoor storage, excluding fleet storage associated with parcel delivery stations;
 3. Billboards;
 4. All above ground and underground storage liquid fuel tanks;
 5. On-site disposal of any hazardous waste materials;
 6. Mining of non-metallic minerals and/or radium
- b. There shall be a 30-foot landscaping buffer along the northern and eastern property boundaries of the subject property where adjacent to R-1D or R-3 zoning and developed with a residential land use.
- c. All establishments and facilities that store, or transport

hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulators (DEEM, Fire Department, or EPA, as necessary), as required by law.

These restrictions are appropriate and necessary for the following reasons:

1. To reduce the potential impact of allowable industrial uses on the adjacent neighborhood.
2. To reduce the potential impact of lighting and sound on the adjacent neighborhood.
3. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been approved by the Kentucky Division of Water on 8/28/03.
4. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.
5. The proposed restriction will better protect the adjacent Cane Run Creek and associated environmentally sensitive areas from uses that could potentially be harmful to the stream.

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: January 28, 2021



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL
PUBLISHED: February 4, 2021-1t

Rec'd by _____

Date: _____

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

IN RE: **PLN-MAR-20-00014: EXETER NEWTOWN LAND, LLC** – a petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Light Industrial (I-1) zone, for 45.08 net (46.74 gross) acres, for property located at 1180 Newtown Pike (a portion of). (Council District 1)

Having considered the above matter on **November 19, 2020**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

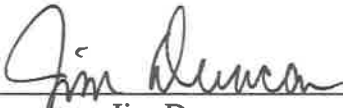
1. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will activate a large tract of undeveloped land within the Urban Service Area (Theme E, Goal #1.e) and expand industrial land in Lexington.
 - b. The proposed rezoning will allow for the support and showcasing of local assets to further the creation of a variety of jobs (Theme C, Goal #1).
 - c. The proposed rezoning will enhance the existing mass transit and multi-modal infrastructure to connect residents to their jobs at the proposed fulfillment center and create an effective and comprehensive transportation system (Theme D, Goal #1.).
 - d. The proposed new public road will allow for the connection of the Newtown Springs, Hollow Creek, and Green Acres Neighborhoods to Newtown Pike and the Legacy Trail (Theme A, Goal #3.b and Theme D, Goal #1.b)
 - e. The proposed development meets the goals of connectivity, public infrastructure, and job creation outlined within of the Winburn and Russell Cave Small Area Plan.
 - f. The proposed project allows access to both the major corridors in Lexington and throughout the broader Bluegrass region due to the location of the proposed development along the preferred freight corridor, the access to the Interstate 75 / Interstate 64, and the proximity New Circle Road interchange.
2. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed development meets Livability Policy #9, which seeks to promote economic development through the preservation of strategically and appropriately located industrial and production zoned land.
 - b. The proposed development will protect and recover Lexington's urban forest by strategically planting new trees and creating walkable streetscapes (Restoration Policy #1).
 - c. The proposed development will conserve environmentally sensitive areas, including significant natural habitats, wetlands and water bodies (Protection Policy #2), while also creating two new wetlands.
3. 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 site creates an industrial development that allows for safe pedestrian mobility and provides connections to residential developments.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by allowing for increase connectivity and prioritizing the inclusion of safe pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.

- c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it limits the impacts on the surrounding environment, adds green infrastructure through the creation of wetlands and adds tree canopy coverage in the form of trees and landscape buffers.
4. 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, excluding fleet storage associated with parcel delivery stations
 - iii. Billboards
 - iv. All above ground and underground storage liquid fuel tanks
 - v. On-site disposal of any hazardous waste materials
 - vi. Mining of non-metallic minerals and/or radium extraction
 - b. There shall a 30-foot landscaping buffer along the northern and eastern property boundaries of the subject property where adjacent to R-1D or R-3 zoning and developed with a residential land use.
 - c. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary), as required by law.

These restrictions are appropriate and necessary for the following reasons:

- 1. To reduce the potential impact of industrial uses on the adjacent neighborhood.
 - 2. To reduce the potential impact of lighting and sound on the adjacent neighborhood.
 - 3. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has most recently been approved by the Kentucky Division of Water on 8/28/03.
 - 4. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.
 - 5. The proposed restriction will better protect the adjacent Cane Run Creek and associated environmentally sensitive areas from uses that could potentially be harmful to the stream.
5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00068: Lexmark International Corp., 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 28th day of December, 2020.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

Note: The corollary development plan, PLN-MJDP-20-00068: Lexmark International Corp. was approved by the Planning Commission on November 19, 2020 and certified on December 3, 2020.

K.R.S. 100.211(7) requires that the Council take action on this request by February 17, 2021.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Darby Turner, attorney.**

OBJECTORS

▪ Richard Murphy, attorney representing Newtown Springs Shopping Center

OBJECTIONS

▪ Concerned with the vehicular connection with the subject property and the Newtown Springs Shopping Center.

VOTES WERE AS FOLLOWS:

AYES: (10) Barksdale, Bell, Davis, de Movellan, Forester, Meyer, Penn, Plumlee, Pohl, and Wilson

NAYS: (0)

ABSENT: (1) Nicol

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-MAR-20-00014** carried.

Enclosures: Application
Justification
Plat
Staff Report
Revised Staff Report
Applicable excerpts of minutes of above meeting

Record ID: PLN-MAR-20-00014

Filing Received: 10/05/2020

Pre-Application Date: 08/24/2020

Filing Fee: \$550.00

MAP AMENDMENT REQUEST (MAR) APPLICATION

1. CONTACT INFORMATION (Name, Address, City/State/Zip & Phone No.)

Applicant: EXETER NEWTOWN LAND, LLC, C.O. ANDY HAYMAKER, 3120 WALL STREET, STE 300, LEXINGTON, KY 40513
Owner(s): LEXMARK INTL. INC., 740 NEW CIRCLE ROAD, LEXINGTON, KY 40511
Attorney: DARBY TURNER, 300 WEST VINE STREET, STE 1200, LEXINGTON, KY 40507 PH: 859-231-8500

2. ADDRESS OF APPLICANT'S PROPERTY

1180 NEWTOWN PIKE, LEXINGTON, KY 40511 (a portion of)

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

Zoning	Existing		Requested		Acreage	
		Use	Zoning	Use	Net	Gross
A-U		Open Space	I-1	INDUSTRIAL	45.08	46.74

4. COMPREHENSIVE PLAN

a. Utilizing Placebuilder, what Place-Type is proposed for the subject site?	INDUSTRIAL AND PRODUCTION CENTER
b. Utilizing Placebuilder, what Development Type is proposed for the subject site? If residential, provide the proposed density	INDUSTRIAL AND PRODUCTION NON-RESIDENTIAL

5. 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

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

Roads:	To Be Constructed
Storm Sewers:	Private
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





September 25, 2020

Urban County Planning Commission
Division of Planning – Planning Services Section
200 East Main Street
Lexington, Kentucky 40507

Re: 1180 Newtown Pike, Lexington, KY (a portion)
From: Agricultural Urban (A-U Zone)
To: Light Industrial (I-1) Zone

Dear Members of the Planning Commission:

Lexmark International, Inc. hereby consents to **Exeter Property Group's** application for a zone map amendment request for its property set forth above.

Very truly yours,

A handwritten signature in black ink that reads "Thomas C. Wade". The signature is written in a cursive style with a long horizontal flourish at the end.

Tom Wade
Director, Corporate Real Estate

cc: Mr. Andy Haymaker
J. Darby Turner, III, Esq.

大成 DENTONS

BINGHAM
GREENEBAUM

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October 5, 2020

Urban County Planning Commission
Division of Planning – Planning Services Section
200 East Main Street
Lexington, Kentucky 40507

Re: Zone Change Request: 1180 Newtown Pike (a portion)
From: Agricultural Urban (A-U Zone)
To: Light Industrial (I-1) Zone

Dear Members of the Planning Commission:

We submit this justification letter for Exeter Newtown Land, LLC's ("Applicant") application for a zone map amendment for land located at 1180 Newtown Pike (a portion) ("Land") from Agricultural Urban (A-U Zone) to Light Industrial (I-1) Zone. This project will also include land located at 725 New Circle Road, which land is already zoned I-1.

The Applicant's request is to rezone the Land to I-1 to allow for a delivery center, which would bring a substantial number of jobs to Lexington. The grant of the map amendment is appropriate under KRS 100.213: (1) rezoning to the I-1 Zone will serve to further the Goals and Objectives of the 2018 Comprehensive Plan (KRS 100.213(1)); and, (2) alternatively, the A-U Zone is an inappropriate use of the Land and the I-1 Zone is an appropriate use of the Land (KRS 100.213(1)(a)).

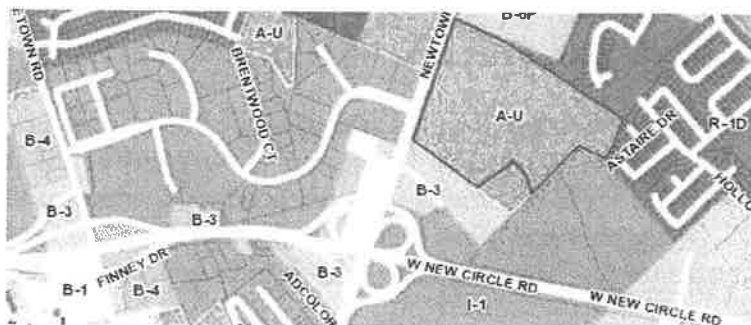
The intended user is a global company, with more than 250,000 full-time associates in its network. Trucks bring consumer goods to the delivery center for associates to sort it and deliver directly to customers. Such delivery centers create employment opportunities for local residents to serve as associates to fulfill customer orders, skilled technicians to ensure smooth operations, and managers to manage the day-to-day operations. Delivery center associates normally make \$15 an hour or more, with full health benefits, generous parental leave, career training, and retirement savings opportunities. As contemplated by the Goals and Objectives of the 2018 Comprehensive Plan, this project will increase the number of job opportunities paying higher compensation and benefits to employees than retail jobs, but without the advanced level of education required by professional and trade jobs (Theme C, Goal 1, Objective a.). This is a major opportunity to retain and expand a large employer in Lexington by way of an infill development project (Theme C, Goal 2 Objective a.).

The Land is currently zoned A-U Zone. The A-U Zone is intended to control rural land within the Urban Service Boundary and hold it until urban services are available. Although this

Land was located within the original Urban Service Boundary set in 1958, the city always intended the Land for a future urban use. The Land consists of approximately 45 acres. Its current owner uses the Land as a privately owned and maintained park for its employees. In 2016, the Winburn Russell Cave Neighborhoods Small Area Plan (“Winburn SAP”)¹ identified this Land as a potential site for infill development, such as the one currently being contemplated (Theme A, Goal 2, Objective a.). This portion of the Urban Service Area is no longer rural and current public facilities, utilities, sanitary services and other public services are present to serve urban uses, promoting the rationality of a zone change to the I-1 Zone. There already exists mass transit and multi-modal infrastructure to connect residents to their jobs. Such a zone change will benefit numerous areas in Lexington by growing the number of employment opportunities in the area, thus relieving some pressure to expand the Urban Service Area in the adjacent area (Theme E, Goal 1, Objective d.).

COMPREHENSIVE PLAN

The map amendment request is in agreement with the Comprehensive Plan, which serves as the guidepost for development of the city. The Comprehensive Plan states that industrial land is “best suited in areas where they already exist.” (Comprehensive Plan at Page 272.) As shown below, industrial land and complimentary users already predominate this area of Lexington:²



University of Kentucky’s Coldstream Research Campus and the industrial park on Nandino Boulevard are located west of the Land (across Newtown Pike). Highway service business and industrial land is located to the south of the Land. The other industrial tract (725 New Circle Road) is located east of the Land. Lastly, the main Lexmark International campus is located south of the Land (across New Circle). This area is well suited for industrial land.

Unfortunately, the supply of industrial land does not meet the demand in Lexington.³ According to Commerce Lexington, “currently, there are less than 10 reasonable sites of at least 10 acres located in Lexington. Plus, there are 50 acres available in UK’s Coldstream Research Campus. The 200 acres in the ‘turkey neck’ is still several years out due to relocation of the dairy

¹ The Winburn SAP is discussed in more detail below.

² Newtown Springs and Hollow Creek and Green Acres Neighborhoods are adjacent to the land, and those areas are specifically addressed in more detail below.

³ The Planning Commission has recently recommended zoning the Spring Valley Golf Course for a residential neighborhood. That golf course consists of 138 acres that is adjacent to industrial land and would further reduce the area available for industrial users in Lexington under the “best-suited” requirement.

research facility and costs of infrastructure implementation.” This is an opportunity to activate a large tract of undeveloped land within the Urban Service Area (Theme E, Goal 1, Objective e.) and expand industrial land in Lexington.

This Land is strategically located to facilitate efficient and affordable shipping of goods throughout Lexington and the region (Livability Policy #9). The land is located in the northeast quadrant of the intersection of Newtown Pike and New Circle Road, allowing access to major corridors in Lexington and throughout the region. Newtown Pike is a part of KY 922, which runs from Broadway (near the downtown business district and University of Kentucky) to the Interstate 75 / Interstate 64 interchange. New Circle Road (KY 4) partially circles the suburban areas of Lexington in both the east and west directions from the intersection. This Land is a prime location for an industrial user.

The Applicant is proposing conditional zoning to minimize environmental impact of industrial uses on the Land. (See Comprehensive Plan at Page 337.) This Land is located within the Royal Springs Aquifer, and Cane Run Creek runs along the southern boundary of the project. The proposed new wetlands will add additional buffering and the wetlands will allow enhanced landscaping for stormwater management (Theme B, Goal 3, Objective c.). The Legacy Trail runs along a portion of Cane Run Creek, allowing this natural buffer area to continue as greenspace and open space for the area residents (Them A, Goal 2, Objective c.). The Applicant’s proposals will protect the natural resources and landscape features within the development (Theme B, Goal 3, Objective c.). Of course, the Applicant will comply with the various other regulations and ordinances that exist to minimize the concern of environmental impacts. Upon completion of this project, there will be negligible impact to the natural resources in this area.

There already exists mass transit and multi-modal infrastructure to connect residents to their jobs at the proposed delivery center. The Applicant proposes to expand the infrastructure and connections to achieve an effective and comprehensive transportation system (Theme D, Goal 1.). LexTran’s Route 4 serves Newtown Pike, connecting downtown Lexington to Stanton Way (north side of Interstate 75 / Interstate 64 interchange). The Applicant has spoken with Lexington Area Metropolitan Planning Organization (“MPO”) and LexTran regarding the current transit route and possible bus stop facilities for this project. The Applicant is proposing to construct a new public road to allow the eventual connection of the Newtown Springs, Hollow Creek, and Green Acres Neighborhoods to Newtown Pike and the Legacy Trail (Theme A, Goal 3, Objective b.).

Amending the zone of the land to I-1 will not equate to removal of all greenspace and availability of outdoor activity around the Land. The Legacy Trail runs along the south and west boundaries (parallel to Newtown Pike) of the Land, providing a multi-use trail for cyclists and other users. Upon completion of the proposed road to Silver Springs Drive located on adjacent property, the area will have both (a) an additional east / west connection from Russell Cave to Newtown Pike and (b) an additional connection to the Legacy Trail and the greenspace network for those residential users. (Theme B, Goal 3, Objective c.; Theme D, Goal 1, Objective b.) The Applicant has also had preliminary discussions with the city regarding the possibility of that greenspace as part of the city’s parks system. As provided in the Newtown Pike Landscape

Ordinance, the development will have a 20' landscape buffer. As part of that ordinance, the Applicant intends to erect a "horse farm fence" along the Legacy Trail (Theme B, Restoration Policy #1.). The new public road and accompanying improvements will connect those neighborhoods to the employment opportunities in the project (Theme C, Goal 2, Objective a.). The new public road will also allow the establishment of another connection for police, EMS and fire to access those neighborhoods (Theme A, Goal 4, Objective c.).

The Applicant is proposing substantial buffering along the residential borders and enhancements to the retained greenspace. (See Comprehensive Plan at Page 37; Theme A, Goal 2, Objective c.) As discussed above, the Applicant is proposing the construction of a new public road along its northern boundary, which will act as a buffer for the Newtown Springs Neighborhood. The Applicant is also proposing a significant landscape buffer along the balance of the borders with the residential uses. The Applicant is proposing to locate its loading areas furthest from the residential areas. The Applicant is proposing two new wetlands to enhance the greenspace. The Applicant is retaining the Legacy Trail, and it intends to enhance the area of the trail along Newtown Pike. The combination of the proposed new public road, significant landscape buffer, public greenspace, and service road will serve as substantial buffers to residential areas. The Applicant has provided a number of proposals that will adequately soften the impact that the industrial users may cause on the residential users.

Since 2007, the Comprehensive Plan have recommended the formulation and adoption of small area plans "to revitalize our city's neighborhoods in ways that make them more sustainable and livable." (Comprehensive Plan at Page 268.) At the time that the Winburn Small Area Plan was developed, the possibility that a large employer would want to development that land was not considered. The land use recommendations in the small area plans are to help guide development, and the implementation strategies are important to fulfill the goals and objectives in the plan. The conceptual plans in the Winburn Small Area Plan recommended that the land be used as residential, greenspace and mixed-use, but the plan does not mandate that those are the only uses available for the land. This project meets the Objectives of the Winburn Small Area Plan and make the small plan area more sustainable and livable for residents.

The Applicant's proposed improvements will create accessibility and connectivity to generate opportunities for the existing neighborhoods. The Applicant is proposing to construct a new public road to further the connectivity between the Newtown Springs, Hollow Creek and Green Acres Neighborhoods and Newtown Pike. The Applicant has proposed 6' sidewalks and 5' bike lines along that new public road. These improvements will increase connectivity in the area and create affordable and safe multi-modal transportation choices for those neighborhoods. The new public road will also create an opportunity for additional transit routes. The new public road will further the objective of creating additional entrance points for police, EMS and fire to those neighborhoods. These improvements will improve public safety and accessibility.

The Applicant's project will improve the economic vitality and opportunities in the area. The Applicant anticipates that the new fulfillment facility will bring over 500 well-paying jobs to the area, increasing employment opportunities within walking distance for neighborhood residents. Upon completion of the road on Newtown Springs, the area will have an additional east / west

connection from Russell Cave to Newtown Pike. This will allow all residents to have convenient opportunities for shopping and access to additional amenities.

In addition to the employment opportunities that this project creates, this project will assist with the activation of the commercial portion of Newtown Springs. Currently, the developer of Newtown Springs proposes to construct a 200,000 SF retail center, restaurants, offices, and other commercial improvements. As mentioned above, the Applicant is proposing to further the connections of The Hollow Creek and Green Acres Neighborhoods to Newtown Pike, allowing those residents to access future retail and commercial businesses in Newtown Springs. Upon completion of the delivery center, Newtown Springs will have a built-in customer base of over 500 workers.

INAPPROPRIATE VS. APPROPRIATE ZONING CLASSIFICATION UNDER KRS 100.213(1)(A)

Alternatively to the above argument that the map amendment is in agreement with the adopted comprehensive plan (KRS 100.213(1)), the Applicant is proceeding under KRS 100.213(1)(a) that the existing classification is an inappropriate zoning classification and the proposed zoning classification is appropriate. An applicant has the discretion to determine which of the statutory options it intends to use under KRS 100.213(1) to prove the justification for the map amendment. More importantly, an applicant is not obligated to provide for alternative justifications. If an applicant chooses to proceed under KRS 100.213(1)(a), then an analysis of the comprehensive plan is not applicable to that argument.

The A-U Zone is an inappropriate zone for the Land. The A-U Zone is intended to control rural land within the Urban Service Boundary and hold it until urban services are available. This portion of the Urban Service Area is no longer rural and current public facilities, utilities, sanitary services and other public services are present to serve urban uses, promoting the rationality of a zone change to the I-1 Zone. The A-U Zone is an inappropriate zone for the Land by definition.

The I-1 Zone is an appropriate zone for the Land. The Zoning Ordinance is clear as to the intent of the I-1 Zone:

This zone is intended for manufacturing, industrial and related uses not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light or industrial waste ... Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to service the anticipated traffic needs.⁴

The land is located in an area within which industrial users and industrial zoned land already exist. There is existing mass transit and multi-modal infrastructure to connect residents to their jobs, and the Applicant is proposing to further enhance that infrastructure (as discussed in more detail above argument under the Comprehensive Plan and below in the Placebuilder). This Land is strategically located to facilitate efficient and affordable delivery of goods throughout Lexington and the region.

⁴ An analysis of the comprehensive plan is not applicable for a justification under KRS 100.213(1)(a).

The Applicant is proposing a site layout and vegetative buffering that mitigates perceived conflicts between the industrial and residential users. The Applicant is proposing a new public road and other infrastructure to provide for an adequate street system to serve its anticipated needs. As discussed more fully below in D-CO1-1, deliveries at this site will be scheduled to mitigate impact with the public and road loads during rush hour periods. The I-1 Zone is an appropriate zone for the Land.

CONCLUSION

As set forth above, the I-1 Zone change would bring jobs and opportunity to the area, the area already has the infrastructure in place to support the zone change, and current residents will benefit from the proposed amenities, like the new public road, that would accompany the zone change. The zone amendment complies with KRS 100.213, because (a) the I-1 Zone is in agreement with the Goals and Objectives of the 2018 Comprehensive Plan, and alternatively, (b) the A-U Zone is an inappropriate zoning classification for the Land, and the I-1 Zone is an appropriate zoning classification for the Land.

PLACEBUILDER

Industry & Production Center Place Type // Industrial & Production Non-Residential

We have further evaluated our proposal under the design criteria in Placebuilder. After consultation with planning staff, the Applicant is submitting this proposal for the I-1 Property as the Industry & Production Center Place Type and the proposed development type as Industrial & Production Non-Residential. We submit that this classification is appropriate because the general area already has a large number of light industrial uses. I-1 is a suggested zoning category for this place type and development.

We have submitted a color-coded reflection of how the design criteria listed in that Placebuilder category herewith. Items highlighted in green are on our Annotated Preliminary Development Plan, items highlighted in yellow are addressed in this letter, and items highlighted in orange we do not believe are applicable to our proposal.

SITE DESIGN, BUILDING FORM, & LOCATION

- B-PR9-1 The Applicant does not intend to disturb any environmentally sensitive areas. A 100-year floodplain is located on the Land near Cane Run Creek, which the Applicant plans to preserve as a greenspace. Further, the Applicant intends to integrate its stormwater management system, including two new wetlands, into a buffer for Cane Run Creek. Those new wetlands will improve water quality and solve runoff issues from the impervious surfaces into that greenspace. The plan calls for utilizing retaining walls rather than grading difficult topography. The site is within the Royal Spring Aquifer located in northern Fayette County and southern Scott County, and the applicant will share its proposed plans with Royal

Spring Wellhead Protection Committee as part of the Final Development Plan process. This criteria is set forth on the Annotated Preliminary Development Plan.

- B-SU11-1 The Applicant is proposing new, and to retain existing, green infrastructure in this project. As discussed in B-PR9-1, the Applicant will control stormwater with two new wetlands. The Legacy Trail is located on this site, allowing the public access to the retained greenspace near Cane Run Creek. The Applicant has also had preliminary discussions with the city regarding the possibility of that greenspace as part of the city's parks system. As shown on the Landscape, Screening and Existing Vegetative Buffer Plan ("Landscaping Plan") submitted with this letter, the Applicant intends to plant a substantial number of street and buffering trees at the site. The Applicant will more fully discuss these proposals as part of the Final Development Plan process. This criteria is set forth on the Annotated Preliminary Development Plan.
- C-DI1-1 A fulfillment center is limited to the industrial zones, and the I-1 Zone will allow for a wider range of jobs than the current A-U Zone. The Applicant anticipates hundreds of full time and part time jobs at this project: associates to fulfill customer orders, drivers to deliver orders, skilled technicians to ensure smooth operations of machinery, and managers to manage the day-to-day operations. The project will also create part-time seasonal employment. The Applicant anticipates the minimum wage will be \$15 per hour for full-time employees. There is also an opportunity for entrepreneurs to start and manage their own delivery businesses on a full-time or flex basis; such parties may create their own delivery schedules based upon the hours of operation at the site. On average, flex deliverers earn more than \$22 per hour.
- C-D15-1 The land is not located in an Opportunity Zone.
- C-PS3-1 The land is not located in a Rural Activity Center.
- C-PS8-1 The requested zone amendment will increase opportunities for industry and special trade employment. There is a more discussion of the scope of opportunities in C-DI1-1.
- C-PS10-2 There are no underutilized parking lots on the development available for shared or flexible parking arrangements. Based on the Applicant's extensive development of existing facilities, the Applicant is proposing parking that is sufficient for the needs of the user. The fleet-storage area is designed for sufficient overnight delivery van parking, and the employee-parking area is designed for sufficient employee parking needs during the seasonal period. There is a further discussion of the impracticality of shared parking in C-PS10-1.

- C-PS10-3 The Applicant is not proposing to overpark this development. The Applicant has developed existing facilities, and it is proposing sufficient parking to satisfy the needs of this project. There is a more discussion of the scope of the parking needs in C-PS10-2.
- D-PL7-1 The Applicant has met with representatives of LexTran, MPO, Commerce Lexington and District 7 of the Kentucky Department of Transportation. The Applicant intends to meet with LexTran to discuss mass transit routes in this area. The Applicant has discussed this plan with the civic leaders in the area and it has meetings scheduled with representatives from the neighborhoods within the next two weeks. The Applicant has also met with the developer of Newtown Springs.
- D-PL9-1 There are no historically significant structures to be preserved.
- D-SP3-1 The Applicant is proposing the construction of a new public road and access easements for infrastructure. These proposed areas are adequate to provide for reliable service.
- D-SP3-2 There are no cellular tower antennae proposed for the development.
- E-GR4-1 There are no existing structures on the Land.
- E-GR5-1 There are no existing structures on the Land.

TRANSPORTATION & PEDESTRIAN CONNECTIVITY

- C-PS10-1 The Applicant is not proposing any ride sharing or other public use parking on the Land. Unlike professional and retail businesses that directly cater to the public, industrial users often restrict visitors for safety and security reasons. It is not practical to have public use parking on industrial land. There is more discussion of share parking in C-PS10-2.
- D-CO1-1 The Applicant has proposed to construct a new public road to allow the future extension of Silver Springs Drive to Newtown Pike, expanding pedestrian, cycling and vehicular transportation options in the area. The Applicant has proposed 6' sidewalks and 5' bike lines along that new public road. The Applicant proposes bike parking at its site. The Applicant is proposing crosswalks and sidewalk improvements within its site to allow for safe internal movement.

The Applicant has spoken with MPO and LexTran related to the latter's current transit route. The Applicant is continuing those conversations to determine the appropriate location for bus stop facilities prior to the final development process. Once a bus stop facility location is identified, the Applicant will have the ability to identify sidewalk connections from the facilities to its proposed building.

The Applicant anticipates that delivery vans will use the access easement as the primary access to and from the site, and the Applicant agrees to discourage drivers from using residential roads to the north of the development.

The Legacy Trail will continue through the Land. The Applicant recognizes that staff's concerns related to the conflict points with the Legacy Trail, and the Applicant is proposing cross-walks and other design features similar to those approved at Newtown Springs Drive.

Deliveries at this site will be scheduled to mitigate impact with the public and road loads during rush hour periods. The Applicant anticipates that line haul trucks will primarily make deliveries to the project for sorting between the hours of 10:00 pm and 8:00 am. Starting at 9:50 am and ending at 10:50 am, approximately 345 delivery vans will depart from the site at twenty-minute intervals. Delivery routes are normally completed, and the delivery vans return to the facility, between 7:10 pm and 8:50 am. Approximately 90 civilian vehicles will make deliveries under the flex delivery program. Those civilian vehicles depart the site in 15-minute intervals between the hours of 4:30 pm and 6:00 pm.

- D-CO2-1 The Applicant's Traffic Impact Study demonstrates that the Applicant's proposal, together with its proposed improvements and access points on Newtown Pike, will allow safe facilities for the traveling public and the users of the multi-use path and Legacy Trail. D-CO1-1 further discusses the safety of the facilities. This criteria is set forth on the Annotated Preliminary Development Plan.
- D-CO2-2 As discussed in D-CO1-1, the Applicant is proposing to construct a new public road, with 6' sidewalks and 5' bike lines, to allow the future connection of residential neighborhoods to Newtown Pike. The new public road will also allow for a future east / west connection for Russell Cave Road to Newtown Pike. The Applicant will preserve the Legacy Trail, and it is proposing improvements to mitigate concerns related to conflict points. This criteria is set forth on the Annotated Preliminary Development Plan.
- D-CO4-1 The Applicant is not proposing any dead-end streets or Cul-de-sacs; provided, the one public road being proposed will be connected to Silver Springs Drive on the adjacent property, by others, in the future. The Applicant is proposing to use stamped concrete improvements to delineate the end of the new public road and beginning of its private driveway(s). This criteria is set forth on the Annotated Preliminary Development Plan.
- D-CO4-2 The proposed plan is to construct one public road from Newtown Pike to allow for the future connection to Silver Springs Drive on the adjacent property, by others. The new public road will include 6' sidewalks, 5' bike lines and street trees. This public road extension will allow future connection to the surrounding

neighborhoods. Upon the connection of the proposed public road to Silver Springs Drive on the adjacent property, by others, the area will have an additional east / west connection from Russell Cave to Newtown Pike. This criteria is set forth on the Annotated Preliminary Development Plan.

- D-CO4-3 The Applicant is proposing one public roadway, and it will utilize walls to minimize grading.
- D-CO5-1 The Applicant is proposing one public roadway, and its length is necessary to allow a future connection to Silver Springs Drive, by others.
- E-ST3-1 The Applicant is not proposing any ride sharing or other public use parking on the Land. This item is discussed in C-PS10-2 and C-PS10-1. The Applicant is committed to installing new bus facilities in consultation with LexTran.

GREENSPACE & ENVIRONMENTAL HEALTH

- A-DS4-3 The plan calls for utilizing retaining walls rather than grading difficult topography. The Applicant intends to preserve the area around Cane Run Creek. The Applicant is proposing two new wetlands for stormwater management and enhancements of that greenspace. The Applicant has also had preliminary discussions with the city regarding the possibility of that greenspace as part of the city's parks system. The Applicant is proposing additional tree clusters between the proposed building and Newtown Pike. The Applicant is proposing to retain the enhanced landscaping along Newtown Pike and the Legacy Trail. This criteria is set forth on the Annotated Preliminary Development Plan.
- A-EQ7-3 The Legacy Trail will continue through the property, and is a key community space in this area. The Applicant is proposing a "horse farm fence" along the east side of the Legacy Trail along Newtown Pike to delineate the community space with private open space. The Applicant has also discussed with the city whether it is interested in accepting the greenspace as part of the city's parks system. This criteria is set forth on the Annotated Preliminary Development Plan.
- B-PR2-1 The applicant does not intend to disturb any environmentally sensitive areas. The site is within the Royal Spring Aquifer located northern Fayette County and southern Scott County. The applicant will share its proposed plans with Royal Spring Wellhead Protection Committee. The Applicant intends to preserve the buffering at Cane Run Creek. A-DS4-3 further discusses these items. This criteria is set forth on the Annotated Preliminary Development Plan.
- B-PR2-2 The Applicant does not propose subdividing floodplain parcels.

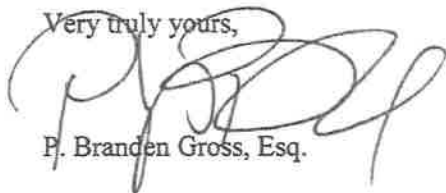
- B-PR2-3 Cane Run Creek is already utilized by the Legacy Trail and part of the greenspace network. The Applicant intends to preserve the buffering at Cane Run Creek. The two new wetlands will enhance that buffering. The Applicant has also had preliminary discussions with the city regarding the possibility of that greenspace as part of the city's parks system. There is a maintenance road within the private park, which the Applicant is proposing to retain for continued use for maintenance purposes. The Applicant is proposing to install removable bollards to delineate the access point between the maintenance road and the parking area. This criteria is set forth on the Annotated Preliminary Development Plan.
- B-PR7-1 There are already connections to the Legacy Trail, Cane Run Creek, and the tree stands therein. The Applicant is proposing additional tree clusters near the Legacy Trail and Cane Run Creek. The new public road will allow the future connection of the surrounding residential users to access the Legacy Trail and the greenspace network. This criteria is set forth on the Annotated Preliminary Development Plan.
- B-PR7-2 The Applicant is proposing a substantial number of new trees. As shown on the Landscaping Plan, these trees will include clusters, street trees and buffering trees. The Applicant is retaining the trees located within the area near Cane Run Creek. This criteria is set forth on the Annotated Preliminary Development Plan.
- B-PR7-3 As discussed in B-PR7-2, the Applicant is proposing to increase the tree canopy. This criteria is set forth on the annotated Development Plan. The Tree Inventory Map and Landscape Plan also detail this criteria.
- B-RE1-1 The Applicant will provide street trees to enhance a walkable streetscape even though street trees are not required on industrial zoned roads. This criteria is set forth on the Annotated Preliminary Development Plan.
- B-RE2-1 The Legacy Trail connects the site to the greenspace network. The new public road will allow additional residential users access to the Legacy Trail. The two new wetlands, for stormwater management, will enhance that greenspace network. This criteria is set forth on the Annotated Preliminary Development Plan.
- E-ST5-1 The Land is not located in a Rural Activity Center.
- E-GR3-1 The new public road will allow the future connection of the surrounding residential users to access the Legacy Trail and the greenspace network. The development will have a larger vegetative area than the 20' landscape buffer required in the Newtown Pike Landscape Ordinance. The Applicant intends to erect a "horse farm fence" and plant ornamental trees and/or shrubs within or near the buffer area as required by the aforementioned ordinance. The Legacy Trail is located within the proposed buffer area, and the Applicant will need

flexibility to retain the existing landscaping within the Legacy Trail and still comply with the Newtown Pike Landscape Ordinance, e.g., the location of the new “horse farm fence” will be located outside of the 20’ buffer. The new wetlands will allow stormwater maintenance facilities to blend into the existing greenway and further buffer the greenspace.

E-GR3-2 The Legacy Trail and Cave Run Creek are major geographic features in this area. The Applicant is proposing a public street that will increase the number of residential users in the area that have safe access to the Legacy Trail, and thereby, Cane Run Creek. Proposed “horse farm fence” and new wetlands will further enhance these geographic features.

Thank you for your consideration.

Very truly yours,



P. Branden Gross, Esq.

cc: Exeter Newtown Land, LLC

INDUSTRIAL & PRODUCTION NON-RESIDENTIAL

ENHANCED NEIGHBORHOOD

SITE DESIGN, BUILDING FORM, & LOCATION

- B-PR9-1** Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
- B-SU11-1** Green infrastructure should be implemented in new development. (E-GR3)
- C-DI1-1** Consider flexible zoning options that will allow for a wide range of jobs.
- C-DI5-1** In Opportunity Zones with a clearly defined local context, consider adaptive reuse to enhance the existing context.
- C-PS3-1** Development potential in the Rural Activity Centers should be maximized. (E-ST5)
- C-PS8-1** Opportunities for industry and special trade employment should be increased.
- C-PS10-2** Developments should explore options for shared and flexible parking arrangements for currently underutilized parking lots.
- C-PS10-3** Over-parking of new developments should be avoided. (B-SU5)
- D-PL7-1** Stakeholders should be consulted to discuss site opportunities and constraints prior to submitting an application.
- D-PL9-1** Historically significant structures should be preserved.
- D-SP3-1** Adequate right-of-way, lease areas and easements for infrastructure, with emphasis on wireless communication networks should be provided to create reliable service throughout Lexington.
- D-SP3-2** Cellular tower antennae should be located to minimize intrusion and negative aesthetic impacts, and stealth towers and landscaping should be used to improve the visual impact from the roadway and residential areas.
- E-GR4-1** Developments should incorporate reuse of viable existing structures.
- E-GR5-1** Structures with demonstrated historic significance should be preserved or adapted.

TRANSPORTATION & PEDESTRIAN CONNECTIVITY

- C-PS10-1** Flexible parking and shared parking arrangements should be utilized.
- D-CO1-1** Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.
- 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 multimodal transportation net-work that satisfies all users' needs, including those with disabilities.

- D-CO4-1** Dead-end streets and Cul-de-sacs should be discouraged except where connections are not topographically or environmentally feasible.
- D-CO4-2** Roadway capacity should be increased by providing multiple parallel streets, which alleviate traffic and provide multiple route options, in lieu of additional lanes.
- D-CO4-3** Street pattern and design should consider site topography and minimize grading where possible.
- D-CO5-1** Streets should be designed with shorter block lengths, narrower widths, and traffic calming features.
- E-ST3-1** Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area. (E-GR10, E-GR7)

GREENSPACE & ENVIRONMENTAL HEALTH

- A-DS4-3** Development should work with the existing landscape to the greatest extent possible, preserving key natural features.
- A-EQ7-3** Community open spaces should be easily accessible and clearly delineated from private open spaces.
- B-PR2-1** Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
- B-PR2-2** Dividing floodplains into privately owned parcels with flood insurance should be avoided.
- B-PR2-3** Floodplains should be incorporated into accessible greenspace, and additional protection should be provided to areas around them.
- B-PR7-1** Connections to greenways, tree stands, and stream corridors should be provided.
- B-PR7-2** Trees should be incorporated into development plans, prioritize grouping of trees to increase survivability.
- B-PR7-3** Developments should improve the tree canopy.
- B-RE1-1** Developments should incorporate street trees to create a walkable streetscape.
- B-RE2-1** Green infrastructure should be used to connect the greenspace network.
- E-ST5-1** Increased intensity in the Rural Activity Centers should not negatively impact surrounding rural areas.
- E-GR3-1** Physical and visual connections should be provided to existing greenway networks.
- E-GR3-2** New focal points should emphasize geographic features unique to the site.

Theme Letter - Pillar Abbreviation & Policy Number - Criteria Number
Ex: from Theme A - Design Pillar & Policy #1 - Criteria #1 = A-DS1-1. Full decoder on page ###

Criteria that include additional policy items in parentheses refer to companion policies that will provide additional context to the related criteria.

UPDATED 10.16.2020

Exeter Newtown Land, LLC (PLN-MAR-20-00014)

Package fulfillment and distribution center.

1180 NEWTOWN PIKE

Applicant

EXETER NEWTOWN LAND, LLC
C/O HAYMAKER DEVELOPMENT CO.
3120 Wall Street, Suite 200
Lexington, KY 40513



Owner

LEXMARK INTL. INC.
740 New Circle Road,
Lexington, KY 40511



Application Details

Acreage:

45.08 net (46.47 gross) acres

Current Zoning:

Agricultural Urban (A-U) zone

Proposed Zoning:

Light Industrial (I-1) zone

Place-type / Development Type:

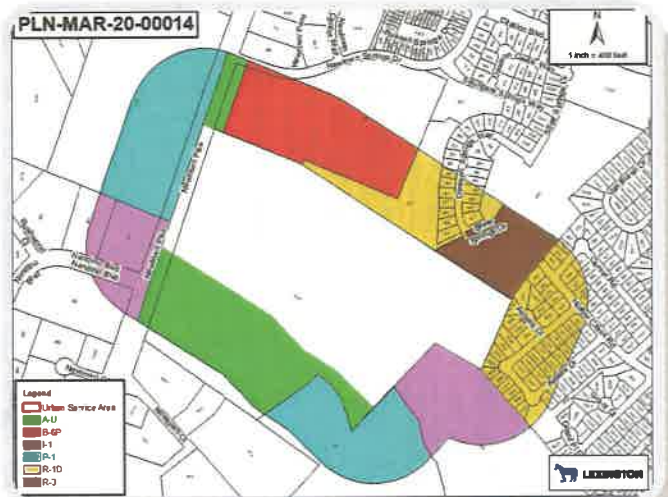
Industrial and Production Center*

Industrial and Production Non-Residential

For more information about the Industrial and Production Center Place-Type see Imagine Lexington pages 337-339.

Description:

The applicant is seeking to develop a package fulfillment and distribution center, which will include the construction of an industrial roadway that will connect Silver Springs Road to Newtown Pike. The development plan proposes a single structure with associated parking and fleet storage.



Status

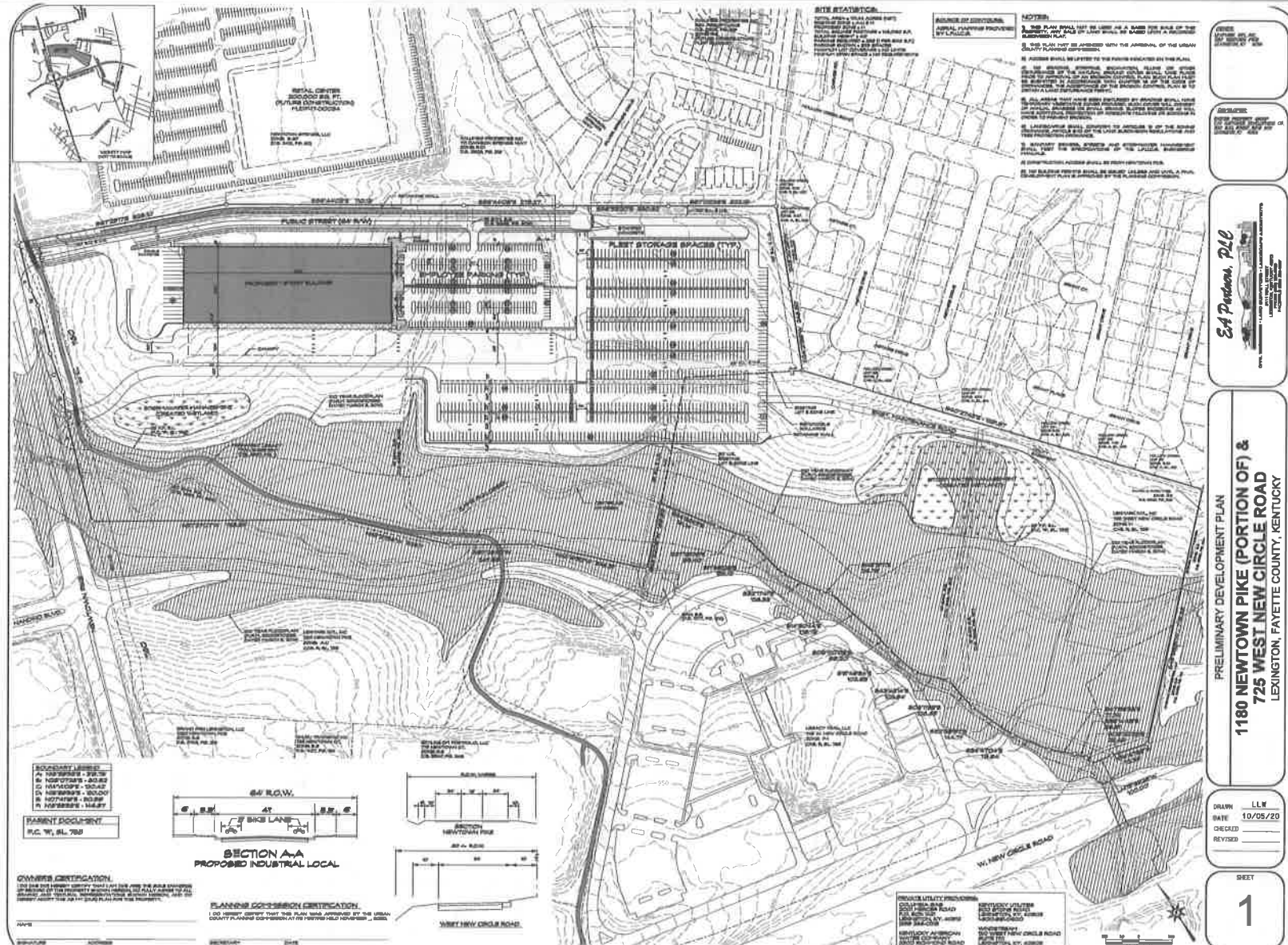
- Public Engagement
- Pre-Application Meeting
- Application Review
- Planning Staff Review
- Technical Review Committee
- Zoning/Subdivision Committee Meetings
- Planning Commission Hearing
- Urban County Council Meeting

Public Engagement

- The applicant participated in a virtual meeting with leaders of Neighborhood Associations from the 1st District on October 14th, 2020.

DISCLAIMER: Plans are subject to change. Visit the Accela Citizen Portal (lexingtonky.gov/plans) or contact Planning for the latest information.

Development Plan



EA Partners, PLLC

PRELIMINARY DEVELOPMENT PLAN
**1180 NEWTOWN PIKE (PORTION OF) &
 725 WEST NEW CIRCLE ROAD**
 LEXINGTON, FAYETTE COUNTY, KENTUCKY

DRAWN: LLL
 DATE: 10/05/20
 CHECKED:
 REVISED:

SHEET
1

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT PLN-MAR-20-00014: EXETER NEWTOWN LAND, LLC

DESCRIPTION OF ZONE CHANGE

Zone Change: From a Agricultural Urban (A-U) zone
To a Light Industrial (I-1) zone
Acreage: 45.08 net (46.47 gross) acres
Location: 1180 Newtown Pike (a portion of)



EXISTING ZONING & LAND USE

PROPERTIES	ZONING	EXISTING LAND USE
Subject Property	A-U	Open Space
To North	B-6P / R-1D / R-3	Vacant / Single Family Detached / Townhomes
To East	R-1D / I-1	Single Family Detached / Open Space
To South	A-U / P-1	Open Space / Offices
To West	P-1 / I-1	Offices / Industrial

URBAN SERVICE REPORT

Roads - The subject property is bordered by Newtown Pike (KY 922) along its eastern most boundary. Newtown Pike is a major arterial roadway that connects downtown Lexington to the interstate system to the north. As one of the primary connector roadways to the interstate and the identified freight corridor for Lexington, Newtown Pike carries a high volume of traffic, approximately 44,300 average daily trips. Silver Springs Drive, a local street, stubs into the subject property along the northern boundary and is proposed to continue along the northern portion of the subject property.

Curb/Gutter/Sidewalks - Newtown Pike has been constructed without curbs or gutters at this location. The roadway includes a shoulder and ditch, allowable for emergency pull off and water management. Pedestrian and bike facilities are available along the property's frontage with the Legacy Trail, a 12-foot wide shared use path that runs parallel to Newtown Pike.

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 Cane Run watershed. Along the southern portion of the subject property there is extensive floodplain associated with the Cane Run Creek, a perennial stream that runs east / west through the property. There are stormwater facilities extended to the site; however, it is anticipated that much of the stormwater runoff will be directed to on site facilities and into the creek.

Sanitary Sewers - Sanitary sewers exist in the immediate area. The subject property will be served by the Town Branch Wastewater Treatment Facility, located about 2.5 miles to the southwest of the property, between Old Frankfort Pike and Leestown Road.

Refuse - The Urban County Government serves this area with refuse collection on Thursdays. However, supplemental service by private refuse haulers is commonly utilized for industrial land uses, such as those proposed.

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

Fire/Ambulance - Fire Station #10 is located less than a mile to the southwest of the property, along Finney Drive near the Georgetown Road and New Circle Road interchange.

Transit - LexTran transit route service is available along the frontage of the subject property on the Newtown Pike Route (#4); however, there are no immediate stops available for the subject property, as it is currently open space. The applicant should work with LexTran to develop a potential stop at this location.

Parks - There is one public park within close proximity of the development. Green Acres Park is located less than a ½ mile in walkable distance northeast of the subject property located along Lasalle Road.

SUMMARY OF REQUEST

The applicant is seeking a zone change from the Agricultural Urban (A-U) zone to the Light Industrial (I-1) zone for a portion of the property located at 1180 Newtown Pike. The zone change application is seeking to construct a package fulfillment and distribution center with associated employee parking and a large area of fleet storage relating to the delivering of packages.

PLACE-TYPE

INDUSTRY &
PRODUCTION CENTER

The Industry and Production Center Place-Type is where Lexington's most intense types of economic development and job creation occur. These places should be located near major corridors to facilitate efficient and affordable shipping and transportation of goods throughout the region while minimizing the impact on the traffic infrastructure throughout the rest of the community. Special care should be taken to address the environmental impact of these places as well as their impact on residents.

DEVELOPMENT TYPE

INDUSTRIAL & PRODUCTION
NON-RESIDENTIAL

Primary Land Use, Building Form, & Design

Primarily employment land dedicated to the most intense types of employment-centric development. This is the only category where uses are inherently incompatible and are best separated from adjacent uses.

These uses are best suited in areas where they already exist, collocating to utilize industrial-scale infrastructure to serve the needs of the users. Environmental protection measures should be taken to minimize impacts.

Transit Infrastructure & Connectivity

These uses are also heavy employers and should incorporate mass transit infrastructure, on par with that of other modes, to connect residents to their jobs.

PROPOSED ZONING



This zone is intended for manufacturing, industrial and related uses not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light or industrial waste. In addition, the Comprehensive Plan recognizes that it is important to promote adaptive reuse of older industrial areas and to allow Industrial Mixed-Use projects and Adaptive Reuse Projects. The Comprehensive Plan should be used to determine appropriate locations for this zone and for Industrial Mixed-Use Projects. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.

PROPOSED USE



This petitioner is proposing the Light Industrial (I-1) zone to develop a package fulfillment and distribution center, which will include the construction of an industrial roadway that will connect Silver Springs Road to Newtown Pike. The development plan proposes a single structure with associated parking and fleet storage. The applicant is proposing to avoid the areas that are impacted by the FEMA special flood hazard area.

APPLICANT & COMMUNITY ENGAGEMENT



On October 14th, the applicant and their development team presented their plan during the 1st District monthly meeting set up by Council Member James Brown. This meeting was held via Zoom and included the leadership of the neighborhood and homeowner associations located in the 1st District. During the meeting, the applicant and their team displayed the development plan and described some of the operations associated with the proposed project. Members of the community had questions that specifically focused on aspects of traffic impacts, road connections, employment numbers, types of job opportunities and potential pay. A corporate representative clarified that the delivery operations were focused on off-peak traffic, that there would be a connection from Newtown Pike to Silver Springs Drive, and that there would be approximately 600 jobs associated with this facility. The representative indicated that approximately 250 individuals would be directly employed by the corporation, whereas approximately 350 would be private contractors focused on package delivery.

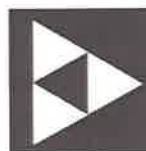
PROPERTY & ZONING HISTORY



The subject property has been zoned Agricultural Urban (A-U) since the comprehensive rezoning of Fayette County in 1969. The historic land use for the subject parcel has been open space under the ownership of Lexmark since 1990 and IBM Corporation previously. Within this open space there are various privately operated amenities, including four softball/baseball fields. The use on the neighboring property, 725 W. New Circle Road, is similar to the subject property and includes other privately operated amenities, including four tennis courts, three basketball courts, two playgrounds and three picnicshelters.

The subject property is located within the study area of the Winburn Small Area Plan (SAP)(2015). The Plan provides a development framework that guides both public infrastructure and private investment efforts to revitalize the area to a more livable and sustainable place. Specifically, the primary goals of the plan were to emphasize opportunities for promoting development on large vacant parcels that benefit the established population, to enhance existing parks and the Legacy Trail, and to improve connectivity of the streets network. These were meant to act as building blocks for improvements that create a safe, walkable and bicycle-friendly environment. Within the plan, the area that contains the proposed rezoning is identified as Development Opportunity Site #8. The SAP includes options for redevelopment focused on connectivity, access and land use. Each of the options focused heavily on providing a mixture of uses including residential, greenspace and mixed-use along new roadways that would provide access between established residential areas and new development. The connectivity and access perspective sought to provide increased movement throughout the area, including a new signalized intersection on Newtown Pike, to be shared with the Newtown Springs commercial development, that would allow cross-connectivity for the Green Acres and Hollow Creek neighborhoods.

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.

The applicant opines that their proposed rezoning is in agreement with several goals, objectives, and policies of the 2018 Comprehensive Plan. In the following section, the staff describes some of the elements that are in agreement with the Comprehensive Plan.

POLICIES

In their justification, the applicant references various policies of the Comprehensive Plan. They stress that the proposed development meets Livability Policy #9, which seeks to promote economic development through the preservation of strategically and appropriately located industrial and production zoned land. The applicant stresses the location of the subject property and the ability to connect with major corridors both locally and regionally.

Additionally, the applicant opines that they are seeking to follow the LFUCG Urban Forestry Management Plan, protecting and recovering Lexington's urban forest by strategically planting new trees and creating walkable streetscapes (Restoration Policy #1). The applicant has provided a landscape plan, whereby they show areas of planting and areas of preservation. This policy connects with Protection Policy #2, which states that as we develop in our community, that development should conserve environmentally sensitive areas, including significant natural habitats, wetlands and water bodies. The applicant is doing so with this application and is seeking to enhance that space with constructed wetlands.

The staff agrees with these aspects of the applicant's proposal and that this Policy of the 2018 Comprehensive Plan can be met with the proposed development.

GOALS & OBJECTIVES

In addition to their review of the policies of the Comprehensive Plan, the applicant goes on to describe the Goals and Objectives that they are seeking to comply with for the proposed rezoning. First, the applicant



indicates that this is an opportunity to activate a large tract of undeveloped land within the Urban Service Area (Theme E, Goal #1.e) and expand industrial land in Lexington. The subject property is advantageously located along Newtown Pike, the identified freight route for the Urban County, and carries traffic from the Interstate 75 / Interstate 64 interchange into downtown Lexington. The property is also in the vicinity of the intersection of Newtown Pike and New Circle Road. The location of the property allows access to both the major corridors in Lexington and throughout the broader Bluegrass region.

The location of the site also weighs heavily in the proposed infrastructure, to be completed by the applicant, and the potential multi-modal integration. They opine that the existing mass transit and multi-modal infrastructure can be modified to connect residents to their jobs at the proposed fulfillment center and create an effective and comprehensive transportation system (Theme D, Goal #1.). Currently, LexTran's Route #4 serves Newtown Pike, connecting downtown Lexington to Stanton Way, located north of the Interstate 75 / Interstate 64 interchange. The applicant has spoken with Lexington Area Metropolitan Planning Organization (MPO) and LexTran regarding the current transit route and possible transit stop facilities for this project. The applicant is also proposing to construct a new public road that would allow the eventual connection of the Newtown Springs, Hollow Creek, and Green Acres Neighborhoods to Newtown Pike and the Legacy Trail (Theme A, Goal #3.b).

Additionally, the applicant emphasizes that through the establishment of the proposed project and the associated roadway they will be providing access to amenities, with a specific focus on the Legacy Trail (Theme D, Goal #1.b). The proposed road extending from Silver Springs Drive along the northern portion of the subject area will allow for an additional connection between Russell Cave Road and Newtown Pike for the neighborhood. The connection will also provide access to the Legacy Trail and the greenspace network for those residential users. While the staff agrees that this connection is important, the secondary trail that extends from Astaire Drive and Grant Place, as depicted in the Parks Masterplan, is equally important for the neighborhood. The applicant should add this trail connection through their site to the Legacy Trail.

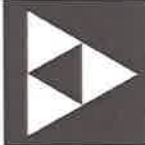
Finally, the applicant references Theme A, Goal #2.c regarding their proposed buffering along the residential borders and enhancements to the retained greenspace along the Newtown Pike frontage. While the buffers associated with development of an industrial zone nearby residential development are important, Theme A, Goal #2.c is focused on providing greenspace and open space, which serve the needs of the intended population. The applicant discusses the establishment of two new wetlands to enhance the greenspace, but neither have access to those amenities for the employees nor the neighborhood. While wetlands can act as both an amenity and a stormwater retention and quality measure, in their current form, the wetlands are not being proposed as an amenity for the intended population or the surrounding residential users. The applicant should consider how the greenway could be enhanced to make it an amenity

The applicant goes further to state that they will retain the Legacy Trail for public use. The Legacy Trail is currently located within a permanent trail easement (D.B. 2937, Pg. 1) and cannot be removed without Council action. Coupled with the retention of the trail, the applicant intends to enhance the area of the trail along Newtown Pike with a horse plank fence and plantings. The horse plank fence is a requirement of the Newtown Pike Corridor Ordinance. In addition to the Legacy Trail, the applicant should include the connection or easement for a secondary trail that connects the Legacy Trail to the Green Acres and Hollow Creek Neighborhoods. This trail would provide increased multi-modal options and would allow for greater integration of greenspace and open space called for in Theme A, Goal #2.c, and support the recommendations of the SAP.

The staff agrees with these aspects of the applicant's proposal and that these Goals and Objectives of the 2018 Comprehensive can be met with the proposed 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.



The applicant has indicated that the site is located within the Industry and Production Place-Type and is seeking to create an Industry and Production Non-Residential Development Type. Within this Place-Type and Development Type, the Comprehensive Plan states that special care should be taken to address the environmental impact of these places, as well as their impact on residents. Typically, the appropriateness of the Industry and Production Place-Type is heavily reliant, not only on the surrounding land use, but the infrastructure that is available to support such a development. The proposed site is located along Newtown Pike, which is our freight corridor for the Urban County. Staff agrees that the Industry and Production Place-Type can be appropriate for the subject property and with appropriate buffers and consideration given to environmentally sensitive areas the proposed Industry and Production Non-Residential Development Type can be appropriate for the subject property.

The applicant has done much to address the Development Criteria, including supplemental material regarding staff's early areas of concern regarding the amount of parking and the large areas of fleet storage associated with the development. The staff finds it important to address some of the Development Criteria due to the type of development. Additionally, there are criteria that should be addressed by the applicant with further discussion or will necessitate discussion at the time of the final development plan.

1. Site Design, Building Form and Location

Despite compliance with some of the criteria for Site Design, Building Form and Location, there was one criterion that necessitated added discussion over. The following criterion warranted staff response.

C-PS10-3 Over-parking of new developments should be avoided.

The proposed application depicts a total of 1,025 parking spaces attributed to the large vehicle use area, employee parking and fleet storage. Staff voiced concerns regarding the applicant's use of parking and the lack of vehicular use islands in the fleet storage parking area. Within the applicant's letter of justification and traffic impact study, they described the need for such quantities of parking. Additionally, the applicant has provided staff with a layout of the proposed electrical grid for their overall fleet storage area. It has been indicated that the potential user is in the process of transitioning their entire fleet to electrical vehicles. With the grid in place, the potential for tree areas uniformly located throughout the parking area is difficult. The applicant should provide landscape islands with small trees where available.

2. Transportation and Pedestrian

Despite compliance with some of the criteria for Transportation and Pedestrian, there is still an area of concern. The applicant should expand upon the following development criterion and staff comments.

D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.

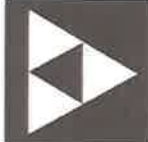
The applicant is taking advantage of Lexington's premiere multi-use trail at this location. Should the Kentucky Transportation Cabinet and/or the Planning Commission approve the secondary access, referred to as the Right-In/Right-Out, staff recommends the shifting of the Legacy Trail to allow for greater visibility for and of those utilizing the trail and crossing a non-signalized private access point. This will be important for the trail users, but will provide added visibility for the drivers utilizing the Right-In.

3. Greenspace and Environmental Health

The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and adds both street trees and internal tree canopy coverage.

A-EQ7-2: Community open spaces should be easily accessible and clearly delineated from private open spaces.

Over the course of the last month, there has been significant discussion between LFUCG Divisions, the applicant, and the administration regarding the identified greenway that runs along the Cane Run Creek. This area is of particular concern as it has been utilized as public open space, despite being privately owned and operated by Lexmark. During this review and the subsequent discussions, the applicant should work



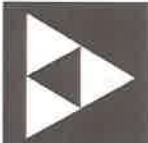
with the Urban County to determine the best use of this open space and the potential access for individuals located in the Green Acres and Hollow Creek Neighborhoods. This area was identified within the Parks Masterplan as a potential site of developer provided open space or a park. The ultimate configuration of this space will rely on the applicant, the end user, and the Urban County Government coming to a solution that works for all parties.

B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.

The applicant should include the connection or easement for a secondary trail that connects the Legacy Trail to the Green Acres and Hollow Creek Neighborhoods, as identified in the SAP. This trail would provide increased multi-modal options and would allow for greater integration of greenway and stream corridor.

E-GR3-2: New focal points should emphasize geographic features unique to the site.

The applicant should provide access to those areas described as focal points, including but not limited to the Cane Run Creek and the proposed wetlands.



CONDITIONAL ZONING RESTRICTIONS

In an effort to alleviate some of the potential adverse impacts on the adjacent residents, while also promoting the employment factors for the proposed development and protecting a major gateway into Lexington, staff recommends the restriction of some uses that would otherwise be available in the I-1 zone. Staff recommends prohibiting self-storage warehousing, outdoor storage, and billboards. These uses are typically low employment generators and are not desired with a project that is seeking to promote economic development.

Additionally, due to the location of the subject property within the Royal Springs Aquifer, staff recommends prohibiting all above ground and underground storage tanks, on-site disposal of any hazardous waste materials, and mining of non-metallic minerals and/or radium extraction. Furthermore, all establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary).

The Planning Commission adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has most recently been approved by the Kentucky Division of Water on 8/28/03. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan. The proposed restrictions will also better protect the adjacent Cane Run Creek and associated environmentally sensitive areas from uses that could potentially be harmful to the stream.

In addition to the proposed use restrictions, staff recommends the use of buffering restrictions for the site. All lighting within parking lots shall be a maximum of 12 feet in height and shall be shielded and directed away from the residential land uses. Additionally, there shall a 30-foot landscaping buffer along the northern and eastern property boundaries of the subject property where adjacent to R-1D or R-3 zoning and developed with a residential land use. This area does not include those areas that are being utilized for stormwater management and protection of the springs which are zoned R-1D.

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will activate a large tract of undeveloped land within the Urban Service Area (Theme E, Goal #1.e) and expand industrial land in Lexington.
 - b. The proposed rezoning will allow for the support and showcasing of local assets to further the creation of a variety of jobs (Theme C, Goal #1).
 - c. The proposed rezoning will enhance the existing mass transit and multi-modal infrastructure to connect residents to their jobs at the proposed fulfillment center and create an effective and comprehensive transportation system (Theme D, Goal #1.).
 - d. The proposed new public road will allow for the connection of the Newtown Springs, Hollow Creek, and Green Acres Neighborhoods to Newtown Pike and the Legacy Trail (Theme A, Goal #3.b and Theme D, Goal #1.b)
 - e. The proposed development meets the goals of connectivity, public infrastructure, and job creation outlined within of the Winburn and Russell Cave Small Area Plan.
 - f. The proposed project allows access to both the major corridors in Lexington and throughout the broader Bluegrass region due to the location of the proposed development along the preferred freight corridor, the access to the Interstate 75 / Interstate 64, and the proximity New Circle Road interchange.
2. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed development meets Livability Policy #9, which seeks to promote economic development through the preservation of strategically and appropriately located industrial and production zoned land.
 - b. The proposed development will protect and recover Lexington's urban forest by strategically planting new trees and creating walkable streetscapes (Restoration Policy #1).
 - c. The proposed development will conserve environmentally sensitive areas, including significant natural habitats, wetlands and water bodies (Protection Policy #2), while also creating two new wetlands.
3. 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 site creates an industrial development that allows for safe pedestrian mobility and provides connections to residential developments.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by allowing for increased connectivity and prioritizing the inclusion of safe pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it limits the impacts on the surrounding environment, adds green infrastructure through the creation of wetlands and adds tree canopy coverage in the form of trees and landscape buffers.
4. 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
 - iii. Billboards
 - iv. All above ground and underground storage tanks.
 - v. On-site disposal of any hazardous waste materials.
 - vi. Mining of non-metallic minerals and/or radium extraction.



- b. All lighting within parking lots shall be a maximum of 12 feet in height and shall be shielded and directed away from the residential land uses.
- c. There shall a 30-foot landscaping buffer along the northern and eastern property boundaries of the subject property where adjacent to R-1D or R-3 zoning and developed with a residential land use.
- d. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary).

These restrictions are appropriate and necessary for the following reasons:

- 1. To reduce the potential impact of industrial uses on the adjacent neighborhood.
 - 2. To reduce the potential impact of lighting and sound on the adjacent neighborhood.
 - 3. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has most recently been approved by the Kentucky Division of Water on 8/28/03.
 - 4. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring “best management practices” for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.
 - 5. The proposed restriction will better protect the adjacent Cane Run Creek and associated environmentally sensitive areas from uses that could potentially be harmful to the stream.
5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00068: Lexmark International Corp., prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

REVISED FINDINGS

PLN-MAR-20-00014: EXETER NEWTOWN LAND, LLC

STAFF RECOMMENDS: APPROVAL, FOR THE FOLLOWING REASONS:



1. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will activate a large tract of undeveloped land within the Urban Service Area (Theme E, Goal #1.e) and expand industrial land in Lexington.
 - b. The proposed rezoning will allow for the support and showcasing of local assets to further the creation of a variety of jobs (Theme C, Goal #1).
 - c. The proposed rezoning will enhance the existing mass transit and multi-modal infrastructure to connect residents to their jobs at the proposed fulfillment center and create an effective and comprehensive transportation system (Theme D, Goal #1.).
 - d. The proposed new public road will allow for the connection of the Newtown Springs, Hollow Creek, and Green Acres Neighborhoods to Newtown Pike and the Legacy Trail (Theme A, Goal #3.b and Theme D, Goal #1.b)
 - e. The proposed development meets the goals of connectivity, public infrastructure, and job creation outlined within of the Winburn and Russell Cave Small Area Plan.
 - f. The proposed project allows access to both the major corridors in Lexington and throughout the broader Bluegrass region due to the location of the proposed development along the preferred freight corridor, the access to the Interstate 75 / Interstate 64, and the proximity New Circle Road interchange.
2. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed development meets Livability Policy #9, which seeks to promote economic development through the preservation of strategically and appropriately located industrial and production zoned land.
 - b. The proposed development will protect and recover Lexington's urban forest by strategically planting new trees and creating walkable streetscapes (Restoration Policy #1).
 - c. The proposed development will conserve environmentally sensitive areas, including significant natural habitats, wetlands and water bodies (Protection Policy #2), while also creating two new wetlands.
3. 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 site creates a industrial development that allows for safe pedestrian mobility and provides connections to residential developments.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by allowing for increase connectivity and prioritizing the inclusion of safe pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it limits the impacts on the surrounding environment, adds green infrastructure through the creation of wetlands and adds tree canopy coverage in the form of trees and landscape buffers.
4. 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, **excluding fleet storage associated with parcel delivery stations**



- iii. Billboards
- iv. All above ground and underground storage liquid fuel tanks
- v. On-site disposal of any hazardous waste materials
- vi. Mining of non-metallic minerals and/or radium extraction

- ~~b. All lighting within parking lots shall be a maximum of 12 feet in height and shall be shielded and directed away from the residential land uses.~~
- b. There shall a 30-foot landscaping buffer along the northern and eastern property boundaries of the subject property where adjacent to R-1D or R-3 zoning and developed with a residential land use.
- c. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary). as required by law.

These restrictions are appropriate and necessary for the following reasons:

1. To reduce the potential impact of industrial uses on the adjacent neighborhood.
 2. To reduce the potential impact of lighting and sound on the adjacent neighborhood.
 3. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has most recently been approved by the Kentucky Division of Water on 8/28/03.
 4. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring “best management practices” for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.
 5. The proposed restriction will better protect the adjacent Cane Run Creek and associated environmentally sensitive areas from uses that could potentially be harmful to the stream.
5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00068: Lexmark International Corp., prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission’s approval.

LEGAL DESCRIPTION
1180 Newtown Pike
(A Portion Of)
Zone Change From A-U to I-1
Lexington, Fayette County, Kentucky

A TRACT OR PARCEL OF LAND SITUATED ON THE EAST SIDE OF NEWTOWN PIKE (KY-922) APPROXIMATELY 0.5 MILES NORTH OF THE INTERSECTION OF NEWTOWN PIKE AND NEW CIRCLE ROAD (KY-4) IN LEXINGTON, FAYETTE COUNTY, KENTUCKY AND BEING MORE FULLY DESCRIBED AND BOUNDED AS FOLLOWS:

BEGINNING AT A POINT in the centerline of Newtown Pike (KY-922); thence with the proposed zone line South 67 Degrees 29 Minutes 17 Seconds East a distance of 702.52 feet to a point in the northern property line of Lot 1 (1180 Newtown Pike) as shown on the Final Record Plat of Lexmark International Corporation as recorded in Plat Cabinet "R" Slide 785 in the Office of the County Clerk of Fayette County, Kentucky; thence with the northern property boundary for the follow four (4) calls: South 56 Degrees 44 Minutes 03 Seconds East a distance of 710.13 feet to a point; thence South 56 Degrees 44 Minutes 09 Seconds East a distance of 279.27 feet to a point; thence South 56 Degrees 53 Minutes 20 Seconds East a distance of 330.82 feet to a point; thence South 57 Degrees 02 Minutes 26 Seconds East a distance of 322.18 feet to a point in the eastern property line of Lot 1; thence with the eastern property line for the following four (4) calls: South 23 Degrees 20 Minutes 28 Seconds West a distance of 252.22 feet to a point; thence South 24 Degrees 21 Minutes 58 Seconds West a distance of 248.50 feet to a point; thence North 60 Degrees 25 Minutes 43 Seconds West a distance of 350.93 feet to a point; thence South 43 Degrees 52 Minutes 06 Seconds West a distance of 585.11 feet to a point in the proposed Zone Line; thence leaving the eastern property line of Lot 1 and with the proposed Zone Line for the following four (4) calls: North 44 Degrees 41 Minutes 52 Seconds West a distance of 348.51 feet to a point; thence North 57 Degrees 28 Minutes 42 Seconds West a distance of 247.63 feet to a point; thence North 43 Degrees 27 Minutes 58 Seconds West a distance of 323.11 feet to a point; thence North 57 Degrees 27 Minutes 07 Seconds West a distance of 845.10 feet to a point in the centerline of Newtown Pike (KY-922); thence with the centerline of Newtown Pike for the following two (2) calls: thence North 18 Degrees 11 Minutes 20 Seconds East a distance of 176.90 feet to a point; thence North 19 Degrees 18 Minutes and 09 Seconds East a distance of 674.05 feet to the POINT OF BEGINNING.

The above described parcel contains 46.74 acres gross and 45.08 acres net.

2. EXETER NEWTOWN LAND, LLC ZONING MAP AMENDMENT & LEXMARK INTERNATIONAL CORP ZONING DEVELOPMENT PLAN

- a. PLN-MAR-20-00014: EXETER NEWTOWN LAND, LLC (1/4/21)*- a petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Light Industrial (I-1) zone, for 45.08 net (46.74 gross) acres, for property located at 1180 Newtown Pike (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.

The applicant is seeking a zone change from the Agricultural Urban (A-U) zone to the Light Industrial (I-1) zone for a portion of the property located at 1180 Newtown Pike. The applicant is seeking to construct a package fulfillment and distribution center with associated employee parking and a large area of fleet storage relating to the delivering of packages.

The Zoning Committee Recommended: **Approval** to the full Commission.

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

1. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will activate a large tract of undeveloped land within the Urban Service Area (Theme E, Goal #1.e) and expand industrial land in Lexington.
 - b. The proposed rezoning will allow for the support and showcasing of local assets to further the creation of a variety of jobs (Theme C, Goal #1).
 - c. The proposed rezoning will enhance the existing mass transit and multi-modal infrastructure to connect residents to their jobs at the proposed fulfillment center and create an effective and comprehensive transportation system (Theme D, Goal #1.).
 - d. The proposed new public road will allow for the connection of the Newtown Springs, Hollow Creek, and Green Acres Neighborhoods to Newtown Pike and the Legacy Trail (Theme A, Goal #3.b and Theme D, Goal #1.b).
 - e. The proposed development meets the goals of connectivity, public infrastructure, and job creation outlined within of the Winburn and Russell Cave Neighborhoods Small Area Plan.
 - f. The proposed project allows access to both the major corridors in Lexington and throughout the broader Bluegrass region due to the location of the proposed development along the preferred freight corridor, the access to the Interstate 75 / Interstate 64, and the proximity New Circle Road interchange.
2. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed development meets Livability Policy #9, which seeks to promote economic development through the preservation of strategically and appropriately located industrial and production zoned land.
 - b. The proposed development will protect and recover Lexington's urban forest by strategically planting new trees and creating walkable streetscapes (Restoration Policy #1).
 - c. The proposed development will conserve environmentally sensitive areas, including significant natural habitats, wetlands and water bodies (Protection Policy #2), while also creating two new wetlands.
3. 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 site creates an industrial development that allows for safe pedestrian mobility and provides connections to residential developments.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by allowing for increase connectivity and prioritizing the inclusion of safe pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it limits the impacts on the surrounding environment, adds green infrastructure through the creation of wetlands and adds tree canopy coverage in the form of trees and landscape buffers.
4. 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.
 - iii. Advertising Signs (aka Billboard signs).
 - iv. All above ground and underground storage tanks.

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

- v. On-site disposal of any hazardous waste materials.
- vi. Mining of non-metallic minerals and/or radium extraction.
- b. All lighting within parking lots shall be a maximum of 12 feet in height and shall be shielded and directed away from the residential land uses.
- c. There shall a 30-foot landscaping buffer along the northern and eastern property boundaries of the subject property where adjacent to R-1D or R-3 zoning and developed with a residential land use.
- d. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary).

These restrictions are appropriate and necessary for the following reasons:

- 1. To reduce the potential impact of industrial uses on the adjacent neighborhood.
 - 2. To reduce the potential impact of lighting and sound on the adjacent neighborhood.
 - 3. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has most recently been approved by the Kentucky Division of Water on 8/28/03.
 - 4. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.
 - 5. The proposed restriction will better protect the adjacent Cane Run Creek and associated environmentally sensitive areas from uses that could potentially be harmful to the stream.
5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00068: Lexmark International Corp., 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-20-00068: LEXMARK INTERNATIONAL CORP (1/4/21)* - 1180 NEWTOWN PIKE (A PORTION OF) AND 725 W. NEW CIRCLE RD., LEXINGTON, KY.
Project Contact: EA Partners, PLC

Note: The purpose of this plan is to rezone the property.

The Subdivision Committee Recommended: Postponement. There are questions regarding access and the need for waivers.

- 1. Provided the Urban County Council rezones the property -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. United States Postal Service Office's approval of kiosk locations or easement.
- 8. Discuss maintenance requirements for delivery fleet.
- 9. Discuss fleet storage area size (727 parking spaces).
- 10. Discuss public street access to Newtown Pike and requested waiver.
- 11. Discuss right-in/right-out to Newtown Pike and possible waiver.
- 12. Discuss Silver Springs Drive geometric and possible waiver.
- 13. Discuss cross access to Newtown Springs commercial area to the north (B-6P zone).
- 14. Discuss potential utilization of greenway/floodplain as a public/private amenity.
- 15. Discuss trail connection to Legacy Trail.
- 16. Discuss Placebuilder criteria.
 - a. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - b. A-EQ7-2: Community open spaces should be easily accessible and clearly delineated from private open spaces.
 - c. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - d. E-GR3-2: New focal points should emphasize geographic features unique to the site.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the zone change application and said the staff has revised their findings, which has been distributed to the Planning Commission. He displayed photographs of the subject property and aerial photographs of the general area. He said the applicant is proposing this zone change to develop a package fulfillment and distribution center, which will include the construction of an industrial roadway that will connect Silver Springs Road to Newtown Pike. The development plan proposes a single structure with associated parking and fleet storage. The

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

applicant is proposing to avoid the areas that are impacted by the FEMA special flood hazard area. He added that the development has a larger acreage because there is a larger area being incorporated into the development plan, which Mr. Martin will address.

Mr. Baillie said that the subject property is located on Newtown Pike near Citation Boulevard, Newtown Springs Drive, Nandino Boulevard, and Newtown Court. He said that the subject property is surrounded by various zones, including Light Industrial (I-1), Agricultural Urban (A-U), Commercial Center (B-6P), Single Family Residential (R-1D) and Planned Neighborhood Residential (R-3) zones. He said located to the east of the subject property are the Green Acres and Hollow Creek neighborhoods, which consists of detached single family housing. There is a developing neighborhood located to the north of the subject property with detached homes and planned townhomes. He said Light Industrial zoning is located along Nandino Boulevard, which includes larger structure development, including specialty trade and production centers. He pointed to the south of the subject property, which is the FEMA special flood hazard area, the Cane Run Creek and the Legacy Trail. He said the subject property is owned by Lexmark and is utilized as open space with four softball fields and associated parking. There are tennis courts, soccer fields, and picnic shelters as well. He said that there is a heavy tree line along the floodplain area. He said that Silver Springs Road is proposed to connect into the subject property with the extension of the proposed industrial roadway.

Mr. Baillie said that the subject property is located within the study area of the Winburn and Russell Cave Neighborhoods Small Area Plan (SAP)(2015). The Plan provides a development framework that guides both public infrastructure and private investment efforts to revitalize the area to a more livable and sustainable place. Specifically, the primary goals of the plan were to emphasize opportunities for promoting development on large vacant parcels that benefit the established population, to enhance existing parks and the Legacy Trail, and to improve connectivity of the street network. These were meant to act as building blocks for improvements that create a safe, walkable and bicycle-friendly environment. Within the SAP, the area that contains the proposed rezoning is identified as Development Opportunity Site #8. The SAP includes options for redevelopment focused on connectivity, access and land use. Each of the options focused heavily on providing a mixture of uses including residential, greenspace and mixed-use along new roadways that would provide access between established residential areas and new development. The connectivity and access perspective sought to provide increased movement throughout the area, including a new signalized intersection on Newtown Pike, to be shared with the Newtown Springs commercial development, which would allow cross-connectivity for the Green Acres and Hollow Creek neighborhoods. He added that the proposed development is seeking to meet some of the access and infrastructure elements of the SAP; however, they are deviating from the recommended land use. Despite this change, there is potential growth in the jobs available in the area, both from the end user and the contractors associated with the operation of a fulfillment center.

Mr. Baillie said the applicant is proposing the Industry and Production Place-Type, which is where most of Lexington's intense type of economic development and job creation occur. These places are meant to be located near major corridors to facilitate efficient and affordable shipping and transportation of goods throughout the region while minimizing the impact on the traffic infrastructure throughout the rest of the community. He said the applicant is seeking to create an Industry and Production Non-Residential Development Type, which is heavily focused on the integration of an employment centric development and avoiding impact on the surrounding environment. He added that the applicant is proposing a Light Industrial zone, which is recommended with this Place-Type and Development Type and will be seeking to develop a use that is defined in the LFUCG Zoning Ordinance as a parcel delivery station. This will be a fulfillment center or last mile delivery, where materials will arrive, then be sorted, and then head back out to be delivered to the end user.

Mr. Baillie said that it is imperative that the staff review the surrounding infrastructure that is available to the subject property. The location of the subject property along Newtown Pike carries traffic from the Interstate 75 / Interstate 64 interchange into downtown Lexington. Newtown Pike is part of the Primary Highway Freight System for Kentucky and ties into the National Freight Highway Network allowing goods to travel efficiently throughout the country. Over the past few years Newtown Pike has had infrastructure modifications. The property is also in the vicinity of the intersection of Newtown Pike and New Circle Road, which allows access to both the major corridors in Lexington and throughout the broader Bluegrass Region allowing for greater utilization of our freight network and a quicker response time for the end users. He said that the applicant stated in their justification that this proposed development meets livability policy #9, which seeks to promote economic development through the preservation of strategically and appropriately located industrial and production zoned land. The applicant also indicated that this is an opportunity to develop a large tract of undeveloped land within the Urban Service Area boundary and expand industrial land within Lexington.

The location of the site also weighs heavily in the proposed infrastructure, to be completed by the applicant, and the potential multi-modal integration. The applicant opines that the existing mass transit and multi-modal infrastructure can be modified to connect residents to their jobs at the proposed fulfillment center and create an effective and comprehensive transportation system. Currently, LexTran's Route #4 serves Newtown Pike, connecting downtown Lexington to Stanton Way, located north of the Interstate 75 / Interstate 64 interchange. The applicant has discussed with Lexington Area Metropolitan Planning Organization (MPO) and LexTran regarding the current transit route and possible transit stop facilities for this site.

Mr. Baillie said that the applicant is also proposing to construct a new public road that would allow the eventual connection of the Newtown Springs, Hollow Creek, and Green Acres neighborhoods to Newtown Pike and the Legacy Trail. The applicant emphasizes that through the establishment of the proposed project and the associated roadway they will be providing access to amenities,

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with a specific focus on the Legacy Trail connection. The proposed road extending from Silver Springs Drive along the northern portion of the subject area will allow for an additional connection between Russell Cave Road and Newtown Pike for the neighborhood. The connection will also provide access to the Legacy Trail and the greenspace network for those residential users. While the staff agrees that this connection is important, the secondary trail that extends from Astaire Drive and Grant Place, as depicted in the Parks Masterplan, is equally important for the neighborhood. The applicant should add this trail connection through their site to the Legacy Trail during the Final Development Plan.

Mr. Baillie displayed a development plan and said that with the proposed construction of the industrial development within the proximity to residential land uses, it is necessary to provide adequate buffering to reduce potential impacts of the nuisance uses associated with Light Industrial development, specifically light, air and sound. He said that the applicant is proposing additional buffering along the edges of the property that abut the residential land uses, which he identified on the plan. He also pointed to a detention area, which consists of two springs and said that it is important to minimize further impact on the surrounding environment, which is a major component of the development type. He said that the applicant is also proposing to establish two wetlands for stormwater runoff associated with the increased impervious surfaces, which he pointed to on the plan. The applicant stated in their justification that this area can be both a water quality and quality feature, while also enhancing the greenspace. He said that the applicant needs to show on the Final Development Plan how the wetlands would be incorporated into the established amenities. He added that the end user will be having an electric vehicle fleet. The infrastructure associated with the charging of the electric fleet makes it difficult to have vegetation and tree areas within the parking area.

Mr. Baillie said in regards to the buffering that the staff was concerned with lighting associated with this industrial development. He said that since the November 5, 2020 Zoning Committee meeting, the applicant has provided the staff with a lighting study, but there is still overflow into the residential areas. He said that the Zoning Ordinance states that there shouldn't be any light spillover and that the applicant has stated as they move forward with this application, they would seek to zero out all light spillover into the residential areas.

Mr. Baillie said that staff is also concerned with how the greenspaces along Cane Rune Creek and in the rear of the property, will be treated in the future. He said the applicant is currently working with the administration and other divisions to make an agreement regarding the future programming or use of the land and continue protection of the creek bed and surrounding floodplain. He said that revised findings have been distributed to the Planning Commission and that the staff is recommending approval of this application, noting changes to the recommended conditional zoning restrictions, for the following reasons:

1. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed development will activate a large tract of undeveloped land within the Urban Service Area (Theme E, Goal #1.e) and expand industrial land in Lexington.
 - b. The proposed rezoning will allow for the support and showcasing of local assets to further the creation of a variety of jobs (Theme C, Goal #1).
 - c. The proposed rezoning will enhance the existing mass transit and multi-modal infrastructure to connect residents to their jobs at the proposed fulfillment center and create an effective and comprehensive transportation system (Theme D, Goal #1.).
 - d. The proposed new public road will allow for the connection of the Newtown Springs, Hollow Creek, and Green Acres Neighborhoods to Newtown Pike and the Legacy Trail (Theme A, Goal #3.b and Theme D, Goal #1.b)
 - e. The proposed development meets the goals of connectivity, public infrastructure, and job creation outlined within of the Winburn and Russell Cave Small Area Plan.
 - f. The proposed project allows access to both the major corridors in Lexington and throughout the broader Bluegrass region due to the location of the proposed development along the preferred freight corridor, the access to the Interstate 75 / Interstate 64, and the proximity New Circle Road interchange.
2. The requested Light Industrial (I-1) zone is in agreement with the 2018 Comprehensive Plan's Policies, for the following reasons:
 - a. The proposed development meets Livability Policy #9, which seeks to promote economic development through the preservation of strategically and appropriately located industrial and production zoned land.
 - b. The proposed development will protect and recover Lexington's urban forest by strategically planting new trees and creating walkable streetscapes (Restoration Policy #1).
 - c. The proposed development will conserve environmentally sensitive areas, including significant natural habitats, wetlands and water bodies (Protection Policy #2), while also creating two new wetlands.
3. 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 site creates an industrial development that allows for safe pedestrian mobility and provides connections to residential developments.
 - b. The proposed rezoning includes safe facilities for the potential users of the site by allowing for increase connectivity and prioritizing the inclusion of safe pedestrian facilities. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.

- c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it limits the impacts on the surrounding environment, adds green infrastructure through the creation of wetlands and adds tree canopy coverage in the form of trees and landscape buffers.
4. 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, excluding fleet storage associated with parcel delivery stations
 - iii. Billboards
 - iv. All above ground and underground storage liquid fuel tanks
 - v. On-site disposal of any hazardous waste materials
 - vi. Mining of non-metallic minerals and/or radium extraction
 - ~~b. All lighting within parking lots shall be a maximum of 12 feet in height and shall be shielded and directed away from the residential land uses.~~
 - b. There shall a 30-foot landscaping buffer along the northern and eastern property boundaries of the subject property where adjacent to R-1D or R-3 zoning and developed with a residential land use.
 - c. All establishments and facilities that store, or transport hazardous materials shall be designed to provide spill containment facilities and shall have emergency response plans approved by the appropriate Hazmat regulator (DEEM, Fire Department, or EPA, as necessary), as required by law.

These restrictions are appropriate and necessary for the following reasons:

1. To reduce the potential impact of industrial uses on the adjacent neighborhood.
 2. To reduce the potential impact of lighting and sound on the adjacent neighborhood.
 3. The Planning Commission has adopted a Wellhead Protection Plan for the Royal Spring Aquifer, which sets forth a plan to ensure a continual source of potable groundwater from Royal Spring for Georgetown and Scott County, and to preserve the integrity of surface waters. This plan has been adopted by both the Planning Commissions of Fayette and Scott Counties, and has most recently been approved by the Kentucky Division of Water on 8/28/03.
 4. The proposed restrictions within the Wellhead Protection Area will better protect the surface and groundwater in the area by prohibiting some uses and requiring "best management practices" for other uses that could potentially be harmful to the wellhead, thus ensuring greater compliance with the Royal Spring Wellhead Protection Plan.
 5. The proposed restriction will better protect the adjacent Cane Run Creek and associated environmentally sensitive areas from uses that could potentially be harmful to the stream.
5. This recommendation is made subject to approval and certification of PLN-MJDP-20-00068: Lexmark International Corp., prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Commission Question – Mr. Penn verified that the conditional zoning restrictions should be added to the record of the zone change. Mr. Baillie said that they will part of the Land Use Restriction for the property. He said that these restrictions have been discussed with the applicant and the staff believes that they are agreeable to all of them.

Development Plan Presentation – Mr. Martin presented the preliminary development plan associated with this zone change. He said that the applicant submitted a revised plan and indicated that revised conditions were distributed to the Planning Commission, as follows:

1. Provided the Urban County Council rezones the property I-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. United States Postal Service Office's approval of kiosk locations or easement shall be determined at the time of the Final Development Plan.
- ~~8. Discuss maintenance requirements for delivery fleet.~~
- ~~9. Discuss fleet storage area size (727 parking spaces).~~
- ~~10. Discuss public street access to Newtown Pike and requested waiver.~~
- ~~11. Discuss right in/right out to Newtown Pike and possible waiver.~~
- ~~12. Discuss Silver Springs Drive geometric and possible waiver.~~
8. ~~13.~~ Discuss Denote cross access to Newtown Springs commercial area to the north (B-6P zone); exact location shall be determined at the time of the Final Development Plan.
9. ~~14.~~ Discuss Denote potential utilization of greenway/floodplain as a public/private amenity shall be determined at the time of the Final Development Plan.

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10. 45. Discuss Denote location of secondary trail connection to Legacy Trail; location to be determined at the time of the Final Development Plan.
11. Denote: All lighting used to illuminate off-street parking areas and drive aisles shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way. Lighting along such boundaries shall be measured at zero foot candles (no spillover).
12. Provided the Planning Commission grants the requested waivers.
13. 46. Discuss Placebuilder criteria:
- D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - A-EQ7-2: Community open spaces should be easily accessible and clearly delineated from private open spaces.
 - B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - E-GR3-2: New focal points should emphasize geographic features unique to the site.

Mr. Martin said there will be a Final Development Plan on this property prior to any construction. He oriented the Planning Commission and identified a proposed new signalized intersection. He said that the applicant is proposing a 143,000 square-foot distribution facility. He pointed out the employee parking area, with 323 parking spaces. He then identified the fleet storage area, with more than 700 parking spaces. He added that it is vital to the proper functionality of this facility and their delivery system. He pointed to the location where the applicant is proposing access into their property, which is off of Newtown Pike and subject to a waiver request – both the local street and intersection and a right-in / right-out on Newtown Pike. This will cross the Legacy Trail and is proposing to relocate a portion of the trail back from Newtown Pike for safety. He then pointed to the wetlands areas and said they are not part of the zone change, but are part of the development plan, because the floodplain area is going to be considered as a whole on the Final Development Plan. This is a FEMA floodplain and is regulated by both Federal and State regulations and requirements, as well as local requirements, including Article 19 of the Zoning Ordinance, which heavily restricts development in the 100-year floodplain.

Mr. Martin pointed to the main entrance into the development off Newtown Pike and said that it will be utilized by heavy trucks. The trucks will then travel to a covered canopy on the south side of the building. He said that the fleet parking is so large because the contract employees will also be parking their personal vehicles in that area. He said that the applicant is proposing a local street on the north side of the development. This street will intersect with Silver Springs Drive, which Mr. Baillie mentioned, which will allow the residential neighborhood to use the public street to the signalized intersection. He then said that there will be transition strips to deter the public from entering the private employee/fleet parking area.

Mr. Martin said there are the standard sign-offs for the Preliminary Development Plan and other conditions that can be resolved at the time of the Final Development Plan. He said in regards to condition #8, the applicant has two possible sites of access points into the B-6P zone to the north. He added that the attorney representing that area has asked that the word "possible" be removed from that notation. He said that there is a grade difference between these two sites and the applicant is proposing a retaining wall in that area. In regards to condition #9, the applicant needs to denote who will be responsible for the maintenance of the floodplain, and that the site is located within the Royal Springs Aquifer recharge area. He said that condition #10, which is the location of the secondary trail connection to Legacy Trail, needs to be denoted. Lastly, he stated that condition #11, regarding the lighting of off-street parking areas shall be arranged to reflect away from any adjoining residential zones.

Mr. Martin said associated with this development is the waiver requests, which are primarily spacing requests of access points. He pointed to the intersection of Newtown Pike and Nandino Boulevard, the proposed right-in / right-out approximately 500 feet north of Nandino Boulevard and the proposed new street with a signalized intersection, which is approximately 1,050 feet from Nandino Boulevard. He said that the Land Subdivision Regulations control all access locations. He said that the specified distance between access points, on a major arterial roadway, is 1,600 feet. He added that the intersection of Nandino Boulevard and the Citation Boulevard meet that requirement. He said that the Subdivision Regulations restricts major arterial roadways intersecting with local streets. He then said that the proposed new street is an Industrial Local street and matches the Residential Collector street in design and width.

Mr. Martin reiterated Mr. Baillie's comment that Newtown Pike is designated as a Primary Highway Freight System for Kentucky and is heavily traveled by freight trucks, making safety and functionality great concerns when waivers are granted that don't meet the spacing requirements. He added that the applicant's major justification for this waiver request is the unique end-user of this site, which has an operational plan that is vital to how they operate. Their operational plan restricts a majority of movement to the non-rush hour periods, which will reduce many conflicts along Newtown Pike. However, the spacing of the driveway into the loading dock, is located approximately 100 feet too close to the signalized intersection, which will be utilized by the freight trucks.

Mr. Martin said that the staff agrees that there is a hardship with this site, which are the greenway and the creek. They constrict the site because they must be protected. Staff also agrees, due to their operational plans, there will be minimal impact on Newtown Pike and on the Legacy Trail. He added that the Division of Traffic Engineering has expressed concern with the functionality of the signalized intersection and they have made a specific recommendation for three lanes exiting the site and one lane entering the site at this location. He said that the staff is recommending approval of the waiver requests for the following reasons:

1. Granting the requested waivers will not adversely affect public health, welfare and safety.

2. Granting the waiver is consistent with the intent of Article 1-5(a) of the Land Subdivision Regulations for Exceptional Hardship.

This recommendation is made subject to the following additional requirements:

- a. The applicant shall be granted an access permit from the Kentucky Transportation Cabinet (KYTC) for the approved access locations.
- b. Denote on the development plan that should accident warrants indicate a problem, the right-out lane shall be removed.
- c. Denote on the development plan that should the specific proposed distribution business vacate the property, the right-out lane be removed.
- d. Denote that the median opening on Newtown Pike adjacent to the proposed right-in / right-out be closed at the time of construction of the right-in / right-out access.
- e. Denote that the final design of the proposed new signalized intersection be resolved at the time of the final development plan to the approval of KYTC and the LFUCG Division of Traffic Engineering.
- f. Signage shall be installed for Legacy Trail intersections and realignment shall be accomplished consistent with Article 6-8(n) of the Land Subdivision Regulations.

Commission Question – Mr. Wilson asked who makes the determination as to how many accidents it will take to require a change at the right-in / right-out location. Mr. Martin said that this will be resolved at the time of the Final Development Plan. He added that there are records as to the number and types of accidents. He said that the number of possible accidents during their operational times is a way to measure if this is a safe access. Mr. Wilson then asked if it takes a death to make a change happen. Mr. Martin said that the state does use fatalities to determine if signals are warranted or not. Mr. Emmons could comment more on this during his report of the Traffic Impact Study.

Mr. de Movellan asked what the hours of the end-user will be. Mr. Martin said that the fleet will leave the facility during non-peak hours, to deliberately avoid rush hour, both to avoid their impact on the traveling public and the impact on them. He added that the applicant will explain more detail as to their operational hours. Mr. de Movellan then asked if the fleet vehicles would be utilizing solar power in the future. Mr. Martin said if solar panels are to be used that may initiate a major development plan amendment. Mr. de Movellan also asked if the end-user will be storing any prescription drugs inside the facility. Mr. Martin said that this is a distribution center and based on their model, items will not be stored at this facility.

Mr. Forester said that the applicant's hours of operation are listed in their justification as sorting times from 8:00 p.m. through 8:00 a.m. and the fleet leaving the facility in 25 minute intervals beginning at 9:50 a.m. and ending at 10:50 a.m.

Mr. Penn asked if the right-in / right-out will be included in the extra lane added along Newtown Pike. Mr. Martin said that Newtown Pike is slated to be expanded with one additional lane in each directions, which could raise more concerns with this type of access with cross lane movements and higher speeds. Mr. Penn then asked if the waiver request will need to be revisited at the time of that construction. Mr. Martin said that the staff believes that it is adequate, but if needed it can be adjusted at the time of the Final Development Plan.

Mr. Pohl said that the Legacy Trail is being proposed to be relocated at the location of the right-in / right-out and not at the main entrance. He also said that on the staff report there is reference to a four-plank fence along the Legacy Trail, parallel to Newtown Pike, which is not depicted on the development plan. He believes that this fence is not a good idea because it would make the experience of the trail uncomfortable because of the acoustics of a major roadway on one side a fence on the other. Mr. Martin said that the applicant needs to follow the Newtown Pike Landscape Ordinance, which has a fencing requirement. Mr. Pohl then asked if the acoustics could be taken in account and what type of fence ought to be used at this location. Mr. Martin said that the staff has noted this and it will be looked into.

Traffic Impact Study – Mr. Emmons said in regards to the crash statistics and thresholds, the Kentucky Transportation Cabinet sets those. He said that most accidents along this corridor are caused by rear-ends or by changing lanes. This is a sign of over congestion on the roadway. He said that he is in favor of right-in / right-outs because they do reduce the number of conflict points and they distribute traffic safely.

Mr. Emmons said that the applicant worked with the Division of Planning staff, the Kentucky Transportation Cabinet to compile their traffic impact study. He said that they looked at the corridor as it is today, in 2021 with the proposed development, and in 2030 after the completion of the Newtown Pike widening project. He said that staff reviews the study as if the development is in place and the only area of concern is the Citation Boulevard and Newtown Pike intersection, where the signal timing will be effected. However, this proposed development will not likely contribute to that factor. He said that due to their operational hours, this development will not generate much traffic during the morning and evening rush hours, which is the impact the traffic impact studies look at.

Mr. Emmons said that Newtown Pike is one of Lexington's most important freight corridors, which makes this an appropriate location for this type of use. He added that the MPO & Transportation Planning section staff agrees with the staff's recommendations and will be available for any questions.

Commission Questions – Mr. Bell asked if there will be a traffic signal at Newtown Springs. Mr. Emmons said that there will not be a signal at that location, but there will be one at the new proposed industrial street. Mr. Bell then asked if another use were to use this site and the hours of operation were different, would the traffic signal still be warranted. Mr. Emmons said that if a different user were to come in at the time of the Final Development Plan, the Division of Planning and the Kentucky Transportation Cabinet would need to review a new traffic impact study.

Applicant Presentation – Mr. Darby Turner and Branden Gross, attorneys; Tom Allman, Exeter Newtown Land, LLC; Kyle DeGiulio, Amazon; Al Gross and Rory Kahly, EA Partners, were present representing the applicant. Mr. Turner said that this is an economic development project and represents approximately 500 jobs, starting at \$15 per hour, with full benefits. He said that the freight trucks will be arriving at the facility at 10:00 p.m. and continue throughout the night. Staff will be present in the building 24 hours a day / 7 days a week and will be on staggered shifts, during off-peak hours. The delivery staff will arrive at 9:00 a.m. and will leave the facility beginning at 9:50 and will leave in 20 minute intervals and will return around 7:00 p.m., which will mitigate the total traffic on the local roads. He said that connection with Silver Springs Drive will allow the residents of Hollow Creek to access Newtown Pike, which was outlined in the Winburn Small Area Plan.

Mr. DeGiulio, representing Amazon, said this development focuses on last mile delivery. He said that items are not warehoused in this facility, they are only being sorted for delivery. He said that they are very deliberate with coordinating traffic. The trucks arrive overnight and the delivery staff arrive and leave the site during non-peak hours. He added that the public prefers to receive packages later in the day. He said that that feedback from their customers is driving this, as well as safety. He reiterated the job pay and benefits and said that there will also be part-time positions. He added that the drivers are third-party and are recruited either from existing business and work with entrepreneurs who would like to start their own businesses fulfilling orders for Amazon. He said that he is looking forward to any feedback from the Planning Commission and is available for any questions.

Mr. Turner said that they are in agreement with the staff's recommendations and conditions. He said that he appreciated all the efforts from multiple divisions to get to this point. He added that this on a significant schedule and would like to have this facility open by the holiday time next year, which would mean they hope to begin construction in March 2021. In regards to the staff's conditional zoning recommendation, he said that they would likely have a water tank to supplement the fire suppression system and propane tanks for the forklifts. He said that they could adjust the lighting in the parking lot to reflect away from the adjoining residential zone. He said that they agree to the cross access to Newtown Springs. He said that they also agree to the waiver conditions for the right-in / right-out along Newtown Pike.

In regards to Mr. de Movellan's question about the solar panels, Mr. DeGiulio said that this is Amazon's latest building type, which would support solar panels on the roof. He added that this may not have solar panels when it opens, but it will have the infrastructure in place to allow for it in the future.

Mr. Turner said that the future improvements on Newtown Pike, all of the design on this development have been created with those improvements in mind. He said that the new street will be signalized and relocating the Legacy Trail at that location would create a conflict by creating two crossings. Mr. Pohl then asked if there is a retaining wall at that location. Mr. Turner said that the retaining wall will not be located near the crossing. He also said that they look into the four plank fence and the concern with the noise level. He said that they are in discussions with the administration regarding the Legacy Trail, if at this location it will be public, private, or both. They will have more details at the time of the Final Development Plan. He added that he appreciates the staff working with them and reaching solutions and are available for questions.

Commission Questions – Ms. Plumlee asked the applicant what type of material would be used on the large parking lot that could be more environmental friendly. Mr. Turner said that there will be significant large electric grid placed underneath the parking lot. Mr. Gross said the large impervious lot will be fully abated with more than five acres of wetlands, which the stormwater will cycle through. He also said that there will be an electrical grid under the pavement and to introduce water infiltration would be counterproductive to the proposed carbon offset from the battery operated vehicles. He also said the benefit of the large greenway area is the additional cleansing of the water prior to the induction of Cane Run Creek. He said that their plans will be available to all agencies who would like to review them for water quality purposes.

Mr. de Movellan asked for clarification of the user's operational hours. Mr. DeGiulio said that the vehicles will be queued, 40-70 vans at a time. They will be loaded at the facility and then exit the property in waves, not all at one time. He said that they believe this is the most organized way they can do it. The vans will not be making multiple round trip during the day. They have an 8-10 hour delivery route and then return in the evening. He said that between 12:30 p.m. and 6:00 p.m. there isn't much activity at the facility.

Mr. Bell asked the applicant what will be the total delivery area that they are covering. Mr. DeGiulio said that delivery stations typically service routes up to a 30-40 minute drive radius.

Mr. Pohl asked for clarification of the 323 parking spaces for employees and 700 parking spaces for fleet vehicles. Mr. Turner said that the drivers will park in the same spaces as the fleet vehicle. During the day the fleet parking lot will have both the employees' personal vehicles and fleet vehicles parked in it.

Ms. Meyer said that she appreciates what the end-user is doing with the electric vehicles and the possibility of solar panels on the roof, but is concerned with the large footprint. She asked the applicant if they have considered taking up less land. Mr. DeGiulio said that these type of sites have a lot of parking because of the vans and they are trying to offset that with sustainable features, such as the electric vehicles and the solar panels. It actually does reduce the overall vehicle miles that the packages have to travel. He said that if they use a smaller site, that would lead to multiple sites. This site can achieve today's demand and the model may change in the future.

Mr. Pohl asked if they are building parking garages in other cities. Mr. DeGiulio said that they are. Mr. Pohl said that there is a grocery store with a parking garage on the roof, which is good for the community. Mr. DeGiulio said that at this time it is costly. He added that they are interested in all ways of sustainable delivery systems, in larger cities they are using electric bicycles. He said that this is an evolving process.

Mr. de Movellan asked during the time that their electric fleet is on the road, is there any plan to make this site available for citizens to charge their personal vehicles. Mr. DeGiulio said that they do not currently allow that, but there will be an Amazon hub, which will house locker facilities for packages for people who don't want them delivered at home. In those parking areas there will be charging points for the public to use. Mr. Turner added that when the fleet vans are out, there will be a significant amount of employee vehicles in those parking spaces.

Representatives in Favor - Dick Murphy, attorney representing the Newtown Springs Shopping Center, said that they are in full support of the zone change and this development. They are only concerned with making the vehicular connection with the subject property and the Newtown Springs Shopping Center, located to the north. He thanked Mr. Turner and Mr. Martin for working with them. He asked staff to display the development plan and he said that this connection is important. If it isn't there the citizens would need to travel through the residential neighborhood or to Newtown Pike. He said that there is a note near the entrance into the facility, which states "possible future connection to Newtown Springs, LLC." He said that they would propose that the word "possible" be removed from that note, which he believed is agreeable to all parties. He would like to add a clause to that note that the exact location will be determined at the time of the Final development Plan. He wants to make it clear that there will be a connection at this location.

Mr. Martin added that the staff report does state that on condition #8. Mr. Turner added that they are in agreement to removing the word "possible" from the notation and the addition that the exact location will be determined at the time of the Final development Plan.

Zoning Action - A motion was made by Mr. Pohl, seconded by Mr. de Movellan, to approve PLN-MAR-20-00014: EXETER NEWTOWN LAND, LLC, for the reasons provided by the staff, including the revised conditional zoning restrictions.

Commission Discussion - Ms. Plumlee said that if this goes forward and the City of Lexington takes the greenway area, the applicant should provide a dedicated fund for maintenance.

Vote - Motion carried 10-0 (Nicol absent) to approve PLN-MAR-20-00014: EXETER NEWTOWN LAND, LLC.

Development Plan Action - A motion was made by Mr. Pohl, seconded by Mr. Bell, and carried 10-0 (Nicol absent) to approve PLN-MJDP-20-00068: LEXMARK INTERNATIONAL CORP, as presented by the staff, with the change to remove the word "possible" from the note.

Waiver Action - A motion was made by Mr. Pohl, seconded by Mr. Bell, and carried 10-0 (Nicol absent) to approve the waiver to Article 6-8(q)(2)(b) & (d) of the Land Subdivision Regulations for PLN-MJDP-20-00068: LEXMARK INTERNATIONAL CORP, with two findings and six additional conditions.

Commission Comments - Mr. Penn thanked both the staff and the applicant for their work on this proposal. He added that this is way that large development zone changes and development plans work the best.